



COMPANIES: WinCraft Inc.
COUNTRY: China
ASSESSMENT DATE: 08/24/20
ASSESSOR: Openview
PRODUCTS: Headwear
NUMBER OF WORKERS: 150

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	1
Hours of Work	2
Employment Relationship	4
Health, Safety, and Environment	5
Nondiscrimination	3
Freedom of Association	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The online job advertisement contains the age requirement. For example, general production jobs require applicants between 18 to 45 years old. However, the restrictions are not implemented as there are workers over 45 years old in current workforce. [ND.2.1]

Local Law or Code Requirement

FLA Workplace Code (Non-discrimination Benchmark ND.2)

Recommendations for Immediate Action

1. Remove the age requirement from the job advertisement. Ensure employment decisions are to be made solely on the basis of a person's qualifications and abilities.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Eliminate age requirements from production jobs. Remove the age requirement from job posting and advertisement.

Company Action Plan Update

The standard of recruitment and employment decisions are made solely on the basis of the applicant's qualifications and abilities. Age limits specifically 18-45 have been eliminated.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6, HOW.11]

The factory has not consulted with workers before arranging them to take five to ten days of annual leave during the Chinese New Year holiday in January 2020. About 80% of interviewed workers are unaware of their annual leave balance. [HOW.12.2]

There are a total of 129 workers in the factory, including 30 retired but re-recruited workers. The factory provides social insurance to all 99 eligible workers. However, the contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on the local minimum requirement of CNY 3,322 (USD 484) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of the previous year. About 60% of workers' average monthly wages of previous year range from CNY 3,400 (USD 495) to CNY 4,800 (USD 699), which are higher than local minimum contribution base. [C.10.1]

The factory does not contribute to the legally required Housing Provident Fund for eligible workers. [ER.22.1]

Local Law or Code Requirement

Implementation Measures of Paid Annual Leave for Employees of Enterprises, Article 4; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15; FLA Workplace Code (Compensation Benchmarks C.6 and C.10; Hours of Work Benchmarks HOW.11 and HOW.12; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).
2. Consult with workers before determining when annual leave is taken. Provide training so that workers are aware that they can take annual leave any time throughout the year except during the CNY holiday.
3. Contribute to social insurance based on worker's average monthly wage of the previous year.
4. Provide all workers with legally required Housing Provident Fund.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Calculate workers' annual leave based on their cumulative working experience.

Consult with workers prior to determining their dates of annual leave.

Provide training to workers to raise awareness of their rights around annual leave.

Make contributions to social insurance based on each workers' average monthly wage from the previous year.

Contribute to the legally required Housing Provident Fund for eligible workers.

Company Action Plan Update

Workers' annual leave allowance has been recalculated based on their cumulative working experience.

Workers have received awareness training and materials describing their rights around annual leave. Worker consultations are ongoing.

Appropriate contributions have been made to social insurance based on workers' average monthly wages.

Housing Provident Fund for eligible workers have been made.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The factory production plan is based on 48-52 hours per week. Factory management sets production targets and production system at a level that workers need to work 8-12 overtime hours per week. [ER.24]
Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from July 2019 to August 23, 2020 and worker interviews indicate that almost all workers' monthly overtime hours exceeded 36 in November 2019 and March 2020, with a maximum of 40 overtime hours in March 2020. [HOW.1.1, HOW.8]

Local Law or Code Requirement

The China Labor Law, Articles 38; FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1, HOW.8)

Recommendations for Immediate Action

1. Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. Ensure overtime hours do not exceed legal limit of 36 hours per month.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Set production plan based on regular working hours.

Adjust working targets so that workers do not need to exceed legal limit of overtime to meet targets.

Ensure overtime hours do not exceed legal limit of 36 hours per month.

Company Action Plan Update

The factory has implemented an approval process for urgent orders so that workers are not exceeding overtime hours limit. Each level of the process is checked by managers to ensure that work is distributed to alleviate excessive overtime.

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

All six union representatives were appointed by factory management on July 3, 2017. The Chairman of the union is the Administration Manager, and the other union representatives are supervisors of each department. [FOA.11]

The Collective Bargaining Agreement (CBA) does not provide any additional benefits to workers and simply restates the factory procedures and legal requirements. The factory has not provided workers with a copy of the CBA and none of the interviewed workers are aware of the CBA. [ER.16.2]

FLA Comments: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.11; Employment Relationship Benchmark ER.16)

Recommendations for Immediate Action

- . Ensure the union chairman and union representatives are freely elected by all workers.
- . Provide workers with a copy of the CBA.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Ensure that union representation is freely elected by all workers.

Provide a copy of the CBA to all workers.

Ensure that union is accountable to the members; negotiates collective agreements with employer, consults with management on important issues to the members, and plays a role in dispute resolution.

Company Action Plan Update

An election was held and representatives were elected by the workers.

A copy of the CBA has been provided to all workers.

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory provides earplugs to buttoning machine operators with hazardous exposure to noise. However, two workers are not wearing earplugs when operating buttoning machines. [HSE.8]

One fire cabinet in the packing workshop and another one in the cutting workshop are partially blocked with materials. Each fire cabinet has one fire hydrant and two fire extinguishers stored inside. [HSE.6.1]

The factory stores combustible materials like carton and timber in three out of four stairwells on the first floor of the production building. The factory had removed the combustible materials from the stairwells by the end of the visit. [HSE.5.1]

While the factory provides PPEs to canteen workers, a total of two food service workers are not wearing hairnets or gloves while preparing and serving food. [HSE.22.1]

The factory has never conducted inspection on the lightning protection system in both production and dormitory buildings. [HSE.13]

Local Law or Code Requirement

The Law of the China on Work Safety, Article 42; China Fire Prevention Law, Article 28; The Code of Design on Building Fire Protection and Prevention, Article 6.4.1; China Law on Food Safety, Article 33; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.6, HSE.8, HSE.13 and HSE.22)

Recommendations for Immediate Action

- . Train and supervise workers to use personal protective equipment (PPE) consistently during working hours.
- . Ensure all fire-fighting facilities are free from obstruction.
- . Remove combustible materials from the stairwells of the production building and ensure stairwells are free from obstruction.
- . Strengthen training and supervise food service workers to wear hairnets and gloves while preparing and serving food.
- . Conduct the annual inspection on the lightning protection system and maintain inspection reports.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Train and supervise workers to use PPE consistently during their shift.

Ensure that all fire-fighting equipment and facilities are free from obstruction.

Remove combustible materials from stairwells of the production building and ensure that stairwells are free from all obstructions.

Supervise food service workers to wear hairnets and gloves while preparing food. Provide enhanced health and safety training to food service workers.

Conduct annual inspection of the lighting protection system in the production and dormitory buildings, and maintain inspection reports.

Company Action Plan Update

Workers have been trained on proper use of PPE, and utilize it consistently.

Obstructions have been removed from fire-fighting equipment areas.

Combustible materials have been removed from stairwells and all stairwells in the production building; and all obstructions have been removed from stairwells.

Food service workers consistently wear hairnets and gloves while preparing food, and have received food safety training.

An inspection has been conducted in both production and dormitory buildings, and inspection reports are attached.