



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Cutter & Buck
COUNTRY: India
ASSESSMENT DATE: 09/20/19
ASSESSOR: Insync Global
PRODUCTS: Apparel
NUMBER OF WORKERS: 184

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	5
Hours of Work	5
Employment Relationship	33
Health, Safety, and Environment	48
Harassment and Abuse	1
Nondiscrimination	1
Freedom of Association	5

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. There is no fencing or partition between the three factories located within the compound and no system to control worker movement between the three factories. [ER.1]
2. There are three factories located within the same compound as the factory under assessment. During the factory visit, one housekeeping worker from a different factory was observed working in the factory under assessment; finishing of products from another factory was noted being done in this factory. Management stated that based on need, finishing processes may be completed in either factory. [ER.1.1]
3. The written policies and procedure on personnel development include no information on opportunities for training to upgrade skills. [ER.28.1]
4. The factory does not document performance evaluations. Supervisors shortlist workers for promotions based on skill and seniority and recommend to the factory manager for approval. Following approval by the factory manager, the HR team provides a letter in English to workers denoting the upgrade of designation and increase in wage. These recommendations by supervisors and the factory manager are verbal; the factory does not maintain any documentation to verify or confirm if the promotion process was fair, non-biased and eliminates concerns of discrimination. [ER.30.1.2]
5. The factory documents the orientation program for new workers, however workers interviewed confirmed that they did not attend any program when they were hired. Further, the orientation documentation is in Tamil, not Hindi or Bangla. [ER.30.2 and ER.15.3]
6. The FLA workplace code and affiliate code are posted in English, but not in Tamil, Hindi or Bangla languages for the local and domestic migrant workers. [ER.16.1]
7. Job descriptions are not prepared and responsibilities for each employment function are not defined in writing. The factory manager is

assigned responsibility and assisted by payroll executives. [ER.1.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship benchmarks ER.1.1, ER.15.3, ER.16.1, ER.28.1, ER.30.1.2, ER.30.2)

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. Employment contracts for 92 domestic migrant workers of the total 210 workers (43% of total workers) are in Tamil and English. All domestic migrant workers are from the eastern provinces of West Bengal and Assam who speak and understand Hindi, Bengali and Assamese, but do not read or understand Tamil. Workers interviewed stated that they had not received their appointment letters. [ER.2.1]

2. The factory has not updated information in employee appointment letters on deductions of contributions for Employees State Insurance, which were changed July 1, 2019. The percentage of employer contribution was revised from 4.75 to 3.25% of gross wage and employee contribution from 1.75% to 0.75% of gross wage. [ER.2.1]

3. The Abstracts of Legal Acts are only posted in one area, the checking to finishing sections. Standing orders are only displayed in one area, not the main entrance. Penal consequences of harassment are not posted in the factory. [ER.2.2]

Local Law or Code Requirement

Industrial Employment (Standing orders) rules 1946- Schedule 1-B, Notification issued by Ministry of labor and employment dated 13th June 2019 {GSR 423(E)}, The Industrial Employment (Standing Orders) Act, 1946- Section 9, Factories Act 1948- Section 108/109, Maternity Benefit Act 1961- Section 19, Sexual Harassment of Women at Workplace Act 2013- Section 19 ; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1 and ER.2.2)

Recommendations for Immediate Action

1. Provide appointment letters to all workers in all applicable local languages.
2. Update information on terms of employment (deductions) in the appointment letters.
3. Post legally required notices, Abstracts of all Acts and Standing orders, in all local languages, near the main entrance. Post Penal consequences of harassment of women at workplace.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory has a policy on Harassment & Abuse which includes sexual harassment but not the consequences of harassment. [ER.1]
2. The factory does not have written procedures on forced labor. [ER.1]
3. The employment relation procedures state the physical fitness certificate would be obtained only for workers between 18 and 20 years old. Further training and communication requirements are not included child labor remediation procedures. [ER.1]
4. The freedom of association procedures include no information about the formation of a works committee or worker forum. [ER.26]
5. The factory has no written policies on retrenchment or termination. Information on nature of termination, method of calculation, mode, or timelines for payment of dues is not provided in the written procedures. [ER.19.1 and ER.32.1]
6. The written procedures on Workplace Conduct and Discipline do not define disciplinary action that will be taken based on different forms of misconduct. [ER.27.1]

Local Law or Code Requirement

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory does not review its written policies or procedures periodically. These were last reviewed in 2016 and the next review date is not defined. [ER.1.3, ER .30.2, ER.31.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.30.2 and ER.31.1)

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Management stated that wage slips are provided to workers. Wage slips are in Tamil, which is not spoken or understood by 43% of workers. Further, workers interviewed stated that they do not receive wage slips. [C.13]
2. Management stated wage slips are provided to workers within a week after payment; legally, wage slips are required to be provided a day prior to payment.[C.1]
3. Workers do not use their earned leave in practice. Wages for earned leave is paid by the factory every year in January. If workers need leave, they are required to apply for leave and allowed to use leave, but are not paid for any days away from work. Loss of pay impacts the contribution and benefits towards social security (Provident Fund). If a worker resigns after January, the worker tends to receive lesser amount of wages for unused leave (part of terminal dues) when wages are revised in April, because wages for leave are paid in January. [C.1]
4. Sick leave is deducted from the calculation of the duration of service. [C.6]
5. Two electricians, two mechanics, and one bus driver are designated as staff, but do not record their work hours and are not compensated for overtime work. Wages for these employees are calculated based on attendance. [C.7.2]

Local Law or Code Requirement

The Minimum Wages Central Rules 1950 -Rule 26(2), Factories Act 1948- Section 79 read with section 80, Payment of gratuity act 1972- Section 2A "Continued service", Factories Act 1948- Definition of worker under section 2(L); FLA Workplace Code (Compensation benchmarks C.1, C.6, C.7.2 and C.13)

Recommendations for Immediate Action

1. Provide wage slips in all applicable local languages.
2. Unused earned leave must carry over to the following year.
3. Ensure sick leave is included in the calculation of length of employment.
4. Ensure electricians, mechanics and drivers are compensated for additional hours worked beyond regular hours.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The factory does not provide a compensatory rest day when national holidays coincide with rest days. [HOW.1.1]

Local Law or Code Requirement

The Tamilnadu Industrial Establishments (National & festival holidays) Act 1958 (amended)- Section 3; FLA Workplace Code (Hours of Work HOW.1.1).

Recommendations for Immediate Action

Provide compensatory rest day to workers when national holiday coincides with rest day.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

1. A worker's last date of physical presence at work is considered their date of termination, irrespective of their date of resignation. This may be a risk for worker entitlement for gratuity post termination of employment. [ER 32.2]
2. There was a 10 to 414 day delay in wage payments for unused leave as part of termination dues. [ER.19.1]
3. Time and leave records are not maintained with termination dues pay records.[ER 19.1]

Local Law or Code Requirement

Payment of gratuity act 1972- Section 2A- Continued service, Factories Act 1948- Section 79 (3)(i), Payment of Wages Act, 1936- Section 13A; FLA Workplace Code (Employment Relationship Benchmarks ER.19.1, ER.32.2)

Recommendations for Immediate Action

1. Date of termination of employment should be counted from a date when a worker either submits his resignation or from a date when he is terminated from employment.
2. Ensure terminal dues (wages for unused leave) are paid within 48 hours from date of termination of employment.
3. Maintain time cards and leave records along with pay records for terminal dues.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The worker representatives are elected by raised hands, not a ballot box system. [FOA.11]
2. Dates for worker representative committee meetings are decided by management, not in consultation with worker representatives.

[FOA.11]

Local Law or Code Requirement

The Industrial Disputes Rules 1957- Rule 49 on voting; FLA Workplace Code (Freedom of Association Benchmark FOA.11).

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Procedures on the formation of Internal Compliant Committee define the director as the presiding officer of the committee. Legally, a senior female employee is required to be designated as the presiding officer. [H/A.1]
2. The NGO representative in the Internal Compliant Committee does not comply with legal guidelines. [H/A.1]
3. Penal consequences of Harassment of women at workplace is not posted. [H/A.1]
4. The factory has not employed a female security guard. [H/A.1]

Local Law or Code Requirement

Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act 2013- Section 4 and section 19; FLA Workplace Code (Harassment and Abuse Benchmark H/A.1)

Recommendations for Immediate Action

1. and 2. Form the Internal Complaints Committee (ICC) as per legal guidelines provided under the Act.
3. Post Penal consequences of sexual harassment in the workplace.
4. Employ a female security guard.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. Suggestion boxes are only opened once in a month. [ER.25.3]
2. Grievances reported are not documented. [ER.2]

Local Law or Code Requirement

FLA Workplace Code (Employment relationship benchmarks ER.2 and ER.25.3).

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

The factory conducts no training for workers on safe machine operation or chemical management: the use and handling of diesel, ergonomics and lifting techniques, safety requirements for persons entering confined spaces, working at heights, and the H&S committee. [HSE 9.2, HSE.14.2, HSE.17.2]

Local Law or Code Requirement

The Tamilnadu Factories Rules 1950- Schedule XVI- Part II, 4 (2) and 18(e); FLA Workplace Code (Health, Safety and Environment compliance benchmarks HSE.9.2, HSE.14.2, HSE.17.2).

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Breathing apparatus, PPE, or fire suits are not provided to firefighters. [HSE.6.1]
2. The fire alarm system is not centralized. [HSE. 5.1]
3. Emergency contacts are only posted near the main gate, not throughout the factory. [HSE.5.4]

Local Law or Code Requirement

FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5.1, HSE.5.4 and HSE.6.1).

Recommendations for Immediate Action

1. Provide breathing apparatus, PPEs, fire suits to firefighters.
2. Fire alarm system should be centralized.
3. Post emergency contact information throughout the factory.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Band knife operator is provided mesh gloves for use in one hand and not for both hands. Two band knife machine operators were seen operating machines and both were only wearing a mesh glove on their right hand. [HSE.7]
2. Approximately 10% of over lock machine operators were not using dust masks. [HSE.7]
3. Maintenance workers are not provided helmets or hard hats. [HSE.7]

Local Law or Code Requirement

Factories Act, 1948 - Section 7A (2b); FLA Workplace Code (Health, Safety & Environment Benchmark HSE.7).

Recommendations for Immediate Action

1. Provide mesh gloves to band knife operator to use on both hands.

2. Educate and monitor use of dust masks by over lock machine operators.

3. Provide helmets or hard hats to maintenance workers.

FINDING NO.14

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Gloves, eyewash cups, lotion, and wooden splints are not included in first aid kits. [HSE.18.3]
2. An audiometry test is not conducted for sewing machine operators who are exposed to continuous noise from machines at least 8 hours per day.[HSE.1]
3. Work stations are not adjustable in height. Sitting areas and anti-fatigue mats are not provided to standing workers. Mats provided to checking workers are fabric and may not be effective. [HSE.17.1]
4. The factory has not conducted a thermal assessment. Workers on the receiving end of the fusing machine are exposed to hot air. [HSE.1]
5. Traffic lanes are not marked. Speed bumps, reflectors, and convex mirrors are not installed at blind turns inside the factory. [HSE.1]
6. A confined space, an underground water tank, is not marked nor fenced to warn workers. [HSE.1]
7. The housekeeping team does not use any safety equipment when entering confined spaces. [HSE.7]
8. Diesel is stored uncovered in two large open barrels. There are no secondary containers or spill response kits in the area. [HSE.9.1]
9. An electric chord on the pump attached to the washing machine had taped splices. [HSE.13]
10. The factory does not follow Lockout/tag-out procedures. [HSE.13]
11. Restrooms have no hand drying facilities. [HSE.19]
12. Sanitary pads are not provided in the restrooms. [HSE.1]
13. One steel glass is provided in each drinking water station for common use by all workers. [HSE.23.1]
14. The factory does not make efforts to protect the reproductive health of workers by minimizing exposure to workplace hazards. [HSE.12]
15. Needle guards have been pushed upward by sewing machine operators, rendering them ineffective. [HSE.14]

Local Law or Code Requirement

The Factories Act, 1948- Section 45 , The Tamilnadu Factories Rules 1950- Schedule XXVIII- 3 (6b), Factories Act, 1948 - Section 7A (2b); FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.7, HSE.9.1, HSE.12, HSE.13, HSE.14, HSE.17.1, HSE.18.3, HSE.19 and HSE.23.1).

Recommendations for Immediate Action

1. Provide gloves, eyewash cup, lotion, and wooden splints in first aid kits.
2. Conduct audiometry test for sewing machine operators.
3. Make arrangements so work stations are adjustable in height. Provide chairs with back rests. Provide appropriate anti-fatigue mats and sitting areas for standing workers.
4. Make appropriate arrangements to ensure workers on the receiving end of the fusing machine are not exposed to hot air.
5. Mark traffic lanes and install speed bumps, reflectors, and convex mirrors at blind turns inside the factory.
6. Mark confined spaces with signs to warn workers.
7. Provide safety equipment to housekeeping team.

8. Store diesel in protected area and provide secondary container and spill response kit in the storage area.
9. Replace taped electric chord on pump attached to washing machine.
10. Implement LOTO in the factory.
11. Provide hand drying facility in restrooms.
12. Provide sanitary pads in restrooms.
13. Establish hygienic drinking water station.
14. Ensure the protection of workers' reproductive health by minimizing exposure to workplace hazards.
15. Install appropriate needle guards on sewing machine and monitor usage by operators.

FINDING NO.15

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

There is no certificate to prove competency of inspectors of air compressors, boilers, air dryers, steam generators, or the power generator. [HSE.4]

Local Law or Code Requirement

The Tamilnadu Factories Rules 1950 (amended)- Rule 2A; FLA Workplace Code (Health, Safety and Environment benchmark HSE.4)