



# Frequently-Asked Questions in Malaysia about **Child Labour**

## ▶ What does the term “child labour” mean?



Child labour refers to any work done by **persons under 18 years old** that is mentally, physically, socially or morally dangerous and harmful to children, or interferes with their education by depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long work hours or heavy work.

**! This is what we are interested in eliminating; not all work by children in general.**



## ▶ As a parent, can I allow my children to work?



Yes, as long as the work:

- ▶ Is not mentally, physically, socially or morally dangerous or harmful to children; and
- ▶ does not interfere with their schooling.

## ▶ What are the worst forms of child labour according to the ILO?

Article 3 of the Worst Forms of Child Labour Convention (No. 182):



Slavery and slavery-like practices, including forced labour and trafficking



Commercial sexual exploitation of children



illegal activities, i.e. drug courier



Hazardous work

## ▶ What is hazardous work?

Hazardous work is prohibited for all persons under 18 years old. The hazardous work list is included in the **Children and Young Persons (Employment) Act 1966 Schedule IV**, such as:



Any work related to machines, installations and other equipment that may pose high risk.



Any work that is conducted in a hazardous environment.



Any work of a hazardous nature or with hazardous conditions, including night work.

## ▶ Why should I care about child labour at all?

Child labour can lead to:



Physical or psychological damage to children



Poverty across generations



Children missing or dropping out of school



Limited access to quality jobs in the future



Negative effect to the economy and society



Imprisonment or fine of the perpetrator



Under the **Children and Young Persons (Employment) Act 1966** for Peninsular Malaysia, an employer can be fined not more than RM 50,000 or imprisoned for not more than 2 years. Subsequent offences carry penalties of a fine of not more than RM 100,000 or imprisonment for not more than 5 years. The Sabah and Sarawak Labour Ordinances provide fines not exceeding RM 10,000 or imprisonment for a term not exceeding 2 years, or both.



## ▶ What is allowable or unallowable work for a child aged 13 to below 15?

### Allowable work

Family-run enterprises which are light work or “any work performed by a child or young person that is not likely to:

- ▶ Be harmful to health or mental or physical capacity; or
- ▶ Affect attendance at school.”

**IMPORTANT: THE AGE OF ADMISSION TO LIGHT WORK SHALL NOT BE LESS THAN 13 YEARS ACCORDING TO THE CYP ACT (ACT 350).**

### Unallowable work

- ▶ Any hazardous work as per ILO standards and the CYPA;
  - ▶ For more than 6 days in a week;
  - ▶ Between the hours of 8 p.m. and 7 a.m.;
  - ▶ For more than three consecutive hours without a period of rest of at least 30 minutes;
  - ▶ For more than 6 hours a day or if the child is attending school, for a period which, together with the time spent attending school, exceeds seven hours; or
  - ▶ Start work on any day without at least 14 hours rest from previous work.
- Work contradict any provision under the **Factories and Machinery Act 1967**, the **Occupational Safety and Health Act 1994** (only in the CYPA) and the **Electricity Supply Act 1990**.



A child may be employed in public entertainment but a license must be granted by the Department of Labour (DOL).

## ▶ What is allowable or unallowable work for a young person aged 15 and below 18 years old?

### Allowable work

- ▶ Light work (whether or not the undertaking is carried on by his family);
- ▶ Public entertainment, with license granted;
- ▶ Employment in any office, shop (including hotels, restaurants and stalls), godown, factory, workshop, store, boarding house, theatre, cinema, association;
- ▶ Employment in an industrial undertaking suitable to his capacity; and
- ▶ Employment on any vessel under the personal charge of his parent or guardian.

### Unallowable work

- ▶ Work between 8pm-6am (Not applicable to agricultural undertakings or any employment in public entertainment or on any vessel\*);
- ▶ Work for more than 4 consecutive hours without a period of rest of at least 30 minutes;
- ▶ Work for more than 7 hours in any one day or, if the person is attending school, for a period that, together with the time spent attending school, exceeds 8 hours. If the person is an apprentice, the period of work in any one day must not exceed 8 hours;
- ▶ Commencing work on any day without having had a period of not less than 12 consecutive hours free from work;
- ▶ Work contradicting any provision under the **Factories and Machinery Act 1967**, the **Occupational Safety and Health Act 1994** (only in CYPA) and the **Electricity Supply Act 1990**. (There are exceptions if the person is receiving a course of instruction at a government technical school or other educational institution, or is serving a recognized apprenticeship.);
- ▶ Prostitution;
- ▶ Work as a social escort, hostess or related work;
- ▶ Involvement in the production or trade of alcoholic beverages;
- ▶ Any activity related to massage or reflexology services;
- ▶ Any job related to pornography;
- ▶ The production or trade of drugs that are prohibited under the law; or
- ▶ For females, any employment in a hotel, bar, restaurant, boarding house or club, unless the establishment is under the management or control of a parent or guardian. If the establishment is not managed by a parent or guardian, approval for employment must be obtained from the DOL (only under the Sabah and Sarawak Labour Ordinances).



\*Night work is generally considered as hazardous under the ILO standards.

## ▶ A 10-year-old child is selling cigarettes on the streets. If he does not work, his family might suffer. What can be done?



Supporting the family is not the responsibility of the child, but of the parents. Parents should be given access to decent work to earn a decent living for the family. However, in case the parents are incapacitated, for example due to disability, then the government should provide assistance to them. A child's place is in school and, generally, not at work. This is why all children should be granted access to school. Government policies are needed to make possible access to education for all children, access to decent work for all parents, and social protection support to vulnerable households.

## ▶ I have my own child working with me and other family members in our mamak stall. Is this child labour?



It depends on the age, working conditions and working hours of the child. For example:

Adie, who is 14 years old, works as a cashier in her family's mamak stall from 5-7 pm, 5 days a week and attends school regularly is **not in child labour**. But Min, 15 years old and works until 10pm is in **child labour**. Please refer to the box on the left side for allowable and unallowable work for children and young persons.

## ▶ Aside from ensuring that the work is permitted, what else should I do if I want to hire someone under 18 year old, to ensure it is not considered as child labour?

The person should also be sufficiently trained to perform the job. Have a written and clear contract with the person, detailing the terms and conditions of employment. Based on section 16 of CYPA, certain provisions of the Employment Act 1955 are also applicable to the employment of any child under this Act. For example, as long as the child is contracted under a contract of service, she or he can join a union.



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