



Child Labour Legal Guide - China

Laws

- **Article 15 of the PRC Labour Law (《中华人民共和国劳动法》)**
- **Article 61 of the Laws on the Protection of the Minors of the PRC (《中华人民共和国未成年人保护法》)**
- **Regulation on the Prohibition of the Use of Child Labour (《禁止使用童工规定》)**

Summary

Definitions

Term	Definitions under different laws
Child Labour	Minor under age of 16 years
Minor	Under the age of 18 years

Summary of Key Requirements

- No government agencies, social organizations, enterprises and institutional entities, civilian operated non-enterprise entities (hereafter referred to as employers) may employ minors under 16 years old.
- All units and individuals are prohibited from providing job placement service to minors under the age of 16.
- Minors under the age of 16 are prohibited from starting business and engaging in individual business operation activities.
- Commercial entertainment venues, bars, Internet service business venues and other venues that are not suitable for minors' activities shall not hire minors who have reached the age of 16.
- Units and individuals that recruit or hire minors who have reached the age of 16 shall implement provision of the State on the types of work, working hours, labor intensity, and protective measures, and shall not arrange for them to engage in dangerous work, or excessive, toxic, hazardous, or other activities that damage the physical and mental health of minors.
- No organization or individual may organize minors to carry out performing arts activities that endanger their physical and mental health. If a minor participates in performing arts activities or other activities with the consent of his or her parents or guardians, the organizer of the activities or programs shall protect the lawful rights and interests of the minor in accordance with relevant provisions of the State.
- No organization or individual may organize minors to carry out performing arts activities that endanger their physical and mental health.

How is businesses affected?

Generally speaking, use of Child Labour is prohibited under PRC laws.

For the hiring of Minor between age 16 and 18, the employer shall not arrange the Minor to engage in dangerous or hazardous activities.

Employers in the entertainment industry are not allowed to hire Minor between age 16 and 18.

Expectations

Employing units, when recruiting employees, shall verify the identification card of the recruited; no minors under the age of 16 shall be recruited. The employing units shall properly preserve the documents for recruitment registration and verification.

When a unit that is in close contact with minors hires staff, it shall check with the public security organ and the people's procuratorate whether the applicant has a criminal record of sexual abuse, maltreatment, abduction and trafficking, or violent injury; if it is found that the applicant has a record of involving the above-mentioned behaviors, he or she shall not be hired.

Units having close contact with minors shall regularly check whether their staff members have the record of involving the above-mentioned illegal or criminal acts. If a staff member is found, through check of or other means, to involve the above-mentioned behaviors, he or she shall be dismissed in a timely manner.

Penalties

- In the case of use of child labour by an employing unit, the labour and social security administrative department shall punish it by the standard of fining 5, 000 yuan for each of children employed per month;
- In the case of use of child labour in workplaces where toxic substances are used, a heavier punishment shall be imposed in consistence with the fine range stipulated in the Regulations on Labour Protection in Workplaces Where Toxic Substances Are Used, or by the standard of fining 5, 000 yuan for each of children employed per month.
- The labour and social security administrative department shall order the employing unit to send the children back to their original places of residence and hand them to their parents or other guardians within a prescribed period, and all the costs of transportation and accommodations so entailed shall be borne by the employing unit. Where the employing unit, when ordered to make corrections by the labour and social security administrative department in accordance with the preceding paragraph, fails to send the child labourers back to their parents or other guardians within the prescribed period, the labour and social security administrative department shall punish it by the standard of fining 10, 000 yuan for each of children employed per month from the date of ordering corrections to be made within the prescribed period, and the department for industrial and commercial

administration shall revoke their business licenses or, the civil affairs department shall cancel the non-enterprise unit registration; if the employing unit is a State organ or public institution, the relevant units shall impose administrative or disciplinary sanctions of demotion or discharging from the post on the persons in charge directly responsible and other persons directly responsible.

- Where a unit or an individual provides job placement service to minors under the age of 16, the labour and social security administrative department shall punish it by the standard of fining 5, 000 yuan for each of the minors placed; where a job placement service agency provides job placement service to minors under the age of 16, the labour and social security administrative department shall also revoke its job placement license.

Notable prosecutions

In 2009, a foreign invested eye glass factory in Dongguan, Guangdong Province was penalized for RMB5,000 by the Dongguan Labour Bureau for using a Child Labour who was 15 at the time of the hiring.

The eye glass factory defended itself by claiming that this Child Labour concealed his age information so the factory failed to discover the fact that he was just 15. Nonetheless, the court ruled that the factory failed to exercise due diligence in verifying the ID information of this Child Labour and accordingly support the penalty decision made by the Dongguan Labour Bureau.





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