



ECAM
EMPLOYERS' CONSULTATIVE
ASSOCIATION OF MALAWI
The Voice of Employers in Malawi



CODE OF CONDUCT FOR EMPLOYERS ON THE ELIMINATION OF CHILD LABOUR IN MALAWI

DEVELOPED WITH SUPPORT FROM



International
Labour
Organization

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ACKNOWLEDGEMENT

The revised code of conduct for employers on the elimination of child labour in Malawi has been developed to respond the call on National Child Labour Plan of Action II, and in line with SADC code of conduct and employer guide on elimination of child labour.

The process of developing the code of conduct requires broad based support and efforts from committed people and institutions. I would like to extend our heartfelt appreciation to a number of people who contributed in one way or another to make this code of conduct for the employers on the elimination of child labour possible. This code of conduct would not have been possible without the unselfish dedicated assistance of ECAM staff during the preparations and consultations and drafting.

We are particularly grateful to persons who took time from their busy schedules to participate in the consultation meetings. Special thanks go to Government officials in the Ministry of labour and Ministry Gender, Children, Disability and Social Welfare, Ministry of Education, Malawi Congress of Trade Union, International labour organization, Tobacco Control Commission, and Tobacco Association of Malawi for providing advice and general direction of the code of conduct for employers on the elimination of child labour.

Boniface Mandere
Article III

FOREWORD

This revised code of conduct, confirms the employers' commitment to fighting and eliminating child labour by providing a set of simple principles and behaviors that should guide all employers in Malawi in the day to day conduct of business. This code of conduct is in line with the commitment made by Employers' Consultative Association of Malawi (ECAM) during the Malawi National Conference on Child Labour in Agriculture held on 5-6 September 2012 (Lilongwe, Malawi), in which, among others, ECAM committed to: develop and promote adoption of employers' anti-child labour guidance, and promote business's adoption of and compliance with global labour standards, the decent work agenda and human rights principles.

ECAM recognizes that Child labour deprives children of their rights such as education and their ability to participate actively and positively towards the development of Malawi. In light of this ensuring that we eliminate child labour in its worst forms should be at the heart of workplace policies. One of the mandates of ECAM is to fight and tackle child labour. Therefore, by introducing this Code of Conduct on the elimination of the worst forms of child labour in Malawi, ECAM has taken another proactive step in the fight against child labour in Malawi. Our products as a nation need to be child labour free for us to effectively compete at the global level. In this context, it is every employer's obligation to ensure a child labour free supply chain in order to meet requirements placed on a global enterprise.

As an apex body of employers, ECAM has been involved in the elimination of child labour through implementation of various projects with technical support from International Labour Organization (ILO). At policy level, ECAM fully supported the ratification of Conventions 138 on Minimum Age in Employment and 182 on the Worst Forms of Child Labour as well as the UN Convention on the Right of the Child 1989. Furthermore, ECAM recognizes the Government of Malawi's efforts in tackling Child Labour and will continue to pledge its support in complimenting these efforts.

ECAM members in key sectors such as tea and tobacco have made invaluable contributions towards the elimination of child labour in Malawi. However, looking at the magnitude of the child labour challenges as observed in the Malawi 2015 National Child Labour Survey, there's a need to intensify efforts in ensuring that elimination of child labour is at the heart all employers operations. Malawi as a nation needs to eradicate child labour at all cost in order to ensure that a future productive workforce is protected through access to the right skills. We would therefore like to commend and encourage the Government of Malawi to engage in more fact finding initiatives that can inform Malawi's efforts.

Foreword...

ECAM notes that, child labour has a global dimension and the world in which we do business is changing at a rapid pace. In the context of this continually evolving business environment, this code of conduct constitutes a common benchmark to guide individual initiatives and ensure greater consistency in practices in Malawi. Our expectation is that all employers will embrace this Code of Conduct as the best way to support our business and fulfil our sustainable development responsibilities. We would like to sincerely thank the ILO through the Achieving Reduction of Child Labour in Support of Education (ARISE) II project for their continued assistance and collaborative efforts on issues pertaining to child labour in Malawi. ECAM, further, appreciates the efforts of our social partners and our members in the process of developing this code.

ACRONYMS

ARISE	Achieving Reduction of Child Labour in Support of Education
MCTU	Malawi Congress of Trade Unions
ECAM	Employers Consultative Association
CCPJA	Child Care Protection Justice Act
ILO	International Labour Organization
TCC	Tobacco Control Commission
TAM	Tobacco Association of Malawi
MLFS	Malawi Labour Force Survey

DEFINITIONS OF KEY TERMS

A Child means: any person who is below the age of 18 years according to the ILO Convention 138 on Minimum age of entry to employment and Convention 182 on Worst Forms of child labour

Child work means: any work in which children or adolescents' participation does not affect their health and personal development or interfere with their schooling and is supplementing to their education needs and it contributes to children's development and to the welfare of their families; it provides them with skills, attitudes and experience, and helps to prepare them to be useful and productive members of society during their adult life.

Child labour means: Work which affects the children's health, moral, social, spiritual and physical development and prohibits them from attending education

Forced labour means: Any work or service that is exacted from any person under the threat of any penalty and is not offered voluntarily, but does not include:

- (a) Any compulsory military service or work, of a purely military character;
- (b) Any work or service that forms part of the normal communal or civil obligations of citizens of Malawi
- (c) Any work or service exacted from a person as a consequence of a conviction by any court:

Employer means

- (a) Any person, body corporate, undertaking, public authority or body of persons who or which employs an employee and includes heirs, successors and assignees of the employer, or
- (b) Where appropriate, a former employer;

Employee means

- (a) A person who offers his services under an oral or written contract of employment, whether express or implied;
- (b) any person, including a tenant share cropper, who performs work or services for another person for remuneration or reward on such terms and conditions that he is in relation to that person in a position of economic dependence on, and under an obligation to perform duties for, that person more closely resembling the relationship of employee than that of an independent contractor; or where appropriate, a former employee

Definitions of key terms...

Worst forms of child labour means: Work which, by its nature or the circumstances in which it is carried out, is:

- a) performed by a child who is under the minimum age specified for that type of work and is likely to impede the child's education and full development;
- b) jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, known as hazardous work;
- c) Unconditional worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities.

Decent work: Decent work involves opportunities for work that is productive and delivers a fair income;

- a) provides security in the workplace and social protection for workers and their families; offers better prospects for personal development and encourages social integration;
- b) Gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives; and guarantees equal opportunities and equal treatment for all.

Informal employment: A job where the relationship between the employee and employer is not subject to national labour legislation or income taxation or any social protection or employment benefits

PREAMBLE

Upon requests by the SADC Employment and Labour Sector (ELS) Committee of Ministers and Social Partners at their Annual Meeting in Lilongwe, Malawi, April, 1996 the International Labour Organization (ILO) conducted a Study on the magnitude of Child Labour in the Region. The findings of the Study revealed that data on Child Labour was scarce and that most of the Member States had not adopted comprehensive national strategies to combat Child Labour.

However, there was evidence that the region was increasingly seeking the involvement of the ILO's International Programme on the Elimination of Child Labour (IPEC) in taking steps towards a national approach. The immediate elimination of all forms of Child Labour is beyond the reach of many countries. Consequently, the priority should be on the immediate elimination of the worst forms of Child Labour and step by step time bound for national programmes of action to eliminate all forms of Child Labour.

At regional level the SADC Employment and Labour Sector Committee of Ministers and Social Partners has continuously urged Member States to ratify and implement the ILO Minimum Age Convention 138 (1973), the new ILO Convention 182 (1999) on the Worst Forms of Child Labour and other international instruments relevant to Child Labour? At the 2002 ELS Annual Meeting it was noted that Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe had ratified Conventions 138 and 182.

This Code offers guidelines to employers on elimination of child labour and serves as an encouragement for government institutions, workers and employers organizations, local leaders, parents, teachers, children and communities to get involved in activities on combating child labour. It is inspired by the national legislation and international conventions ratified by the Republic of Malawi and is signatory. Individuals and corporate entities are encouraged to mainstream the principles promoted on the elimination of child labour as enshrined in the national and international legal and policy frameworks.

The Code is a result of an initiative at the technical workgroup level of child labour and in response to National Action Plan on child labour. The aim of the Code is also to promote a supportive environment for the elimination of child labour by employers in Malawi.



BACKGROUND

Global and Regional Overview 

National child labour overview 

Rational of the code of conduct 

The objectives of the code of conduct 

GLOBAL AND REGIONAL OVERVIEW

Child labour remains unacceptably common in the world today. At the start of 2020, prior to the outbreak of the COVID-19 pandemic, 160 million children – 63 million girls and 97 million boys – were in child labour, or 1 in 10 children worldwide. Seventy-nine million children – nearly half of all those in child labour – were in hazardous work directly endangering their health, safety and moral development.

This global estimate masks large variations across regions. Child labour prevalence stands at 24 per cent in sub-Saharan Africa, three times that of Northern Africa and Western Asia, the region with the second highest prevalence. In absolute terms, the nearly 87 million children in child labour in sub-Saharan Africa are more than in the rest of the world combined. Recent history provides cause for concern. In the last four years, for the first time since 2000, the world did not make progress in reducing child labour. The absolute number of children in child labour increased by over 8 million to 160 million while the proportion of children in child labour remained unchanged.

Children in hazardous work mirrored these patterns: The share remained almost unchanged but the number rose by 6.5 million to 79 million. The pace of progress has varied dramatically across regions. The proportion and number of children in child labour have declined consistently since 2008 in Asia and the Pacific and Latin America and the Caribbean. Similar progress has proved elusive in sub-Saharan Africa, where child labour has actually gone up since 2012, a trend especially pronounced over the last four years when the region accounted for much of the global increase.

At present, the world is not on track to eliminate child labour by 2025. In order to meet this target, global progress would need to be almost 18 times faster than the rate observed over the past two decades. According to pre-COVID-19 projections based on the pace of change from 2008 to 2016, close to 140 million children will be in child labour in 2025 without accelerated action. The COVID-19 crisis is making these scenarios even more worrisome, with many more children at risk of being pushed into child labour.

NATIONAL CHILD LABOUR OVERVIEW

The 2013 Malawi Labour Force Survey indicated that 10 million people within the age group 15–64 are in the labour force of which 3.3 million is males and 6.7 million are females. The survey indicated that over 87 percent of the labour force is in the rural areas and about 64 percent have no education and nearly half (48 percent) are under 30 years.

The MLFS also indicated that a total of 5.5 million people are employed, representing an employment rate of 80 percent. Males have a higher employment rate than females at 86 percent and 74 percent respectively.

The majorities of the people are employed in agriculture, forestry and fishing (64percent) and wholesale, retail and repair of motor vehicles (16percent). The majority of those employed are predominantly engaged in informal employment. On overall, 89 percent of working persons are in informal employment. The membership of trade unions and workers' associations is low in Malawi. There is only 2 percent and 1 percent of persons in employment who are members of trade unions and workers associations respectively.

The 2015 National Child Labour Survey revealed that 38 percent of children (2.1 million children) aged 5-17 years, are involved in child labour. This is 1% more than the findings of a similar survey conducted in 2002, showing that the desired progress has not been achieved i.e. reducing the incidence of child labour.

Agriculture and domestic sectors are the major employers, sharing 72% and 23 %, respectively. The children are made to participate in the work in: supplementing family income, part of learning skills, helping in family enterprise or farm and this lead to non-school attendance. Most of the children (84%) worked as unpaid family workers during period prior to the survey.

RATIONAL OF THE CODE OF CONDUCT

In realization to this problem the Employers Consultative Association (ECAM) developed this code of conduct for employers on elimination of child labour that aims at elimination of child labour and also recognizes the existence of other efforts employers are doing in Malawi towards the elimination of child labour. In tobacco and tea sectors, companies through their cooperate social responsibility have supported a number of programmes to eliminate child labour such as awareness creation, education bursaries, construction and rehabilitation of school blocks, and provision of medical facilities. Furthermore they also have intra organizational systems within their organization to address the problem of child labour. However, more efforts in the fight against child labour are required by employers especially in the informal sector such as fishing domestic services.

It is hoped that this code of conduct will offer a well harmonized approach towards the elimination of child labour by the employer. Furthermore the code will help in creating a conducive environment for the development, protection and participation in the economy of all children in Malawi.

THE OBJECTIVES OF THE CODE OF CONDUCT

The objectives of the Code of Conduct for Employers in the Elimination of child labour are:

1. To enhance employers efforts to eliminate child labour and the worst forms of child labour in agriculture and all other sectors.
2. To provide the employers with the basis for the collaboration and the overarching document for the fight against child labour

THE LEGAL AND POLICY FRAMEWORK

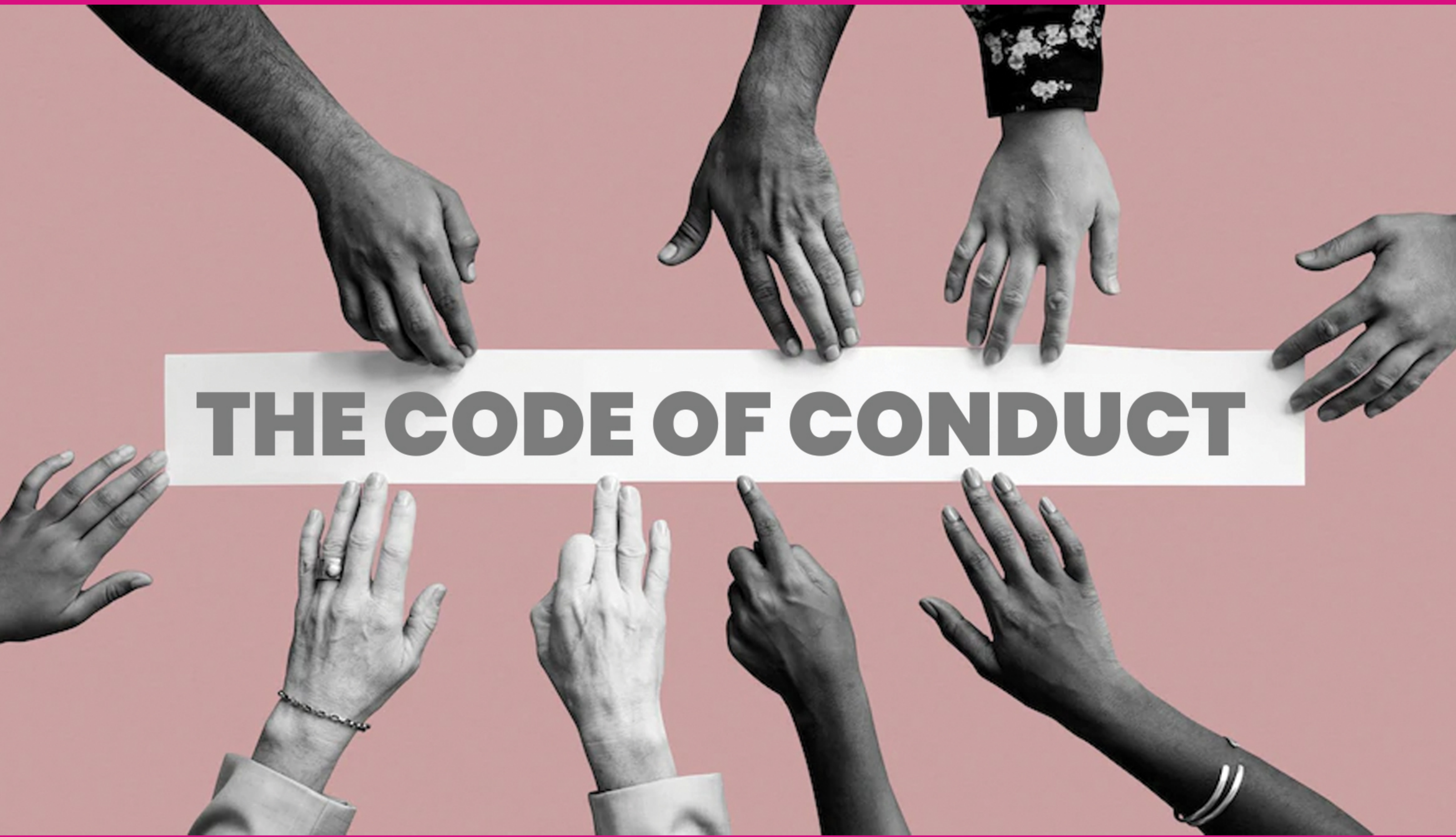
The legal framework at national and international level provide for protection of children from child labour and hazardous work. At national level, the Constitution of Malawi of 1994 prohibits child labour in section 23. This is further elaborated by the Employment Act No 6 of 2000 which prohibits child labour at two levels. Firstly, all forms of work for children below the age of 14 years are prohibited from doing unless it is light work designed as training of a child to acquire skills for livelihood in adult life. Secondly, for children aged between 14-18 years, the Act allows them to do work which is not hazardous. The Employment Act (Prohibition of Hazardous Work for Children) Order, 2012 gives a list of hazardous work that should not be done by children below the age of 18 years. On the other hand, Child Labour Policy aims at strengthening the policy framework for child labour elimination through proper coordination of efforts and close collaboration amongst stakeholders given the complex and evolving nature of child labour. To this end, action to combat child labour requires pursuit of innovative, strategic and sustainable measures, with strong collaboration among stakeholders. Other pieces of legislation relevant to efforts towards elimination of child labour are listed below:

- Education Act 2013- Education is a key factor in the fight against child labour in that children attending school are less likely to be engaged in child labour as opposed to their counterparts not attending school;
- Technical, Entrepreneurial and Vocational Education and Training Act, 1999 – Skills training serves as an important alternative for older children withdrawn from child labour who cannot go back to school due to their age;
- Trafficking in Persons Act, 2015 – It will help check cases of children trafficked for labour or commercial sexual exploitation;
- Marriage, Divorce and Family Relations Act, 2015 –it has set the marriage age at 18 years and the aim is to prevent early marriages which prevent young girls and boys from attending school and also forces them to undertake work activities that are too much for their tender age;
- Gender Equality Act, 2013- prohibits discrimination on the basis of sex and also prohibits harmful cultural practices. Child labour has a gender dimension; it affects girls and boys differently. The Act therefore serves as a useful legal framework guiding the development of gender sensitive approaches in child labour elimination.
- Child Care, Protection and Justice Act, 2010, (CCPJA) – provides a broader policy and legal framework for child protection from all forms of abuse, violence and exploitation.
- The Local Government Act 1998 – calls for interventions at local level, including formulation of by-laws.
- Human Rights Commission Act, 1998 – it is intended to protect human rights for all, including children involved in child labour.
- National Action Plan on Child Labour, 2020-2025 – The NAP II provides the necessary guidance required for the implementation of the National Child Labour Policy.

THE LEGAL AND POLICY FRAMEWORK

At International level, there are a number of instruments that address the issue of Child Labor. Ratification of such international instruments provides a stimulus to national programmes of action on the elimination of child labor. Malawi so far is a party and signatory to the following instruments:

- a. The United Nations Convention on the Rights of a Child, which was ratified in 1990.
- b. The ILO Convention on Minimum age of admission to Employment, No.138 of 1973, which was ratified on 19th November 1999. And it's accompanying Recommendation No. 140.
- c. The ILO Convention on the Elimination of Worst Forms of Child Labour, No. 182 of 1999, which was ratified on 19th November 1999. And it's Recommendation No. 190.
- d. Protocol on the Sale of Children, Child Prostitution and Child Pornography
- e. Protocol on the involvement of Children in Armed Conflict



THE CODE OF CONDUCT

The first responsibility of the employer is to operate within the laws of the Republic of Malawi. The respect of all legal provisions of laws relevant to employment of persons below the age of 18 years is essential in preventing, combating and eliminating the worst forms of child labour. The code of conduct is calling on all employers to follow roles and responsibilities outlined below:

- The guiding principles in protection children from child labour
- Why the employers should understand the key assessment points of child labour risks

THE GUIDING PRINCIPLES IN PROTECTION CHILDREN FROM CHILD LABOUR

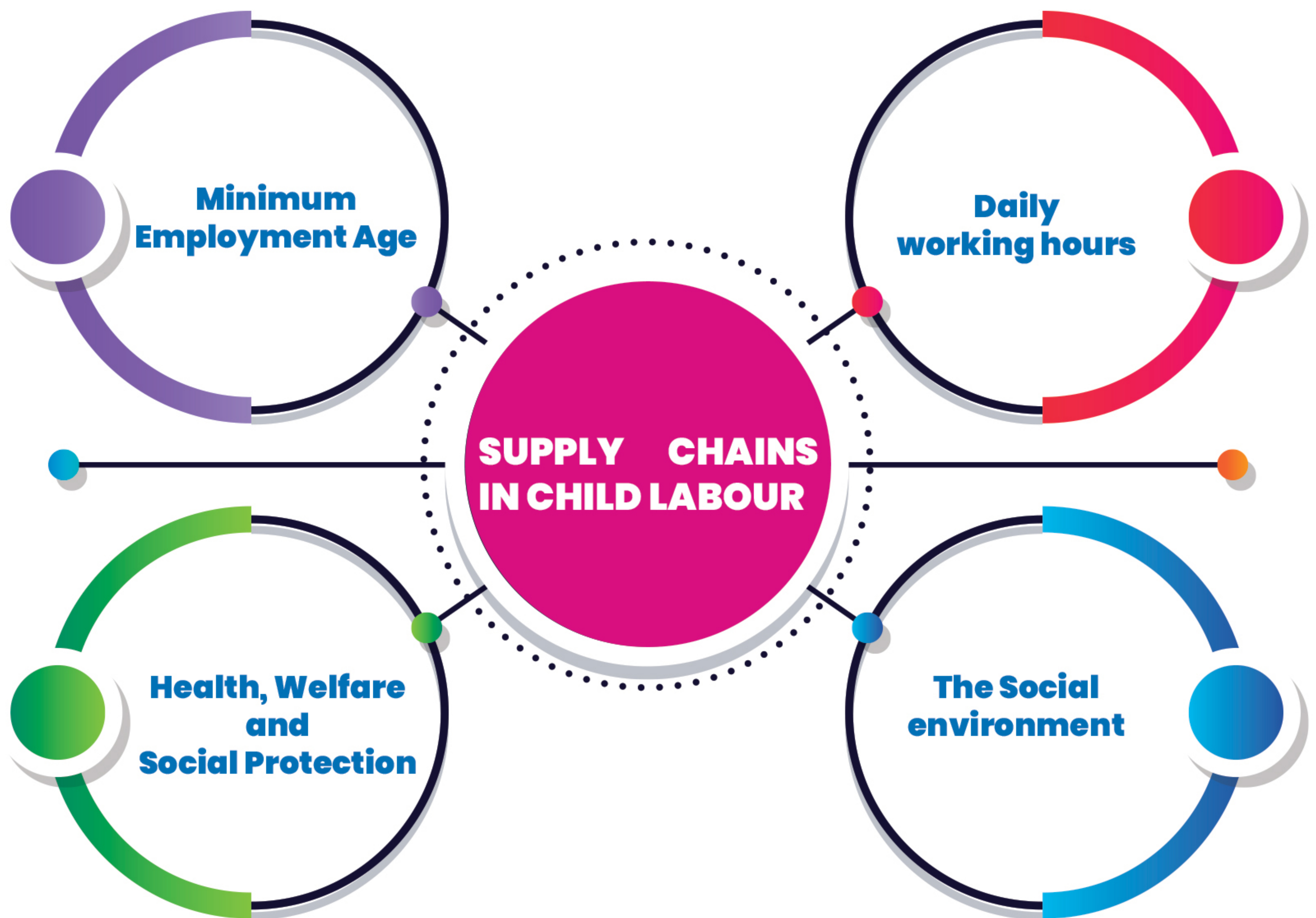
The code of conduct realizes that while the labour laws contain provisions to curb child labour, child labour in the informal sector remains a huge challenge; therefore the code of conduct requires the employers to develop the system that will make their employers not to use or hire child labour, in their homes or anywhere else. The employers will have to;

- a. Adhere to minimum age provisions of labour laws and regulations and where the law is not clear or there is no provision at all, take account of international standards and best practices.
- b. Use the age verification measures when conducting the recruitment procedures
- c. Maintain accurate and up-to-date records of all employees.
- d. When children below the legal working age are found in the workplace, take measures to remove them from work and provide them with alternatives
- e. To help the children removed from workplace and their families to access adequate services and viable alternatives.
- f. Exercise influence on subcontractors, suppliers and other business partners to combat child labour.
- g. Consider ways to build the capacity of business partners to combat child labour, such as the provision of trainings and incentives.
- h. Work in partnership with other companies, sectoral associations and employers' organizations to develop an industry-wide approach to address the issue, and build bridges with stakeholders such as workers' organizations, law enforcement agencies, labour inspectorates and others.
- i. Establish or participate in a task force or committee on child labour in your representative employers' organization at local, state or national level and support development of action plan against child labour as part of key policy and institutional mechanisms to combat child labour.
- j. Support and participate in prevention and re-integration programmes for former child labourers through provisions of education services, skills development and job training opportunities.
- k. Participate in national and international programmes, including media campaigns and co-ordinate with local and national authorities, workers' organizations and others.

WHY THE EMPLOYERS SHOULD UNDERSTAND THE KEY ASSESSMENT POINTS OF CHILD LABOUR RISKS

- a. Employers should understand the child labour situation within their supply chains and at the location of their operations. They should identify the level of risk by checking official reports, regional and national government studies, data sources of local and international NGOs and sustainability labels.
- b. Employers should engage with relevant stakeholders as part of the risk assessment (including where possible local authorities). Employers should assess all levels of the supply chain to identify the prevalence or risk of child labour.
- c. The identification of key indicators to keep track of the situation of children is essential. This not only helps to mitigate risks, but also create opportunities to address child labour and children's rights in a wider context. In order to be effective in working towards the eradication of child labour further down the supply chain, it is important to work with and stimulate ownership by first tier suppliers to map and manage their own supply chain

SUPPLY CHAINS IN CHILD LABOUR



The employers will take the leading role in protecting children from child labour, by making sure that enterprises of subcontractors, production and purchase of inputs from smaller enterprises operating in both the formal and informal economies, will ensure there are no traces of children.

■ It should also be made sure that there are no worst forms of child labour or hazardous work or any form of child labour among the contracted farmers and their employees who are tenants.

■ The make sure that all employers has put in place screening and monitoring systems that will ensure that their suppliers are child-labour free.

■ When these measures are written into contracts between suppliers and domestic firms, it will simply be noted of the importance of the supply chain in understanding child labour.

MINIMUM EMPLOYMENT AGE

Employment Act (No 6 of 2000) No person under the age of fourteen (14 years) shall be employed or work in any public or private agricultural, industrial or non-industrial undertaking or any branch thereof

■ The employer will not use children in works prohibited under the Employment act and the list of hazardous work. (make reference to the attached list of hazardous work in Malawi)

- a. Harmful to the health, safety, education, morals or development of such a person; or
- b. Prejudicial to his attendance at school or any other vocational or training programme.

■ The employer will not allow children work in environment with dangerous substances as follows: Chemical and biological, where hazardous production factors exist noise, vibration, electromagnetic, ultraviolet, infrared, radioactive and other radiation and exceeding the concentration limit or the limited level.

DAILY WORKING HOURS

The employer will respect the provisions of the law in terms of the working hours per day for employees between 15 and 18 years old. The law stipulates a maximum of 7 hours of work per day.

HEALTH, WELFARE & SOCIAL PROTECTION

Employers will provide a safe and healthy workplace to prevent accidents and injuries arising out of performing the work that is associated with hazards or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt measures that mitigate negative conditions that impact on the employees in the workplace and the environment.

HEALTH, WELFARE & SOCIAL PROTECTION

- The employer will create a safe and healthy working environment for employees under 18 years old.
- The employer will not permit forced work of children.
- The employer will avoid using abusive words and gestures against employees in presence of employees under 18 years old.
- The employer will not discriminate the young employees on such reasons as race, nationality, ethnic origin, language, and religion, social status, including those affected with HIV/AIDS, or on sex, or expressed opinion.
- Will protect the employees under 18 years old against exploitation and physical and sexual abuse.



ROLES AND RESPONSIBILITIES OF VARIOUS STAKEHOLDERS

Though the code of conduct has been developed to guide employers on how to eliminate child labour in Malawi, the code of the conduct recognize the roles and responsibilities of other stakeholders contribute directly or indirectly to the fight against child labour. Furthermore, all stakeholders will be required to mainstream child labour in their programmes. Some of the key organizations and their roles are as follows.

MINISTRY OF LABOUR

- Popularize and domestic ILO conventions 155, 184, 189 and the Protocol of 2014 to the Forced labour Convention and ratify relevant international conventions such as Convention 189 and 190
- Inspect workplaces, including private homes and farms, in order to ensure that there is no child labour including its worst forms
- Design a model register for use by employers employing young persons
- Coordinate the implementation of various child labour interventions by various implementing agencies and departments
- Develop and implement short term training programs on child labour targeting employers.
- Design and implement a national child labour monitoring system for regular collection of data on child labour

EMPLOYERS' ORGANIZATIONS

- Ensure that the labour laws being advocated for take into account the interests of the employers
- Ensure that the products from the private sector are produced without the use of child labour
- Ensure that their members adhere to the minimum age provisions of national labour laws and regulations
- Ensure that all children are protected against hazardous work
- Conduct awareness events aimed at various sectors and the sensitization of their constituents about the human, economic and social costs of child labour
- Provide opportunities to young employees for example of pursuing vocational training.
- Provide educational opportunities and support to children of employees at risk or engaging in child labour
- Lobby with GoM for the adoption of appropriate policies and legislative frameworks including the NCLP and the Tenancy Labour Bill

NON-GOVERNMENTAL ORGANIZATIONS OR FAITH-BASED ORGANIZATIONS

- Support with awareness on child rights including child labour among communities especially in hard to reach areas with large agricultural estates
- Provide counselling services to parents and motivate them to send their children to school instead of encouraging them to work

- Lobby for the review of policies and legislation on children especially those dealing with child labour issues
- Provide alternatives for families at risk and disadvantaged groups in society such as IGAs, legal aid services, family counseling and literacy programs
- Implement programmes to withdraw, protect and rehabilitate children from child labour
- Support children withdrawn from child labour enrolled in school with school materials.
- Support transition homes for children withdrawn from child labour
- Provide vocational training programmes targeting older children aged 14-17 including provision of startup capital

WORKERS' ORGANIZATIONS

- Document concrete cases of child labour and its effects on children
- Identify and report cases of child labour in the workplace
- Sensitize adult workers and their families on the hazards of child labour
- Contribute to the development and implementation of national policies and programmes on child labour
- Develop and back up collective bargaining agreements that prohibit child labour
- Ensure that their constituents observe prevailing national laws and policies relating to child labour

IMPLEMENTATION AND MONITORING

ECAM seeks close cooperation with employers, government, MCTU and international agencies to assist those children who are withdrawn from the child labour as a result of this code of conduct.

ECAM will set up a Monitoring Team, consisting of representatives from each ECAM member-association. The Committee will be responsible for monitoring on how member-entrepreneurs comply with the efforts of Malawi government on elimination of child labour.

Should the Monitoring Team find out that an employer is not developing systems to eliminate child labour through its supply chain, it will require that such employer undertakes immediate measures to rectify the situation based on the best interest of the child.

MALAWI EMPLOYMENT ACT (CAP. 55:02)

EMPLOYMENT (PROHIBITION OF HAZARDOUS WORK FOR CHILDREN) ORDER, 2012

The Malawi Gazette Supplement, dated 17th February, 2012 (Regulations, Rules, etc. (No. 1A)

IN EXERCISE of the powers conferred by section 22 of the Employment Act, **I, LUCIOUS KANYUMBA**, Minister for Labour, make the following Order:-

1. This Order may be cited as the Employment (Prohibition of Hazardous Work for Children) Order, 2012

Citation

2. In this Order, unless the context otherwise requires:

“Piece work” means work in terms of which the remuneration of the employee is based mainly on the quantity of work done: and

Interpretation

“Task work” means work in terms of which the remuneration of employee is based mainly on the completion of set tasks.

3. (1) Subject to subparagraph (2), a person between the ages fourteen and Eighteen years shall not work for more than forty hours in any week.

(2) A person under the age of eighteen years, who is enrolled in school, may not work for more than:-

- (a) twenty hours in a week during the school term;
- (b) forty hours in any week that falls entirely within school holidays;
- (c) three hours on any school day which is followed by an other school day; or
- (A) four hours on any school day followed by a non-school day, such as Friday, or the last day of term.

Maximum daily and weekly working hours

4. (1) A person under the age of eighteen years shall not work before 5 a.m. or after 6 p.m. on any day:

Provided that a child between the age of fifteen years but under the age of eighteen years, who is not expected to be at school the following day, may work between 6 p.m. and 9 p.m. if-

provide such person with safe transport home, at no cost to the parent or guardian of the person.

Night Work

- (a) the work is in a restaurant or a shop where there is adequate adult supervision and at least one supervisor is the same sex as the person; or
 - (b) The work is baby-sitting or child minding
- (2) An employer of a person employed under subparagraph (1) shall ensure that the parent or guardian of the person involved in night work agrees in writing to such employment.
- (3) Where a person under the age of eighteen years is permitted to work after 6 p.m., the employer of such a person shall, at the end of the shift,

Work in extreme temperature

5. No person shall require or permit a person below the age of eighteen years to work in an environment involving extreme temperatures below 6`c or above 30`c due to their potential to jeopardize the safety, health, welfare and comfort of persons below the age of eighteen years-

- (a) Unless the cold and hot temperatures are as a result of natural climatic conditions, and adequate measures are taken to protect the person including that:-
 - (i) Adequate protective clothing is provided to maintain optimum body temperature;
 - (ii) presence in such environment shall not exceed one hour of continuous work;
 - (iii) Adequate water breaks are taken at reasonable intervals taking into account individual susceptibility;
 - (iv) Adequate potable water or any beverage is made available and is conveniently accessible to all persons; and
 - (v) The persons are acclimatized to such working environment; and
- (b) provided that such work does not exceed four hours every day.

Prohibited Work

6. (1) Subject to subparagraph (2), the list of work set out in the schedule is prohibited for a person under the age of eighteen years
- (2) Such work shall not be prohibited where:
- (a) The person is between the age of sixteen and eighteen
 - (b) Health and safety of that person is fully protected; and
 - (c) The person has received adequate training in performing the activities.

- | | |
|---|--------------------------------------|
| 7. A person under the age of eighteen years shall only lift weight that is substantially less than that lifted by adult workers of the same sex and in any case should be reasonable so as not to jeopardize the safety, health and well-being of that person | <i>Lifting of heavy weights</i> |
| 8. The distance and weights which a person under the age of eighteen years may travel and carry respectively, shall be practically reasonable so as not to jeopardize the safety, health and well-being of that person. | <i>Transporting of heavy weights</i> |
| 9. A person who contravenes any provision of this order commits an offence and shall, upon conviction be liable to a fine of one thousand kwacha (K1, 000) and imprisonment for three years. | <i>Offences and penalties</i> |

SCHEDULE (PARA 6)

LIST OF PROHIBITED WORK

1. AGRICULTURE SECTOR

(a) General and Commercial Farming:

- (i) Handling or applying agricultural chemicals, veterinary drugs, pesticides or insecticides in any agricultural undertaking;
- (ii) Handling plants or soil immediately after the application of agricultural chemicals or during any other period specified on chemicals labels;
- (iii) Curing or processing agricultural products where there is exposure to temperatures or working at heights hazardous to safety, health and well-being of persons;
- (iv) Any activity involving dangerous machinery, dangerous equipment or dangerous tools;
- (v) bee-keeping or any other work involving exposure to bees.

(b) Meat, Poultry and Fish Sector

- (i) Slaughtering of animals or work in an abattoir or a tannery;
- (ii) Meat, poultry or fish processing in a commercial undertaking;
- (iii) offshore fishing in deep waters.

(c) Tobacco Sector

- (i) topping and suckering activities or handling tobacco leaves in the harvesting process;
- (ii) Handling or grading tobacco leaves in damp conditions or conditions of poor lighting or ventilation;
- (iii) Any other work involving tobacco in commercial tobacco estates and farms.

2. INDUSTRY

(a) Tobacco Sector:

Handling, processing, manufacturing or packing of tobacco products.

(b) Logging/Timber:

Logging, harvesting or processing of timber including cutting timber and saw milling.

(c) Hazardous Waste:

Disposal, processing or any work in connection with hazardous waste or garbage;

(d) Alcohol Manufacturing Sector:

Brewing, manufacturing or selling any liquid which in its final form would contain more than 1 percent (1%) of alcohol.

(e) Radiology Sector:

Any work involving exposure to ionizing radiation such as x-rays.

(f) Electrical Sector:

Any work involving electrical work involving voltage cables or other power sources in excess of 120 volts.

(g) Machinery Operation

- (i) Any work involving operating or involving vibrating and heavy duty equipment including:-
 - (a) Tractors; (b) winches; (c) forklifts; (d) Front loaders; (e) Earth moving equipment; (f) Asphalt mixers; (g) Heavy graders; (h) Rock drills and riveters; or (i) Similar heavy duty equipment;
- (ii) any work involving welding or soldering using electric or gas welding machines; or
- (iii) Operating, cleaning or repairing any machinery in motion.

(h) Transport Industry:

- (i) Driving a motor vehicle;
- (ii) Any repairing or conducting maintenance of motor vehicles or its parts unless under supervision;
- (iii) Any work in vehicles transporting heavy goods

(i) Construction Sector:

- (i) Any manufacturing, mixing or application of tar or asphalt;
- (ii) Work involving brick molding;
- (iii) Building, demolition or any process associated with engineering or construction, with or without the use of lifts and scaffolding.

(j) Chemical Sector:

Any work involving:-

- (i) Manufacturing, processing, handling, storing, transporting or use of any chemical substances, that are toxic, explosive, combustible, flammable, oxidizing, corrosive, irritating, carcinogenic, mutagenic or teratogenic;
- (ii) exposure to hazardous dust including but not limited to cement, tobacco dust, cotton dust, biogases and silica;
- (iii) Any work involving exposure to asbestos or products containing Asbestos;
- (iv) Exposure to any hazardous substance which by virtue of its physical or toxicological properties constitutes a risk to the safety, health or welfare of the child.

(k) Metal Industry:

Any work involving:-

- (i) the use of or in proximity of industrial ovens, kilns, furnaces or boiler;
- (ii) grinding or glazing of metal with or without the use of any power tool or grinding equipment;
- (ii) Operator of a smelter or furnace or rolling mills that forms and cut metals.

3. ENTERTAINMENT SECTOR

- a) Any work in a bar, tavern, pub, shebeen or other establishment of entertainment whose business is to sell alcohol beverages to the general public for consumption on the premises;
- b) Any work as a personal companion or providing escort services in bars, cocktail lounges, motels, hotels, massage houses and other places of recreation or entertainment;

- c) Any work in a casino or other gambling establishment;
- d) Any work that involves loitering the streets or around any bar, tavern, pub, shebeen or other establishment of entertainment whose business is to sell alcoholic beverages to the general public for consumption on the premises;
- e) Any work posing as a model in an advertisement for alcoholic beverages, tobacco products or condoms or that is connected with the advertisement of any of these products;
- f) Any work involving exposure to material of a pornographic or adult content or involving the child in any pornographic or adult act, exhibition or production.

4. TOURISM SECTOR

- (a) Any work as a tour guide;
- (b) Any work that constitutes a risk to the safety, health and well-being of persons.

5. HEALTH SECTOR

- (a) Any work in a healthcare or related facility where there will likely be exposure to biological agents or other agents including:
 - (i) Viruses causing hepatitis;
 - (ii) Human Immune Virus (HIV)
 - (iii) Bacterial causing tuberculosis;
 - (iv) Anesthetics
 - (v) Anti-neoplastic medications; or
 - (vi) Addictive drugs

6. MISCELLANEOUS

Any work or activity:-

- (a) At a height of more than two meters above the ground;
- (b) Involving begging or soliciting for alms;
- (c) Involving exposure to a noise of a higher level than
 - (i) 85dB (A) for forty hours per week; or
 - (ii) 135dB (A) for any period of time;
- (d) Mining, quarrying or excavation, including
 - (i) Any work underground;
 - (ii) underwater;
 - (iii) In confined spaces; or
 - (iv) With inadequate ventilation
- (e) Selling or transporting any hazardous items for sale; or
- (f) Done in a confined space

Made this 25th day of January, 2012.

**L. KANYUMBA. PhD.
Minister of Labour**

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Employers Consultative Association Of Malawi

The Ridge, Off Chilomoni Ring Road, Plot No. CH/M/114, Namiwawa

P.O. Box 2134, Blantyre, Malawi

+265 995 189 391

ecam@ecammw.com

www.ecammw.com

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