

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

18 Sep 2021



Factory Information

FLA Affiliates	Gymshark Ltd.
Country	Bangladesh
Number of Workers	1273

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Compensation (C)

3

Employment Relationship (ER)

4

Harassment Or Abuse (H/A)

1

Health, Safety And Environment (HSE)

9

Hours Of Work (HOW)

2

Assessment Information

Assessor

SCSA

Assessment Date

18 Sep 2021

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.21.2
Benchmark Details	All benefits shall be calculated correctly
Finding Details	<p>Based on document review (appointment letter & festival bonus record), it was noted that the facility has a fixed standard of six-month probation period before the worker is entitled to 100% of basic wages for their festival bonus. However, as per EPZ Labor Act 2019, chapter 5, section 53 (4) permanent employees will receive equal to 100% of the basic wages as their festival bonus two times a year, without setting any minimum service period. Some examples include: 1. A cleaner at Section HRD who joined on January 10, 2021, and was supposed to get confirmation on April 10, 2021, but she has received a confirmation letter on July 1, 2021. 2. A cleaner from Section Admin who joined on February 3, 2021, and was supposed to get a confirmation letter on May 2, 2021, but she received a confirmation letter on August 3, 2021. 3. An Issuer in the sewing section joined on January 2, 2021, and was supposed to get confirmation on April 2, 2021, but he has yet to receive his confirmation letter. As the factory took into consideration the six months probation period to determine the festival bonus, workers received 25% of the basic wage as a festival bonus. Legally, they should receive 100% of the basic wage as a festival bonus.</p>
Recommendation for Immediate Action	The facility shall change the requirement of paying festival bonus and provide the festival bonus as per EPZ act 2019 and shall confirm all non-skill workers service within three months instead of 6 months.
Compliance Classifications	Immediate Action Required

Local Law	As per EPZ Labor Act 2019, Chapter 2, section 5, Sub- Section 7- The period of probation for a worker whose function is of clerical nature shall be six months and for other workers such period shall be three month: Provided that in the case of a skilled worker, the period of probation may be extended by an additional period of three months if, for any circumstances, it has not been possible to determine the quality of his work within the first three months' period of his probation. As per EPZ Labor act 2019, chapter 5, section 53, sub-section 4- Employer or a person powered by the employer shall provide every permanent worker in his establishment 2 months basic wages as festival bonus in a year before own religious festival.
Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	Based on management review, it was noted that the facility has never conducted contributory provident fund account audits and also does not submit CPF account audit reports to BEPZA official for their review.
Recommendation for Immediate Action	It is recommended that the facility conduct contributory provident fund account audits on a regular basis.
Compliance Classifications	Sustainable Improvement Required
Local Law	As per EPZ employees (Contributory) Provident Fund Policy 2012 chapter 1, section 14 , Sub- Section 1- Accounts and balance sheet of provident fund shall be audited by any chartered Accountant Firm constituted under the Bangladesh Institute of Chartered Accountants act 1973 and shall be completed this audit within six month of the following year.
Benchmark ID	C.3.1.3
Benchmark Details	Where probationary employment is legally allowed, no workers shall work more than three months in this employment category.

Finding Details	The facility extended the probation periods for cleaners and issuers for three months, on top of the current three months. After six months, the facility then confirms them as permanent or regular employees. Examples include: 1. A cleaner at Section HRD who joined on January 10, 2021, and was supposed to get confirmation on April 10, 2021, but she received a confirmation letter on July 1, 2021. 2. A cleaner from Section Admin who joined on February 3, 2021, and was supposed to get a confirmation letter on May 2, 2021, but she received a confirmation letter on August 3, 2021. 3. An Issuer in the sewing section joined on January 2, 2021, and was supposed to get confirmation on April 2, 2021, but he has yet to receive his confirmation letter.
Recommendation for Immediate Action	The facility shall have a probation period for non-technical workers with a limit of three months and shall confirm their service no later than 3 months to comply with prevailing law.
Compliance Classifications	Immediate Action Required
Local Law	As per EPZ Labor Act 2019, Chapter 2, section 5, Sub- Section 7- The period of probation for a worker whose function is of clerical nature shall be six months and for other workers such period shall be three month: Provided that in the case of a skilled worker, the period of probation may be extended by an additional period of three months if, for any circumstances, it has not been possible to determine the quality of his work within the first three months' period of his probation.

Employment Relationship (ER)

Benchmark ID	ER.18.2
Benchmark Details	Employers shall ensure managers and supervisors are fully familiar with the workplace disciplinary system and in applying appropriate disciplinary practices.
Finding Details	It was noted that at least 7 out of 12 managers and supervisors are not fully familiar with the workplace disciplinary system.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.5.1
Benchmark Details	Employers shall ensure that all supervisors are trained in national laws, workplace regulations, and the FLA Code, workplace grievance systems, and the appropriate practices to ensure compliance.
Finding Details	It was noted that the facility does not provide training to all supervisors on the FLA code of elements and different employment functions. The facility has a total of 150 supervisors but the facility has provided training only for 41 supervisors.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.19.1
Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	Based on the review of the appointment letter or contract letter of the vehicle driver, boiler operator, electrician, mechanics, and security personnel, it was noted most common terms and conditions, such as working hours, leave, holidays, and benefits are not included in the appointment letter or contract letter.
Recommendation for Immediate Action	The facility shall properly include common terms and conditions, such as working hours, leave, holidays and benefits in the appointment letter or contract letter of all workers.

Compliance Classifications	Immediate Action Required
Local Law	Bangladesh Labor Rules 2015, chapter 2, section 19, sub-section 4- The worker should mention the following information in the letter of appointment of the worker under the section 5, such as: (a) Name of worker, (b) Father's Name, (c) Mother's Name, (d) Spouse Name, (e) Address: Present Permanent (f) Designation, type of work, date of joining, (g) Class of worker, (h) Wages or pay scale (Wages or salary and the rate of the increase of annual salary, if any), (i) Other payable financial facilities (house rent, medical, education, food, conveyance, festival and attendance allowances and gratuity if any, and (j) It is to be mentioned hereby that all appointment conditions, existing service rules (if any), and labor act will be complied with.
Benchmark ID	ER.18.3.2
Benchmark Details	Workers have the right to participate and be heard in any disciplinary procedure against them.
Finding Details	Workers do not have the right to participate and be heard in any disciplinary actions against them. For example, reviewing a sample of personnel files, it was noted that warning letters were issued to workers, however, there was no investigation process or committee, investigation letter, or investigation report. There is no sign that workers are allowed to participate and be heard in any disciplinary procedure against them.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	As per Bangladesh Labor Act 2006, chapter 2, section 24, Sub-Section 1- No order of punishment under section 23 shall be made against a worker unless- (a) the allegations against him are recorded in writing; (b) he is given a copy thereof and not less than seven days' time to explain; (c) he is given an opportunity of being heard; (d) he is found guilty, after enquiry; (e) the employer or the manager approves of such order. 31 (2) A worker charged for misconduct may be suspended pending enquiry into the charges against him and unless the matter is pending before any court, the period of such suspension shall not exceed sixty days; Provided that during the period of such suspension, a worker shall be paid by his employer a subsistence allowance equivalent to half of his average wages, and dearness allowance and ad-hoc or interim pay, if any
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Harassment Or Abuse (H/A)

Benchmark ID	H/A.10.1.3
Benchmark Details	Body searches shall not be undertaken in public and the person who undertakes the search shall be of the same sex as the person who is being searched.
Finding Details	It was noted that male workers' body search was conducted by male security personnel in an open place at the staircase.
Recommendation for Immediate Action	The factory shall ensure that body searches shall not be undertaken in public. Continue to ensure that the person who undertakes the search shall be of the same sex as the person who is being searched.
Compliance Classifications	Immediate Action Required
Local Law	

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1
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Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.
Finding Details	1. It was noted that the exit directional sign or arrow marking is not provided at five passageways at the dining hall and one passageway at idle machine areas. 2. It was noted that sliding type of exit doors was found at the male and female prayer room, training room, staff dining room, medical center, and conference room.
Recommendation for Immediate Action	1. The facility shall provide an exit directional sign or arrow marking all aisles and passageway to show the direction of the main exit for easy evacuation during emergencies. (2) Facility shall remove all sliding types of door and install the outwardly opened door at the exit for easy evacuation during an emergency.
Compliance Classifications	Immediate Action Required
Local Law	Bangladesh Labor Law 2006, Chapter- 6, Section – 62, Sub section-4: In every factory every window, door, or other exit affording means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign. As per Bangladesh Labor Law 2006, chapter 6, section 62, sub-section 3 (2) amendment 2013: The door shall be constructed such way that immediately opened from inside while any person is in the room and it should be outward open. (2) Where the door is between two rooms, in the direction of the nearest exit from the building and no such door shall be locked or obstructed while work is being carried on in the room
Benchmark ID	HSE.5.1.6
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: evacuation procedures and fire drills

Finding Details	Based on the document review, it was noted that there is no procedure to conduct an assessment after the fire drill to learn how to improve the evacuation process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	HSE.5.1.2
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following elements: installation and maintenance of fire alarms;
Finding Details	It was noted that the facility does not install a visual fire alarm at the compressor room that has a high noise environment.
Recommendation for Immediate Action	The facility shall install a visual fire alarm at the high noise areas.
Compliance Classifications	Immediate Action Required
Local Law	Bangladesh Labor Law 2006, Chapter- 6, Section – 62, Sub Section- 5: In every factory there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein.
Benchmark ID	HSE.5.1.4
Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all the following: ensuring aisles/exits are not blocked and that workers are not blocked within their workstations

Finding Details	Two aisles in the cutting section were found partially blocked by goods, relaxation trays & boxes. Besides, workers' passages are found partially blocked by goods, equipment, and co-workers. This was found in the cutting, sewing, and printing section.
Recommendation for Immediate Action	The factory shall ensure aisles and passageways are free from obstruction.
Compliance Classifications	Immediate Action Required
Local Law	Bangladesh Labor Law 2006, Chapter- 6, Section – 62, sub- section 6, a free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the factory.
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. Based on document review, it was noted that fitness certificate of four rented vehicles which are used to pick and drop the workers had expired, such as Chatta Metro JA-11-0737 fitness certificate expired on August 12, 2021, Chatta Metro JA-11-1122 fitness certificate expired on September 9, 2021, Chatta Metro JA-11-0999 fitness certificate expired on September 4, 2021, and Chatta Metro BA-11-0844 fitness certificate expired on July 23, 2021., 2. Based on document review, it was noted that three-vehicle drivers' driving licenses also expired. The driving licenses were expired on September 11, 2019, April 12, 2019, and May 26, 2021, and applied for renewal on Oct 14, 2019, June 16, 2019, and October 1, 2019, respectively. The new licenses are still not ready yet.
Recommendation for Immediate Action	(1) Facility shall renew all vehicle fitness certificates from the concerned authority in a timely manner. (2) Facility shall take the necessary steps to renew the driving license of all vehicle drivers from the concerned authority in a timely manner.
Compliance Classifications	Immediate Action Required

Local Law	Bangladesh Road Transport Act 2018 (Sarak Poribahan Act 2018, chapter 4, section 25 (1)- Nobody allow to drive any vehicle without fitness certificate or with expired fitness certificate Bangladesh Road Transport Act 2018 (Sarak Poribahan Act 2018) Chapter 2, Section 4- Nobody allowed to drive motor vehicle without license or with expiry license.
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.
Finding Details	It was noted that the facility has provided the first aid kit at all required places but does not establish any procedures to inspect first aid boxes on a regular basis.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	HSE.29
Benchmark Details	Employers shall provide all necessary protection for workers when working at heights, confined spaces, and other high-risk areas.
Finding Details	1. It was noted that the facility has some confined spaces surrounding the facility but the factory does not mark some of the confined spaces or provide any warning signs. 2. It was noted that the cover of some confined spaces was found with a hole and broken which may cause physical injury or accidents.
Recommendation for Immediate Action	1. Factory shall properly mark the confined space and provide warning signs. 2. Factory shall make sure all the covers of confined spaces are in good condition.

Compliance Classifications	Immediate Action Required
Local Law	In accordance with Bangladesh Labor Law 2006, Chapter- 5, Section – 79: where the Government is satisfied that any operation carried on in an establishment exposes any person employed in it to a serious risk of bodily injury, poisoning, or disease, it may make rules applicable to such establishment in which such operation is carried on to declare which operations are hazardous; (b) to prohibit the employment of women, adolescents or children in such operation; (c) to provide for regular medical examination of persons employed in such operation and to prohibit the employment of persons not certified to be fit for such employment; (d) to provide for protection of all persons employed in the operation or in the vicinity of such places and to use any specified materials or processes in connection with the operation; and (e) to give notice of any corrosive chemicals and of precautions to be taken in their use.
Benchmark ID	HSE.7
Benchmark Details	Workers shall be provided at no cost with all the appropriate and necessary personal protective equipment (e.g. gloves, eye protection, hearing protection, respiratory protection) to effectively prevent unsafe exposure (e.g. inhalation or contact with solvent vapors, noise, dust) to health and safety hazards, including medical waste.
Finding Details	It was noted that 11 workers were working without using the respiratory masks in the the pad printing section and they only used a simple fabric mask.
Recommendation for Immediate Action	The facility shall ensure that workers are provided with proper PPEs and workers are properly using the PPEs.
Compliance Classifications	Immediate Action Required

Local Law	EPZ Labor Act 2019, chapter 4, section 35, sub-section2 (D)- Have to provide safety uniform and personal protective equipment freely for the purpose of avoid accident for work with dangerous machinery, poisons chemical or any special work. As per EPZ Labor Act 2019, chapter 4, section 35, sub-section2 (K)- Protective measure have to take if have any possibility to physical damage or hurt, poisoning or affected by any disease of working employees
Benchmark ID	HSE.8
Benchmark Details	Workers shall be provided with training on the use and maintenance of personal protective equipment. Training shall be upon hire with periodic refresher training offered to all workers. Management will ensure use of PPE as necessary.
Finding Details	1. At least 30 workers were working without wearing face masks at the cutting, sewing, finishing, and store section. 2. At least 2 fusing section workers and 7 heat seal machine operators were working without using heat protective hand gloves 3. At least 15% of needle guards are installed too high at the sewing machines and defeat the purpose of safety measures installed. And 5% of eye safety on the machines were found displaced.
Recommendation for Immediate Action	The facility shall adopt practice and control to establish proper procedures and provide training to ensure that workers are properly using the PPEs. In addition, machine safety guards and devices shall be properly installed and used.
Compliance Classifications	Immediate Action Required

Local Law

As per with Bangladesh Labor Rules, 2015, chapter 6, section 67: (1) Safety measures and health safety must be arranged in accordance with the directions of this Rule or the regulations of the concerned govt. department for the workers who are employed in the procedures of manufacturing processes that have high risks of physical injury or loss. 2) In addition to the arrangement of safety and health protection measures mentioned in Sub-section (1), the concerned manufacturing institute must provide necessary equipment's, including safety shoes, helmets, goggles, masks, hand gloves, ear muffs, ear plugs, waist belts, aprons etc. and arrange training programs for the workers in using these materials and ensure their usage. 3) No worker can be employed in the relevant works without ensuring safety and health protection measures and the training related therewith. In addition, personal safety equipment's must be preserved in accordance with Information Form-23. As per Bangladesh Labor Rules, 2015, chapter 5, section 46, sub section 2: The workers engaged in such places with dust and fume should wear mask. As per EPZ Labor Act 2019, chapter 4, section 35, sub-section2 (D)- Have to provide safety uniform and personal protective equipment freely for the purpose of avoid accident for work with dangerous machinery, poisons chemical or any special work. As per EPZ Labor Act 2019, chapter 4, section 35, sub-section2 (K)- Protective measure have to take if have any possibility to physical damage or hurt, poisoning or affected by any disease of working employees

Hours Of Work (HOW)

Benchmark ID

HOW.21

Benchmark Details

Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.

Finding Details	Based on provided time card from September 2020 to August 2021, it was noted that the daily overtime of workers was up to 2 hours and due to performing some weekend duty, weekly working hours of workers exceeded 60 hours and at least 50 % of sampling workers' working hours exceeded 60 hours in a week. Maximum weekly working hours was found at 68 hours for periods such as August 7 to 13, total 68 hours; March 31 to April 6, 2021, total 68 hours; April 17 to 23, 2021 at total of 67 hours, March 13 to 19, 2021 at total 68 hours, February 27 to March 5, 2021, at total 66 hours, January 16 to 22, 2021 at total 68 hours and November 7 to 13, 2021 at total 68 hours.
Recommendation for Immediate Action	The facility shall adopt practice and control so that workers' working hours are kept under 60 hours per week. Production planning should not include overtime hours.
Compliance Classifications	Immediate Action Required
Local Law	EPZ Labor Act 2019, chapter 5, section 40, Sub- Section 1- No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week. Provided that, subject to the provisions of section 45, any such worker can work more than 48 hours in a week but condition that cannot be 60 hours per week and in average not more than 56 hours annually
Benchmark ID	HOW.2
Benchmark Details	Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.
Finding Details	Based on provided time card from September 2020 to August 2021, it was noted that workers at the facility performed some rest day duty to have additional holidays on EID holidays, such as August 13, 2021, April 2 & 23, 2021, March 5 & 19, 2021, January 22, 2021, November 13, 2020, and October 23, 2020, and consecutive working days were found at 8 to 13 days such as August 17 to 24, 2021, total 8 days, April 17 to 29, 2021, total 13 days, March 31 to April 8, 2021, total 9 days, March 13 to 25, 2021 total 13 days, February 27 to March 11, 2021, total 13 days, and November 7 to 19, 2020 total 13 days.

Recommendation for Immediate Action	The facility shall adopt practice and control to provide one day off after six consecutive working days.
Compliance Classifications	Immediate Action Required
Local Law	EPZ Labor Act 2019, chapter 5, section 41- Each and every workers and employees will get one day leave as weekly holiday with payment and no deduction shall be made for that

