Government of Malawi

Guidelines for Harmonization of Travel Clearance for Purposes of Labour Export

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ACRONYMS

DICS:	Department of Immigration and Citizen Services
FEA:	Foreign Employment Agencies
FPrEA:	Foreign Private Employment Agencies
MDAs:	Ministries departments and agencies
MoFA:	Ministry of Foreign Affairs
MoL:	Ministry of Labour
MPS:	Malawi Police Service
NIS:	National Intelligence Services
PCC:	Police Clearance Certificate
PrEA:	Private Employment Agencies

1 Introduction

Malawi has been exporting labour to other countries for some years. In recent times, it was noted that some Malawians were subjected to inhumane conditions in destination countries due to among other things lack of coordination among agencies that were supposed to facilitate safe export of labour. These guidelines have therefore been formulated to facilitate coordination among Ministries, Departments and Agencies (MDAs) and Private Employment Agencies (PrEA) who are involved in the Malawian labour export. The guidelines outline the roles and responsibilities that each MDA has in supporting and regulating the operations of Private Employment Agencies (PrEA) and facilitating safe employment of Malawians in other countries.

2 Objectives of the Guidelines

The objectives of these guidelines are to:

a) promote coordination and cooperation among Ministries, Departments and Agencies involved in labour export.;
b) facilitate dignified employment for Malawian migrant workers;
c) facilitate employment of Malawians to countries which have favourable labour and social laws or/and are signatories to international agreements protecting the rights of migrants;
d) promote signing of bilateral labour agreements with countries with high demand of Malawian labour or services;
e) protect every Malawian desiring to work abroad by ensuring that they secure best possible terms and conditions of employment
f) provide a mechanism for issuing licenses to recruitment agencies and

g) Any other matter related to labour export of Malawians.

3 Roles and Responsibilities

3.1 Ministry of Labour

The Ministry of Labour (MoL) will

a. facilitate development of bilateral labour agreements/bilateral cooperation agreements, Memoranda of Understanding with countries where Malawi intends to export labor;
b. keep records of all PrEA that are registered in Malawi for the purpose of exporting labour;
c. keep records of all FPrEA that have contracts with Malawian PrEA the purposes of labour export;
d. submit list of names of Migrant Workers leaving the country on need basis to MoFA for onward transmission to Malawi Mission;
e. In liaison with MoFA ensure that the FPrEA or employer, as appropriate, in the country of employment is credible and has a good reputation;
f. vet the employment contracts and conditions of service of migrant workers;
g. maintain database on Malawians who have secured employment through the PrEA, or migrating individual workers providing all the necessary personal and employment details including:

i. Name; sex; age; next of kin together with contact details; village; Traditional Authority; District; educational and professional qualifications;

ii. type of employment and its duration, wages payable, location;

iii. contact details of the counterpart FPrEA and employer in the country of employment;

iv. contact details of the migrant and any other information that the PrEA may find relevant;

h. Facilitate the development of regulations for operations of PrEA/Recruitment Agencies.

i. Facilitate the introduction of the employees to the Malawi mission covering destination country and not prevent the employee from communicating with anyone, including members of the employee's family in Malawi;

3.2 Private Employment Agencies

The PrEA shall be required to provide

a. detailed information to MoL of their counterpart FPrEA in the country of employment as well as those of the prospective employer. The locations must be traceable.

b. copies of the terms and conditions of employment (Contracts) supplied by counterpart FPrEA or prospective employers to MoL for vetting before migrant workers leave to take up employment;

c. a copy of employment contract to every successful prospective employee before departure as supplied by the prospective employer;

d. explain the terms and conditions to the successful candidates in order to enable them make informed decisions on whether to accept the offers or not;

e. conduct pre-departure orientation to the migrant workers

f. Where medical examination is a prerequisite for employment

   i. clearly explain to the candidates of the fact and

   ii. facilitate medical examination with full consent of candidate taking into account respect of confidentiality of personal medical record.

g. Ensure that each Migrant Worker has a full set of valid travel documents.

h. PrEA will also,

   i. maintain a line of communication between the migrant workers and the PrEA;

   ii. not retain the Passport and other identity documents, certificates and travel documents of the employee or indeed restrict the employee's movements in any way;

   iii. be responsible for the safe return of the migrant worker where the migrant worker is required to return home for any reason before the expiry of the contract;

iv. Provide location, physical and postal addresses of the employer as well as other contact details such as telephone and cell phone numbers;

v. Provide location, physical and postal addresses of the employee as well as other contact details, such as telephone and cell phone numbers;

vi. On quarterly basis, obtain from counterpart FPrEA information on any challenges in terms of the capacity (performance) or conduct of the Malawian migrant worker as well as corrective measures being taken;

vii. Not make any changes to the employment contract unless such changes are favourable to the employee.

viii. Not levy Migrant Workers as per international conventions.

3.3 Migrating Individuals

All persons migrating for employment, on their own shall:

a. Satisfy themselves that they have read and understood the terms and conditions under which they will be working;

b. Not provide false information about their qualifications, health status and health condition;

c. Ensure that they comply with all lawful and reasonable instructions given by the employer;

d. Secure contact and maintain communication with the Malawian mission in the country of employment; and

e. Report immediately any abusive practices suffered to the contact point as advised by the Malawi mission responsible for the country of employment or to the competent authority in that country, as appropriate, if the employer does not take any corrective measures after the abuse is reported to him/her;

3.4 Ministry of Foreign Affairs

The Ministry of Foreign Affairs will

a. In liaison with MoL, facilitate vetting and signing of bilateral labour agreements/bilateral cooperation agreements/ Memoranda of Understanding/ on labour matters with countries where Malawi intends to export Labor;
b. Facilitate vetting of all FPrEA in countries demanding Malawian labour.
c. Provide details of FPrEA to National Intelligence Service (NIS), MPS and Department of Immigration Citizenship Services (DICS) and Malawi Foreign Missions in destination country of migrant workers;
d. When the FPrEA, has been cleared by National Security Agencies, MoFA will inform MoL accordingly.
e. MoFA will keep a database of all Malawians employed in any labour destination country. All Migrant Workers whether employed through FPrEA or have secured employed own their own are required to report to the nearest Malawi Mission upon arrival at destination country.

f. MoFA will conduct periodic audit of FEA and employers to ensure that Malawians are working in dignified environments and are treated humanely

3.5 National Intelligence Service

Upon receipt of information on PrEA and counterpart FEA from MoL/MoFA, NIS will conduct due diligence and provide feedback within two (2) weeks.

3.6 Malawi Police Service

The MPS will be responsible for

a. Issuance of PCC on demand to all individuals seeking employment outside the country;
b. Keeping records of all individuals issued with PCC which will include name of the individual, passport number, stated destination of the individual and date when the PCC was issued;
c. Sharing with NIS records stated in (b) above and
d. Conduct of vetting of PrEA and their Counterpart FPrEA and sharing this information with MoFA within two (2) weeks.

3.7 Department of Immigration and Citizenship Services

The DICS will be responsible for

a. Authenticating passports of all prospective migrant workers leaving the country after receipt of the passports from PrEA and individual migrant workers.

b. At point of Exit, the immigration officer will require the migrant worker to present the following documents:

i. Police Clearance Certificate (PCC);
ii. Clearance letter from MoL;
iii. Apostille from MoFA;
iv. Passport;
v. Visa and
vi. Air Ticket