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Indonesia

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CHILD LABOUR AND YOUNG WORKERS

Guidelines For Employers



Better Work Indonesia



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INTRODUCTION

In the world today, an estimated 218 million boys and girls work as child labourers. Fortunately, in the garment sector in Indonesia there has been significant improvement over the last 20 years in ensuring children under the age of 15 are not employed. The key challenge has been supporting those children (youths) aged between 15 and 17. The law is explicit in protecting the rights of these young workers and ensuring that their working environment is safe.

This guideline is to assist employers in developing systems to prevent the employment of workers that are younger than 15 and to better support workers between 15 and 17 in the workplace.

Better Work Indonesia Team

1. ELIMINATING CHILD LABOUR

Employing children is prohibited.

The minimum age for employment is 15. However, there are a number of considerations for workers under the age of 18. Many positive points enable employers to provide protection for workers between the age of 15–17, but as a consideration, employers should keep the following in mind:

- The official age for full-time employment is 15. Individuals under the official age may not be recruited. It is their right to obtain education (schooling), to play, and to interact in order for them to meet their physical, moral, mental, and intellectual needs;
- Regulations permit **individuals between 15–17 of age to work**, under the condition that they are not given tasks that may harm their physical, mental, moral, and intellectual development; and
- Before given tasks, workers between ages 15–17 are required to be properly trained in order for them to be able to work safely and productively. They should constantly be provided with instruction and supervision.

Indonesia has ratified two ILO conventions on child labour:

- ILO Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138); and
- ILO Convention concerning Elimination of the Worst Forms of Child Labour, 1999 (No. 182).

LEGAL REFERENCE:

- ILO Convention No. 138, ratified by Law No. 20, 1999.
- ILO Convention No. 182, ratified by Law No. 1, 2000.
- Law No. 13, 2000 on Manpower.
- Ministry of Manpower and Transmigration (MoMT) Decree No. Kep.235/Men/2003 on Type of Work Which Endanger the Health, Safety, or Morals of Children (Articles 2, 3, and Appendix).

2. PROTECTION OF YOUNG WORKERS

The importance of protecting young people from harm.

Poor working conditions not in accordance with the principles of Occupational Health and Safety (OSH) will reduce productivity and also lead to poor production quality. When workplaces are dirty and disorganized, workers could spend more time locating items, or easily become fatigued and fall ill. When equipment and supplies are improperly maintained, workers are at risk of accidents and would require more time to complete tasks. When employment procedure does not meet K3 principles, workers are more prone to injury, fatigue, or illness. These factors would endanger every aspect of a business, including marketing, customer care, and financial capability.

Fortunately, they can be prevented by improving K3 conditions through steps presented in this guideline. With healthy, dedicated, and enthusiastic workers (aged 15–17) working in a clean, safe, and pleasant environment, businesses will grow. Potential buyers and bankers visiting the workplace would be more convinced and assured of the business. When this happens, it will be easier to maintain customers, as well as attract and gain new customers. In fact, it would be easier to obtain bank loans or credit when necessary.

2.1. AGE 13–15

Children aged between 13–15 years of age may be employed to perform light works under the following conditions:

- the work does not interfere with the physical, mental, and social development of the child;
- the employer signs an employment agreement with the child's parent or guardian, and obtain written approval;
- they work no more than three hours per day;
- they work only during the day and it does not interfere with their learning process at school; and
- the employer guarantees compliance to K3 requirements.

Good Practices: Employers may check and ensure the age of their workers by requesting for copies of their Identity Cards, Birth Certificates, as well as School Diplomas and further compare them with original documents.

LEGAL REFERENCE:

- Law No. 13, 2003 on Manpower (Articles 52 paragraph (1) letter b, 69, and 74).

2.2. AGE 15–17

2.2.1. FACTS ABOUT WORKERS AGED 15–17

Advantages of recruiting workers aged 15–17:

- when trained, given supervision, and treated appropriately, 15–17-year-old workers have all the potential to become valuable assets for businesses, as they are enthusiastic and energetic. Using approaches to motivate them, 15–17-year-old workers will dedicate themselves to completing tasks instructed to them.
- they are fast learners and easily trained. With appropriate training and instructions, they can quickly absorb new skills, which could be useful for the business.
- they are persistent achievers.
- they are responsible for contributing to their family income.
- they are responsive to supervision in terms of regulation, which is important in protecting their safety, health, and income.

2.2.2. WORKERS AGED 15–17 AND THEIR VULNERABILITIES

While the advantages of recruiting young people are already known, employers should know the fact that they have vulnerabilities. Some of the things employers need to do are identifying hazards and risks where 15–17-year-old workers should not be exposed. Workers aged 15–17 years may:

- not possess the physical and emotional maturity required to perform certain jobs.
- not have the experience required to recognize situations which pose dangers to themselves, other workers, and business assets.
- not have sufficient training and supervision to understand the work process and to perform given tasks.
- not possess the mental maturity required to make good decisions and judgments regarding tasks and themselves.
- be in their development years and are more vulnerable to exposure to physical, chemical, psychosocial dangers, and accidents.
- not know their rights and obligations stipulated by the law.

2.2.3. SUPERVISING WORKERS AGED 15–17

Supervising 15–17-year-old workers is necessary for the smooth operation of business and protects them from accidents that may occur while unsupervised. For this reason, managers and supervisors need to emphasize the K3 principles and good management when they assigning tasks to 15–17-year-old workers, especially to the youngest ones. To ensure safe, smooth, and productive implementation, managers and supervisors should keep in mind:

- it is their responsibility to prepare new 15–17-year-old workers for their assignments with an emphasis on good work habits. This process may include good examples, providing sufficient training regarding working processes, showing what should be done and avoided, how to ask for assistance and supervision, among others.
- it is crucial to give clear instructions for every task assigned to 15–17-year-old workers, provide understanding and chances to ask questions.

- Supervisors must observe/supervise the 15–17-year-old workers, when they work, and provide feedback to perform their best, and correct any errors.
- it is a good idea to prepare the 15–17-year-old workers for emergencies, such as fires, accidents, and violence-related situations. Show safety exits, teach first aid and explain to them where emergency medical treatment is located.
- Supervisors may encourage the 15–17-year-old workers to participate in discussions or hold discussions on K3 issues and their work environment.
- Personal protection equipment, such as goggles, helmets, masks, and gloves are normally always available. However, supervisors need to ensure that equipment is suitable and teach them how to use them.

After all considerations, it is also important for supervisors to find and assign the most appropriate work for 15–17-year-old workers. Articles 68, 69, 70, 71, 72, 73, 74, and 75 of Law No. 13, 2003 as well as MoMT Decree No. Kep.235/Men/2003 provide legal references regarding work and tasks which must be avoided by child workers and 15–17-year-old workers. In essence, these jobs are tasks which:

- use sophisticated technology.
- require high levels of skill and responsibility, along with extensive training.
- easily expose 15–17-year-old workers to physical, chemical, psychosocial dangers, such as:
 - Use of dangerous machinery (machines for cutting, pressing, or even destroying production leftovers).
 - Handling or working near hazardous material (toxic, explosive, and flammable).
 - Performed in isolation and/or narrow spaces.

Those are only some situations to avoid. When in doubt, employers and supervisors should seek additional information by reviewing rules, checking the Material Safety Data Sheet (MSDS), asking, consulting, and discussing with other sources. The purpose of all these measures is obedience and compliance with laws and regulations and to protect 15–17-year-old workers from dangerous situations.

2.2.4. WORKING HOURS

To survive and grow, every business needs to find ways to improve productivity and efficiency. However, growth of productivity and efficiency does not equal overwork. Both would depend on the allocation of all resources, including time and human resources.

Employers should consider that every aspect of life has its similarities to transactions. While it is true that working overtime (excessive work hours) will boost production, a wise business owner would always consider the costs incurred. Machinery may be easily damaged. Working excessive work hours is surely exhausting. When workers are tired, they may be less able to concentrate.

They become weak, slow, and less responsive. In fact, they will more likely make mistakes and get into accidents. Errors and injuries lead to additional costs. Raw materials go to waste, machinery will be damaged, and the time as well as money lost. And, it will lead to more losses if involves 15–17-year-old workers. Despite the fact that regulations in Indonesia limit work hours and days, a number of other aspects of 15–17-year-old workers have not been regulated.

Below are a few considerations employers need to keep in mind:

- Workers aged 15–17 may work up to eight hours per day, 40 hours per week. Although many 15–17-year-old workers are willing to be paid for overtime work, employers are not permitted to assign additional work exceeding specified work hours. It can be a serious hazard when done frequently and for too long.
- It is not a good idea to let 15–17-year-old workers take night shifts as 15–17-year-old workers need a better sleep quality than adult workers, and working during the night will disrupt their life rhythm. It can also pose dangers to their health and growth. In addition, tired and unhealthy workers are at risk of making mistakes and getting into accidents. The consequences may be costly and harmful to business productivity.
- Workers aged 15–17 need private time to interact with peers outside work, exercise, or interaction. Private time is very important for their existence. If employers provide time to do these things, they will have the enthusiastic workers.

2.2.5. HAZARDOUS JOBS

- Children under 18 are restricted from performing jobs that endanger their health, safety, or morals. They are not allowed to perform hazardous jobs. Most of the works performed in garment factories are considered dangerous. Children should not operate dangerous machinery or equipment (including cutting machines, sewing machines, knitting machines, weaving machines, boilers, and cranes, or lifting heavy objects). Children also should not perform tasks which could expose them to hazardous chemicals, electricity, dust and noise in high intensities, as well as extreme temperatures and altitudes.
- Children under 18 should not work overtime, or work between 18:00 and 06:00 hours.
- When children under 18 work, the employer must sign an employment agreement with a parent or guardian.

2.2.6. TASKS THAT SHOULD NOT BE ASSIGNED TO WORKERS AGED 15–17

By considering the above vulnerability points and in accordance with laws prohibiting certain tasks to the 15–17-year-old workers, employers should not allow (and/or assign) 15–17-year-old workers to perform the following:

- working in high-rise buildings using equipment such as ladders and buttresses in high altitudes, which may cause them to easily fall.
- working in extreme heat or extreme cold.
- working in places easily exposed to radiation
- working daylong or nightlong.
- mixing, handling, and using hazardous materials (toxic, flammable, explosive, and carcinogenic).
- working in a place isolated from other workers or people and/or in limited, narrow spaces.

All the points stated above are just a few examples of hazardous situations and tasks, and the list could grow longer. However, there are many tasks and situations that are safe for 15–17-year-old workers and employers should understand the task and the situation is not dangerous and in accordance with the law. (See references in the Appendix).

Best Practice: *Factories may appoint special zones for young workers, in which they are allowed to be and to work, and provide special marking for young workers, such as headgear or armbands in easily-recognizable special colours for managing and mentoring.*

LEGAL REFERENCE:

- Law No. 13, 2000 (Article 52 paragraph (1) letter b and Article 74).
- MoMT Decree No. Kep.235/Men/2003 (Articles 2, 3, and Appendix).

3. FIELD WORK (INTERNSHIP)

Children aged 14 and above may perform work in workplaces included as parts of education or training curriculums approved by authorities. Children should be provided with clear guidance and instructions on the delivery of work, and provided with K3 protection.

LEGAL REFERENCE:

- Law No. 13, 2003 (Article 70).

Source of Guideline:

- Employers and Child Labour, Guideline One: Introduction to the Issue of Child Labour, ILO (2007);
<http://betterwork.org/in-labourguide/wp-content/uploads/2012/05/L-GUIDE-2009-Pengusaha-Pekerja-Anak-2-Bagaimana-Pengusaha-dapat-Menghapuskan-Pekerja-Anak-ILO-LG-resized.pdf>
- Employers and Child Labour, Guideline Two: How Employers Can Eliminate Child Labour, ILO (2007);
- Employers and Child Labour, Guideline Three: The Role of Employers' Organizations in Combating Child Labour, ILO (2007).

4. REMEDIATION

If children under 15 are found working in a factory, then the factory is required to perform the following remediation measures:

1. Case-finding will immediately be forwarded to related departments in the MoMT. A full investigation will be conducted. If necessary, the age of the child will be confirmed through documents and interviews. If it is not possible to confirm the child's age, the worker will be treated as a child.
2. The child must immediately stop working at the factory.
3. Immediately identify parties and institutions needed to make improvements. Depending on the conditions, this case may involve other departments related to MoMT and other ministries, employers, employment recruitment agencies (if any), workers and families of workers, union representatives, brand owners, non-profit organizations, as well as health service and counselling providers.
4. If necessary, a guardian will be appointed to represent the child worker. Children of a sufficient age and maturity may take part in decision-making.
5. The child should return to follow an education process or work training based on the child's interest until she/he turns 15.
6. If the parent and the child agree, then the child will be placed in a special education program. This may be in the form of schools, religious boarding schools, and vocational training centres, or other places with the space or rooms for educating and training both indoors and outdoors, as well as recreational rooms.
7. Factories are required to bear all costs associated with the child's schooling or training activities including accommodation costs if the child does not live with his/her family during the training/education program.
8. Factories should pay compensation costs to the parents or family in the amount equivalent to minimum wage received when the child works, paid monthly until the child turns 15.
9. Payment shall be made directly to the child or a parent or legal guardian, and paid on payday or the following day if payday falls during the weekend or a public holiday.
10. All disciplinary fines or debt incurred by the child to the factory will be eliminated.
11. Monitoring will be done to ensure that (1) the child attends and finishes schooling; (2) factory performs its obligations to the parents or family.
12. If the child wants to return to work, the employer must re-hire the child when the child turns 15.
13. Employers should ensure that the age of all workers will be verified through reliable documents prior to recruitment, including workers recruited through agencies.
14. Employers ensure that workers under the age of 16–18 do not perform hazardous work.
15. Better Work Indonesia will cooperate with employers/factories during a mentoring service to ensure non-compliance related to child labour will be solved in best ways and all efforts should be made for the good of the child.

5. APPENDIX
Appendix I: Table on Type of Work Activities

Types of work activities based on MoMT Decree No. Kep.235/Men/2003, including Appendix

DIVISION	WORK PROCESS/ACTIVITIES	TYPES OF WORK THAT ENDANGER THE HEALTH, SAFETY, OR MORALS OF CHILDREN
Warehousing	<ul style="list-style-type: none"> • Lifting goods 	<p>Appendix part C number 3:</p> <p>Jobs involving work of a hazardous nature and circumstances.</p> <p>Work involving manually lifting and transporting loads over 12 kg for boys and over 10 kg for girls.</p>
Cutting	<ul style="list-style-type: none"> • Cutting fabric using cutting machinery or scissors • Lifting and moving fabric rolls 	<p>Appendix part A number 1 letter (a):</p> <p>Tool machinery such as drilling machines, grinding machines, cutting machines, lathes, scrap machines.</p> <p>Appendix part B number 1 letter (j):</p> <p>Work that may cause electrical hazards, fires and/or explosion.</p>
Sewing	<ul style="list-style-type: none"> • Sewing using sewing machines • Cutting threads and fabric using scissors 	<p>Appendix part A number 1 letter (b):</p> <p>Production machines such as: knitting machines, sewing machines, weaving machines, packing machine, bottle-filling machine.</p> <p>Appendix part B number 1 letter (j):</p> <p>Work that may cause electrical hazards, fires and/or explosion.</p>
Completion	<ul style="list-style-type: none"> • Evaluating quality of work (QC, <i>quality control</i>) • Cutting threads of finished garments • Packing goods into plastic packaging 	<p>Appendix part C number 3:</p> <p>Work of a certain nature or involving certain hazards.</p> <p>Work involving manually lifting and transporting loads over 12 kg for boys and over 10 kg for girls.</p>

Packaging	<ul style="list-style-type: none"> • Packing finished garment into boxes • Lifting and transporting goods • Moving freight using forklift machines 	<p>Appendix part C number 3:</p> <p>Work involving manually lifting and transporting loads over 12 kg for boys and over 10 kg for girls.</p> <p>Appendix part A number 2 letter (d):</p> <p>Cranes such as: faucet lifts, transport tapes, escalators, gondolas, forklifts, loaders.</p>
Technician	<ul style="list-style-type: none"> • Ensuring that electricity installation work properly • Maintaining and repairing electricity installations • Maintaining and repairing machinery (sewing machines and other machines) • Maintaining and repairing boilers 	<p>Appendix part A number 4:</p> <p>Installations such as: pressurized pipe installations, electricity installations, fire-extinguishing installations, power lines.</p> <p>Appendix part B number 1 letter (j):</p> <p>Work that may cause electrical hazards, fires and/or explosion.</p>

**6. LIST OF CONTACTS OF NON-GOVERNMENT ORGANIZATIONS:
The Greater Area of Jakarta (JABODETABEK)**

NO	ORGANIZATION	CONTACT PERSON
1	Yayasan Setia Kawan Rahardja (SEKAR) Jalan Pakin No 1 Komplek Rukan Mitra Bahari 2 Blok E No. 23 Penjaringan Jakarta utara	Contact person: Wardoyo Mobile phone: 0812-8111-462 Email: wdy_sekar@yahoo.co.id
2	Yayasan Kesejahteraan Anak Indonesia (YKAI) Jalan Penghulu No. 18 Bidaracina, Jakarta Timur	Contact person : Winarti Sukaesih Office number: 021-819-0451 Mobile phone: 0811-811-7945 Email: icwfhg@yahoo.com
3	Yayasan Balarenik Jalan Pahlawan Komaruddin No. 15B Rt 03/Rw 05 Penggilingan, Cakung Jakarta Timur	Contact person: Agusman Office number: 021-7079-1564 Mobile phone: 0813-1783-4959 Email: agus_ybr@yahoo.co.id
4	Yayasan Pemerhati Sosial Indonesia (YPSI) Jalan Empu Tantular Raya No. 26 Perumnas II Karawaci Tangerang	Contact person: Titin Kustini Office number: 021-7169-7495 Mobile phone: 0821-2599-3745 Email: ypsi_indo@yahoo.com
5	Yayasan Dinamika Indonesia (YDI) Jalan Pangkalan V Timur No. 5 Rt 01/Rw 04 Ciketing Udik, Bantar Gebang Bekasi	Contact person: Nasrudin Muanis Office number: 021- Mobile phone: 0812-984-8401 Email: dinamika_news@yahoo.com

West Java

NO	ORGANIZATION	CONTACT PERSON
1	Edukasia Kampung Berekah Rt 04/Rw 01 Kecamatan Bojong Genteng Kabupaten Sukabumi Jawa Barat	Contact person: Euis Andriani Office number: 0266-620-050 Mobile phone: 0819-1189-0800 Email: iez.educasia@gmail.com
2	Lembaga Advokasi Hak Anak (LAHA) Jalan Demak No. 5 Antapani – Bandung Jawa Barat	Contact person: Andi Akbar Office number: 022-720-7023 Mobile phone: 0812-2169-660 Email: lahabdq@indosat.net.id / di_akbar@gmail.com
3	Pusat Pengkajian Studi Wanita (PPSW) Pasoendan Komp. Graha Pratama Jebrod Jalan Wijaya Kusuma Blok H No. 22 Desa Sirmagalih – Kecamatan Cilaku, Cianjur Jawa Barat	Contact person: Endang Sri Rahayu Office number: 022- Mobile phone: 0811-8882-602 Email: endang-yayuk@yahoo.com

Central Java

NO	ORGANIZATION	CONTACT PERSON
1	Social Analysis and Research Institute (SARI) Jalan Markisa IV No. 6 Karangasem – Solo Jawa Tengah	Contact person: Zainal Abidin Office number: 0271-7074-500 Mobile phone: 0815-6707-727 Email: sarisolo@rocketmail.com / zainal_solo06@yahoo.co.id
2	Yayasan Kepedulian untuk Anak (Yayasan KAKAK) Jalan Flamboyan Dalam No. 1 Purwosari – Solo Jawa Tengah	Contact person: Shoim Syariati Office number: 0271-720-292 Mobile phone: 0817-9480-932 Email: kakaksolo@gmail.com / syafafif@yahoo.com