



GUIDANCE

AGE VERIFICATION AT GARMENT FACTORIES IN MYANMAR

This practical Guidance Document aims to help garment factories in Myanmar to set up a more robust Age Verification System. It is intended for use by top and middle management (HR staff in particular) of garment factories in Myanmar that supply FWF member companies.

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1. THE FWF CODE OF LABOUR PRACTICES

Child labour: FWF policy and practice

Based on standard 4 of the Fair Wear Foundation Code of Labour Practices relating to child labour:

1. There shall be no use of child labour.
2. "The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138).
3. The minimum age of admission for work must be in line with legal national child labour regulation. Under Myanmar law, children aged 14-15 years old are allowed to work four hours daily (ref. Chapter 2).
4. "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour (ILO Convention 182).
5. Children [in the age range of 15-18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182).

It is considered that long working hours (i.e. overtime) are detrimental to the health, safety and morals of children under 18 years old.

6. Based on the above, FWF considers that the minimum working age in Myanmar is effectively 16 years old, since it is not considered feasible or realistic to work 4 hour per day in a garment factory:
 - o It is very uncertain that working hours would be effectively limited to 4
There is a real risk that workers would quickly be working more hours or full time again.
 - o When training is arranged at the factory, the lines between 'on-the-job' training and actual work become easily blurred.
 - o Having workers come in for 4 working hours per day would put them in a very difficult position. There is a risk of discrimination because of "special treatment".
 - o There are practical challenges to training being arranged outside factory premises: including arranging transportation after 4 hours of work for only a small number of workers and finding suitable (part-time) training opportunities.

2. RELEVANT LEGISLATION IN MYANMAR AND MGMA GUIDELINE

| Source | Age (years) | How to interpret value / information |
|--|------------------------|---|
| Factory Act (1951) *revised January 2016 | Minimum age: 14 | <ul style="list-style-type: none"> • Medical certificate of fitness required • Prohibited from cleaning, lubricating, or adjusting machinery while machine is in motion |
| | 14 -18 | <ul style="list-style-type: none"> • Prohibited from being employed in factory where cotton opener is at work • Prohibited from lifting, carrying, or moving heavy loads likely to cause injury |
| | 14 -16 | <ul style="list-style-type: none"> • Maximum of 4 hours/day • No work between 6 p.m. and 6 a.m. • Only two shifts allowed; no overlap; only one factory • Work on Sundays prohibited |
| | 16-18 | <ul style="list-style-type: none"> • Can work as an adult if in possession of medical certificate (conditions listed above for 14-18 still apply) • if not, must also work under restrictions for those aged 14-16 |
| Shops and Establishments Act (1951) *revised January 2016 | Minimum age: 14 | <ul style="list-style-type: none"> • Maximum of 4 hours/day, with 30 minutes rest each day • No work between 6 p.m. and 6 a.m. |
| | 14-16 | Must have at least one rest day per week, no particular day specified |
| | 14-18 | <ul style="list-style-type: none"> • Prohibited from working unless in possession of a medical certificate proving fitness to do so • Not allowed to work in hazardous conditions of work which are specifically identified (see also note below) |
| Child Law (1993) *currently under revision | <i>Not defined</i> | • Childhood ends at age 16; Youth defined as 16-18 |
| MGMA Code of Conduct (2015) | <i>Minimum age: 15</i> | • Where underage workers are already employed or discovered, companies should strive to support reasonable remediation measures that promote social integration of children and enable them to enroll in school or alternative education programs |

Note: a list of hazardous work not to be performed by all children under 18 years was developed and validated through tripartite and wider stakeholder consultations in 2016. It defines "long hours" as hazardous work.

3. GOOD PRACTICES ON AGE VERIFICATION

The Six Steps:

- a. Child Labour Policy
- b. Documents Check
- c. Interview with the candidate worker
- d. Medical Check
- e. Checklist to document all HR steps for age verification
- f. Training of HR Staff

A. CHILD LABOUR POLICY

- It is important for factories to have a child or young workers policy, which outlines the factory's policy related to the required ages of new recruits and the procedure for age verification that all stakeholders can clearly understand. Stakeholders include, but are not limited to:
 - Factory owners and senior management
 - Factory middle management
 - All factory staff and all factory workers
 - Candidate workers
 - Buyers (Brands and Retailers)
- It is important to communicate the policy to the workers, as new recruits often come in via existing workers (friends, siblings, etc.).
- Ways to communicate:
 - Bulletin board
 - Regular meetings in the factory
 - Staff manual
 - Vacancy notice on gate
 - Any vacancy advertisement materials distributed
 - Security guards at the gate explaining to interested workers

B. DOCUMENTS CHECK

- It is recommended that factories collect the following for all (potential) new workers:
 - 3 recent photos
 - Myanmar National ID card
 - Labour Registration Card
 - Household Registration List

- In case of doubt and/or inconsistencies, it may be useful to request additional documents such as:
 - Birth certificate
 - Recommendation of the Township Immigration Office
 - Certificate of Health and Age from Social Security Board (SSB)
 - Age confirmation document from Township Health Centre
 - Signed Letter from Village/Township School Master for the date of birth if the child went to school
- It is important that original/authentic documents are submitted, and that a clearly scanned (colour) copy is kept in the personnel file. All original documents are to be returned to the worker.
- It is furthermore advised to cross-check the names of applicants with existing personnel records as it happens that ID cards of existing workers are shared with new applicants who could be younger siblings or friends.

C. INTERVIEW WITH THE CANDIDATE WORKER

- The Interview is a crucial step, and must be done by trained HR staff.
- Interviews must be conducted for all applicants and on an individual basis (one on one) and not in a group. It is important that original/authentic documents are submitted, and that a clearly scanned (colour) copy is kept in the personnel file. All original documents are to be returned to the worker.
- Visual check: during the interview
 - Physical appearance of the applicant.
 - Careful photo check between the National ID Card, photos submitted and the facial features of the applicant, including any easily visible or significant marks such as moles or scars, as mentioned on National ID Card.
- HR staff must conduct an interview and ask a series of questions to cross reference the data on the abovementioned age-verifying documents.

New applicants should be informed of the reasons for the interview, explaining the factory's policies related to the age of new recruits, relevant legal requirement, and highlighting the importance of transparency and honesty, also for workers to be able to exercise their rights (e.g. SSB) in the future.

A list of sample questions is included in Annex I.

- In case there is suspicion that the applicant is underage, it is advised to also call and interview the candidates' parents and/or other family members in order to cross-check the candidate's age.

D. MEDICAL CHECK

ON-SITE – INSIDE THE FACTORY:

- In factories where there is a qualified medical professional on site, it is suggested to also get the opinion from that professional to estimate age by visual check.
- Medical testing should only focus on verifying age. Testing for pregnancy or sexually transmitted diseases is not permitted as part of the recruitment process. Medical testing needs to be done very sensitively, and only in cases where all of the previous data and interview process cannot give certainty about the candidate's age.

OFF-SITE – OUTSIDE THE FACTORY:

- All workers which are under 18 years of age are legally required to be examined by a medical doctor to obtain a certificate of fitness from the Social Security Board or Township Health Center. Related costs are to be borne by the factory.
- A Certificate of Health and Age can be requested at the Social Security Board (SSB).
- A step of last resort could be to request a private hospital or dentist to make an assessment of age by x-ray, checking the number of teeth, condition of teeth abrasion, if possible.

E. CHECKLIST TO DOCUMENT ALL HR STEPS FOR AGE VERIFICATION

- A form or checklist which documents the results of the various steps concerning age verification of every new application needs to be completed and signed by the HR officer. It should state that the following steps have been taken:
 - Document inspection
 - Interview
 - Medical examination
- The use of the checklist would encourage discipline from the HR officer and would provide a practical tool to ensure that all necessary steps are followed to verify the age of new recruits. This form would need to be kept in the worker's personnel file. A sample checklist is included as Annex I.

F. TRAINING OF HR STAFF

- All HR Staff involved in the recruitment of new workers should receive proper instruction and training on age verification along the lines mentioned above.

4. REMEDIATION – FWF POLICY

Based on Fair Wear Foundation – Child labour: FWF policy and practice – October 2012

Responsibility for the following remediation steps is shared between factory and brand.

IF/WHEN CHILD/YOUNG LABOUR IS FOUND:

- For all workers under 16 years old:

The employment between the factory and the child worker(s) must be stopped until the child turns 16.

- The child's family is to be compensated for at least the legal minimum wage and estimated overtime and bonuses. This could be based on the average take-home wage of the worker during the previous three months.
 - These wages should be paid monthly (not as a lump sum) until the child has reached the minimum working age.
 - Adequate steps must be taken to ensure the welfare of the child. Consideration of the child's preferences and best interests is necessary. However, depending on the age of the child, the child should attend school or remain in quality education (vocational training or formal education) until (s)he is no longer a child.
- Once the child turns 16:
 - The production site is required to offer employment in at least the same position and under at least the same conditions. The worker is free to accept or reject the offer of employment.
 - Before reintegration of the worker, a medical certificate of fitness (from either the SSB or Township Health Center) would need to be arranged first. The cost of such a certificate must be borne by the factory. This also applies to any workers aged 16-17.
 - The worker (plus any other worker aged 16-17 years old) should not work overtime until (s)he has reached the age of 18. Practical and innovative solutions could be identified to make this feasible, e.g. a separate production line reserved for young workers (and possibly additional workers that prefer not to do overtime).
 - A detailed and time-bound plan should be prepared to ensure child welfare at the production site. The plan should cover the current case and include a plan to ensure that the production site no longer employs workers under the age of 16, will not do so in the future, and will work towards full compliance with FWF Code of Labour Practices. Structural solutions including better age checks at factory level have to be established.

ANNEX I: SAMPLE QUESTIONS FOR THE INTERVIEW

- How did you hear about the job opening?
- Do you have a friend or family member working in the factory?
- If so, what are their names?
- How many siblings do you have?
- What are their names?
- How old is your older sister/brother?
- How old is your younger sister/brother?
- Can you remember the birth years of your sister/brother?
- When and where did you go to school?
- How old were you when you completed school?
- How old and what school grade were you when Cyclone Nargis occurred?
- What is your (and your sibling's) animal sign? (need to crosscheck with all dates of birth) using a 100-year calendar
- What is your home address?
- Did you ever move from one place to the other?
- How old were you when you moved?
- Do you have previous working experience?
 - Where?
 - When?
 - Why did you leave?
- How old were you when the election 2015 was held?
 - Did you vote?
- Are you married?
- For students: do you have a student card?
 - Can you show me?
- Did you know that it is national legislation that the Social Security Benefits entitlements are linked to SSB Deduction on the pay-slip, for your own benefit and in case of injury?
- Did you know that if you do not have the proper/real documents, you cannot get benefits?
- Did you know that if your blood type is not correct, this is a serious issue if you get injured?
- Do you know the minimum working age by Myanmar law?
- Do you know why this law exists?
- Do you know that, by law, child and young workers are not allowed to conduct certain activities (such as heavy lifting, working with chemicals, etc.), as that would expose them to inappropriate risks?

ANNEX II: SAMPLE CHECKLIST FOR AGE VERIFICATION OF NEW RECRUITS

| | |
|--|--|
| Name of the worker: | |
| Confirmed Date of Birth: | |
| Confirmed Age: | |
| Documents Received | |
| | Myanmar National Identity card |
| | Labour Registration Card |
| | Household Registration List |
| | 3 recent photos |
| Interview | |
| | Individual interview with worker completed |
| | Any inconsistencies/doubts? No: Yes: |
| | If Yes: please elaborate: |
| If necessary or if there is any doubt | |
| | Birth Certificate |
| | Recommendation from the Township Immigration Office |
| | Certificate of Health and Age from Social Security Board (SSB) |
| | Age Confirmation document from Township Health Center |
| | Signed Letter from Village/Township School Master |
| Medical Examination (if it is done) | |
| | Worker's consent form for medical examination |
| | Age confirmation letter from the respective doctor after the medical examination |
| Cross-Check | |
| | Age checking with parents (if it is done) |
| | Check the name of new applicant with existing personnel records |
| Record | |
| | All the above documents are scanned and kept in the personnel file |
| | Original documents are returned to the workers |
| Signature by HR Officer: | |
| | |



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