



International
Labour
Organization



MINISTRY OF LABOUR – INVALIDS AND SOCIAL AFFAIRS
DEPARTMENT OF LEGAL AFFAIRS

▶ Handbook on the employment of minors



▶ **Handbook
on the employment
of minors**

A decorative graphic element consisting of a thin blue diagonal line extending from the bottom left towards the top right. In the bottom left corner, there are overlapping geometric shapes: a dark blue triangle pointing right, a yellow triangle pointing right, and a light blue triangle pointing right, partially overlapping the others.

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► Preface

The protection of minors is a priority in both international and national laws. The International Labour Organization (ILO) has many Conventions and Recommendations on labour standards for juvenile workers, including the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182). By August 2020, all 187 Member States of the ILO had ratified Convention No. 182, making it the first ever ILO Convention that has achieved universal ratification.

From an early stage, Viet Nam's labour law has had its own provisions for juvenile workers. Over the years, these regulations have been gradually refined through regular revisions and supplementations. At the 8th session of the XIV National Assembly, the Labour Code 2019 was approved on 20 November 2019 and took effect from 1 January 2021. The Labour Code 2019 has many amendments and supplements relevant to juvenile labour regulations, ensuring that legislation is in line with the realities and needs of industrial relationships, and relevant International Labour Standards.

In order to raise awareness about the new content of the Labour Code 2019 in general and the employment of minors in particular, within the framework of the ILO Project: Enhancing National Capacity to Prevent and Reduce Child Labour in Viet Nam (ENHANCE), the Legal Department of the Ministry of Labour, Invalids and Social Affairs (LDTBXH) developed a question – and – answer handbook on the employment of minor workers. Along with the new provisions of the Labour Code, the handbook also provides additional information on two important ILO Conventions on child labour: Conventions Nos 138 and 182.

The handbook was developed with technical support from the ILO ENHANCE Project, and experts with extensive knowledge and experience in both Vietnamese laws and International Labour Standards. It is expected that the Handbook will contribute to raising awareness and provide a useful source of reference for government officials, employers, employees, social partners, businesses, and the broader community.

We are pleased to introduce this handbook to readers.

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Part

Questions and answers on ILO Conventions Nos 138 and 182



A.

General questions

Question 1. What is child labour (CL)?

Working children are defined as persons under 18 years of age who participate in production, business or service activities for at least one (01) hour on any day of the week, regardless of whether production is for consumption or for commerce, paid or unpaid, or whether the work is regular or irregular, legal or illegal.

Not all work performed by children under the age of 18 is necessarily child labour.

Young people are encouraged to undertake work that is appropriate for their age and maturity level. By doing so, they learn to take responsibility, gain skills, add to their family's or their own income and well-being, and contribute to their country's economy.

Child Labour is understood as the engagement of children (or people who are under 18 years of age) in work which adversely affects their physical, intellectual/mental, moral and social development and/or work that interferes with their learning because:

- It deprives them of the opportunity to go to school;
- It forces children to leave school early;
- It forces them to combine schooling with heavy work and long working hours.

Whether or not work performed by a child is defined as CL depends on the child's **age**, the **hours** of work, the **type** of work and the **conditions** and the **places** in which the work is performed.

Please see Part 2 for the rules in Viet Nam under the Labour Code and Circulars. They separate three age groups of minors: between 15 and 18 years of age; 13 and 15 years of age; and below 13 years.

Some more points to remember about child labour:

Children's work is not limited to **"employment"** covered by the Labour Code (employer-employee relationship): for example,

- Children carrying out **household chores in their own family*** is usually considered acceptable if it is suitable in nature and quantity, to their age and development.
- However, if their engagement in such household chores hinders their schooling/learning or is hazardous for their health and safety, that work should be stopped as child labour.

* It is a separate issue where a child is **"employed" as domestic worker** in someone else's household, to which the Labour Code applies !!

Children **"helping"** their parents or other family members in **family business or family agriculture** is another frequently asked question: is it child labour?

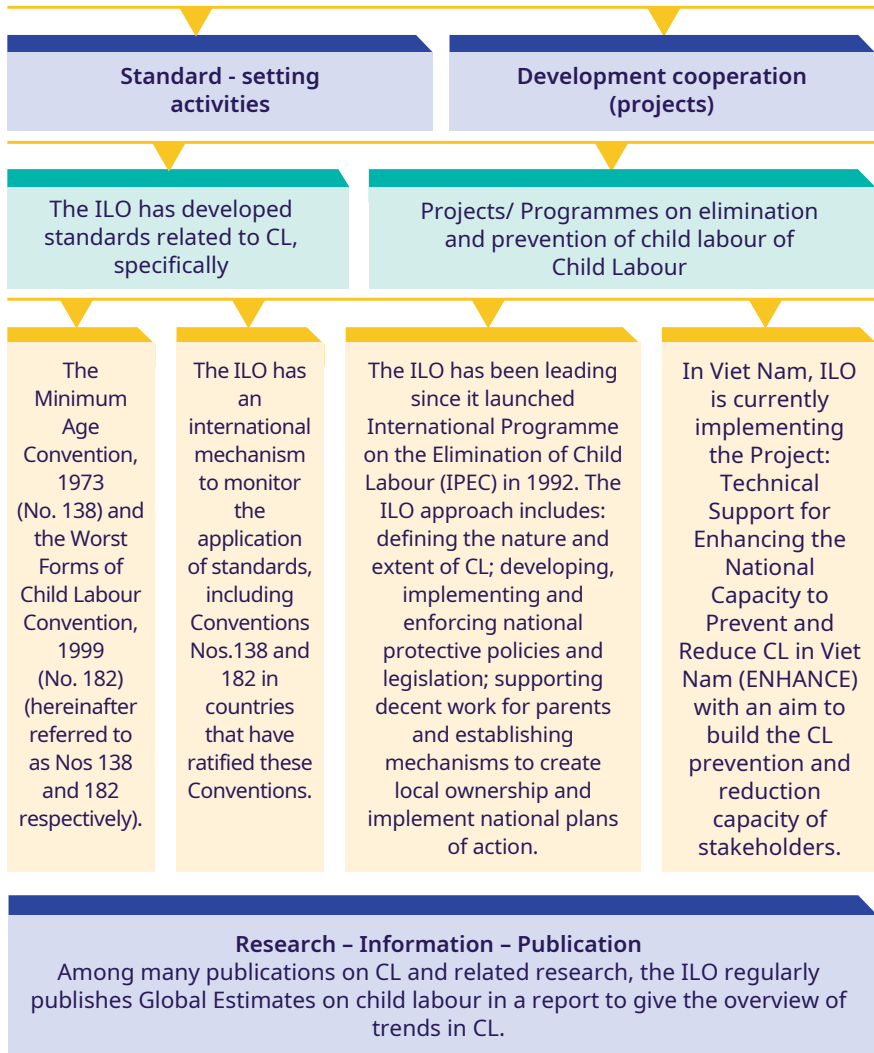
- Some situations might be close to household chores (e.g. if children help parents cultivating family garden for their own consumption) and permissible.
- Even where a child works next to their parents (and therefore not covered by the Labour Code), the basic principles of CL and children's protection should be considered: the work should **not hinder their education**; and should **not be harmful** to their health and development.

ATTENTION! **Commercial agriculture** should not be excluded from CL rules even if it is done in **family farms**.

- According to the global child labour statistics, a large part of child labourers is found in family settings and in agriculture.
- Even if the child is not "employed" in the sense of the Labour Code, its CL provisions would give useful guidance, e.g. concerning the hazardous work lists that a minor below the age of 18 years should not be engaged in.
- Parents or other adults in the workplace might not be aware of their own **safety and health risks at work**. This is not a CL issue but the awareness on CL could become an entry point.

Question 2. What is the ILO's role in global action against CL?

The International Labour Organization (ILO) has three large groups of action generally, and including on CL:



Question 3. What are International Labour Standards?

- ▶ International Labour Standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) which set out principles and rights at work, and which take the form of Conventions, Protocols and Recommendations.
- ▶ Conventions (or Protocols) are legally binding international treaties that may be ratified by Member States.
- ▶ Recommendations serve as non-binding guidelines. In many cases, a Convention lays down the basic principles to be implemented by ratifying countries, while a related Recommendation supplements the Convention by providing more detailed guidelines on how it could be applied. Recommendations can also be autonomous, in other words, not linked to a Convention.
- ▶ Ratifying countries undertake the application of Conventions and Protocols in national law and in practice, and report on their application at regular intervals. Please see [Question 6](#) for the international monitoring mechanisms including special procedures following allegations of non-application.

Question 4. What are the fundamental Conventions in the ILO's system of International Labour Standards?

- ▶ ILO Member States adopted in 1998 the ILO Declaration on Fundamental Principles and Rights at Work, and amended it in 2022 to cover 5 categories of fundamental principles and rights (see next page for more details). Among the 190 ILO Conventions, ten (five pairs) have been identified as fundamental Conventions, corresponding to the five categories of principles and rights.

The ten fundamental Conventions are				
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)	Equal Remuneration Convention, 1951 (No. 100)	Minimum Age Convention, 1973 (No. 138)	Occupational Safety and Health Convention, 1981 (No. 155)
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Abolition of Forced Labour Convention, 1957 (No. 105)	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Worst Forms of Child Labour Convention, 1999 (No. 182)	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

- ▶ According to ILO Declaration (1998/2022), all Members, even if they have not ratified the Conventions in question, have an obligation to respect, promote and realize the principles concerning the fundamental rights which are the subjects of those Conventions.
- ▶ Until June 2020, Viet Nam has ratified 9 out of 10 fundamental ILO Conventions. The Convention which has not been ratified is the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), for which the possibility of ratification is being studied. Viet Nam has ratified the Forced Labour Convention, 1930 (No.29) but not yet its Protocol of 2014.

Question 5: The role and implications of fundamental ILO Conventions in the present context

- ▶ The fundamental ILO Conventions were noted in the United Nations (UN) Global Compact in 2000, and the standards set out in these Conventions are also upheld in human rights-related UN treaties such as:
 - International Covenant on Civil and Political Rights;
 - International Covenant on Economic, Social and Cultural Rights;
 - International Convention on the Elimination of All Forms of Discrimination against Women; and
 - International Convention on the Rights of the Child.
- ▶ The United States (US) and the European Union (EU) have incorporated key International Labour Standards from fundamental ILO Conventions into the eligibility criteria for the Generalized Scheme of Preferences (GSP).
- ▶ In recent years, these fundamental ILO Conventions have increasingly been used as a basis for labour-related provisions in trade agreements and free trade agreements (FTAs) among countries to ensure that free and fair trade contributes to sustainable development, and upholding of fundamental principles and rights at work.
- ▶ Today, the importance of the protection of workers' interests is gaining increasing recognition because it is workers who directly produce products for international trade. Maintaining a "level playing field" in which trade partners do not seek a competitive advantage from the removal of fundamental rights has become more necessary. It is especially important to ensure that free trade does not encourage the violation of social responsibilities.

Question 6: What is the international mechanism of monitoring the application of ILO International Labour Standards?

- ▶ The ILO Constitution sets up different ways to monitor the application of the Conventions and Recommendations in terms of law and practice in Member States. These procedures cover all ILO Standards including Conventions Nos. 138 and 182. There are two main types of monitoring mechanisms:
 - (a) Regular monitoring system: based on the review of periodic reports submitted by a Member State on the measures it has taken to implement the provisions of ratified Conventions.
 - (b) Special procedures: specific allegations of non-observance could be brought by other Members (governments, or workers' or employers' organizations) against a Member State, to ILO bodies for examination of the case.

Question 7. What is the position of Conventions Nos 138 and 182 within the ILO system of Conventions?

- ▶ Conventions Nos 138 and 182 are two of the ten fundamental ILO Conventions. As of December 2022, 175 out of 187 ILO Member States had ratified Convention No. 138, and all 187 Member States had ratified Convention No. 182. This demonstrates a high degree of consensus and strong commitment among the international community on the prevention and elimination of child labour.

B.

Specific questions and answers related to Conventions Nos 138 and 182

B.1. The Minimum Age Convention, 1973 (No. 138)

Question 8. What is the key content of Convention No. 138?

Convention No. 138, supplemented by the Minimum Age Recommendation (No. 146), was adopted by ILO in 1973¹. It was the first comprehensive standard on CL, in contrast with sector - or topic-specific earlier Conventions.

- Convention No.138 requires Members to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age to a level consistent with the fullest physical and mental development of young persons. Most importantly, Members must establish a minimum working age, that should not be lower than the age of completion of compulsory education.
- It establishes minimum ages for children's admission to "employment or work":
 - a general minimum age
 - a higher minimum age for hazardous work
 - a lower minimum age for light work
- The Convention covers not only "employment" (employer-employee relationship) but also other situations of "work" by children (**as explained in Question 1** above).

¹ ILO Convention No. 138 at a glance: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ip-ec/documents/publication/wcms_ipec_pub_30215.pdf

Question 9: What does Convention No. 138 require Members to do to achieve the Convention's objectives?

- ▶ Convention No. 138 requires ratifying Member to pursue a national policy designed to ensure the effective abolition of child labour, and to take necessary measures against CL, beyond simply making minimum age rules.
- ▶ Fixing minimum age(s) is important and necessary to provide critical legal protection to children, and to give a yard stick, including exceptions.
- ▶ Recommendation No. 146, which accompanies Convention No. 138, suggests a wide range of measures to bring national policies and plans against CL into practice. Measures against CL should, among others, aim at:
 - poverty alleviation and the promotion of decent jobs for adults, so that parents do not need to resort to child labour;
 - free and compulsory education and the provision of vocational training;
 - extension of social security, and systems for birth registration; and
 - appropriate facilities for the protection of children and adolescents who work.

Question 10. What is the minimum age requirement of Convention No. 138 for "hazardous work"?

- ▶ Convention No. 138 sets 18 as the minimum age for so called "hazardous work", which is defined as work which, due to its nature or the circumstances in which it is carried out, is likely to jeopardize children's health, safety or morals.
- ▶ Types of work that are considered "hazardous work" (therefore, to be prohibited for under-18) will be established by national law or regulations or by the competent authority after consultation with employers' and workers' organizations. As seen below under Convention No.182, hazardous work is also one of the worst forms of child labour.

Question 11. What is “light work” that children can perform?

- ▶ This is one of the exceptions to the general minimum age (15 in Viet Nam). According to Article 7 of Convention No.138, national laws or regulations may permit the employment or work of persons between 13 to 15 years of age engaging in light work which is:
 - (a) not likely to be harmful to their health or development; and
 - (b) will not interfere with their attendance at school, their participation in vocational orientation or training programmes approved by a competent authority, or their capacity to benefit from the instruction received.
- ▶ A competent authority shall determine the activities which are considered light work for which a person aged 13 to 15 may be permitted to engage, and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
- ▶ If they choose to allow light work, Members must determine what activities are considered light work, and the hours and the circumstances under which they may be carried out.

Question 12. How does the Convention apply to artistic activities performed by children or minors?

- ▶ This is another exception to the general minimum age. For children below the minimum working age in performing arts, Article 8 of Convention No. 138 provides that Member States, after consulting with representative organizations of workers and employers, may permit children to participate in artistic performances if an individual permit is issued by the country's competent authority that specifies the number of hours worked and children's working conditions.
- ▶ For this exception, there is no lower limit of age (like 13 years for light work as above) and even a baby might be employed for filming, for instance, but the authorization should properly ensure the safety and health of the child involved.

Question 13. Does the Convention allow exception to cases of work carried out by children for the purpose of learning?

- ▶ Yes. According to its Article 6, Convention No. 138 does not apply to work undertaken by children in schools or training institutions as part of their education or training. Nor does it apply to work undertaken by children aged at least 14 in enterprises (“apprenticeship”).
 - These exceptions are permitted only where the work is conducted under conditions specified by the competent authority and is part of a school or training institution programme, or an apprenticeship programme, approved by government authorities.
 - In any case, hazardous work must not be allowed in terms of Convention No.182.

Question 14. What are the provisions on enforcement in Convention No. 138?

- ▶ In relation to enforcement, all the necessary measures, including provisions on appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
- ▶ National laws and regulations or the competent authority shall define:
 - the persons responsible for compliance with the provisions giving effect to the Convention; and
 - the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of employees or workers under 18 years of age.

Question 15. Does Convention No. 138 provide for flexibility for Members that consider its ratification?

Yes, there are provisions on several types of flexibility or exemptions, including the procedural requirements involved.

Viet Nam did not use these ones mentioned below. So, they are presented here only for information.

- ▶ Under Convention No.138 (Article 2), developing countries have the option of initially setting the minimum age at 14 as a transitional measure while they strengthen their education systems and economies, and should gradually raise it. If they chose this option, light work may be allowed from 12 years of age.

Viet Nam, however, specified the minimum age of 15 years upon ratification of Convention No.138 (therefore light work from 13 years).

- ▶ Convention No. 138 (Article 4) allows ratifying Members to exclude certain categories of work or occupations from the application of the Convention in cases where special and substantial problems would arise from applying the Convention. If a Member wishes to use this option, it has to include a list of excluded categories in its first report (submitted under article 22 of the ILO Constitution) on the application of the Convention, with the reasons for exclusions. In the following reports, the Member must keep outlining the position of its laws and practices in relation to the excluded categories. Viet Nam did not use this flexibility.
- ▶ Convention No. 138 (Article 5) allows developing countries, by a formal declaration at the time of ratification, to initially limit the scope of application of the Convention, after consultation with the employers' and workers' organizations concerned.

Viet Nam did not use this flexibility, so the following provisions are not relevant.

- Even if this flexibility is used, the provisions of the Convention shall be applicable, as a minimum, to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.
- Any Member that uses this flexibility clause has to keep reporting on the situation in the excluded branches of activity, and can extend at any time the scope of application by sending a new declaration to the ILO.

Question 16. The role of Convention No. 138 in the legal system of Viet Nam

- ▶ Viet Nam ratified Convention No. 138 on 24 June, 2003, specifying the minimum age of 15 years. Viet Nam's labour law has upheld the spirit of Convention No. 138 through the stipulation of different minimum ages and different working conditions for workers under 18 years of age, in particular setting different rules for different age groups: Children from 15 full years of age to under 18 years of age; Children from 13 full years of age to under 15 years of age; and Children under 13 years of age. [See [Part.2 Question.1](#) for details]

B.2. The Worst Forms of Child Labour Convention, 1999 (No. 182)

Question 17. What is the key content of Convention No. 182?

Convention No. 182, accompanied by Recommendation No. 190, was adopted by the ILO in 1999. The Convention requires Member States that ratify it to take urgent and effective measures to ensure the prohibition and elimination of the worst forms of child labour, that is:

- (a) all forms of slavery or practices similar to slavery;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities; and
- (d) work which is likely to harm the health, safety or morals of children.

Question 18. What does Convention No. 182 require member states to do to achieve the objectives of the Convention?

- ▶ Convention No. 182 requires ratifying Members to take urgent and effective measures to ensure the prohibition and elimination of the worst forms of child labour. such as child slavery; child trafficking; use of children in armed conflict; use of children for prostitution; drug trafficking and dangerous work. Among other things, Members must:



Question 19. What are the worst forms of child labour

Convention No. 182 (Article 3) defines the worst forms of child labour as:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (“hazardous work”).
 - “Hazardous work” is also covered by Convention No.138 as explained above, but it is one of the worst forms of child labour, and constitutes the largest part of the worst forms in number of children involved.
 - Other worst forms often involve crimes or illicit activities and are beyond the scope of the Labour Code.

Question 20. How is the list of hazardous work developed?

According to Article 4 of Convention No.182, its list has to be developed nationally after consulting employers’ and workers’ organizations:

- ▶ The types of work which, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, shall be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards.

- ▶ The list of hazardous work is required to be periodically reviewed and updated.
- ▶ The national law or competent authority may permit the employment of workers ≥ 16 years of age provided that the health, safety and morals of the children concerned are adequately protected, and that these children receive sufficient and specific instructions and/or vocational training in a relevant field.
- ▶ The ILO Worst Forms of Child Labour Recommendation, 1999 (No. 190) suggests that, in determining the list of hazardous work nationally, consideration should be given to the following:
 - Work that exposes children to physical, psychological or sexual abuse.
 - Work underground, under water, at dangerous heights or in confined spaces.
 - Work with dangerous machinery and tools or work that requires physical force to handle or transport heavy loads.
 - Work in an environment that is harmful to health, for example, which may expose children to harmful substances, agents or cycles, or to noise, temperatures or vibrations that are injurious to children's health.
 - Work in particularly difficult circumstances, for example working long hours or working at night or work in which children are unreasonably confined at the employer's premises.

Question 21. What does the Convention require in terms of mandatory measures for implementation?

- ▶ Convention No. 182 (Article 7) requires that each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention, including the provision and application of penal sanctions or, as appropriate, other sanctions.
- ▶ Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (a) prevent the engagement of children in the worst forms of child labour;
 - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - (d) identify and reach out to children at special risk; and
 - (e) take account of the special situation of girls.
- ▶ Each Member State shall designate a competent authority in charge of implementing the provisions of this Convention.
 - ▶ Other required measures include: monitoring mechanisms (Article 5) of the national provisions; and designing and implementing programmes of action (Article 6) to eliminate as a priority the worst forms of child labour.

Question 22. What is the role of Convention No. 182 in Viet Nam's legal system?

- ▶ Viet Nam ratified Convention No. 182 on 19 December 2000. Viet Nam's labour law has upheld the spirit of Convention No. 182 in its provisions and regulations, in particular regarding the protection of minors from hazardous work. Namely, the Labour Code 2019 has provisions on types of work and workplaces in which the employment of workers from 15 full years of age to less than 18 years of age is prohibited and working hours of minor workers. Employment of persons under 15 years of age is permitted only as light work, under protective conditions. If children under 15 are found in hazardous work of any other worst forms, they must be rescued as a priority from the situation.
- ▶ In addition to the Labour Code, in the Vietnamese legal system, there are other related laws and regulations, that implement C182, namely:

- The 2016 Children's Law stipulates that children's rights are protected from labour exploitation, prohibiting acts that involve child exploitation.
 - The 2015 revised Penal Code stipulates that anyone who employs persons under 16 years of age to undertake heavy and dangerous jobs or to be exposed to hazardous substances according to the list prescribed by the State shall be fined or undergo non-custodial reform or imprisonment.
 - Circular 9 stipulates a list of jobs and workplaces in which the employment of minors is prohibited, including jobs that harm the physical, intellectual and personality development of minors.
- ▶ The worst forms of child labour other than hazardous work (such as slavery - like practices, child trafficking, sexual exploitation, the use of children in illicit activities) are usually covered by other laws than the labour law of the country. It is also the case in Viet Nam, but those other laws are not covered by this Handbook.



Part 2

Questions and answers on the employment of minor workers in the Labour Law

A.

General questions

Question 1. What is the age of minor workers?

According to Clause 1, Article 143 of the Labour Code, a minor worker is a worker under 18 years of age.

Based on the development of minors by age, the Code categorizes them into three groups which are subject to different levels of protection:

Persons from 15 full years of age to under 18 years of age

Viet Nam declared 15 years as the minimum working age under C138. Therefore, it is OK to employ minors in this 15-18 year age group, but they are still prohibited to perform **hazardous work** (conditions and workplaces included) or any other worst form of child labour (e.g. slavery, sexual exploitation).

Persons from 13 full years of age to under 15 years of age

Minors of 13-15 year age group should not become a full time employee (because they should still be under compulsory education) but can be employed, as an exception, for specified list of **light work** under the specified conditions and through appropriate procedures.

Persons under 13 full years of age

Those below 13 should not be employed other than for a very exceptional case of "**artistic performances**" under individual authorisation granted. It becomes child labour to employ them for other types of work (for example, becoming a domestic worker in someone else's household).

The following scheme visualizes the different level of protection according to the age group of children:

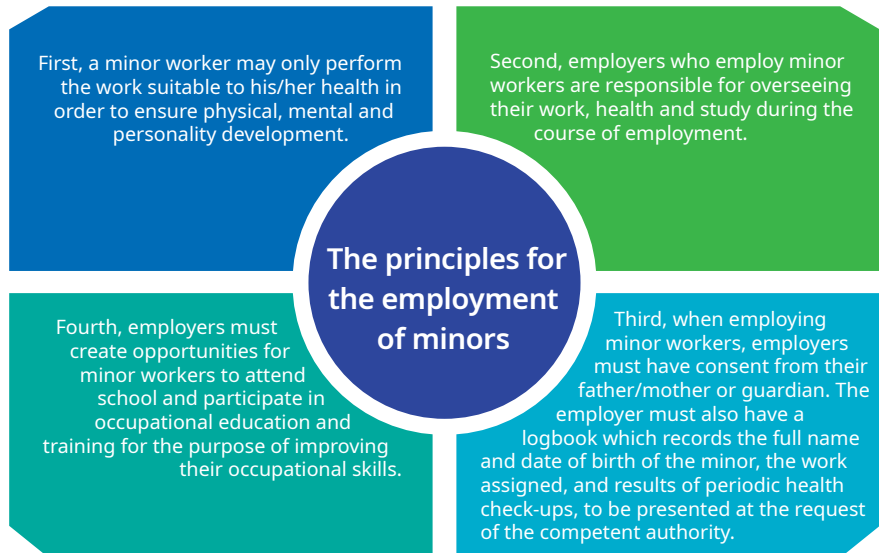
Age groups	Work excluded from minimum age legislation	Light work	Non-hazardous, non-light work	Hazardous work and other worst forms of child labour
15-18				
13-15				
below 13				

Minimum age for work = 15

Shaded area = Child Labour for prevention and elimination
White area = NOT child labour

Question 2. What are the principles for the employment of minors?

Answer: According to Article 144 of the Labour Code, the employment of minors must ensure with the following principles:



B.

Employment of persons from 15 full years of age to under 18 years of age

Question 3. Which work is prohibited for persons from 15 full years of age to under 18 years of age?

Answer: According to Clause 1, Article 147 of the Labour Code, it is prohibited to employ workers aged from 15 full years of age to under 18 years of age to perform the following work:

- ▶ carrying and lifting heavy objects that are beyond the physical capacity of the minors;
- ▶ producing and trading alcohol, liquors, beers, cigarettes, psychoactive or other addictive substances;
- ▶ producing, using or transporting chemicals, gases or explosives;
- ▶ carrying out maintenance for equipment and machines;
- ▶ demolishing construction work;
- ▶ boiling, blowing, casting, rolling, stamping, or welding metals;
- ▶ marine diving, offshore fishing; and
- ▶ other work which is harmful for the physical, mental and personality development of the minors.

Question 4. In which workplaces are persons from 15 full years of age to under 18 years of age prohibited from being employed?

Answer: According to Clause 1, Article 147 of the Labour Code, the employment of workers aged from 15 full years of age to under 18 years of age is prohibited at the following places:

- ▶ underwater, underground, in caves, in tunnels;
- ▶ construction sites;
- ▶ slaughter houses;
- ▶ casinos, bars, discotheque, karaoke rooms, hotels, motels, saunas, massage establishments, lottery establishments, locations for video game businesses; and
- ▶ other workplaces that are harmful to the physical, mental and personality development of minors.

Question 5. What other workplaces are harmful to the physical, mental and personality development of minors?

Answer: According to Section III of Circular No. 9, workplaces of the following nature are harmful to the physical, mental and personality development of minors:

1. exposure to dangerous and harmful factors in the working environment (such as electromagnetic fields, vibration, noise, temperature, silica dust, silica-free dust, cotton dust, asbestos dust, coal dust, talc powder; radioactive substances/rays; X-radiation, toxic substances and other harmful rays) that exceed the permissible limits stipulated by national occupational health standards and technical regulations;
2. exposure to pathogenic micro-organisms;
3. work of over 4 hours/day in a confined and narrow work space; working in kneeling, lying, and stooping positions;
4. work on a shelf or a hanging rope >2 m above the working floor; work on slope of a >30° angle; and
5. work in a prison or a psychiatric hospital.

Question 6. What other work is harmful to the physical, mental and personality development of the minors?

Answer: According to Section III of Circular No. 9, the following work is harmful to the physical, mental and personality development of the minors:

1. Directly refining non-ferrous metal ores (copper, lead, tin, mercury, zinc, silver).
2. Producing coke.
3. Operating steam locomotives.
4. Operating fuel-fired (coal, bagasse, firewood, sawdust, rice husk) boilers and liquid fueled boilers with a working pressure of ≥ 4.0 bar and a capacity of >0.5 T / h.
5. Operating systems which prepare and charge acetylene, oxygen, hydrogen, chlorine and liquefied gases, compressed air stations with a pressure of 8.0 bar.
6. Operating refrigeration systems (which make ice or freeze things).
7. Installing, repairing and cleaning metal molds of a metal forging, stamping, pressing or cutting machine (whether it is a steam, pneumatic, electric or mechanical machine).
8. Collecting waste from industrial alcohol production.
9. Operating fabric sizing machines.
10. Dyeing and/or steaming fabric.
11. Working as chemical /dye warehouse manager and/or warehouse keeper.
12. Quarrying, breaking stone manually, picking up rocks on mountains.
13. Putting materials into stone crushers and working with stone crushers.
14. Lead ore separation.
15. Using hand-held pneumatic machines with pressure of ≥ 4 atmosphere (for example: drill, hammer and similar machinery which causes abnormal vibrations to the human body).
16. Gold, ore, and red stone separation.

17. Manually digging up stumps of trees with a diameter of >40cm.
18. Manually sawing wood with another person.
19. Manually felling trees with a diameter of >35cm, sawing, cutting tree branches, pruning tree branches at a height.
20. Manually transporting large timber, loading and unloading timber with a diameter of > 35cm using a trough or a slide.
21. Refloating sunken wood.
22. Operating rafts on rivers with many waterfalls.
23. Driving agricultural tractors.
24. Exploiting bat manure and exploiting bird nests on islands.
25. Sawing wood with a circular saw.
26. Operating wood planing machines (except for hand-held ones).
27. Raising and training wild beasts or venomous animals.
28. Preliminary processing of bamboo, rattan, and sedge using toxic chemicals.
29. Burning brick kilns, lime kilns, and manually calcining.
30. Working alone on railroads, or in places where the worker's visibility cannot be wider than 400m.
31. Moving, joining or separating wagons in factories and railways.
32. Operating means of transport which have engines with a cylinder capacity of $\geq 50\text{cm}^3$.
33. Using lashing cranes, lifting devices, and electric hoists.
34. Surveying riverways.
35. Working on seagoing vessels (not applied to those who are 16 full years of age).
36. Rig installation.
37. Working on an offshore rig.
38. Guarding ships, and looking after ships in building slips.
39. Drilling to explore oil and gas wells.
40. Drilling for exploration, blasting, and shooting mines.

41. Laminating large, hard pieces of leather.
42. Sealing wine tanks with paraffin.
43. Vulcanizing, forming, loading and unloading large rubber products, for example: fuel tanks, and automobile tires.
44. Working in contact with gasoline, oil in caves and tunnels: delivering, storing and operating gasoline/oil pumps and measuring devices.
45. Burning a glass furnace, and blowing glass using the mouth.
46. Igniting oil burners which consume ≥ 400 l of oil/hour.
47. Building and repairing watercrafts which requires the worker to carry objects of ≥ 20 kg in weight.
48. Operating waste incinerators and wastewater treatment systems.
49. Cooking and chlorinating pulp.
50. Installing and repairing power lines in underground sewers or on outdoor poles, working with high voltage power lines, and erecting high voltage poles.
51. Installing and repairing underground cables, and suspended power line communication (PLC) cables.
52. Operating and looking after low-voltage, medium-voltage and high-voltage power stations.
53. Checking, repairing and handling electrical circuits with voltages of 700 V in the case of direct current, and of above 220V in case of alternating current, and objects that maintain that circuit.
54. Working in radio, television, radio stations, satellite telecommunication stations, and so on, that are affected by electromagnetic fields in excess of the permissible limit.
55. Repairing furnaces, barrels, closed towers, and pipes in chemical production.
56. Working in contact with organic solvents such as impregnation sleepers and photo emulsion, printing flowers on thin film, printing labels on thin glossy paper, laminating phenon resin, and operating phenon polyglue pots.

57. Direct exposure to chemicals that cause genetic changes:
 - 57.1. Chemical: 5-fluorouracil;
 - 57.2. Chemical: Benzene.
58. Direct contact with the following chemicals/compounds that cause long-term reproductive harm (e.g. testicular insufficiency, ovarian insufficiency):
 - 58.1. Estrogen;
 - 58.2. Cis-retinoic acid;
 - 58.3. Cacbaryl;
 - 58.4. Dibromochloropropane (DBCP);
 - 58.5. Toluendiamin and dinitrotoluene;
 - 58.6. Polychlorinated biphenyls(PCBs);
 - 58.7. Polybrominated biphenyls (PBBs).
59. Direct contact (i.e. production, packaging, preparation, spraying, sterilization of warehouses) with the following pesticides, herbicides, termites, rats, and mosquitoes, which contain organic chlorine and chemicals likely to cause cancer:
 - 59.1. Chemicals: 1,4-butanediol, dimetansunfonate;
 - 59.2. Chemical: 4-aminnobiphenyl;
 - 59.3. Amosite asbestos, chrysotile asbestos, crocidolite asbestos;
 - 59.4. Arsenic, calcium arsenate;
 - 59.5. Dioxin;
 - 59.6. Dichloromethyl-ether;
 - 59.7. Insoluble chromate salts;
 - 59.8. Coal tar, coal tar evaporation part;
 - 59.9. Xyclophotphamide;
 - 59.10. Dietylstilboestol;
 - 59.11. Chemicals: 2- Naphtylamin;
 - 59.12. Chemical: N, N - di (Cloroethyl), 2 -Naphtylamin;

- 59.13. Thorium dioxide;
- 59.14. Theosufan;
- 59.15. Vinyl chloride, vinyl chloride;
- 59.16. Chemicals: 4- amino, 10- methyl folic acid;
- 59.17. Mercury, methyl mercury compounds, methyl mercury chloride;
- 59.18. Nitrogen pentoxide;
- 59.19. Chemical: 2,3,7,8-tetracloro dibenzen furan;
- 59.20. Chemical: 2-alphaphenyl-beta acetylletyl;
- 59.21. Salicylic acidic acid;
- 59.22. Asparagin;
- 59.23. Benomyl;
- 59.24. Boric acid;
- 59.25. Caffeine;
- 59.26. Dimetyl sunfoxid;
- 59.27. Direct blue-1;
- 59.28. Focmamid;
- 59.29. Hydrocortisone, Hydrocortission acetate;
- 59.30. Iodine (metal);
- 59.31. Lead, lead acetate, lead nitrate (in contact with paint, lead - containing ink, battery manufacturing, lead welding);
- 59.32. Mercapto, purine;
- 59.33. Potassium bromide, potassium iodide;
- 59.34. Propyl- thio- uracil;
- 59.35. Ribavirin;
- 59.36. Sodium arsenate, sodium arsenite, sodium iodide, sodium salixylate;
- 59.37. Tetramethyl thiuram disulfide;
- 59.38. Trameinnolon acetone;

- 59.39. Triton WR-1339;
 - 59.40. Trypan blue;
 - 59.41. Valproic acid;
 - 59.42. Vincristin sulfate;
 - 59.43. Weapons Vinazol.
60. Frequent contact with the following chemicals:
- 60.1. Carbon oxide (CO) (e.g. operating a coal gas - generating furnace, discharging slag);
 - 60.2. Aniline, xylizin, toluzin, auramin based dyes;
 - 60.3. Cyanide (-CN-) compounds;
 - 60.4. Phosphorus and compounds P_2O_5 , P_2S_5 , PCl_3 , H_3P ;
 - 60.5. Trinitro toluene (TNT);
 - 60.6. Manganese dioxide (MnO_2);
 - 60.7. Photgein ($COCl_2$);
 - 60.8. Carbon disulfide (CS_2);
 - 60.9. Nitrogen oxide and nitric acid;
 - 60.10. Sunfuarc anhydride and sulfuric acid;
 - 60.11. Calcium carbide (CaC_2) (for example: operating an open clay lamp furnace, discharging slag).
61. Working in sinking tanks.
62. Dredging underground sewers, and regularly soaking in dirty water.
63. Producing yellow phosphorus.
64. Executing body surgery, burial of dead people, grave removal, morgue work.
65. Picking up or sorting out garbage, waste or scrap.

- 66. Working in contact with anesthesia medicines in the context of emergency, infection control, performing infection control in infectious departments of medical establishments, blood transfusion centers, vaccine production facilities, taking part in fighting outbreaks, and working in shortwave and ultrasonic treatment areas.
- 67. Mounting, dismantling or altering scaffolding.
- 68. Carrying and lifting heavy objects beyond the physical strength of minor workers.

Age group	Irregular work (kg)		Regular work (kg)	
	Male	Female	Male	Female
From 15 full years age (180 months) to under 16 full years of age (192 months)	≥ 15	≥ 12	≥ 10	≥ 8
From 16 full years old (192 month) to under 18 years of age (216 months)	≥ 30	≥ 25	≥ 20	≥ 15

- 69. Classifying and recycling products containing graphite.

Question 7. What are the lawful working hours of workers from 15 full years of age to under 18 years of age?

Answer: According to Clause 2, Article 146 of the Labour Code, the working hours of workers from 15 full years of age to under 18 years of age must not exceed 8 hours per day or 40 hours per week as long as the work is not hazardous.

Question 8. Are workers from 15 full years of age to under 18 years of age allowed to perform overtime work or night work?

Answer: According to Clause 2, Article 146 of the Labour Code, workers from 15 full years of age to under 18 years of age may undertake overtime work and night work in certain occupations and work stipulated in the list issued by Minister of Labour, Invalids and Social Affairs.

Question 9. In what types of work or occupation is it allowed for workers from 15 full years of age to under 18 years of age to perform overtime work or night work?

Answer: According to Annex II attached to Circular No. 9:

(a) Occupations for which overtime work is permitted for minors from 15 full years of age to less than 18 years of age:

1. Art performers.
2. Sports athletes.
3. Traditional occupations: glazing pottery, making Do paper, making conical hats, making incense, glazing conical hats, weaving mats, making drums, brocade weaving, brocade embroidery, making rice noodles, making bean sprouts, making rice vermicelli, weaving silk, making joss paper, painting lacquer (with the exception of jobs that require the use of toxic chemicals such as paint, cleaning chemicals, and chemicals used to color things or create scent).

4. Handicraft jobs: embroidery, fine art carpentry, horn comb making, Dong Ho painting, To He making; making wood carving paintings, silk paintings; picking up shells to put on fine arts paintings; polishing fine arts paintings; stringing beaded beads, polishing jewelry, fine arts products, and making puppet dolls, greeting cards, picture frames, paper boxes, and paper bags.
5. Knitting, making household items and handicrafts from natural materials such as rattan, bamboo, coconut, banana, water hyacinth, jute, cinnamon, and cone leaf.
6. Packing fermented pork meat, seafood rolls, coconut candies, peanut candies, sesame candies, sticky rice cakes, Pia cake, coconut cake, and peanut cakes using manual methods (that is by hand).
7. Cutting thread, sewing shirt/pant buttons; manually packing textile products, assisting in sewing work, and picking up thread in production/business establishments.
8. Delivering newspapers, postal mail, parcels, packing postal packages, door-to-door selling, phone-based or online selling.
9. Polishing shoes, and processing and selling food on the street.
10. Working as a tutor, cleaner or domestic worker in families, and helping with house cleaning.
11. Working as security staff in businesses and restaurants.
12. Collecting money from vending machines, recording numbers from meters, working as a cashier or shopkeeper in a supermarket.
13. Working in a restaurant/cafe as a receptionist, bartender, waiter/waitress, cook assistant, chef, or cleaner.
14. Office work: photocopy, typing, customer service, and reception work.
15. Selling clothes, shoes, books/newspapers, and groceries.
16. Writing and programming.
17. Preliminary processing of agricultural products, e.g. sorting, peeling, separating, and packing.

18. Weeding in clean vegetable gardens, and harvesting seasonal fruits, vegetables.
 19. Raising cattle and poultry, and raising worms and crickets.
- (b) Occupations for which night work is permitted for persons from 15 full years of age to less than 18 years of age:**
1. Art performers.
 2. Sports athletes.

C.

Employment of workers under 15 years of age

Question 10. What are the regulations applicable to employers employing workers under 15 years of age?

Answer: According to Clause 1, Article 145 of the Labour Code, when employing workers under 15 years of age, employers must comply with the following regulations:

- ▶ To enter into employment contracts in writing with those who are under 15 years of age and their legal representative;
- ▶ To arrange working hours so as not to affect the education of those who are under 15 years of age;
- ▶ To possess a health certificate from a competent health care institution confirming that the health of those who are under 15 years old is suitable for the work; to organize health check-ups every six months;
- ▶ To ensure that the working conditions and occupational safety and health are suitable for the age of workers.

Question 11. What type of work is permitted to be undertaken by workers from 13 full years of age to under 15 years of age?

Answer: According to Clause 2, Article 145 of the Labour Code, employers may only recruit and employ workers who are aged from 13 full years of age to under 15 years of age to perform light work, as regulated in Clause 3, Article 143 of the Code.

Annex II attached to Circular No. 9 gives the following list of light work that can be performed by workers from 13 full years of age to under 15 years of age mentioned in Clause 3, Article 143 of the Labour Code:

1. Work specified in Clause 3, Article 143 of the Labour Code (art and sport activities).
2. Traditional occupations: glazing pottery, making Do paper, making conical hats, making incense, glazing conical hats, weaving mats, making drums, brocade weaving, brocade embroidery, making rice noodles, making bean sprouts, making rice vermicelli, weaving silk, making joss paper, painting lacquer (with the exception of jobs that require the use of toxic chemicals such as paint, cleaning chemicals, and chemicals used to colour things or create scent etc.).
3. Handicraft jobs: embroidery, fine art carpentry, horn comb making, Dong Ho painting, To He making; making wood carving paintings and silk paintings, picking up shells to put on fine arts paintings, polishing fine arts paintings, stringing beaded beads, polishing jewelry and fine arts products, and making puppet dolls, greeting cards, picture frames, paper boxes, and paper bags.
4. Knitting, making household items and handicrafts from natural materials such as rattan, bamboo, coconut, banana, water hyacinth, jute, cinnamon, cone leaf.
5. Making fiber from lotus.
6. Packing fermented pork meat, seafood rolls, coconut candies, peanut candies, sesame candies, sticky rice cakes, pia cakes, coconut cakes, and peanut cakes using manual methods (i.e. by hand).
7. Raising silkworms.
8. Programming software.
9. Weeding in clean vegetable gardens and harvesting seasonal fruit/vegetables.
10. Grazing cattle in farms.
11. Assisting in removing fish nets, weaving fish nets, and drying seafood.
12. Cutting thread, sewing shirt/pant buttons, and manually packing textile products.

Question 12. What are the lawful working hours for workers from 13 full years of age to under 15 years of age?

Answer: According to Clause 1, Article 146 of the Labour Code, the working hours of those under 15 years of age must not exceed 4 hours per day or 20 hours per week; overtime work and night work are not allowed.

Question 13. Can employers recruit and employ workers under 13 years old? If yes, for which types of work, in which industries, and in line with which criteria?

Employers are generally not allowed to recruit and employ persons under the age of 13 to work. The only exception is for work in arts, gymnastics and sports jobs (“artistic performances”) which do not harm the physical and mental development or the personality of the child under 13 years old; in such cases, specific permission must be granted by the labour authority under the provincial People’s Committee.

Question 14. Which agency has the authority to approve the employment of persons under the age of 13 in artistic performances?

According to the provisions of Article 5 of Circular 09/2020/TT-BLĐTBXH dated November 12 2020, the following agencies have the authority to approve the employment of people under 13 years old:

- ▶ If the employer is an enterprise, agency, organization or cooperative: Department of Labour, Invalids and Social Affairs where the head office is located; or the address stated on the certificate of registration of the enterprise, cooperative or cooperative union, the investment registration certificate, official documents approving an investment policy or decision on the establishment of the agency or organization, or a cooperation contract of a cooperative group.

- ▶ If the employer is a household or an individual: Department of Labour, Invalids and Social Affairs where permanent or temporary residence of the household or individual is registered.

Question 15. What documents are required to apply for employment of a person under the age of 13?

The law stipulates that the employment of persons under the age of 13 years of age for specific jobs (performance in art or sport) must be approved by the competent authority. An application for a license must contain the following documents:

- ▶ A written request for the employment of the person/s under the age of 13, made according to Form No. 01 in Appendix I, Circular 09/2020/TT-BLDT-BXH dated November 12 2020.
- ▶ In cases where the employer is an enterprise, agency, organization or cooperative: A copy of the certificate of registration of the enterprise, cooperative or cooperative union, or the certificate of investment registration, written approval of the investment policy, or the decision on the establishment of an agency, organization or cooperation group.
- ▶ In cases where the employer is a household or an individual: Copy of household registration book or temporary residence certificate.
- ▶ A copy of the criminal record card of the employer representative in the contract, as prescribed at Point a, Clause 1, Article 4 of Circular 09/2020/TT-BLDTBXH, dated November 12 2020.
- ▶ A written commitment that the employer has never been prosecuted for penal liability or administratively sanctioned for acts of child abuse, as prescribed in Point b, Clause 1, Article 4 of Circular 09/2020/TT-BLDTBXH, dated December 12 11/2020.

- ▶ A labour contract or draft labour contract between the employer and the person under 13 years of age and his/her legal representative. In the case of a draft labour contract, a consent form from the legal representative of the person under 13 years of age is required, completed according to Form No. 03 in Appendix I, issued together with Circular 09/2020/TT- BLDTBXH, dated November 12 2020.
- ▶ A copy of the birth certificate and health certificate of the person under 13 years of age.
- ▶ The timetable or study programme of the educational institution where the person under the age of 13 is studying, if attending school.

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