

Some Frequently Asked Questions (FAQs) on Labor and Immigration Matters in Malaysia

1. What are the immigration violations more commonly committed by foreigners in Malaysia? What are the penalties for these violations?

The following are the immigration violations or offenses commonly committed by foreigners in Malaysia:

- **Illegal Entry**

Under Section 6(3) of the Malaysian Immigration Act 1959/63, a foreigner's presence in Malaysia can be interpreted as illegal entry if said foreigner (i) fails to produce a genuine passport/travel document/entry permit upon request, or (ii) produces a passport/travel document that does not have a valid endorsement pass.

The penalty for illegal entry under Malaysian law includes a fine not exceeding RM10,000 or imprisonment for a term not exceeding 5 years, or both. The guilty party shall also be liable to whipping of not more than six strokes and also pay a compound of RM3,000.

- **Overstaying**

Under Section 15(4) of the Malaysian Immigration Act 1959/63, a foreigner who stays in Malaysia exceeding the expiry date/cancellation of his/her visit pass shall be guilty of overstaying.

The penalty for overstaying includes a fine not exceeding RM10,000 or imprisonment for a term not exceeding 5 years, or both, and the payment of a compound of RM3,000.00.

- **Making, Falsifying or Amending a Document or Endorsement**

Under Section 55D of the Malaysian Immigration Act 1959/63, any person who makes any false documents and intending to use the same, or have any other person use the same as a passport shall be liable for a fine of not less than RM30,000 and imprisonment of 5-10 years. The guilty person shall also be liable to whipping of not more than 6 strokes

2. What are the proceedings undergone by a person arrested on charges of immigration violations in Malaysia?

Persons arrested for an immigration-related offense are taken to an immigration depot, or a temporary detention center, pending investigation. The investigation period usually takes around 14 days. At the end of this period, the investigating officer decides whether there is sufficient ground to prosecute.

Note that, under Malaysian law, arrested persons have the right to be brought before a Magistrate (court/judge) within 24 hours upon arrest. Immigration cases involving foreigners are an exception to this rule: the police can detain a foreigner held for immigration offenses for up to 14 days before being compelled by law to produce the person before a magistrate.

When a person is brought for prosecution and is later found guilty of an immigration offense, said person is transferred to a prison facility where he/she will serve his sentence. After serving sentence, he/she will be brought back to an immigration depot. It is at this point that the deportation process begins. In some cases, especially in the case of minors, elderly or disabled persons, the officer may forego prosecution on humanitarian grounds and proceed to deportation.

To initiate the process of deportation, the immigration officers will record the particulars of detainees in accordance with forms given by their embassies. These forms will then be submitted to relevant embassies through a letter from the immigration depot/TDC requesting the issuance of TDs.

3. What are the rights of foreigners who are detained or arrested in Malaysia?

Under domestic and international laws, foreigners who are detained or arrested have the right to equal protection of the law, and the right to contact the consulate of their home country.

The Philippine Embassy in Kuala Lumpur may be reached at +603 2148 4233 or +6017 3475487.

4. What is Ops Mega 3.0?

On 1 July 2018, the Malaysian Government conducted its most recent crackdown operations against illegal immigrants, which it has called Ops Mega 3.0. These operations are directed at both illegal workers and illegal employers, or those that continue to hire illegal migrant workers.

However, even prior to this campaign, immigration operations directed at illegal immigrants take place regularly, although often unannounced, in various parts of Malaysia. With Ops Mega 3.0, it is only expected that these operations will take place more frequently.

5. What assistance can the Embassy provide Filipinos who are detained or arrested for immigration-related offenses?

Once notified, the Embassy issues travel documents, when necessary, for detained nationals, to facilitate the deportation process. This entails an internal security vetting procedure followed by personal interviews for verification prior to the release of travel documents. As a matter of policy, the Embassy gives priority to the issuance of travel documents of minors, pregnant women, elderly, and those who are in otherwise vulnerable physical conditions.

6. What is the Voluntary Deportation Program?

The Embassy also encourages those who have been unable to secure valid permits or visas to apply under the Voluntary Deportation Program being implemented by the Malaysian Immigration Department.

Under this program, illegal immigrants who surrender voluntarily can be issued an exit pass by the Malaysian Immigration Department upon the payment of RM 400 (RM 300 penalty plus 100 RM for the one-way pass), and do not have to serve jail time nor pay high compound. The program is set to expire on August 30.

The Embassy is ready to extend free advice and assistance, including the issuance of travel documents, to those who opt to avail themselves of this program. They may proceed to the ATN Unit at the Embassy, or contact us at klpe_malaysia@yahoo.com or +603 2148 4233 ext 114.

7. *What other actions does the Embassy take to assist other Filipinos who may be affected by Malaysian immigration operations?*

In addition to assistance extended to those arrested and those who avail themselves of the Voluntary Deportation program, the Embassy also helps verify information submitted to it about the detention of Filipino nationals in various detention centers in Malaysia.

The Embassy also continues to make representations with Malaysian authorities to uphold and protect the rights of Filipino nationals affected by the ongoing immigration campaign.

On July 11, the Embassy also issued an advisory explaining the nature of immigration proceedings under Malaysian law, and the procedure followed by the Embassy in extending assistance to nationals affected by immigration operations. Said advisory was issued in both English and Filipino.

The Embassy has also undertaken steps to verify incidents concerning specific nationals reported on social media.

8. *What should Filipinos in Malaysia keep in mind to avoid immigration violations?*

Filipinos in Malaysia are reminded:

- to take precaution on the security of their passports/travel documents;
- to carry with them their identification and legal documents at all times;
- to ascertain that they produce their passport/travel document to an immigration officer at the point of entry and that they are issued with the relevant immigration pass;
- in case of lost passports, to report immediately to the local police and then to the Philippine Embassy;
- and to either renew their immigration passes, or leave Malaysia, before the expiration of the validity of their passes.