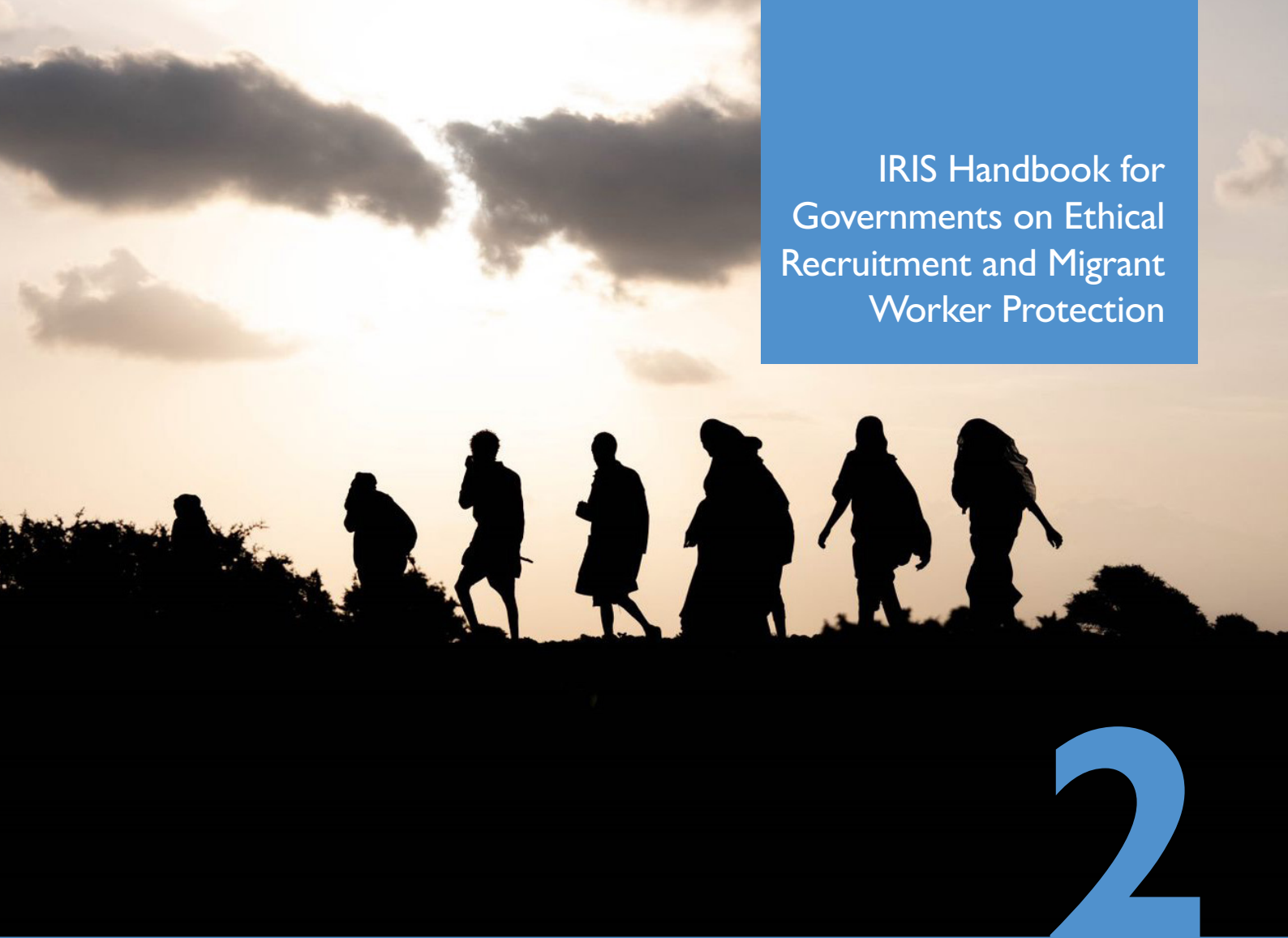


IRIS Handbook for
Governments on Ethical
Recruitment and Migrant
Worker Protection



2

IMPLEMENTING AND IMPROVING LICENSING FRAMEWORKS

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2

IMPLEMENTING AND IMPROVING LICENSING FRAMEWORKS

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Introduction and scope

Governments have a responsibility to create enabling environments for fair and ethical recruitment of migrant workers. One of the most effective instruments to do so is through the **licensing of private labour recruiters**.¹ Licensing acts as a control mechanism on the recruitment industry, governing who is allowed to operate and under what terms. As a result, to operate without a licence is to operate illegally. This serves as a strong incentive for recruiters to comply with legal standards to start and stay in business.

This publication provides global guidance on how to implement and improve the administration of recruiter licensing frameworks. The guidance primarily concerns ensuring that recruiters are competent in and accountable to ethical recruitment principles, as codified in law and the conditions of a licence. Case study examples are highlighted throughout to demonstrate the practical ways in which different governments are taking concrete relevant action.

In terms of scope, the guidance broadly concerns international private labour recruitment, not restricted to any specific sector. It can be applied in countries of origin, transit, and destination; targeted guidance is otherwise noted. It is intended for government officials in their capacities as regulators and inspectorates of private recruiters, at various levels of administration (national, subnational) and across relevant portfolios (e.g. labour, immigration, consumer protection, etc.). As competent public authorities differ worldwide, recommendations are addressed to “licensing authorities” throughout the document for ease of reference. These authorities often fall under the mandate of ministries responsible for labour and employment, consumer protection, or migration.

Notably, this guidance should be considered closely with other relevant chapters of the broader *IRIS Handbook for Governments on Ethical Recruitment and Migrant Worker Protection* (hereafter the IRIS Handbook). For example, *Chapter 1: Adopting a Rights-Based Regulatory Approach to International Labour Recruitment*, provides guidance on how to regulate recruiters broadly, not limited to any one type of regulatory scheme. This chapter is targeted and focuses on regulatory and operational measures unique to licensing models. Where relevant, guidance references existing available complementary training materials such as the ILO training toolkit on Establishing Fair Recruitment Processes.²

The IRIS Handbook builds on *The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation*: a set of 49 practical and targeted recommendations for governments on recruitment and migrant worker protection.³ The Montreal Recommendations were co-created by 100 regulators

¹ The terms **registration** and **licensing** are often used interchangeably or in conjunction, depending on the regulatory scheme. For clarity and ease of reference, this guidance refers to “licensing” to encompass any process of acquiring a certificate where permission is required from the relevant public authority before providing recruitment services. Registration, on the other hand, is understood here as a distinct process that only involves entering business information in an official government list or registrar.

² Available at www.ilo.org/global/topics/labour-migration/publications/WCMS_682737/lang--en/index.htm.

³ The Montreal Recommendations also include 6 recommendations to IOM and the international community (see policy area: “Maintaining the momentum on regulation”) for a total of 55 recommendations.

from over 30 countries at the Global Conference on the Regulation of International Recruitment in Montreal, Canada in June 2019. This chapter draws attention to select recommendations that implicate licensing schemes and expands on each by providing more detailed measures for governments to consider.



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1 Knowledge of ethical recruitment standards

When implementing a licensing scheme for recruiters, licensing authorities should ensure that licensee obligations are accessible and transparent. Prospective licensees should be made aware of relevant ethical recruitment standards, among other requirements, and be provided with an opportunity to engage with appropriate government officials to clarify any questions before their application is approved and legal operations commence.

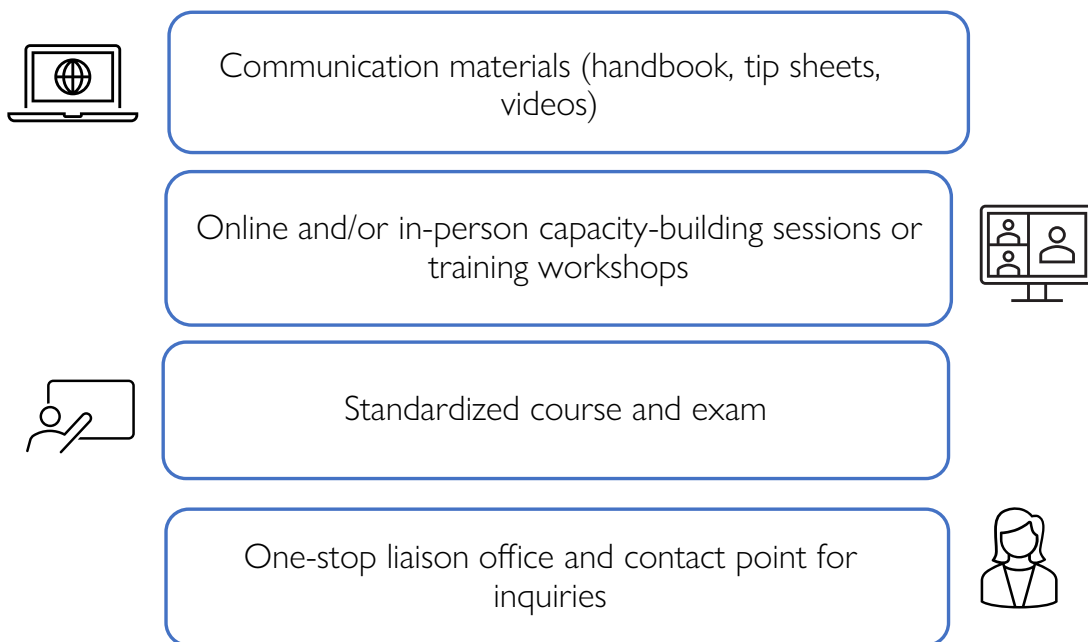
To do so, licensing authorities should consider designing appropriate **awareness-building interventions** for recruiters to ensure knowledge and understanding of ethical standards and relevant legal responsibilities.⁴ This may involve developing informational and/or educational programmes, depending on technical and resource capacity. In the design of such materials, authorities are encouraged to consider the information needs of potential applicants, particularly as they relate to recruiter obligations in law and relevant ethical recruitment standards.

⁴ While the focus of this guidance is on ethical recruitment standards, it is also worth noting that other requirements and knowledge related to case processing, record keeping, data protection, skills assessment, contracts, and labour market analysis may be incorporated into relevant training or information activities.

Regarding **informational** approaches, authorities are strongly encouraged to widely disseminate **communication materials** that describe core obligations and prohibited practices in plain language – via handbooks, tip sheets, videos, and other accessible mediums. As laws may change periodically, authorities should ensure that any online materials and directives are promptly updated and that licence holders are informed before they come into effect, for example through push notifications and electronic mail. Where the recruitment industry is centralized through a representative association, authorities may consider working with such associations to transmit up-to-date information as well.

Educational options may involve requiring applicants to attend government-led training sessions, such as **seminars and/or webinars** that follow ethical recruitment curricula, or mandating prospective licensed recruiters and their staff to enroll in a **course** from a designated educational, professional, or accreditation body or institution.⁵ This could also involve collaborating with international organizations that provide capacity-building programmes to recruiters, such as the [IRIS Capacity Building Programme for Labour Recruiters](#). The extent to which authorities wish to professionalize the industry is a key consideration in determining any training approach.

Awareness-building options



⁵ See paragraph 14 of ILO Private Employment Agencies Recommendation 188: "Private employment agencies should have properly qualified and trained staff".

Honduras and Singapore: recruiter training approaches

In Honduras, according to article 35 of the *Regulation for the Operation of Private Employment Agencies and Related Services* (Agreement No. STSS- 141-2015 and agreement No. STSS-155-2017), prospective recruiters must follow the Induction Course for Private Employment Agencies and Related Services before a licence can be issued.

The [online course](#) is accessible on the Honduran Secretary of Labour and Social Security website. It encompasses various sections including regulations for private employment agencies, their obligations and prohibited conduct, and relevant oversight mechanisms. It also covers relevant aspects of ILO Convention 111 on Discrimination (Employment and Occupation), ILO Convention 100 on Equality and Remuneration, ILO Convention 182 on the Worst Forms of Child Labour, and ILO Convention 105 on the Abolition of Forced Labour, as well as the applicable articles of the *Law on Equity and Integral Development of Persons with Disabilities* and a presentation on Employment Guidance. Following course completion, applicants must take an [online questionnaire](#) in order to obtain the certification for the course.

In Singapore, a somewhat more formal training approach is adopted. Under section 6 of the *Employment Agencies Rules 2011*, licence applicants, including key appointment holders of the employment agency, are required to successfully pass proficiency tests. This involves obtaining the Certificate of Employment Intermediaries (CEI) through a test before a licence can be issued. The CEI aims to equip employment agency personnel with knowledge of relevant laws and regulations and is adapted based on the type of work (e.g. if foreign employees or foreign domestic workers are involved in placements) and the individual's role in the agency (e.g. key appointment holders or personnel performing recruitment services). This ensures that licensees understand their obligations under the law and can advise their clients of their rights and responsibilities.

CEI courses, which participants can attend before taking the test, are offered by government-approved training providers. Course modules comprise of general laws (*Employment Agencies Act and Rules, Employment Act, Work Injury Compensation Act, Contract Law, Prevention of Human Trafficking Act*, and others), as well as relevant foreign worker and foreign domestic worker laws (*Employment of Foreign Manpower Act and Immigration Act*). For key appointment holders, a module dedicated to business organization and competition laws is required. Following course completion, participants must pass the relevant proficiency test offered by a government-approved test administrator.

Finally, as a good practice, authorities should also consider establishing a **contact point or liaison office** to encourage prospective applicants to engage the licensing authority before undertaking the application process. A liaison office can provide clarification and proactively identify potential gaps in competence or requirements to ensure that applicants are well placed and informed to begin operations after their licence is issued.



2 Licence application and assessment

A fundamental feature of licensing is that it proactively requires prospective licensees to submit an application and important information to the competent licensing authority, which are then assessed against a series of criteria. The assessment informs whether or not the licence is issued ahead of legal operations. Recruiter licensing authorities have a range of criteria and requirements to choose from; in global practice, they vary widely. As ethical recruitment and migrant worker protection principles underpin this guidance, the discussion below emphasizes licensing elements that bolster this purpose.

Who needs a licence?

Montreal Recommendation

8. All actors that engage in recruitment, whether individuals or enterprises, should be registered either through licensing or a registration scheme.

Governments are encouraged to consider how to regulate all actors that engage in the recruitment process. As discussed in Chapter 1 of the IRIS Handbook, when designing a regulatory framework for private international labour recruiters, governments first establish key definitions related to “recruitment services” and “recruiters” to do so. Of particular importance for licensing authorities is the **type of legal entity**⁶ to which a licence can be granted. The key decision pertains to whether this includes **individuals** (natural persons), **enterprises or corporate bodies** (businesses), or **both**.

Some licensing authorities stipulate that **only an individual** can be issued a licence. One benefit of this approach is that it safeguards against the phenomenon of “phoenix” agencies, where individuals who previously owned a recruitment agency and had their licence revoked can apply and be granted a new licence under a new business name. Requiring a licensee to be an individual also tends to cover a more comprehensive set of recruitment actors, for example intermediaries or “sub-agents” that are otherwise often excluded from regularizing.⁷

On the other hand, where eligibility involves issuing a licence to an **enterprise** (including exclusive restriction to business entities), organizational-level criteria may be prescribed to mandate standards for management and marketing capabilities.⁸ To protect against the risk of phoenix malpractice, authorities should ensure that individuals holding key positions in the recruitment business (agency) are subject to prescribed personal criteria and that they are each screened accordingly. This may include the director, registered owner, partner/general partner, managing director and others.⁹

Screening process

The screening process of prospective recruiters serves to support informed decision making towards licence issuance or refusal. While the screening process can take different forms, the guidance below focuses on the review of evidence and information against licensee eligibility criteria and mandated requirements.

Licensing authorities are encouraged to develop an **application form** designed to obtain the necessary information to verify eligibility criteria and requirements from applicants. Clear instructions should accompany the form, including guidance on the types of evidence and documentary proof to support the application. For authentication of identity, valid identity documents and/or biometrics may be required.

⁶ This refers to the legal form and type of ownership of the business if applicable (e.g. individual, sole proprietor, partnership, corporation, or other business entity).

⁷ Regulating intermediaries, for example under a related registration scheme, is discussed in section II of Chapter 1 of the IRIS Handbook.

⁸ In some jurisdictions, detailed legal restrictions on the type of business entity or legal person that can conduct recruitment services are prescribed. For example, a law may specify that only a registered company with specific personnel can be issued a licence.

⁹ For example, California’s foreign labour contractor registration process screens the applicant and “any of the owners (sole proprietor, all partners, all corporate officers, LLC members)” as well as “persons identified as having a financial interest in the business within the last 5 years” for criminal convictions, taxes owing, and non-compliance history with respect to any domestic or foreign licence, registration, or permit (e.g. suspension, revocation, denial or disciplinary action).

The screening process should be supported by a **comprehensive set of powers** for authorities to use. This can include the authority to investigate the history and key business relationships of the applicant; obtain information from other government authorities to inform determinations; and compel the applicant to provide additional information and answer questions.

Applications can be assessed with **desk-based review** of documents, **online due diligence** (including open-source intelligence derived from publicly available information), **and in-person interviews** and/or **inspection visits** to office premises. If standardized **exams or courses** are required (see page 3), relevant proof would be assessed as part of documentary review. The screening process leads to one of the following outcomes: (a) the licence is issued, with or without imposing **additional conditions** (see page 17); (b) further information is requested from the applicant to make a determination; or (c) the licence is refused. Licensing authorities should be satisfied that all criteria and requirements have been met before granting a licence.

Montreal Recommendation

13. Governments should improve how applicants for licensing or registration are screened. This can include conducting criminal checks through international bodies such as INTERPOL and/or requiring applicants and licensees to provide background and criminal checks from their jurisdictions of residence and operation. Governments may also consider requiring applicants to submit a certificate of “good character” as part of the screening process.

Eligibility

The following section sets out several criteria that licensing authorities may prescribe regarding licensee eligibility,¹⁰ structured under three categories: personal, organizational and negative. Current examples of each criterion from various jurisdictions worldwide are profiled in the [Annex](#) for reference.

Personal criteria

Personal criteria may be prescribed for individuals, as prospective licensees, or individuals in designated key positions of the prospective licensed recruitment agency.

¹⁰ Eligibility criteria are adapted from ILO Training Toolkit on Establishing Fair Recruitment Process: Public Employment Services and Private Employment Agencies in a Changing Landscape, 2021.

- **Reliability**

The reliability criterion is used to ensure that applicants demonstrate previous lawful behaviour. The most basic approach is to verify criminal records for awareness of any pending criminal charges and convictions under criminal and penal codes, particularly concerning human trafficking, forced labour, smuggling and fraud. Applicants should also demonstrate a history of compliance with relevant administrative laws pertaining to labour and employment, immigration, and consumer protection.¹¹ Relevant violations and orders under these laws, and lack thereof, indicate the degree of reliability and trustworthiness of a prospective licensee.



Examples of supporting evidence: Criminal record certificates from jurisdiction of residence and operation; police checks through international bodies such as INTERPOL; attestation or statutory declaration of compliance with relevant laws.

- **Character**

Related to reliability, some licensing authorities prescribe requirements with respect to an applicant's reputation and character. For example, applicants can be required to demonstrate that they have "good character" or are in "good repute", substantiated by character references and testimonials of their conduct. With regard to referees, authorities may consider measures that ensure safeguards against fraud, and restricting referee eligibility to individuals who have known the applicant for a minimum number of years. Authorities may also consider requiring an attestation that applicants are committed to conducting recruitment activities in a manner that upholds their obligations with integrity, honesty, courtesy, and civility and respects human dignity. Character requirements of this kind should only complement and not replace criminal record checks or other verifications of previous legal violations, as discussed [above](#).



Examples of supporting evidence: Character references from a suitable referee; testimonials; background checks conducted with former associates and/or clients; attestations of ethical conduct.

- **Knowledge of ethical recruitment standards and obligations**

Licensees need a sound understanding of ethical recruitment standards and relevant legal obligations. This criterion would confirm this knowledge, for example by requiring applicants to solemnly declare that they understand their obligations and will comply and maintain a high ethical standard of conduct, or by demonstrating relevant proof of training (such as those discussed in [Section 1](#)), if prescribed.



Examples of supporting evidence: Attestation or statutory declaration of rules and obligations; undertaking to follow laws; proof of training and/or exam results; knowledge-based interviews.

¹¹ Authorities may also consider requiring applicants to demonstrate compliance with tax laws.

- **Professional competence and educational qualifications**

Licensing authorities may also consider the merits of requiring some form or mix of professional qualifications and work experience for licensees. This can involve experience and/or education that demonstrates a licensee's knowledge of relevant legislation in destination and origin country contexts, the ability to review and understand employment contracts, assess skills, and understand and evaluate relevant labour market needs. This criterion can act as a quality control measure on the legal industry. For example, authorities may require minimum educational qualifications coupled with prior experience working in a relevant field.



Examples of supporting evidence: Professional certificate; accreditation; degree or diploma in relevant field; curriculum vitae.

- **Residency or nationality**

Some jurisdictions restrict licensee eligibility to resident nationals or domiciled citizens. This approach is often adopted as an accountability measure in recognition of jurisdiction and extraterritorial limitations of enforcement. However, given the international nature of recruitment services, authorities may benefit from considering alternative accountability measures (such as financial securities or disclosure of partners, discussed [below](#)) so as not to discriminate or disqualify foreign recruiters out of the legal market and the consequent loss of oversight. In addition, this type of restriction should be based on the domicile of the licensee or other relevant criteria in the national legal regime that ensures jurisdiction for accountability reasons, as opposed to restricting on the basis of nationality. It is also worth noting that some licensing authorities, particularly in countries of destination and employment, often require recruiters to obtain a licence regardless of where the business is located or where the individual is domiciled.



Examples of supporting evidence: Resident or citizenship certificate; passport.

Organizational criteria

- **Management and marketing capability**

In certain jurisdictions, eligibility criteria that pertains to the organizational level involves management and marketing capability, including the recruiter's ability to manage a business; adequacy of their office premises; and necessary logistical capacity to sustain operations. The rationale is that strong capabilities in these areas are a good indication of the necessary know-how to operate a business and sustain it, ultimately benefiting clients.



Examples of supporting evidence: Statement of assets and liabilities; business plan; on-site inspection report; articles of organization; certificate of incorporation; financial solvency or non-bankruptcy certificate; business registration number or certificate.

Negative criteria

Finally, the regulatory framework should provide a licensing authority with clear authority to refuse to issue or renew a licence based on negative criteria. Negative criteria should be prescribed with clear **refusal grounds** at licence issuance and renewal. These should include if the applicant has not complied with relevant obligations, provided false or misleading information, had a licence previously revoked,¹² or where there are reasonable grounds to believe that the applicant will not act in accordance with the law while carrying out recruitment services. For serious offences such as human smuggling, trafficking, crime involving torture or slavery, authorities may consider developing refusal grounds with relatively lower standards of proof given the serious risks it could present to migrant workers. For example, authorities may prescribe a refusal ground where there is reason to suspect that an applicant has had any involvement in these types of offences.

Negative criteria should also protect against potential **conflicts of interest**. Eligibility should explicitly prohibit any public office holder or employee of a government agency involved in the administration and implementation of the relevant legislation, and any of their relatives from applying for and holding a licence.¹³



Examples of supporting evidence: Sworn oath/statutory declaration that criteria do not apply, supported by background and criminal checks (i.e. [reliability](#) screening)

Requirements

Financial requirements

Montreal Recommendation

14. Governments should consider the effectiveness of requiring licence holders to deposit a financial security or bond as a commitment to good behaviour, with bonds being used in case of any compensation awarded against them in civil claims.

Authorities are encouraged to oblige licensees to provide a **security deposit** with the government in the form of a bond, cash deposit, or irrevocable letter of credit. In addition to verifying the financial capacity of an applicant, this requirement also serves as a safeguarding measure to protect migrant workers. The deposit can be used, if necessary, to reimburse migrant workers who incur illegal recruitment fees or costs, or to compensate workers in case of loss or damage due to recruiter non-compliance with the law. For example, deposits can be forfeited and used towards any monetary entitlement owed to workers following a court order or a relevant administrative procedure.

¹² For example, section 58 of Nepal's Foreign Employment Act of 2064 (2007) prescribes: "Once the license of a License Holder is revoked pursuant to provision of this Chapter, no License shall be re-issued in the name of same organization and same directors."

¹³ For example, the Philippines defines relatives as those within the fourth civil degree of consanguinity or affinity (Part II Rule I Section 3f of Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016).

Globally, the bond amount varies considerably; amounts are also set as fixed and tiered, depending on the jurisdiction. Licensing authorities should be primarily concerned with its sufficiency to reimburse or compensate migrant workers in case of violations. If setting a **fixed or flat rate**, the amount can be informed by rates in comparative jurisdictions where they exist and the prevalence and extent of illegal fee charging and unethical recruitment practices. Any fixed security amount should be revisited at regular intervals to verify adequacy based on current data and evidence.

If adopting a **tiered model** for security amounts, authorities may consider the factors below when scaling amounts for different reasons.¹⁴ This approach generally increases the bond amount according to the potential increased risk of exploitation for migrant workers, while acknowledging that recruiters with smaller business size or operations should not be unfairly pushed out of the legal scheme.

Table 1. Tiered financial security considerations

Factor	Measured/informed by	Influence on amount
Size of business	Individual or business Number of employees Annual gross revenue	Larger business size = increased bond
Scale of operations	Expected or authorized placement volume	Larger operations = increased bond
Years of operation	Probation approach	Highest amount in 1st year
Compliance history	Track record over time	More non-compliance = increased bond
Skill level and sector	Risk profile of occupation and sector	Higher risk = increased bond

Authorities may also consider prescribing **obligatory insurance** requirements on licensees. This can act as a reliable instrument to ensure compliance as the insurance bodies prescribe their own criteria to ensure compliance with requirements and that all safeguards are in place.

In addition, application and/or licence **fees** can also be required to offset the cost of resourcing the licensing regime, however the fee should be set at a reasonable rate so that it does not discourage recruiters from applying. Fee rates also need to be considered in view of how fees are often downloaded or passed down to migrant workers. As above, fees may be scaled as commensurate to business size, placement volume, and/or other relevant factors.

¹⁴ Some examples of tiered approaches: Nepal sets different bank guarantee rates based on the number of workers mobilized (more workers, higher deposit); California increases its bond amount depending on the licensee's gross receipts in the year prior to filing the application; Alberta only requires a security if the agency is recruiting workers internationally in low- and mid-skilled occupations; and Singapore utilizes a demerit point system where non-compliance (demerit) increases the bond amount.



Examples of supporting evidence: Certificate of agreement with bank to cover sufficient bond amount; surety bond from accredited bank; relevant fee receipts demonstrating proof of payment.

Disclosure

Montreal Recommendation

11. Governments should implement schemes to enhance transparency and disclosure, for example by requiring the following: (a) employers to disclose the names of the labour recruiters they contract; and (b) recruiters to disclose the names of their business partners.

Licensing authorities should require applicants to **disclose the names and addresses of all their partners, affiliates or agents**, regardless of location (i.e. in country of origin and destination). This improves oversight of recruitment activity beyond domestic jurisdiction and the proactive disclosure enables more effective enforcement of joint liability provisions.



Examples of supporting evidence: Corporate structure or organizational chart demonstrating relationship between parent, controlling, subsidiary, and affiliated companies; names of individuals with whom the applicant intends to work and their legal relationship.

Balancing entry to licensing scheme and realities of the recruitment industry

It is important that licensee eligibility and requirements are informed by evidence from the relevant recruitment industry context, particularly the types of actors involved and the respective feasibility of formalizing them. The design of any recruiter licensing scheme should aim to strike a balance between licensee attributes and protection, so that criteria and requirements are not so high or cost prohibitive that many actors are driven to operate outside the legal system. Large volumes of unauthorized recruitment activity not only push the limits of public enforcement capacity but can also render authorized (licensed) recruiters uncompetitive with those operating clandestinely. These dynamics seriously compromise ethical recruitment and migrant worker protection.

With this in mind, authorities may consider tiered or scaled options depending on business size, particularly with respect to financial obligations. The degree to which authorities rely on professional requirements should also be considered and balanced with evidence of the varied educational profiles of relevant recruitment actors. For example, a highly professionalized industry may exclude intermediaries from regularizing their activities but given the demand for their localized services, illicit service provision may continue unabated. Further to this approach, authorities are encouraged to consider various options and feasibility to regularize intermediaries, including registration schemes.



3 Licence features and conditions

Licence features

When granted, recruiter licences must be prescribed as **time limited** and be subject to **renewal** conditions. This guarantees [ongoing verification](#) of compliance, reassessed when a licence expires and is up for renewal (see page 19). Renewals create a clear incentive for recruiters to maintain compliance with regulatory provisions and conditions over time. While validity periods vary, authorities may consider a probationary approach where the first licence is issued with relatively shorter validity period (e.g. 1 year) with the authority to issue for relatively longer periods (e.g. 2 to 3 years) following demonstrated compliance.¹⁵ Renewal requests should be made by applicants prior to the expiration of the original licence.

¹⁵ If following a probationary approach with different validity periods over time, authorities are encouraged to emphasize clear communication with licensees to mitigate any potential issues with late or missed renewal processes.

Table 2. Licence validity period in selected jurisdictions

Jurisdiction	Licence validity	Relevant legislation
Bhutan	1 year	Regulation on Bhutanese Overseas Employment Agent, 2013
British Columbia, Canada	1 year, with legal authority to issue up to 3 years	Temporary Foreign Worker Protection Act
India	3 years, with legal authority to issue up to 5 years	Act No. 31 of 1983, Emigration Act, 1983
Japan	Initial licence issued for 3 years, renewal for 5 years	Employment Security Act (Act No. 141 of 1947)
Mauritius	2 years	Recruitment of Workers Act 1993
Thailand	2 years	Employment and Job Seeker Protection Act, 1985
Uganda	2 years	The Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021

Licences should be specified as **non-transferable**, ensuring that they cannot be leased or sold to, or used by anyone or any other entity than to whom it was issued. For business entities, typically the name of the person responsible for management of the agency is also stipulated on the licence, an additional safeguard against assigning the licence to anyone else. A unique **licence number** should also be issued.

Terms and conditions

The licence itself is a legal instrument that imposes terms and conditions on the licence holder and their activities; at minimum, these are the rules and standards prescribed in the relevant regulatory framework that licensees must follow.

Rules of ethical conduct

As discussed in Chapter 1 of the IRIS Handbook, regulators should prescribe legal requirements to enshrine **rules of ethical conduct** such as a prohibition on fee charging to migrant workers and the requirement to provide standard employment contracts and agreements to clients. Vicarious or joint and several liability provisions should also apply to ensure that licensees are liable for any violations undertaken by their partners, affiliates or agents. Licence holders are accordingly bound to such prescribed ethical standards.

Records and reporting requirements

Mandatory record keeping should be prescribed for a reasonable time period (e.g. 4 to 6 years) to require licensees to maintain all records of their recruitment activities, including contracts and agreements with clients (migrant worker, employers), fees charged and invoices, relevant employment contracts, and so on. This ensures that records of operations can be requested and verified by authorities to inform licence renewals and inspections. It is also important that regulators prescribe the authority to compel such records to support any review as required.

The requirement to **report any changes**, for example to ownership, the operation of new branch locations, and otherwise should also be prescribed, for example within 15 days of the change. If necessary, authorities may consider prescribing special circumstances that would merit requiring a permission to effect the change (e.g. significant change in ownership), particularly if it would necessitate a new licence application altogether.

Formal reporting requirements of detailed business activities should also be mandated on a regular basis. Frequency of reporting requirements vary in existing licensing schemes, ranging from monthly, quarterly, and yearly intervals.¹⁶ Reporting requirements should be reasonable and data protection principles should be upheld. Authorities may determine that more frequent reporting should be required on, for example, a probationary type of licence than a renewal that follows a period of compliance.

Montreal Recommendation

12. Governments should require licence and registration holders to annually report the steps they are taking to combat exploitation, including addressing risks of trafficking in persons and forced labour.

Beyond reporting regular recruitment activities, licensing authorities are also strongly encouraged to mandate **human rights transparency and due diligence** obligations.¹⁷ For example, authorities may consider requiring licence holders to annually report the steps they are taking to combat exploitation, including addressing risks of trafficking in persons and forced labour. These may include demonstrating the implementation of prevention-based measures (e.g. mandatory staff training on ILO forced labour indicators);¹⁸ due diligence policies with partners, agents and affiliates;¹⁹ or the adoption of voluntary ethical compliance initiatives or codes of conduct.

Special conditions

Finally, authorities should establish prescribing discretionary powers to allow the licensing authority to impose **additional conditions** on specific licence holders, typically based on a risk assessment of the licensee's conduct and activities. Special conditions may include compelling the licensee to check in with authorities at specific intervals, disclose details of particular activities, demonstrate proof of the provision of written contracts to migrant worker clients, or restrict their scope of activity. Additional conditions are typically printed directly on the licence or sent by formal communication to the licence holder.

¹⁶ With respect to examples of differing frequency, Bhutan requires monthly reporting, Mauritius requires a quarterly return, and Tunisia requires an annual report on licensee activities.

¹⁷ This would ensure that recruitment regulation is consistent with and reinforces human rights due diligence legislation that targets large companies, as the latter has had increasing policy uptake in worldwide. See for example, the [California Transparency in Supply Chains Act of 2010](#) and the [UK 2015 Modern Slavery Act](#).

¹⁸ See [ILO Indicators of Forced Labour Indicators](#).

¹⁹ For more on corporate human rights due diligence guidance, see "[Guiding Principles on Business and Human Rights](#)" endorsed by the United Nations Human Rights Council.



4 Accountability measures

In practice, holding a valid licence should be a reliable indicator of ethical recruitment. As such, holding non-compliant recruiters accountable is a crucial function in a licensing mandate. While broader regulatory and operational measures regarding the effective enforcement of ethical recruitment laws are explored elsewhere in the IRIS Handbook,²⁰ **licensing-specific** oversight and transparency features are discussed below.

Oversight

Licensing authorities should regularly monitor licensees for compliance with obligations. This can be done through **inspections** and at the licence **renewal** stage. The latter provides a periodic check-in point with licence holders to re-assess eligibility and compliance with standards. This means that even without conducting periodic reviews or inspections, there is an opportunity to verify compliance on an ongoing basis.

²⁰ See IRIS Handbook Chapter 1: Adopting a rights-based regulatory approach to international labour recruitment and Chapter 3: Strengthening the effectiveness of inspectorates (forthcoming).

Where violations are found, authorities can draw on [securities](#) to reimburse or compensate migrant workers (as discussed on page 12). If necessary, authorities can also **suspend or revoke** a licence in case of suspected or confirmed non-compliance, effectively halting recruitment activity when non-compliance concerns arise. This is important in case adverse information has been shared, particularly from migrant worker clients. Authorities should accordingly ensure that licence suspension and revocation grounds are clearly prescribed in law and enforced as needed.

Licensing schemes also efficiently **distinguish authorized and unauthorized recruiters** by the possession of a valid licence or lack thereof. Consequences for recruiters operating without a licence should be made explicit in law and be effectively enforced to dissuade recruitment actors from operating illicitly. This should include establishing clear links and reporting mechanisms to competent administrative or penal authorities in law and practice.

Nepal – Consequences for operating without a licence

In Nepal, under the Foreign Employment Act, 2064 (2007), section 10 clearly prohibits recruiters from operating (as “carrying on foreign employment business”) without a licence. Furthermore, consequences are prescribed under section 43:

“Punishment to be imposed in the event of carrying on foreign employment business without license: If any person carries on the foreign employment business in contrary to Section 10 or collects any amount with intent to engage a person in foreign employment or sends a person abroad by giving false assurance or lures a person to be engaged in foreign employment, the amount so received and an amount to be set by fifty percent of that amount shall be recovered from that person as compensation and the expenses incurred by that other person in going to and coming from abroad shall also be realized and that person shall be punished with a fine of three hundred thousand rupees to five hundred thousand rupees and with imprisonment for a term of three years to seven years. In the event that such person has not yet sent that person abroad, half the punishment shall be imposed.”

Transparency

Requirement to post licence

At minimum, licence holders should be required to post their valid licence in a visible place at the relevant business location and, if they maintain a website, that they provide their licence number with a link to the public register, discussed below. Likewise, the licence number should be listed on relevant advertising publications. Posting the licence for public display acts as an assurance for clients that the recruiter is legitimately licensed.

10. Governments should publish the names and contact details of all licensed and registered recruiters and this should be kept regularly updated. Authorities should also publish the details of recruiters who are under investigation for non-compliance and whose licence or registration has been suspended or revoked, and the reasons for this.

Public register

A public register is a valuable tool for migrant workers and employers to distinguish between legal and illegal recruiters, verifying legitimacy ahead of engagement. As such, authorities should publish and regularly update the names and details of all licensed recruiters in an accessible public list, with partners, agents, and affiliates listed if applicable. The ideal medium is an easy-to-find **online database** of licence holders. Given the barriers certain migrant workers face when accessing online materials, authorities may also consider supplementary methods for dissemination, for example by providing hardcopy lists to migrant support organizations and/or publishing in popular media sources.²¹

The register should include the elements listed below:

- **Name** and/or **business name** of licence holder (may include photos for identification);
- **Contact details** (address, phone number, email address and website) of licence holder;
- **Validity** period of licence with expiration date;
- Licence **number**;
- Any additional **terms or conditions** imposed on the licence;
- Plain language statement affirming that **only licence holders are allowed to provide recruitment services**;
- If applicable, **suspension or cancellation** details, including pending and final non-compliance determinations and relevant enforcement actions.

For greater transparency, authorities may consider populating a separate **ineligibility list** of licences that have been suspended, revoked, or refused with relevant enforcement actions, if applicable. This not only empowers migrant workers to easily identify and avoid higher-risk recruiters, but also creates a clear incentive for recruiters to comply with the rules because any non-compliance will be publicly posted. Authorities are also encouraged to implement periodic awareness campaigns to inform prospective migrant workers of non-compliant recruiters, particularly those who have been found operating without a licence.

²¹ Article 9 of Tunisia's Décret n°2010-2948 du 9 novembre 2010, fixant les conditions, les modalités et les procédures d'octroi de l'autorisation d'exercice par les établissements privés d'activités de placement à l'étranger prescribes that the authority publishes the list of authorized licensees every year during the month of December in two daily newspapers.

United Kingdom: Online public register and active check alerts

The Gangmasters and Labour Abuse Authority (GLAA) in the United Kingdom maintains an [online public register](#) where one can search for a labour provider by entering the respective business name, location, or unique reference number. The aim of the register is primarily to ensure that end users (e.g. farms) do not engage with anyone supplying labour who does not hold a licence, who would not have been assessed as compliant against the GLAA licensing standards (constituting a criminal offence). An advanced search function enables users to complete a search by the labour provider's country of location and the countries to which they supply labour. This is also particularly helpful for potential migrant workers searching for GLAA-licensed labour providers located in their country of origin.

Licences include additional information such as contact details, authorized sectors, and date of licence. As applicable, the names of the principal authority and other authorized persons are also provided. The GLAA also manages an “active check” alerts service, which notifies subscribers of any changes to a labour provider's licence as they are updated publicly. This initiative provides just-in-time updates to users, for example if their labour provider has had its licence suspended or revoked. This ensures that an end user does not continue to use such labour providers, and inadvertently commits a criminal offence. It is also worth noting that in case of licence revocation, a press release may also be published.

Ranking and rewards

Montreal Recommendation

29. Governments should consider introducing a ranking system that includes rewards such as the following: (a) fast-tracked visa or work permit applications for licence-holding recruiters that demonstrate regular compliance; (b) reduced reporting requirements; or (c) access to cheap credit and/or business loans.

Finally, authorities are strongly encouraged to consider introducing a licensee **ranking or rating** system as a non-punitive means to influence recruiter conduct.²² The prospect of a publicized higher rank or rating – and the consequent potential for more business – can incentivize licence holders to treat migrant workers fairly. Relevant criteria should emphasize ethical recruitment standards rather than, for example, the volume of worker placements that an agency undertakes (that is, quality over quantity of service).

Authorities may also consider implementing privileges or **rewards** for highly rated or ranked licensees, including:

- Fast-tracked visa or work permit applications
- Tax incentives
- Reduced reporting requirements
- Reduced security deposits
- Access to cheap credit and/or business loans
- Fee waiver
- Licence issuance with longer renewal periods
- Joint projects with public employment service

²² For a relevant discussion on performance-based incentives for private recruitment agencies, see [here](#) for ILO Training Toolkit on Establishing Fair Recruitment Processes – Module 3: Public employment services and private employment agencies in a changing recruitment landscape.



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Annex

Licensing criteria examples

Licensing criteria	Jurisdiction	Relevant provision
Requirement to be an individual	Saskatchewan, Canada	The Foreign Worker Recruitment and Immigration Services Act, 2013 Licensee must be individual 5. Only an individual is eligible to be issued a licence as a foreign worker recruiter or immigration consultant.
Requirement to be an enterprise	Uganda	The Employment (Recruitment of Migrant Workers) Regulations, 2021 5. Recruitment agencies to be companies (1) A person to be granted a licence to operate as a recruitment agency under these Regulations shall be a company incorporated under the Companies Act, 2012.

Licensing criteria	Jurisdiction	Relevant provision
Reliability	California, United States	<p>California Code of Regulations, Title 8. Chapter 6. Division of Labor Standards Enforcement, Subchapter 14. Foreign Labor Contractor Registration</p> <p>13855. Character, Competency and Responsibility</p> <p>(a) In determining whether an applicant possesses satisfactory character, competency and responsibility, the Labour Commissioner shall consider all information submitted in connection with the application or otherwise obtained by the Labor Commissioner during the review of an application. Information regarding past conduct, including criminal history, substantially related to soliciting or recruiting activities, as defined in section 13850, shall be examined to determine an applicant's character, competency, and responsibility. Conduct or conviction of a crime is substantially related to soliciting or recruiting activities if it evidences present or potential unfitness of an applicant to perform the functions authorized by the registration in a manner consistent with the requirements of the Business and Professions Code. The conduct or convictions considered substantially related to soliciting or recruiting shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> (1) Any final determination regarding a violation of a provision of the Business and Professions Code or applicable regulations regulating any occupation which requires a permit, registration, or license; (2) Any criminal or civil violations of the federal Trafficking Victims Protection Act of 2000, farm labor contractor laws under Labor Code sections 1682 through 1699, and Penal Code section 236.1; (3) Any crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another; (4) Any crimes or acts involving physical violence or threats of physical violence, against persons; physical or psychological force, coercion, trickery, or seizure of a persons' documents. <p>Note that section 13855(b) of the Regulations also provides criteria for the Labor Commissioner related to their duty to consider whether the applicant has been rehabilitated (e.g. time passed, nature and severity of crime or act, etc.).</p>
	Victoria, Australia	<p>Labour Hire Licensing Act, 2018</p> <p>Section 22. Fit and proper person test</p> <p>A person or a body corporate will not be a fit and proper person under the Act at the time the application is made if they have within the last:</p> <ul style="list-style-type: none"> • 10 years been found guilty of an indictable offence against a person, or an offence involving fraud, dishonesty or drug trafficking that was punishable by imprisonment of 3 months or more (or an equivalent offence committed outside Victoria); • 5 years been found to have contravened a workplace law, labour hire industry law or minimum accommodation standard, or given an enforceable undertaking in respect of a contravention of one of those laws; • 5 years had a licence under a labour hire industry law cancelled, suspended or revoked other than at the licence holder's initiative; • 5 years, been insolvent or under external administration; • 5 years, where an applicant is a body corporate, an officer of the body corporate was an officer of another body corporate whose licence was cancelled other than at the licence holder's initiative; • 5 years the applicant was an officer of a body corporate and was disqualified from managing corporations under the Corporations Act 2001.

Licensing criteria	Jurisdiction	Relevant provision
Character	Sri Lanka	<p>Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985</p> <p>Section 27(b)</p> <p>A licence to carry on the business of a foreign employment agency shall not be granted unless</p> <p>(b) The applicant, if an individual, or in the case of a firm or company, the person to be in charge of the business, is a person of good repute.</p> <p>Guidance requires that this criterion is supported by two testimonials on applicant's character and reputation, including one from the respective local village public official.</p>
Knowledge of standards	Honduras	<p>Regulations for the operation of private employment agencies, related services, and amendments thereto. Agreement No. STSS- 141-2015 and agreement No. STSS-155-2017</p> <p>Article 35</p> <p>Proceso de Inducción.</p> <p>Previo dar inicio al proceso de registro la persona nautral constituida cono comerciante individual o los representantes de las personas jurídicas, deberán tener un proceso de inducción facilitado por el Departamento de Regulación de Agentes de Empleo Privados, con la asistencia técnica del Servicio Nacional de Empleo de Honduras (SENAEH) que incluya como mínimo los siguientes temas: 1) Contenido del presente Reglamento; 2) Leyes o normative relativas a la discriminación en el empleo; 3) Orientación socio-laboral; 4) Otras leyes del trabajo pertinentes.</p> <p>Article 39: Solicitud de Registro y Licencia</p> <p>13) La constancia de haber recibido el curso de inducción que menciona el articulo 35 del presente reglamento.</p>
	Singapore	<p>Employment Agencies Rules 2011</p> <p>Training</p> <p>6.—(1) Subject to paragraph (2), the Commissioner shall not grant or renew a licence unless —</p> <p>(a) the applicant; and</p> <p>(b) where the licence is for the carrying on of an employment agency, all the key appointment holders of the employment agency, have attended and successfully completed such courses of training and passed such tests of proficiency as the Commissioner may determine.</p> <p>(2) The Commissioner may, in any particular case if he thinks fit, grant or renew a licence notwithstanding that the applicant and, where applicable, all the key appointment holders of the employment agency have not satisfied the requirements specified in paragraph (1).</p> <p>(3) Every holder of a licence referred to in section 6(1) of the Act shall ensure that every key appointment holder of the employment agency has attended and successfully completed such courses of training and passed such tests of proficiency as the Commissioner may determine and within such time as the Commissioner may specify.</p>

Licensing criteria	Jurisdiction	Relevant provision
Professional competence	Kenya	<p>Labour Institutions (Private Employment Agencies) Regulations, 2016</p> <p>3. Eligibility for registration</p> <p>An Agency may be registered by the Director to carry out the business of a private employment agency if—</p> <ul style="list-style-type: none"> (b) the directors have attained at least O-level certificate or its equivalent (c) the manager is in possession of at least a degree in a business related field from a university recognized in Kenya and relevant experience of at least three years
Nationality	Bangladesh	<p>Overseas Employment and Migrants Act 2013</p> <p>10. Eligibility for licence.— (1) No person shall be considered competent to obtain a licence, if the person:—</p> <ul style="list-style-type: none"> (a) is not a citizen of Bangladesh
	Viet Nam	<p>Decree 38/2020/ND-CP on elaborating to Law on Viet Namese Guest Workers</p> <p>Section 2. Eligibility for Issuance of license for organizing guest worker programs</p> <p>Article 6. Eligibility regarding business model and legal capital</p> <p>Enterprises permitted to organize guest worker programs (hereinafter referred to as “service providers”) are limited liability companies, joint stock companies and partnerships which are established and operating according to Law on Enterprises and satisfy following capital requirements:</p> <p>2. Owners, members and shareholders must be domestic investors according to Law on Investment.</p>
Management and marketing	Indonesia	<p>Regulation of the Minister of Manpower of the Republic of Indonesia Number 10 of 2019 on procedures for issuance of license of Indonesian Migrant Workers Placement Agency</p> <p>Article 7 (1) (b), (d), (e), (f) and (h)(4)</p> <p>(1) To obtain SIP3MI [licence], company must fulfill the following Commitment requirements:</p> <ul style="list-style-type: none"> b. evidence of paid-up capital stated in the company’s deed of at least Rp5,000,000,000.00 (five billion rupiah) d. authorization of office means and infrastructure, proven by a letter of ownership or a lease/contract/cooperation agreement e. work plan for the placement and protection of Indonesian Migrant Workers for a minimum of 3 (three) years f. organizational structure of the company h. statement letter from the Person in Charge of the company, which contains the following statement: has a quality management system that is proven by an ISO 9001 certificate not later than 1 (one) year after obtaining the SIP3MI

Licensing criteria	Jurisdiction	Relevant provision
Management and marketing	Malaysia	<p>Private Employment Agencies (Amendment) Act 2017</p> <p>Compliance with conditions imposed on licence application</p> <p>9. (1) The Director General may approve an application for a licence made pursuant to section 8 if the applicant complies with the following conditions:</p> <ul style="list-style-type: none"> (a) the applicant is a body corporate incorporated under the Companies Act 2016— <ul style="list-style-type: none"> (i) with minimum paid-up capital as specified in the Second Schedule; and (ii) at least fifty-one per cent of the total shares of the company are held by citizens of Malaysia; (b) the director of the company, who is named in the application form who is in charge of the affairs of the private employment agency— <ul style="list-style-type: none"> (i) is a citizen of Malaysia; (ii) is not an undischarged bankrupt; and (iii) has not been convicted of any offence under any written law in relation to anti-trafficking in persons and forced labour; (c) the applicant has suitable premises for carrying on recruiting activity as determined by the Director General; and (d) the applicant shall have the words “Agensi Pekerjaan” precede the name of the company.
Negative criteria	Alberta, Canada	<p>Consumer Protection Act, RSA 2000</p> <p>Refusal, suspension, cancellation, terms</p> <p>127 The Director may refuse to issue or renew a licence, may cancel or suspend a licence and may impose terms and conditions on a licence for the following reasons:</p> <ul style="list-style-type: none"> (a) the applicant or licensee does not or no longer meets the requirements of this Act and the regulations with respect to the class of licence applied for or held; (b) the applicant or licensee or any of its officers or employees <ul style="list-style-type: none"> (i) fails to comply with an order of the Director under section 129 or 157, unless, in the case of an order under section 129 or 157, the order has been stayed, <ul style="list-style-type: none"> (i.1) fails to repay a fund created under section 137 in respect of amounts paid out in claims against the licensee, (i.2) fails to pay a levy of assessment under section 136(8) or a levy of assessment for a fund created under section 137, (ii) fails to comply with a direction of the Director under section 151(3), (iii) furnishes false information or misrepresents any fact or circumstance to an inspector or to the Director, (iv) fails to comply with an undertaking under this Act, (v) has, in the Director’s opinion, contravened this Act or the regulations or a predecessor of this Act, <ul style="list-style-type: none"> (v.1) fails to comply with any other legislation that may be applicable, (vi) fails to pay a fine imposed under this Act or a predecessor of this Act or under a conviction or fails to comply with an order made in relation to a conviction,

Licensing criteria	Jurisdiction	Relevant provision
		<p>(vii) is convicted of an offence referred to in section 125 or is serving a sentence imposed under a conviction, or</p> <p>(viii) fails to pay, in accordance with the notice of administrative penalty and the regulations, an administrative penalty imposed under this Act;</p> <p>(c) in the opinion of the Director, it is in the public interest to do so.</p>



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