



Child Labour Legal Guide - Indonesia

- Law No. 20 of 1999 regarding Ratification of ILO Convention No. 138 concerning Minimum Age for Admission to Employment (“Law 20/1999”);
- Law No. 23 of 2002 regarding Child Protection as amended by Law No. 35 of 2014 regarding Amendment of Law No. 23 of 2002 (“Child Protection Law”);
- Law No. 13 of 2003 regarding Manpower as amended by Law No. 11 of 2020 regarding Job Creation Law (“Manpower Law”); and
- Ministry of Manpower Decree No. KEP-235/MEN/2003 of 2003 regarding Dangerous Type of Jobs for Children’s Health, Safety or Morality (“MOM Decree 235/2003”).

Summary

Law 20/1999

Recognition of ILO Convention No. 138 of 1973 concerning Minimum Age for Admission to Employment by the Indonesian government (e.g. minimum age for children to undertake works at 15 years of age, permission for children with 13-15 years of age to undertake works which are not dangerous for their health and development and do not hinder their school activity).

Child Protection Law

Principally, this law contains prohibition to undertake exploitation of children economics.¹ Promulgation of Article 66 of Child Protection Law describes “exploitation of children economics” as any action undertaken with or without the child approval which includes prostitution, forced labour, slavery or its kind, or transferring or transplants child’s organ and/or body cells or exploitation of children’s skill in a way which violates the law, to obtain material benefits.

Manpower Law

Governs general provisions with respect to manpower aspects in Indonesia, including but not limited to child labouring.

1. Article 76I of Child Protection Law.

MOM Decree 235/2003

This decree provides permission to employ children between 15-18 years of age. It also specifies the type of works which are prohibited from being assigned to such children as they are dangerous for children's health, safety or morality, such as:

- Works related to operating machinery, devices, installation and other equipment;
- Works which are undertaken in a dangerous environment (e.g. underground works, handling radioactive materials);
- Works which contain specific danger in nature (e.g. construction works, limber industry, fishing in the deep sea territory);
- Works which are undertaken in a bar, discotheque, karaoke, billiard pool, movie theatre, massage parlour or location which are vulnerable for prostitution; and
- Work as a model for alcohol brands, medicine which trigger sexuality and/or cigarettes.

This decree also prohibits overtime for child labour.

How is business affected?

Manpower Law prohibits the employment of children.² However, children with age between 13-15 years may be hired, with the following requirements³:

- Obtaining written approval from their parents/benefactor;
- Enter into an employment agreement with their parents/benefactor;
- Maximum working hours of 3 hours per day;
- The works will be undertaken in the afternoon and shall not hinder school activity;
- Observing children's health and safety in the work environment;
- Existence of clear employment relationship; and
- Receiving benefits.

Children are also prohibited from being assigned to any works as described in MOM Decree 235/2003 above.

2. Article 1 of Manpower Law describes Children as any person who is under 18 years of age.

3. Article 68 of Manpower Law.

Expectations

Child labour is allowed subject to the compliance with Manpower Law and MOM Decree and does not constitute child economics exploitation as described under Child Protection Law.

The Indonesian law is silent on the specific requirement to report any child labouring conducted by the company. As a general requirement, however, there is an obligation for companies to undertake a monthly mandatory manpower report, which include reporting on the number of employees hired and the salaries paid to their employees.

Penalties

Any party who breaks the provision regarding child labour under Manpower Law is subject to imprisonment of 1 to 4 years and/or fines from IDR100,000,000 to IDR400,000,000.⁴

In addition, Child Protection Law provides any party who undertakes, allows, orders or participates in exploitation of child economics are subject to a maximum imprisonment of 10 years and/or a maximum fine of IDR200,000,000.⁵

Notable prosecutions

There was a criminal case which condemned two perpetrators with 1-year imprisonment and IDR100,000,000 fine due to the violation of child labour provision under the Manpower Law. This case was registered in Kupang High Court with register no. 73/PID.SUS/2016.PT.KPG.

Under this case, the perpetrator has forced 7 children under the age of 18 (4 out of them were aged under 15) to serve as bakers in a home-made bread factory owned by the perpetrators. In addition to baking the bread, the children are also forced to undertake other housing works from 5 AM to 12 AM without definitive break time. Other than that, the children were employed without any employment agreement, nor approval from their respective parents or benefactor.



4. Article 185 of Manpower Law.

5. Article 88 of Child Protection Law.



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