



No use of Child Labour - Policy

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No use of Child Labour policy

This policy outlines the expectation of Fair Wear member brands in relation to the labour standard 'No use of Child Labour'.

This policy is a specification of the [Fair Wear's Human Rights Due Diligence \(HRDD\) Policy](#) and should be seen in conjunction with [Fair Wear's Approach](#)

and [Brand Guidance](#) on 'No use of Child Labour'. Member brands are required to integrate the risks of child labour in their HRDD policies and practices. Specifically, they should review their purchasing practices, understand their impact, and adapt them as needed to help prevent child labour.

Adherence to this policy will be assessed in [Fair Wear's Brand Performance check](#).

DEFINITION OF CHILD LABOUR

The term 'child labour' is defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children; and/or interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work¹.

The United Nations Convention on the Rights of the Child (CRC)² gives important definitions for child labour. First, the definition of a 'child'.

UN Convention on the Rights of the Child (1989): As defined in the United Nations Convention on the Rights of the Child in article 1, a child is a person under the age of 18. Children have rights, for example, the right to be protected from physical or mental violence (*article 19*) and the right to education (*article 28*).

¹ ILO, <https://www.ilo.org/ipec/facts/lang--en/index.htm>

² United Nations Human Rights Office of the High Commissioner. "Convention on the rights of the child". <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, Article 1

Moreover, the article below states that there should be no use of child labour.

Article 32.1 recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Not all work that children under 18 carry out is classified as child labour. The term **young workers or juveniles** refers to children who are above the minimum working age but under the age of 18. They are allowed to work but require special protection, should avoid hazardous work, require health checks and training, and cannot work overtime or night shifts³. If these are not sufficiently protected, this work is classified as child labour and the zero-tolerance rule applies (see below).

ILO DECLARATION AND CONVENTIONS

In the [ILO Declaration on Fundamental Principles and Rights at Work](#), all ILO member states have an obligation to respect, promote and realise the elimination of child labour, even if they have not ratified the related conventions.

The fundamental ILO Conventions regarding child labour are 138 and 182.

The Worst Forms of Child Labour Convention (ILO Convention 182) stipulates:

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. [...] Children [under the age of 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.

The Minimum Age Convention (ILO Convention 138) states that:

³ Exceptions can be made where young workers maximum hours are limited to less than 40 hours, e.g., in Bangladesh where daily working hours are limited to 5h/day, which can include overtime.

*There shall be no use of child labour. 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*⁴.

Furthermore, as per Article 2 (4) of Convention 138, the ILO allows developing countries to initially set their minimum age at 14. This is specific for countries whose economy and educational facilities are insufficient, and can only come after consultation with the organisations of employers and workers concerned where such exists⁵.

FAIR WEAR'S STANDARD

Fair Wear's Code of Labour Practice (CoLP) standard on 'No use of child labour' is based on the two above-mentioned fundamental ILO Conventions, 138 and 182, together with the Universal Declaration of Human Rights and United Nations Convention on the Rights of the Child.

Fair Wear, in line with the ILO Convention 138 article 2 (4), suggests following national legislation regarding the minimum working age. If the national legislation states that the minimum working age is higher than the ILO standard, the higher one prevails. If the national legislation falls under the exceptional countries of article 2 (4) of ILO Convention 138, and a child of at least 14 years old is allowed to work, Fair Wear follows the ILO Convention and temporarily allows the lower age, with the requirement of increased monitoring of the child, including special protection measures as foreseen for young workers and according to national legislation⁶. When those additional protective measures are not met, it is classified as child labour and the zero-tolerance rule applies (see below). Fair Wear expects member brands to have **a zero-tolerance approach towards child labour in their value chain**. This means that a Fair Wear member brand must implement collaborative remediation and prevention in instances where child labour is identified, regardless of the impact it may have on the company. If child labour is not remediated or persists, the member brand will disengage as a last resort in line with [Fair Wear's HRDD policy](#). be integrated in the member brands' sourcing strategy and purchasing

⁴ The ILO did allow developing countries to set their min. age at 14. Article 2 (4) of Convention 138. Fair Wear always follows the highest standard, which in this case is the ILO standard of 15 years of age.

⁵ As also specified in ILO-IOE Child Labour Guidance Tool for Business, a higher minimum age is not always better, as it may lead to children of legal working age (e.g. 14 years in Bangladesh, Myanmar, India) looking for jobs in less audited businesses, often deeper in the supply chain. "Companies are encouraged not to exceed age limits set in local legislation where those are permissible under ILO standards, or to do so only after careful consideration." Link:

https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/instructionalmaterial/wcms_ipecc_pub_27555.pdf
p.30

⁶ [Ratifications of C138 – Minimum Age Convention per country with minimum age:](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312283)
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312283

practices, most notably through ensuring minimum wages and working towards living wages – see the Fair Wear Living Wage Policy and Guidance – as well as efforts to ensure Freedom of Association and Collective Bargaining – see [Fair Wear’s Freedom of Association and Social Dialogue Policy](#) and the [accompanying Guide for Brands](#).

In summary, zero tolerance applies to the use of child labour:

1. Under the age of 15 as in the ILO Convention 138; or under the **higher** minimum working age as specified by national legislation;
2. Juveniles or young workers, if special protection is not met; and,
3. Under the temporary circumstances, if special protection is not met for 14-year-old children, in line with the ILO Convention 138 article 2 (4), which can be found on the ILO site⁷ and in the ‘country risk scoping tool’ for the member brands.