



Child Labour Legal Guide - Taiwan

Relevant Laws

- **Constitution of Republic of China (Taiwan).**
- **Labor Standards Act.**
- **Occupational Safety and Health Act.**
- **Convention on the Rights of the Child.**
- **Regulations Governing the Determination Criteria and Inspection of No Harm to Mental and Physical Health in Article 45 of the Labor Standards Act.**

Legal Framework

If we use the age of workers as the distinction,

- In principle, employers are not allowed to hire people under the age of 15 as workers, unless such employers have obtained permission from the department of Labor of local government for each individual case¹ or each of such workers under the age of 15 has graduated from junior high school.
- Although employers can hire people over 15 years old and under 18 years old as workers, employers are not allowed to involve such workers in potentially dangerous or hazardous work. Potentially dangerous or hazardous work includes but is not limited to working in the pits, handling explosive materials, inspecting or repairing machines in operation, etc.
- Employers must ensure that adult workers and workers under 18 years old be given equal pay for [similar / same] work, and employers are also required to provide basic wages (i.e. legally prescribed minimum wages) for workers under 18 years old. In addition, an employer must obtain the consent of the guardian of a worker under 18 years old and certified documents² to verify the age of such worker.
- In order to protect the rights of a worker who is over 15 years old and under 16 years old (referred to a “child worker” under the Labor Standards Act), the daily working hours of such child worker shall not exceed 8 hours, the weekly total working hours of such child worker shall not exceed 40 hours, and such child worker shall not work between 20:00 and 06:00.

1. The department of Labor of local government will determine that no harm will result to such worker's mental and physical health before granting the permission.
2. According to the reply from Department of Labor of Taipei City Government, it could be National Health Insurance card, Household Certificate or National Identification.

How are businesses affected?

- If an employer violates the laws and rules for protecting workers under the age of 18 years old, they may face criminal liabilities and administrative penalties as stipulated under the Labor Standard Act. Please refer to the section on penalties below. Note that the Labor Standard Acts explicitly stipulate that if the person who acts as a proxy of the employer violates the laws under this Act, both the person who violates the laws and the employer shall face the liabilities and / or penalties, unless the employer indeed makes every effort to prevent the violation of the laws. On the other hand, an employer who indulges its proxy in violating the laws will be deemed as the violator of the laws.
- If workers under the age of 18 are injured at the workplace, they are not protected by labor insurance. The relevant employer would then be directly liable for damages caused, putting a heavier burden on the employer's financial resources.
- Nowadays consumers prefer quality products and services provided and delivered through responsible social and environmental practices. Non-compliance with the laws and rules protecting workers under 18 of age by an employer when exposed could severely damage its corporate reputation.
- Consumers would lose confidence in the brand, and brand loyalty would be lost. This would lead to a decrease in revenue for the businesses affected.
- Violations would also result in a loss of confidence by shareholders causing company stock prices to drop.
- Violations if caught could also cause a disruption to production due to shortage of workforce, which in turn could cause an interruption of supply chain and failure to meet obligations to provide products and/or services resulting in breach of contracts.
 - Example: Apple suspended Taiwanese manufacturer Pegatron for violating applicable labor rules, including falsifying paperwork and misclassifying student workers.
- Businesses can also be affected by the misperceptions regarding cost savings when using workers under 18 years old. One of the reasons businesses employ workers under 18 years old may be to save costs, but research has shown that such workers have decreased attention span and low-quality control appreciation, yielding less effective work.

Expectations

- If an employer wants to hire workers under 15 years old who have not graduated from junior high school, such employer must obtain permission from the department of Labor of local government in advance.
- If the employer wants to hire workers under the age of 18, in addition to not allowing them to undertake potentially dangerous or hazardous work, the employer must obtain the guardian's consent and documents that can prove such workers' age in order to cope with labor inspection that may occur at any time.
- In addition, workers over the age of 15 and under the age of 16 must not work more than 8 hours a day, 40 hours a week, and must not work between 20:00 and 06:00.

Penalties

Criminal liabilities

If the employer violates the rules for protecting workers under the age of 18, the employer will face a fixed-term imprisonment of less than six months, or a fine of less than NT\$300,000, or both.

Administrative penalties

As mentioned, an employer who plans to hire workers under 18 years old must obtain the consent of this worker's guardian as well as certified documents to verify the age of this worker. If failing to do so, the employer will face an administrative fine of no less than NT\$20,000 and no more than NT\$300,000. Moreover, the labor department of the local government can consider such factors as the scale of the business and the severity of the violation to decide whether to impose an additional one-half of the maximum fine. If an administrative penalty is imposed, the name of the employer and the person in charge will also be published in the Labor Ministry's website.

Notable prosecutions

- A 17-year-old boy in Changhua found a job in a steel structure company through a private human resource agency. He was physically restrained for 3 months and beaten by the employer. In addition to violating rules of protecting workers under the age of 18, employer was also guilty of Offenses of Causing Injury.
- A steel structure company by the name of 宇軒鋼鐵工程有限公司 in Taoyuan employed a worker under 18 years old but failed to obtain or prepare the consent of such worker's [parent / guardian] and documents to prove the age of such worker in the workplace, in addition being fined NT\$20,000, the name of the company and the person in charge are published in the Labor Ministry's website.
- A 1980 case brought to the Supreme Court of Taiwan outlines an under 15-year-old worker who died working in the hazardous environment of the 桃園縣蘆竹村坑口村六號 construction site without proper safety equipment. The court found the employer guilty of using underage worker and manslaughter in relation to the death of the underage worker. This case set a precedent for labor laws against underage workers.
- A group of 14-16 years old female employees working at a firework manufacturing industry in Chiayi County died from an explosion incident that happened in the factory. The court found the employer guilty of violating factory regulations prohibiting underage workers from working in hazardous environments. The employer was also convicted of manslaughter for the death of the group of underage female workers.



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