

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

14 Sep 2022



Factory Information

FLA Affiliates	Gymshark Ltd.
Country	Sri Lanka
Number of Workers	1611

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

FLA Code Element	Number of Violations
Compensation (C)	3
Employment Relationship (ER)	11
Harassment Or Abuse (H/A)	1
Health, Safety And Environment (HSE)	10
Hours Of Work (HOW)	4

Assessment Information

Assessor	Insync
Assessment Date	14 Sep 2022

Assessment Purpose

Factory Assessment (In-Person)

ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.
Finding Details	Budgetary Relief Allowance is not reflected on pay records and pay slips as legally required.
Recommendation for Immediate Action	Budgetary Relief Allowance should be reflected on pay records and pay slips.
Compliance Classifications	Immediate Action Required
Local Law	BOI circular NWR 6//6/1 dated 6/11/2005 – Budgetary Relief Allowance Act 36 of 2005 - Evidence of compliance – it is essential that wages/ salary increase paid to workers in or after October 2004 and allowance paid under the Act is shown separately in wage record of the enterprise and wage slip issued to workers as evidence of compliance under the requirements of the Act.
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.
Finding Details	Irrespective of the date of resignation, wages for days worked prior to leaving employment are paid in the pay cycle following the month that workers resign, instead of paying within 2 working days as legally required.
Recommendation for Immediate Action	Terminal dues should be paid before expiry of second working day from date of leaving employment.

Compliance Classifications	Immediate Action Required
Local Law	Wages Board Ordinance -Final payment -Section 2 c: Wages board ordinance No 27 of 1941-If on any date he terminates the employment of a worker or any worker lawfully terminates employment under him, he shall, before the expiry of the second working day after that date, pay the wages due to that worker.
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	Clause # 3 in appointment letter defines that the Probation period for 3 months which can be extended if performance is unsatisfactory based on verbal feedback from team leaders. Period of extension is not defined. In practice period has not been extended so far for any worker.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Employment Relationship (ER)

Benchmark ID	ER.9.3
Benchmark Details	Contract/contingent/temporary workers shall only be hired if one of the following conditions is met the permanent workforce of the enterprise is not sufficient to meet unexpected or unusually large volume of orders, exceptional circumstances* may result in great financial loss to the supplier if delivery of goods cannot be met on time, or work that needs to be done and is outside the professional expertise of the permanent workforce.

Finding Details	10 workers are employed on fixed term for 2 to 3 months as menders to rectify damages to knitted garments. These workers are not employed to impart skills or transition to regular employment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.17.1
Benchmark Details	Employers shall have a clear and transparent system of worker and management communication that enables workers to consult with and provide input to management. This might include suggestion boxes, worker committees, designated spaces for worker meetings, union representatives, and meetings between management and workers' representatives.

<p>Finding Details</p>	<p>1. Grievance boxes provided in the factory are not numbered for reference and easy identification. 2. Name of person(s) opening the grievance reporting box is not recorded on the logs. 3. Worker representatives are not present when boxes are opened. 4. Date of opening grievance boxes is not recorded. 5. Action taken for grievances reported is not communicated back to workers 6. Name of responsible person from ER (Employee Relation) members (HR Team) and date of action taken is not recorded in log of grievances. 7. Grievances reported to supervisors are not documented. 8. Workers report grievances to ERB (employee representative body) representatives and logs are shared with management. ERB prioritizes grievances and discusses these with management. Grievances that are not included in the list for discussion with management are reviewed by management and those requiring action are addressed. However, there is no documentation maintained for these unlisted grievances that are addressed. Lack of documentation may result in failing to address some grievances. (E.g. Request for extension of buses to drop point for night shift workers. The benefit was provided during the pandemic period, however this implementation has now been withdrawn. Management shared that it was not possible to allow extension of drop point however the decision was not communicated to worker.) 9. As a practice, action taken on grievances reported through ERB (employee representative body) and ER (Employee Relation) teams is posted on notice board. Information on action taken for grievances reported through other channels is not communicated back to workers.</p>
<p>Recommendation for Immediate Action</p>	
<p>Compliance Classifications</p>	<p>Sustainable Improvement Required</p>
<p>Local Law</p>	
<p>Benchmark ID</p>	<p>ER.17.6</p>
<p>Benchmark Details</p>	<p>Employers shall have a system in place to prevent retaliation against or discrimination towards workers who are filing grievances, including grievances regarding harassment, abuse, violations of factory procedures, compensation, or unsafe working conditions</p>

Finding Details	Factory does not have a policy on non-retaliation for workers who file grievances.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	<ol style="list-style-type: none"> 1. Policy on recruitment does not include information on employment of outsourced employees (Security guards and housekeeping workers) and information on employment of fixed term employees. Procedures do not define the requirement for assigning responsibility for trainings and maintenance of documents 2. Factory does not have written procedures on non-discrimination. 3. Factory has some written procedures on Forced Labour however, procedures do not define requirement for assigning responsibility, training and maintenance of documents.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.1

Benchmark Details	Employers shall have written disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination).
Finding Details	Written procedures on workplace conduct and discipline do not define action that will be taken for each type of misconduct.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	Factory does not have written policies and procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers. However, some documents or systems exist to manage recruitment and hiring.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.7.1

Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	1. Factory does not have written policies and procedures on performance reviews that include steps and processes, linkages to job grading, nondiscrimination, written feedback, and compliance with legal requirement. However, some documents or systems exist to manage performance reviews. 2. Information on skill matrix is communicated to all workers. Workers who are keen to upgrade can request their team leaders who inform the production manager. Skills and performance of such workers is evaluated by industrial engineering department. Based on results, workers are promoted with increases in wages and change of designation.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.8
Benchmark Details	Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements.
Finding Details	1. Factory does not have policies and procedures on promotion, demotion and job reassignment. 2. Letter to communicate promotion is provided in Sinhala language to Tamil speaking workers 3. Final results of evaluation of performance is not shared with workers. Workers do not sign on the evaluation sheets to acknowledge the results.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.4
Benchmark Details	Employers shall inform workers about workplace rules, environmental protection systems, health and safety information, and laws regarding workers' rights with respect to freedom of association, compensation, working hours, and any other legally required information, and the FLA Code through appropriate means, including posted in local language(s) throughout the workplace's common areas.
Finding Details	1. Factory does not provide regular communication to workers on all FLA's Code elements and Employment Functions. Communication is provided on Brands Code of Conduct elements. 2. FLA Code is not made available/communicated to the workers
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	1. Gymshark COC (Code of Conduct) is not available in the factory (Nike Code is posted) 2. Acceptance of overtime work is a condition for hiring at the factory. Production workers who do not wish to work overtime are not hired at all.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	1. Review period is not defined for written policies and procedures except for written policies and procedures on Environment, Health & Safety for which review period defined is once in 2 years. 2. Workers are not consulted or integrated in the decision-making process of aspects concerning workplace and working conditions (e.g., creation or revision of policies and procedures, changes on production processes, hours of work, etc.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Harassment Or Abuse (H/A)

Benchmark ID	H/A.8.3
Benchmark Details	Employers, shall develop, implement and monitor policy and procedures for eliminating the risk of violence, harassment, and abuse in the workplace. Policies and procedures shall include a clear statement that violence, harassment, and abuse will not be tolerated, procedures for the investigation of allegations, and measures to protect any complainants, victims, and witnesses.

Finding Details	Factory does not have written procedures on Harassment and Abuse. However, systems are in place to address concerns if any.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Health, Safety And Environment (HSE)

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	Factory does not conduct an assessment after the drill to learn how to improve the evacuation process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Benchmark ID	HSE.5.1.3
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 emergency lighting
Finding Details	1. Exits signs do not illuminate when power goes off. 2. The emergency lights above exits are not in industrial type. They may not be sufficiently visible in smoke in case of a fire.

Recommendation for Immediate Action	Ensure that exit signs are illuminated when power goes out and install industrial type of emergency lights above exits.
Compliance Classifications	Immediate Action Required
Local Law	Factories Ordinance -Means of escape in case of fire section 39: (1) Every factory to which this section applies shall be certified by a Factory Inspecting Engineer as being provided with such means of escape in case of fire for the persons employed therein as may reasonably be required in the circumstances of each case
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	Access to passages located behind workers working in post knitting section is partially restricted with workstations located adjacent and close to each other. In some instances, back rest of chairs of workers was touching each other leaving no space for free and easy exit. Bins are placed behind chairs of workers restricting free movement.
Recommendation for Immediate Action	Monitor and ensure passages are maintained clear at all times and workers have quick and unrestricted access.
Compliance Classifications	Immediate Action Required
Local Law	Section 39 (2): Factories Ordinance No 45 of 1942 - All means of escape specified in the certificate as aforesaid (in clause) 39 shall be properly maintained and kept free from obstruction.
Benchmark ID	HSE.9.1
Benchmark Details	All chemicals and hazardous substances shall be properly labeled and stored in secure and ventilated areas and disposed of in a safe and legal manner, in accordance with applicable laws and international standards.

Finding Details	Hazardous acid and other chemicals are stored close to each other with no separation to prevent coming in contact.
Recommendation for Immediate Action	Store all hazardous chemicals separately and ensure adequate distance not to cause any chemical risk, including hazardous acid.
Compliance Classifications	Immediate Action Required
Local Law	Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. Signature of driver /supplier of outsourced vehicles in not obtained on vehicle inspection reports. 2.Traffic lanes and walk paths are not marked. Speed breakers and convex mirror on blind turns are not installed to assist in safe driving practices 3. Radiation equipment does not have the appropriate protection and signs 4. Electric stacker was inspected by external inspector however his authorization letter or competency certificate approved by local government was not available for review. Hence validity of the inspection report cannot be confirmed.
Recommendation for Immediate Action	1. Obtain signature of driver/supplier of outsourced vehicles on vehicle inspection reports to acknowledge results. 2. Mark traffic lanes and walk paths marked. Install speed breakers and convex mirror on blind turns installed to assist in safe driving practices 3. Radiation equipment should have the appropriate protection and signs 4. Electric stacker should be inspected by external inspector by competent person
Compliance Classifications	Immediate Action Required

Local Law	<p>1. Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.</p> <p>2. Factories Ordinance 1942 (Amended in 2002) – Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.</p> <p>3. Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.</p> <p>4. Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.</p>
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	2 Breathing kits, 3 face shields, 3 pairs of heat resistant gloves and 6 safety helmets are provided to 18 employees from fire team.
Recommendation for Immediate Action	Adequate Personal Protective Equipment (PPE) should be provided to fire fighting persons.
Compliance Classifications	Immediate Action Required
Local Law	

Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	1. Needle guards are pushed upwards by sewing machine operators on most sewing machines. 2. Load capacity is not marked on storage racks. 3. Hand gloves in first aid kits are not kept in open packets and not in sterilized packs. 4. Water taps in dining area are commonly used for washing hands, used plates and drinking. Water from hands / plates being washed could spill and contaminate water while drinking from the adjacent tap.
Recommendation for Immediate Action	1. Ensure that workers sewing machine operators do not move needle guards and all protective machine guards should be maintained in place. 2. Load capacity should be marked on storage racks. 3. Hand gloves in first aid kits should be kept in sterilized packs. 4. Water taps in Dining area should be separated to prevent contamination of drinking water.
Compliance Classifications	Immediate Action Required
Local Law	1. Factories Ordinance 1942 (Amended in 2002) – Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery. 2. Factories Ordinance 1942 (Amended in 2002) – Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery. 3. No legal reference 4. Factory ordinance No. 45 of 1942-Section No. 46 (1)-There shall be provided and maintained at suitable points conveniently accessible to all persons employed an adequate supply of wholesome drinking water from a public main or from some other source approved in writing by the District Factory Inspection Engineer for the district.
Benchmark ID	HSE.14.3

Benchmark Details	Employers shall ensure safety instructions are either displayed or posted near all machinery or are readily accessible to the workers in language(s) spoken by workers.
Finding Details	Warning signs are not posted near bag scan machines on which radiation source is used.
Recommendation for Immediate Action	Post warning signs near bag scan machines on which radiation source is used.
Compliance Classifications	Immediate Action Required
Local Law	Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.
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	Pointed metal needles are used to hold fabric layers in place prior to cutting and arm guards are not provided to workers to prevent injury from the pointed needles.
Recommendation for Immediate Action	Safety arm guards should be provided to workers layering fabric using sharp edge needles.
Compliance Classifications	Immediate Action Required

Local Law	Factories Ordinance 1942 (Amended in 2002) –Section 45 - No machinery of any type or description which Regulation of is not expressly referred to in this Part shall (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	Anti-fatigue mats are not provided for workers with standing jobs. Few workers were seen resting one foot on lower platform of workstations. Sitting arrangements are not provided for them to take rest at intervals.
Recommendation for Immediate Action	Provide anti-fatigue mats for workers with standing jobs and ensure that sitting arrangements are provided for workers with standing jobs.
Compliance Classifications	Immediate Action Required
Local Law	BOI GUIDELINES FOR FACTORY BUILDINGS –(3) FACILITIES TO WORKERS: 3.4 Facilities for Resting -There shall be provided and maintained for the use of all female workers whose work is done standing, suitable facilities for resting. Sufficient to enable them to take advantage of any opportunities for resting which may occur in the course of their employment

Hours Of Work (HOW)

Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.

<p>Finding Details</p>	<p>1. Clause no. 2 in appointment letter signed between worker and factory defines work hours as 12 hour shifts - 7.00 am to 4.00 pm. 7.00pm to 4.00 am (inclusive of a breaks for 60 minutes). This means that the regular working day is 8 hours, with a 60 minute break, and includes 3 hours of overtime. 2. Written consent to work overtime is obtained from workers at the time of hiring because overtime work is systematic. 3. Factory work shifts (12 hours) are arranged to include 3 hours of overtime. This requires workers to work overtime on all working days to complete their shift. (The workers work with "Continental Shift" which is implemented with a legal approval. Workers work with 3 hours overtime daily, however weekly working hours remains in legal limit. Workers work on 12 hour shifts for 2 days, receive 3 days off and work for 3 days and receive 2 days off) 4. Workers obtain a gate pass to exit the factory after completing regular hours of work. 5. No transport is arranged / available for workers to leave the factory after completing 8 regular hours of work as work shifts are 12 hours.</p>
<p>Recommendation for Immediate Action</p>	<p>1. Ensure work hours defined in appointment letters define regular work shifts and do not include overtime. 2. Ensure workers are not required to obtain a gate pass to exit the factory post completion of regular work hours. 3. Ensure transport is available for workers to leave the factory post completion of regular hours of work.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>
<p>Local Law</p>	
<p>Benchmark ID</p>	<p>HOW.22.1</p>
<p>Benchmark Details</p>	<p>Employers shall have in place policies for managing all working hour, overtime, and leave records in normal and exceptional circumstances.</p>
<p>Finding Details</p>	<p>Factory policy on hours of work does not define overtime hours for male workers. The policy allows male workers to work for 16 hours a day. There is no instance found where workers worked 16 hours a day.</p>
<p>Recommendation for Immediate Action</p>	

Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	As a systematic practice workers work on 12 hourly shifts which includes 3 hours of Overtime. Hence production is planned for 12 hours of work a day.
Recommendation for Immediate Action	Ensure production is planned for regular hours and do not include overtime hours.
Compliance Classifications	Immediate Action Required
Local Law	No legal reference.
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	6 out 15 sampled workers worked on a rest day in July 2022, resulting in 7 days of continuous work.
Recommendation for Immediate Action	Provide at least one day off in each 7 period to all workers.
Compliance Classifications	Immediate Action Required

Local Law

Section IV: Garment Manufacturing Wages board -Every employer shall allow each Sunday as the weekly holiday to all.

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