

Child Labour (Prohibition and Regulation) Rules, 2062 (2006)

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In exercise of the powers conferred by Section 27 of the Child Labour (Prohibition and Regulation) Act, 2056 (1999 A.D), Government of Nepal has framed the following Rules.

Chapter -1

Preliminary

1. **Short Title and Commencement:** (1) These Rules may be called " Child Labour (Prohibition and Regulation) Rules, 2062 (2006 A.D).
(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires in this Rule,-
 - (a) "Act" means Child Labour (Prohibition and Regulation) Act, 2056 (1999A.D).
 - (b) "Committee" means the Child Labour Elimination Committee formed pursuant to Rule 29
 - © "Child Labour Elimination Fund" means Child Labour Elimination Fund established pursuant to Section 24 of the Act.

Chapter - 2

Notice for Operation of Risky Professions or Activities

3. **Matters to be disclosed by the Manager while issuing a Notice:** The Manager operating a risky profession or activities shall notify the Labour Office about the following matters in addition to the description mentioned in Sub section (1) of Section 5 of the Act :-

- (a) Time of operation of the Enterprise,
- (b) Time of operation of the Enterprise and Daily Working Hours,
- (c) Date of Operation of Risky Activities or Profession,
- (d) Number, Name, Age and Address of the Workers Working in the Enterprise
- (e) Service provided to the Worker by the Enterprise,
- (f) Remuneration and Other facilities given to the Worker,
- (g) Contact Address of the Enterprise,
- (h) Provisions Relating to Health and Security,

4. **Certificate of Eligibility:** (1) Before, employing a child as a Labour an application shall be filed in the Labour office to examine his /her health in relation to his/her ability and inability to do the work, mentioning about the nature of the work and the age of the child.

(2) After obtaining an application pursuant to Sub- rule (1), the Labour Office shall cause a doctor to examine the health of the child.

(3) If on an examination done pursuant to Sub- rule (1), the child is found to be capable for the work, the doctor shall provide a certificate of eligibility to pursuant to the Schedule.

5. **Particulars to be included while giving Description:** An Enterprise which employs a child shall submit the following details to the Labour Office in addition to the particulars mentioned in Sub-section (1) of Section 8 of the Act:-

- (a) Working Hours of the Child
- (b) Photocopy of Appointment Letter upon stating the nature of activities whether it is Permanent or the Temporary.
- (c) Whether the facility of quarter is provided or not
- (d) Section or Division where the Child works

Chapter -3

Remuneration, Leave and other Facilities

6. **Remuneration and Allowance:** A child working in an Enterprise shall get the monthly remuneration and allowance not less than prescribed by the Government of Nepal by publishing a notice in Nepal Gazette from time to time, pursuant to Labour Act 2048.
7. **Leave:** The child working in an Enterprise shall get the following leaves:
- (a) Public Holiday
 - (b) Home Leave
 - (c) Sick Leave
 - (d) Obsequies Leave
 - (e) Special Leave
 - (f) Educational Leave
8. **Public Holiday:** (1) A child working in an Enterprise shall get at least Thirteen days public holiday with full salary each year.
- (2) The annual public holiday of a child so provided pursuant to Sub- rule (1) shall be determined at the beginning of each year.
9. **Home Leave:** (1) A child working in an Enterprise shall be entitled to paid home leave at the rate of One day for every twenty days of the period of work performed by him/her. The child shall have to take prior approval from the Manager before going for such a leave.

Explanation: For the purpose of this Rule, "Period of work" means one day weekly holiday, public holiday and other paid holidays taken during the period.

(2) The home leave to be enjoyed pursuant to Sub- rule (1) may be accumulated for a maximum period of Thirty Six days.

(3) In case any child resigns from his/her post or retires from service for any other reason, he/she shall be entitled to receive lump sum amount for his/her accumulated home leave at the rate of the wage which he/she was getting at the time of his/her severance from service.

10. Sick Leave: (1) Every child working in the Enterprise shall be entitled to get a sick leave of Twenty Four days each year.

(2) A child shall be entitled to get full salary while in the sick leave.

(3) In case a sick leave of more than Seven days of a child is going to be approved the manager may cause to submit a medical certificate issued by a doctor recognized by the Government of Nepal.

(4) In case a child has to take sick leave due to the sudden illness, he/she has to inform about it to the Manager by the fastest means.

11. Obsequies Leave: (1) If the child working in an Enterprise is required to observe obsequies himself/herself as per the rites and rituals such employee shall be entitled to obsequies leave for up to Fifteen days.

(2) A child who is in such obsequies leave shall be entitled to get full salary.

12. Special Leave: Any child who does not have any other leave accumulated may be entitled to special leave for a period of Thirty days in one year, not amounting to more than sixty days in the entire period of service, with prior approval in case a special situation for going on leave has occurred.

(2) A child staying on a special leave pursuant to Sub- rule (1) shall not be entitled to the salary of such period.

(3) Notwithstanding anything contained in Sub –rule (1) and (2), if any girl child is impregnated due to the conditions not under her control or due to forced pregnancy; such girl shall get a total of Ninety

days special leave computing the days before and after delivery. The girl child shall be entitled to get full remuneration for a period of such leave.

- 13. Educational Leave and Determination of Time of Work:** (1) A child who goes to school shall get Ten days educational leave during the annual examination in a year.

(2) enterprise shall determine the time so as not to overlap the school time and the time of work The the child who is studying in a school pursuant to Sub- rule (1).

- 14. Official Empowered to Approve Leave:** The leaves mentioned in this chapter shall be approved by the Manager or the authority so prescribed by the bye law of the enterprise.

- 15. Action to be taken Against Child for not Approving the Leave:** (1) No child shall be absent in the Enterprise without the prior approval of a leave.

(2) In case a child remains absent from the enterprise for more than Thirty days without information of remaining on leave, he/she may be removed from the service deducting of his/her absent.

Provided that, he /she shall not be denied from an opportunity of hearing on such removal.

(3) Notwithstanding anything contained in Sub-rule (1) and (2), if an employee remains absent without prior sanction of leave in an emergency condition and his/her leave is sanctioned later on retrospectively, in such case the provision of this Rule shall not be deemed to have been violated.

- 16. Gratuity:** (1) If, a child serving a year or more in an Enterprise resigns or relived from the service due to any other reason, he/she shall get gratuity at the rate of one month's remuneration for every year of service so rendered.

(2) Any child who continues his/her service to a Enterprise upon reaching age of majority shall get gratuity in accordance with the prevalent laws in addition to the gratuity received pursuant to these Rules, upon the approval of resignation or in case he/she is relieved from the activities for any other reason.

(3) The child working in the Enterprise before the commencement of this Rule shall also get gratuity pursuant to this Rule.

17. Gratuity Fund: (1) Each Enterprise shall establish a separate actativity Fund for the purpose of depositing gratuity received by the child pursuant to Rule 16.

(2) The Enterprise shall have to deposit the gratuity amount to be given to the child pursuant to Sub- rule (1) of Rule 16 in the Gratuity Fund established as per Sub- rule (1), every year.

(3) The Enterprise shall have to maintain separate accounts of the child showing clearly the amounts to be received by every child.

18. Provident Fund: (1) The Enterprise shall deduct Ten percent amount from the monthly remuneration of the child appointed permanently in the Enterprise add on equivalent amount and deposit it in their name in the provident fund as referred to in Sub- rule (2) .

(2) The Manager of an Enterprise shall open an account in the name of a child working in the Enterprise in the Provident Fund approved pursuant to Income Tax, 2058, to deposit the amount as referred to in Sub- rule (1)

(3) The total amount deposited in the name of a child pursuant to Sub- rule (1) shall not be withdrawn before retiring from activities of the Enterprise.

(4) If a child dies prior before drawing his/her money from the Fund, his/her nominee shall receive the money; or if the nominee has died or no such nominee has been appointed the nearest heir of such

child shall receive the money. If there is more than One such heir, they shall be paid the amount so deposited in the *pro rata* basis.

(5) The concerned child may take loan up to Fifty percent as per the Bye-laws of the Enterprise from the amount deposited in the Provident Fund as referred to in these Rules. The loan amount shall have to be recovered deducting One Forth of monthly remuneration of the child until such loan is fully recovered.

(6) If any child continues his/her activities in the Enterprise upon entering the age of majority, the money collected in the Provident Fund pursuant to this Rule shall be valid while deducting Provident Fund pursuant to the prevalent laws.

- 19. Medical Facilities:** It, the Government recognised medical practitioner certifies that a child working in an Enterprise is suffering from illness and has to go for medical treatment, the child shall be provided with a maximum of two month's remuneration in his/her total service period.
- 20. Insurance to be done:** The Manager of the Enterprise shall get the insurance done of every child working in the Enterprise in accordance with the prevailing laws.
- 21. Tiffin Allowance:** The Manager shall provide to every child working in the Enterprise, equal to the Ten percent of the remuneration so received, as tiffin allowance every month.
- 22. Dashin Expenses:** (1) The Manager shall provide to the child the money equivalent to his/her monthly salary as *Dashin* expense fifteen days before *Ghatasthapana* every year.

(2) While providing *Dashin* expense pursuant to Sub- rule (1) the remuneration of a month ahead of *Bada Dashin* shall also be provided even if the month has not completed.

- 23. Facilities in case of Disability or Injury:** (1) If a child suffers an injuring while working in the Enterprise in such a way that it causes

hindrance in his/her capacity enhancement even though it may not have resulted in his/her retirement from the service, such child is entitled to assistance of lump sum fifteen thousand depending on the condition of the child.

(2) If, a treatment is deemed necessary to an injury sustained pursuant to Sub- rule (1), the child shall get an additional sick leave with full salary for the period of treatment, to the effect that none of his/her other accumulated leaves shall be deducted.

(3) While carrying out the treatment as referred to in to Sub- rule (2) the child shall get such treatment expense from the Enterprise.

(4) Receiving of treatment expense pursuant to this Rule shall not be deemed to have prevented the child to get treatment expense pursuant to Rule 19

24. **Receipt of Facilities Pursuant to the Prevalent Laws:**

Notwithstanding anything contained in this chapter, if the child working in a Enterprise is entitled to get more facilities than mentioned in these Rules, in such case he/she shall get the facilities in accordance with the same laws.

Chapter -4

Provisions relating to Health and Security

25. **Provision to be followed for the Health and Security of the Child:** The

Manager shall follow the following norms pursuant to Section 11 of the Act for the Health and Security of the child:-

- (a) Make necessary arrangements for everyday cleanliness of the workplace, through the use of pesticides, necessary facilities of drainage as well as time to time painting to avoid the odor of the wastes,
- (b) Arrange for a good ventilation light and temperature in the working rooms,

- (c) Avoid the collection of dust, smoke, polluted air, vapor as well as other pollutants in the working room.
- (d) Arrange for adequate drinking water,
- (e) Arrange for the separate toilets for boys and girls in the accessible place,
- (f) Keep necessary fire extinguisher to prevent fire,
- (g) Open a canteen inside the compound of the Enterprise at subsidy rates,
- (h) Not to make a child carry or transport a weight exceeding fifteen kilograms,
- (i) Teach safety and security measures to be followed while doing the work, and
- (j) Make arrangements for the shifts so as to allow the child to rest between the working hours.

26. Other matters to be Mentioned in the Registration Book: The Manager shall include the following matters in the Registration book in addition to the matters mentioned in Sub section (1) of Section 13:

- (a) Nationality of child,
- (b) Certificate of Eligibility or whether one is Trained or not,
- (c) Name of the Department or Section of Work,
- (d) Whether the child is temporary or permanent in the Enterprise,
- (e) Details of Leave,
- (f) Description of assigned activities,
- (g) Time of work,
- (h) Details of other facilities.

27. **Labour Office Authorized to Examine:** (1) The Labour Office may cause for a sudden field visit by its staff to cross examine the honesty of the staff assigned to check whether the Enterprise employing the child has deployed him/her to work against the provisions of the Act, has made necessary arrangements for the safety and security as well as has made other necessary arrangements pursuant to the Act and this Rule.

(2) The Labour Office shall examine the truth of the inspection report submitted pursuant to Section 17 Sub Section (1) of the Act by comparing the record in the Labour Office and the cross examination report submitted pursuant to Sub- rule (1).

(3) If on an examination done pursuant to Sub- rule (1) or (2), it is found that the staff has not completed the work with honesty or if the report presented is untrue then he /she shall be liable for departmental action.

28. **Period for Sequestration of Facility:** (1) If any Enterprise is found not making necessary arrangements pursuant to the Act or these Rules, the Labour Office shall order the Manager to make necessary arrangements as soon as possible, by giving relevant date.

(2) For not making necessary arrangements on getting order pursuant to Sub- rule (1), the Labour Office shall write to the concerned authority to sequester the facilities given to the Enterprise in accordance with the prevailing laws for six months.

(3) The Labour Office shall have to write to the concerned authority to sequester the facility given to the Enterprise in accordance with the prevalent laws until any other arrangement is made if the Enterprise does not make necessary arrangements in a case of holding facilities for six month as referred to in Sub-rule (2).

(4) Notwithstanding anything contained in Sub- rule (2) or (3), the Labour Office shall release the facilities sequestered pursuant to this

Rule, anytime, if the Enterprise presents the evidence of making necessary arrangements pursuant to the Act or these Rule.

Chapter - 5

Miscellaneous

29. Formation of Committee: A Child Labour Elimination Committee shall be formed pursuant to Section 23 of the Act to give advise to the Government of Nepal, relating to health, security, education, vocational training, to arrange for the appropriate employment, to discourage the deployment of child in any work and to eliminate child Labour consisting of the following members:

- a Secretary, Ministry of Labour and Transport
Management -Chairperson
- b Joint Secretary, Ministry of Labour and
Transport Management (looking Labour
relations and Child Labour Elimination
Section) - Member
- c Director General, Department of Labour and
Employment Promotion- Member - Member
- d Representative, Ministry of Women, Children
and Social Welfare - Member
- e Representative, Ministry of Industry,
Commerce and Supplies

- Member
- f Two representatives of Federation of Nepalese Chamber of Commerce and Industry - Member
- g Four representatives from Federation of Nepalese Trade Unions- Member - Member
- h One representative officer from among Non Governmental Organizations, working in the field of child and child Labour - Member
- i Officer deputed by Government of Nepal -Member
Secretary

(2) The Committee may invite experts of the related required.

30. Functions, duties and proves of the Committee: The Committee shall have the following functions, duties and rights:-

- (a) To recommend the Government of Nepal to make necessary reforms in prevalent policies and law, relating to child labour elimination.
- (b) To advice the Government of Nepal to make necessary arrangements for the health, education, safety as well as vocational training of the child working in the Enterprises,
- (c) To promote mutual relation between the Manager and the Government of Nepal to take necessary steps to eliminate child Labour

- (d) To recommend the Government of Nepal by identifying the suitable areas for employing the children.
- (e) To make necessary arrangements to monitor whether or not the Enterprise has made necessary arrangements for discouraging child Labour and to eliminate child Labour,
- (f) To make plans for the utilization of Child Labour Elimination Fund and to determine the priorities.
- (g) To receive substantial opinion by forming a sub committee to perform special task relating to Child Labour Elimination.

31. **Meetings of the Committee and Procedures:** (1) The meeting of the Committee shall be held at least Four times a year.

(2) The meeting of the Committee shall be held on such date, time and venue as specified by the Chairperson. The Member-Secretary shall notify the members at least Seven days in advance about the meeting of the Committee.

(3) The majority opinion shall prevail in the meeting of the Committee and in case of a tie; the Chairperson shall exercise a casting vote.

(4) The Member Secretary shall authenticate the decisions of the Committee.

(5) Other procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

(6) The Chairperson and the Members of the Committee shall get meeting allowance as prescribed by Government of Nepal for participating in the meeting.

32. **Operation of Child Labour Elimination Fund:** (1) The money collected in the Child Labour Elimination Fund shall be deposited by opening an account in any of the Commercial Banks within Nepal.

(2) The money so collected shall not be spent anywhere except for the purpose as referred to in Sub Section (1) of Section 24 of the Act.

(3) The operation of the Child Labour Elimination Fund shall be made by the joint signature of the Chairperson of the Committee or the member of the Committee appointed by him/her and the Member Secretary.

33. Account and Auditing: (1) The accounts of the income and expenditure of the Child Labour Elimination Fund shall be kept in accordance with the prevalent laws.

(2) The auditing of the Child Labour Elimination Fund shall be made by the Department of the Auditor General.

Note:

1. The following alteration has been made by the Motor Vehicle and Transportation Management (First Amendment) Rules, 2061 in the schedule of the original Rules:-

The words "Ministry of Labour and Transport Management" instate of "Ministry of Construction and Transport"

2. Words altered by Some Nepal Acts Amendment Act, 2063:-

"Government of Nepal "instead of" His Majesty's Government".

Nepal Law Commission

Schedule

(Related to Rule 4)

Format of Certificate of Eligibility

It is hereby certified that on doing the health examination of Mr./ Miss..... is found to be physically and mentally healthy, so he/she shall be able to do the service of Enterprise.

Description of Child:

- (a) Name, Caste:-
- (b) Child's Address:-
- (c) Name, Caste, Address of Child's Father, Mother:-
- (d) Thumb Impression of Right Hand of the Child:-
- (e) Signature of Child:-
- (f) Date:-

Doctor Authenticating:-

- (a) Name, Caste, Address:-
- (b) Signature:-
- (c) Registration Number of Nepal Medical Council:-
- (d) Date:-

Note: This certificate shall be valid for a year.