

New Child Labour Law in India

On 26 July 2016, a highly-debated new law was passed by India's parliament, amending the Child Labour Act of 1986.

FTA welcomes the amendment to the Child Labour Act as it represents a new step forward to the alignment of Indian legislation with ILO Convention No.138 Minimum Age to Employment (India presently has no minimum age for employment) and C182 on the Worst Forms of Child Labour and Recommendation 190. Since both Conventions and Recommendation are [BSCI](#) reference in the BSCI Code of Conduct, FTA will also encourage Indian Government towards their ratification, which will bring India into the ambit of the regular supervisory mechanisms and provide opportunities for further improvements.

Furthermore, the amended Child Labour Act will establish a general minimum age for employment consistent with the age for compulsory education, and it will raise the minimum age for hazardous work to 18 years from the current 14 years. The Act defines an 'adolescent' as a person who has completed his fourteenth year of age but has not yet completed his eighteenth year and a 'child' as a person who has not yet completed his fourteenth year of age or such age as may be specified in the 'Right of Children to Free and Compulsory Education Act, 2009', whichever is more.

These are certainly positive amendments, which will bring consistency to the legislation.

At the same time, FTA has identified areas in the law that may need further clarification to ensure best protection to children. Concretely, the definitions for "family enterprises" and the scope of "hazardous work", which is reduced to Mines and Inflammable substances or explosives and any hazardous process as per the list provided in the [Factories Act, 1948](#) .

The sectors that may be directly or indirectly most affected by these definitions, will be those related to unorganised and unregulated network of **home work** as well as **family farming**.

While supporting family enterprises and family farms is not to be considered child labour as far as it is not any hazardous occupations or processes and it is after school hours or during vacations. Much attention must be given to potential fraud of law or evasion in terms of 'pretending family' links.

Further regulations from Government would help to reduce the risk of fraud. Meanwhile, as per [BSCI Code of Conduct](#), companies will be asked to abide by the interpretation that will provide the highest protection to child.

The Child Labour Act also outlines several stricter measures including tougher penalties to whoever employs any child or permits any adolescent to work in any hazardous occupation or process.

ILO Guidance: The ILO welcomes the Amendment to the Child Labour Act. It helps making the Indian law more in line with the International Labour Conventions No. C138 on Minimum Age to Employment and C182 on the Worst Forms of Child Labour. Significantly, the amended Act will establish a general minimum age for employment that is consistent with the age for compulsory education, and it will raise the minimum age for hazardous work to 18 years from the current 14 years. India presently has no minimum age for employment.

The ILO also welcomes Minister Dattatreya's unequivocal reassurance that both the ILO Conventions will be ratified. This will bring India into the ambit of the regular supervisory mechanisms and provide opportunities for further improvements.

The ILO has been in dialogue with the Government of India and has highlighted areas that may need to be further clarified. These are also some of the ones that were highlighted in Lok Sabha and concern 'family enterprises' and the scope of hazardous work. Some of these gaps can be addressed in the process of application of the Act, for instance through implementing regulations, or they may be considered for improvements in view of the comparative labour law practices.

The ILO looks forward to the ratification of the Conventions and working with the Indian Government, social partners, civil society and other actors in ensuring that children benefit from the protection of the law.

FTA advises its members and other companies sourcing from India to continue to adhere to the BSCI Code of Conduct and be extra diligent in identifying direct or indirect business relations with those sectors within which informality and fraud may occur. In line with this briefing, the FTA is finalising clear auditing guidance in relation to the new law and will be issuing this within the coming weeks to our auditing partners.