



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Peter Millar LLC

COUNTRY: India

ASSESSMENT DATE: 09/23/19

ASSESSOR: Insync Global

PRODUCTS: Apparel

NUMBER OF WORKERS: 55

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	8
Hours of Work	8
Employment Relationship	40
Health, Safety, and Environment	41
Harassment and Abuse	1
Nondiscrimination	1
Freedom of Association	3

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. Written procedures on hiring do not define criteria for workers hired through factory payroll, labor contractors, or recruitment agents. The factory does not have written policies and procedures on Personnel Development that encourage on-going training to improve workers' skills to advance in their careers. The factory does not have written policies and procedures on performance reviews that include steps and processes, linkages to job grading, non-discrimination, written feedback, promotion, demotion, and job reassignment. [ER.1, ER.28, ER.29, ER.30]

2. The factory does not have written procedures on the following FLA benchmark elements: Discrimination, Harassment & Abuse, Child Labor, Forced Labour, Freedom of Association, Termination, Workplace Conduct & Discipline, Environmental Protection, and Health & Safety. [ER.1, ER.19, ER.27, ER.31, ER.32]

3. Follow-up steps for sexual harassment defined in procedures on harassment do not comply with legal requirements. The steps state that workers can report harassment to the committee, however, there is no information provided on the committee. The committee does not comply with the formation of the Internal Complaint Committee under the law. Factory's written procedures state that if a complaint is not serious, there is no need for an investigation. However, no information on the classification of complaints is provided. Further step F states that if an "appropriate informal resolution" has been determined, the said complaint shall be resolved within 15 days upon receipt of a complaint unless the situation calls for more time. It is not clarified what is meant by "appropriate informal resolution". Step H states that the production manager shall act as the investigator in the case of serious sexual harassment, which may be not appropriate if the complaint is against the investigator. Management is not aware of the content of any policies and procedures which are provided by an external consultant. [ER.1, ER.27]

4. Written procedures on Compensation are not updated to reflect changes in employers' and employees' contributions towards legally mandated benefits of Employees State Insurance Scheme that came into effect in July 2019. Information on leave - types, length, and conditions of leave - does not include casual leave and sick leave. [ER.1]

5. Written procedures on Grievance System do not provide information on how to communicate with workers on actions taken on grievances reported and steps to escalate grievances within defined timelines. [ER.25]

Local Law or Code Requirement

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. Communication on employment practices is not clear:

(i) The appointment letter signed and provided to workers state that workers are hired permanently;

(ii) Clause #4 in terms of employment states that workers will be hired as "temporary" employees. The status of employment will be confirmed based on workers' efficiency and skills.

(iii) Letter to communicate employment status states that based on the training period and workers' skills and performance, the factory will confirm the status of employment and legally provide mandated benefits.

All three documents have the same date recorded and directly contradict each other. [ER.1, ER.7, ER.11]

2. The factory does not conduct an orientation program for new workers. A written document, including employee training details signed by trainer and trainee, is filed in an individual file of all workers. This document includes training topics on terms of employment, safety awareness, use of PPE, code of conduct of the buyer, operation of fire extinguisher, threat awareness, CTPAT awareness, and commands of the employee. None of the workers interviewed are aware of such training except for fire safety and first aid. [ER.2, ER.15]

3. The factory does not have job descriptions for any position. The HR team manages Employment Functions without responsibilities assigned in written form. [ER.1]

4. The factory does not consult or integrate workers into any decision-making process related to workplace or workplace conditions, such as the revision of policies and procedures. [ER.1]

5. The factory does not maintain employment documents for trainees. It was found that one trainee could explain the calculation of terminal dues and wages better than the factory HR team, while management states that she is not on factory rolls and is a trainee. Five trainees who are seen using visitor cards in the accessories store state that they have been working in this factory for the past month. However, records from accessories store have their signatures on delivery challan and proforma invoices dating back to May 2018. There are five trainees working in this factory with no employment documents maintained. Management confirmed that these five trainees did not want to contribute to legally mandated benefits or any deductions made from their wages. Hence they are paid off the records with no documents maintained. Assessors could not verify wages paid to these trainees. [ER.2, ER.22]

6. The factory does not maintain employment documents of security guards and hence the assessor could not verify terms of employment. As stated by security guards, they pay for their own uniforms (Dress INR 1000 (USD 14) + shoes INR 400 (USD 6)). [ER.2]

7. The factory has manually changed working hours - stated as from 9.00 am to 6.00 pm in the appointment letter- to from 8.30 am to 5.30 pm. The factory has not authenticated this change. [ER.1]

Local Law or Code Requirement

Industrial Employment (Standing Orders) Rules 1946- Schedule 1-B, Clause 2;

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, ER.11, ER.15, ER.22)

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The review period is not specified in available policies and procedures. [ER.1, ER.30, and ER.31]

Local Law or Code Requirement

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. As a practice, workers do not use their earned leaves and casual leaves. If workers need to leave, they are required to request verbal permission from the supervisor and to inform the HR team. Workers are not paid when they are off work. Compensation for unused earned leaves and casual leave is paid during the festival period in October. This practice discourages workers from using leaves as they prefer to receive the cash payment. Compensation loss caused by using leaves also impacts social security benefits and the contribution (Provident Fund). Furthermore, workers who resign before April tend to receive fewer wages (part of terminal dues) because wages are revised in April every year and compensation for unused leave is to be paid in October. As required by law, unused leave is up to 30 days and compensation for unused leave should be paid within 48 hours after the termination of employment. [ER.19, ER.22, HOW.11, HOW.12, HOW.14]
2. The factory does not update the payroll register with compensation paid for unused leave. [C.5]
3. The factory records the date of payment on a wage slip instead of a payroll register. [C.5]
4. Management states that loans provided for workers are recorded, however, workers' signatures are not obtained to confirm loans and repayment. The factory provides loans to all workers based on their requests. However, the factory does not provide any loan records and states that records were sent to the warehouse and that loans were not provided for any workers during the assessment period. The factory does not record loans and advances required by law. [C.5]
5. The factory does not provide information - eligible worker, contributions, and relevant documentation - on contribution to Provident Fund and hence assessors could not verify if the factory calculates and deposits contribution accurately and provides benefits to all eligible employees. [C.11]
6. The factory does not monitor payments for four outsourced security guards.[C.5]
7. Three out of five ironers interviewed state they have been working in the factory since 2014. However, the appointment letter and the identity card show that three ironers were hired in 2019. This could cause the risk of being deprived of gratuity benefits after the termination of employment. [ER.19]

Local Law or Code Requirement

Factories Act 1948- Sections 79(3) and 79(5), The Tamilnadu Factories Rules 1950- Rule 87, Minimum wages Central Rules 1950- Rule 26- Form X, Employee Provident Fund and Miscellaneous Provisions Act 1952- Section 6, Contract Labor Central Rules 1971- Rule 72; Industrial Employment (Standing Orders) Rules 1946- Schedule 1-B, Clause 2., Payment of Gratuity Act 1972- Section 4; FLA Workplace Code (Employment Relationship Benchmarks ER.19, ER.22; Compensation Benchmarks C.5, C.11; Hours of Work Benchmark HOW.11, HOW.12, and HOW.14)

Recommendations for Immediate Action

1. Encourage workers to use their leaves for up to 30 days as required by law.
2. Update leave records to reflect compensation paid for unused leaves.
3. Record the date of payment on the payroll register.
4. Record loans and advances as required by law.
5. Maintain information on contributions to Provident Fund for individual employees.
6. Monitor wages paid to security guards through an authorized representative from the factory to ensure accurate and timely payment.
7. Record the accurate date of employment on appointment letters to ensure the provision of gratuity to eligible workers after the termination of employment

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

1. Wages for working days before the termination of employment are paid in the following month regardless of the date of termination instead of within 48 hours of termination as required by law. Other dues, including bonus and gratuity, are paid a day after the termination of employment. [ER.19]
2. Time cards, leave records, and information on the calculation of terminal dues are not maintained with payment records for terminal dues. [ER.19]
3. The factory does not communicate in written form regarding the termination of employment to all the workers who remain absent from work for over 3 months without intimation. [ER.27]

Local Law or Code Requirement

Industrial Employment (Standing Orders) Rules 1946- Rule 13(3) read with Factories Act 1948- Section 79 (3), Industrial Employment (Standing Orders) Rules 1946- Rule 13(1); FLA Workplace Code (Employment Relationship Benchmarks ER.19 and ER.27)

Recommendations for Immediate Action

1. Pay wages for days worked before the termination of employment as a part of terminal dues within the 48 working hours.
2. Maintain time cards, leave records and information on the calculation of terminal dues with the payment record of terminal dues.
3. Notify workers in written form in the case of termination of employment, as a result of disciplinary action due to unauthorized absence from work.

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. As required by law, the committee for the prevention of sexual harassment should be named "Internal Complaints Committee" instead of "Prevention of Sexual Harassment Committee". The presiding officer is not designated as legally required. [H/A.1]
2. Punishment for harassment at the workplace is not posted. [ER.27]
3. The factory does not have female security guards. Female workers check female workers' bags when entering and exiting the factory. This practice is incorrect as female workers who check bags are not employed for security purposes. [H/A.10]
4. Verbal warnings are not documented. [ER.27]

Local Law or Code Requirement

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory does not have a system to record time off for workers who are allowed to leave the factory during working hours for a short duration. Workers request verbal permission from supervisors and then exit the factory once allowed. [ER.23]
2. Manual time cards are maintained for outsourced security guards while factory workers use an electronic time recording system. The accuracy of manual records cannot be verified. [ER.23]
3. The security guard stated that he works additional hours when workers in the finishing section work overtime. However, management and workers stated that workers do not work overtime, as confirmed by documentation review and production workers interviews. [ER.23]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.23)

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not conduct a risk assessment. [HSE.1]
2. Pictures of previous evacuation drills are not maintained and external visitors do not participate in evacuation drills. [HSE.5]
3. The factory has not provided the child care facility as required by law. [HSE.27]
4. The factory's building stability certificate issued on November 21, 2016 only authenticates the safety of the ground floor but not the upper floors where the owners of the building reside. [HSE.4]
5. The lease agreement between the factory and the owner of the building was valid until April 2017 and has not been renewed. Management stated that they plan to relocate within the next 12 months. [HSE.4]

Local Law or Code Requirement

Factories Act 1948- Section 7A (2b), Section 48; Tamilnadu Factories Rules 1950- Rule 61(12), Rule 12(B)(3); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.4, HSE.5, and HSE.27)

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Finger guards on all sewing machines are push upwards, rendering them ineffective in preventing workers from finger injuries. SOPs for machines are not posted near the fusing machine, the boiler air compressor, and the power generator. [HSE.14]
2. The factory has not installed a lightning arrestor. [HSE.13]
3. The factory has not marked confined spaces. Two-wheelers are parked on confined space covers. [HSE.14]
4. The factory does not provide sanitary pads in female toilets and hand dryers and soaps near the handwash sink in toilets. [HSE.19, HSE.20]
5. Workers in seating positions use hard benches without backrest support. The factory has not provided effective anti-fatigue mats and seating arrangements for workers in standing positions. All employees work barefoot inside the factory, which causes bodily injuries. The height of the workstation is not adjustable. [HSE.17]
6. As a cultural practice and to keep work areas clean, the factory does not allow footwear inside the work area. The maintenance team, including electricians and workers, work barefoot inside the factory, causing a risk for injuries from broken metal parts, accidental fall of machines, and electric shock especially when workers' feet are wet. [HSE.13]
7. The factory has not marked control switches on main electric panel boards for easy identification. [HSE.14]
8. The factory has not marked asbestos roofing sheets used in the accessories store to warn workers. [HSE.14]
9. The factory only provides one steel glass for common use for workers in all water drinking stations. [HSE.19]
10. The factory has not provided people entering the underground water tank and cleaning overhead water tanks with any safety equipment or fall protection. The factory does not provide any safety instructions to contractors cleaning the underground tank. As stated by management, the factory has not provided people entering confined spaces with any safety equipment like hard hats, safety ropes, torch, and lights. [HSE.7, HSE.14]
11. The factory has not implemented the LOTO (Lockout – Tagout) arrangement for maintenance work. [HSE.14]
12. The factory has not employed qualified electricians and boiler operators. The boiler is operated by a pressman and a packer who are not qualified for the job, which causes a risk of accidents. [HSE.13]
13. The factory has not provided hard hats, breathing apparatus, correct PPEs for firefighters in the factory. [HSE.7]

Local Law or Code Requirement

Factories Act 1948- Section 7A (2b), Section 44; Tamilnadu Factories Rules 1950-Rule 40 & Requirement 18 under schedule XVI- Part II; Tamil Nadu Combined Development and Building Rules 2019- Rule 56, Notification dated Feb 7, 2019 issued by ministry of Labor and Employment regarding amendment of Section 19(3) and Section 112 of Factories Act 1948; FLA Workplace Code (Health, Safety & Environment) Benchmarks HSE.5, HSE.7, HSE.13, HSE.14, HSE.17, HSE.19, and HSE.20)

Recommendations for Immediate Action

1. Provide appropriate finger guards on sewing machines and post SOPs machines near the fusing machine, the boiler air compressor, and the power generator.
2. Install the lightning arrestor in the factory building.
3. Mark confined spaces with signs to warn workers and move two-wheelers away from covers of confined spaces.
4. Provide sanitary pads in female toilets and place hand dryers and soaps near handwash sinks in toilets.
5. Provide appropriate seating arrangements for workers with sitting jobs to reduce bodily injury. Provide effective anti-fatigue mats and seating arrangements for workers with standing jobs.
6. Provide appropriate arrangements for workers working barefoot inside work areas to prevent injury.
7. Mark electric panel boards for easy identification and control of switches.
8. Replace asbestos roofing sheets in the accessory store.

9. Provide appropriate hygienic arrangements at drinking water stations.

10. Provide fall protection for people who enter the underground water tank and clean overhead water tanks. Provide safety equipment like hard hats, safety ropes, torch, and lights for people entering confined spaces.

11. Implement LOTO (Lockout – Tagout) arrangements for maintenance work.

12. Employ qualified electricians and boiler operators in the factory.

13. Provide hard hats, breathing apparatus, correct PPE to firefighters in the factory.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not provide the PPE, including hand gloves, eye shields, aprons, and shoes. [HSE.7]
2. The factory does not have containers with lids, sweeping equipment, or collection tray in the spill response kit placed near the diesel storage area. The factory has only provided one piece of thin fabric to contain potential diesel spill. [HSE.9]
3. Secondary containment made of a tray with sand is provided under 2 x 200-liter barrels containing diesel, this size is not adequate in containing leakages. [HSE.9]

Local Law or Code Requirement

Factories Act 1948- Section 7A (2b); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.7 and HSE.9)

Recommendations for Immediate Action

1. Provide the PPE, containers with lids, sweeping equipment, adequate absorbing pads, and the collection tray in the area of the spill response kit.
2. Provide secondary containment of adequate capacity under 2 x 200-liter barrels containing diesel to contain leakages.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory's training calendar does not reflect a plan to ensure all the employees are trained. Training topics are not available. Management is not aware of what 'PPE' stands for and did not understand that gloves and masks provided for workers are considered PPE. Training records show that the factory provides training on PPE once every two months by HR staff, however, the HR is not aware of the content of training and states that he provides training on evacuation procedures, chemical management, machine safety, ergonomics, and lifting techniques. [ER.1, ER.15, ER.16, ER.27, HSE.5, HSE.7]
2. The factory does not conduct training on any FLA benchmarks for supervisors. [ER.1, ER.17]
3. The factory does not provide on-going training on FLA Code elements to workers. [ER.1]

Local Law or Code Requirement

The Tamilnadu Factories Rule 1950- Chapter XVI, Part-II, 11(2); FLA Workplace Code (Employment Relationship benchmarks ER.1, ER.15, ER.16, ER.17, ER.27; Health, Safety & Environment Benchmarks HSE.5 and HSE.8)