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15/3/18



GOVERNMENT OF ODISHA  
LABOUR & ESI DEPARTMENT



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**NOTIFICATION**

Bhubaneswar, dated the 3.3.2018

No. LL-II-CHL-37/2016 1681 /LEIS, The following draft of certain Rules, which the State Government propose to make in exercise of the powers conferred by section 18 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) and in supersession of the Odisha Child Labour (Prohibition and Regulation) Rules, 1994, is hereby published as required under the sub-section (1) of the said section for information of all persons likely to be affected thereby and the notice is hereby given that the said draft will be taken into consideration by the State Government on or after the expiry of a period of fifteen days from the date of publication of this notification in the Odisha Gazette.

Any objection or suggestion which may be received from any person in respect of the said draft before expiry of the period so specified above will be considered by the State Government.

1. **Short title and commencement.** -- (1) These rules may be called the Odisha Child and Adolescent Labour (Prohibition & Regulation) Rules, 2018.  
(2) They shall come into force on the date of their publication in the Odisha Gazette.
2. **Definition.** -- (a) "Act" means the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986);  
(b) "Child" means a person who has not 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;  
(c) "Adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;  
(d) "Committee" means the Technical Advisory Committee constituted under sub-section (1) of section 5 of the Act;

- (e) "Chairman" means the Chairman of the committee appointed under Sub-Section-(2) of section (5);
- (f) "Form" means a form appended under these rules;
- (g) "Register" means the register required to be maintained under section 11;
- (h) "Schedule" means the Schedule of the Act;
- (i) "Section" means the section of the Act;
- (j) "Fund" means the Child and Adolescent Rehabilitation Fund constituted under Sub-Section (1) of Section 14B of this Act;
- (k) "Inspector" means the inspector appointed by the State Government under Section -17;
- (l) "Municipality" means an institution of self-government constituted under article 243Q of the constitution;
- (m) "Panchayat" means a panchayat constituted under article 243B of the Constitution; and
- (n) All other words and expressions used in these rules, but not defined therein and defined in the Act,, shall have the meanings as assigned to them in the Act.

**3. Hours of work.** -- Subject to the provisions of section 7, no adolescent shall be required or permitted to work in an establishment in excess of such number of hours of work as follows:-.

- (I). The period of work on each day shall be so fixed that no period shall exceed three hours and that no adolescent shall work for more than three hours before he has had an interval for rest for at least one hour.
- (II). The period of work of an adolescent shall be so arranged that inclusive of his interval for rest, under Sub-Section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day

- (III). No adolescent shall be permitted or required to work between 7pm and 8 am
- (IV). No adolescent shall be required or permitted to work overtime
- (V). No adolescent shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment

**4. Weekly Holidays.--** Every adolescent employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

**5. Maintenance of Register under Section 11.--** (1) Every occupier of an establishment shall maintain a register in respect of adolescent employed or permitted to work in Form A.

(2) The Register shall be maintained on yearly basis but shall be retained by the employer for period of three years, after the date of the last entry made there in.

**6. Awareness on prohibition of employment of Child and Adolescents in contravention to Act. –** (1) Every employer or occupier has to ensure display of notice in a conspicuous place in his establishment on prohibition of child below the age of 14 years in all occupations and processes, and adolescents in hazardous occupations as per the Schedule. The penal provisions shall also to be displayed in the notice board.

(2) The State Government shall arrange public awareness campaigns to make the general public aware about the provisions of the Act, and thereby discourage employers or other persons from engaging children and adolescents in any occupation or process in contravention of the provision of the Act.

(3) Promote reporting of enterprise or instances of employment of children or adolescent in contravention to the provisions of the Act, by developing and advertising easily accessible means of communication to authorities specified by the State Government;

(4) Promote inclusion of training and sensitization programme on the provisions of the Act.

**7. Child to help his family without affecting education.--** (1) Subject to the provisions of section 3, a child may without affecting his school education, in any manner,-

(1) Help his family in his family enterprise , subject to the condition that such help---

- (i) shall not include work or occupation or process at any stage of the manufacturing , production, supply or retail chain that is remunerative for the child or his family or the family enterprise;
- (ii) shall only be allowed to help in his family enterprise, where his family is the occupier;
- (iii) shall not perform any tasks during school hours and between 7 P.M to 8 A.M;
- (iv) shall not be engaged in such tasks of helping which hinders or interfaces with the right to education of the child, or his attendance in the school, or which may adversely affect his education including activities which are inseparably associated to complete education such as home work or any extra-curricular activity assigned to him by the school;
- (v) shall not be engaged in any task continuously without rest which make him feel tired and shall be allowed to take rest to refresh his health and mind , and a child shall not help for more than three hours excluding the period of rest in a day;
- (vi) shall not include in any way substitution of the child for an adult or adolescent while helping his family or family enterprise;
- (vii) shall not be in contravention to any other law for the time being in force; and
- (viii) is an aid to assist his family in such manner which is not incidental to any occupation, work, profession, manufactures or business, or for any payment or benefit to the child or any other person exercising control over the child, and which is not detrimental to the growth , education and overall development of the child.

Explanation 1- For the purposes of this rule, family means the family of the Child as explained in sub-section (2) of section 3.

(2) where a child receiving education in school remains absent consecutively for thirty days without intimation the Principal or Headmaster of the school, then the Principal or Headmaster shall report such absence to the concerned nodal officer refer to in clause (i) of sub-rule (1) of rule 13 for information.

8. **Child to work as an artist.**--(1) Subject to the provisions of section 3, a child may be allowed to work as an artist subject to the following conditions, namely:-

(a) no child shall be allowed to work for more <sup>than</sup> five hours in a day, and for not more than 3 hours without rest;

(b) any producer of any audio-visual media production or any commercial event involving the participation of a child, shall involve a child in participation only after obtaining the permission from the district magistrate of the district where the activity is to be performed, and shall furnish to the District Magistrate before starting the activity an undertaking in Form C and the list of child participants, consent of parents or guardian, as the case may be, name of the individual from the production or event who shall be responsible for the safety and security of the child, and ensure that all screening of his films and television programmes shall be made with a disclaimer specifying that if any child has been engaged in the shooting, then, all the measures were taken to ensure that there has been no abuse, neglect or exploitation of such child during the entire process of the shooting;

(c) The undertaking referred to in clause (b) shall be valid for six months and shall clearly state the provisions for education, safety, security and reporting of child abuse in consonance with the guidelines and protection policies issued by the Central Government from time to time for such purpose including-

- (i) Ensuring facilities for physical and mental health of the child;
  - (ii) Timely nutritional diet of the child;
  - (iii) Safe, clean shelter with sufficient provisions of daily necessities;
- and

- (iv) Compliance to all laws applicable for the time being in force for protection of children, including their right to education, care and protection and against sexual offences ;
  - (d) Appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school and no child shall be allowed to work consecutively for more than twenty-seven days;
  - (e) One responsible person be appointed for maximum of five children for the production or event, so as to ensure the protection, care and best interest of the child;
  - (f) At least twenty percent, of the income earned by the child from the production or event to be directly deposited in a fixed deposit account in a nationalized bank in the name of the child which may be credited to the child on attaining majority; and
  - (g) No child shall be made to participate in any audio visual and sports activity including informal entertainment activity against his will and consent.
- (2) For the purposes of clause (c) to the Explanation to sub-section (2) of section 3, the expression "such other activity" content therein, shall mean,-
- (i) Any activity where the child himself is participating in a sports competition or event or training for such sports competition or event;
  - (ii) Cinema and documentary shows on television including reality shows, quiz shows, talent shows; radio and any programme in or any other media;
  - (iii) Drama Serials ;
  - (iv) Participation as anchor of a show or a event; and
  - (v) Any other Artistic performances which the State Government permits in individual cases , which shall not include street performance for monetary gain ;
- 9. Manner of payment.-- Payment of amount to child or adolescent from and out of Child and Adolescent Labour Rehabilitation Fund-** (1) The amount credited, deposited or invested, as the case may be , under sub-section(3) of section 14B, to the Child and Adolescent Labour Rehabilitation fund and the interest accrued on it , shall be paid to the child or adolescent in whose favour such amount is credited in the following manner, namely:-



- (i) the inspector or the nodal officer having jurisdiction shall, under his supervision, ensure that an account of such child or adolescent is opened in a nationalised Bank and informed the Bank in which the amount of the fund is the deposited or, as the case may be, to the officer responsible to invest the amount of the fund under sub-section (3) of section 14B.
  - (ii) the interest accrued on the proportionate amount of the fund in favour of the child or adolescent shall be transferred every six months to the account of the child and adolescent , as the case may be, by the Bank or officer responsible to invest the amount under information to the inspector.
  - (iii) When the concerned child or adolescent completes the age of eighteen years, then, as soon as may be possible forthwith or within a period of three months, the total amount credited, deposited or invested in favour of the child along with interest accrued thereon remaining in the bank or remaining so invested under sub-section (3) of section 14B, shall be transferred to the said Bank account of child or adolescent, as the case may be, and
  - (iv) The Inspector shall prepare a report of the amount transferred under clause (ii) and clause (iii) when particulars of the concerned child or adolescent sufficient to identify him and send a copy of the report annually to the State Government for information.
- (2) Any amount recovered by way of fine or for composition of offences in pursuance of an order or judgment of a court in favour of a child or adolescent for the contravention of the provisions of the Act, shall also be deposited in the Fund and shall be spent in accordance with such order or judgment.

10. **Certificate of Age.**--(1) Where an Inspector has an apprehension that any adolescent has been employed in any of the occupation or processes in which he is prohibited to be employed under section 3A of the Act, he may require the employer of such adolescent to produce to the Inspector a certificate of age from the appropriate Medical Authority.

- (2) The appropriate Medical Authority shall, while examining an adolescent for issuing the certificate of age under sub-rule (1), take into account-

- (i) the Aadhar Card of the adolescent; or
  - (ii) the certificate containing date of birth from the school or the matriculation or equivalent certificate from the concerned examination Board of the adolescent, if any; or
  - (iii) the birth certificate of the adolescent given by a Municipal Corporation or a Municipal Authority or a Panchayat; or
  - (iv) the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.
- (3) The ossification test or any other latest medical age determination test shall be conducted on the order of the appropriate authority of the rank of District Labour Officer and such determination shall be completed within fifteen days from the date of such order.
- (4) The certificate of Age shall be issued in Form B.
- (5) The charges payable to Medical Authority shall be borne by the employer of the adolescent whose age is determined under this rule.

Explanation :- For the purpose of this rule, "Medical Authority" means a Government medical doctor not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in Employees' State Insurance dispensaries or hospitals

**11. Filing of complaint.--** Complaint under the Act for commission of any offence may be filed by the school teachers and representatives from school management committee, child protection committee, Panchayat or Municipality.

**12. Manner of compounding the offence.--** (1) An accused person,-

may file application to the District Magistrate having jurisdiction for compounding the offence under sub-section (1) of section 14D,-

- (i) who commits an offence for the first time under sub-section (3) of section 14; or
- (ii) who being parent or guardian, commits an offence under section 14;



- (2) The District Magistrate shall after hearing the accused person and the Inspector concerned dispose of the application filed under sub-rule (1) and if the application is allowed, issue the certificate of compounding subject to-
- (i) the payment of a sum of fifty percent of the maximum fine provided for such offence within a time specified in such certificate; or
  - (ii) the payment of an additional sum of twenty-five percent of the maximum fine provided for such offence together with the compounding amount specified under clause (i), if the accused person fails to pay the compounding amount under that clause within time and such delayed payment shall be made within the period specified for such purpose in the certificate of compounding.
- (3) The compounding amount shall be paid by the accused person to the State Government.
- (4) If the accused person fails to pay the compounding amount under sub-rule (2) , then, the proceeding shall be continued as specified under sub-section (2) of section 14D.

**13. Duties of District Magistrate.--** (1) The District Magistrate shall,-

- (i) specify such officers subordinate to him, as he considers necessary, to be called as Nodal Officers, who shall exercise all or any other powers and perform all or any of duties of the District Magistrate conferred and imposed on him by the State Government under section 17A ;
- (ii) assign such powers and duties as he thinks appropriate to a nodal officer to be exercised and performed by him within his local limits of jurisdiction as subordinate officer;
- (iii) preside over as chairperson of the Task Force to be formed in a District consisting of,-
  - (a) Inspector appointed under section 17 by State Government for the purposes of his local limit of jurisdiction;

- (b) Superintendent of Police for the purposes of his local limit of jurisdiction;
- (c) Additional District Magistrate for the purposes of his local limit of jurisdiction;
- (d) Nodal Officer referred to in clause (i) for the purposes of his local limit of jurisdiction;
- (e) District Labour Officer for the purposes of his local limit of jurisdiction;
- (f) two representatives each from a voluntary organization involved in rescue and rehabilitation of employed children in the district on rotation basis for a period of two years;
- (g) a representative of the District Legal Services Authority to be nominated by the District Judge; and
- (h) a member of the District Anti Trafficking Unit;
- (i) Chairperson of the Child Welfare Committee of the District;
- (j) District Child Protection Officer in the district under the Integrated Child Protection Scheme under Women and Child Development Department;
- (k) District Education Officer
- (l) any other person nominated by the District Magistrate; and
- (m) the Secretary of the Task Force who shall be any Nodal Officer referred to in clause (i) and nominated by the Chairperson.

(2) The Task Force referred to in clause (iii) of sub-rule (1) shall meet at least once in every month and shall make a comprehensive action plan for conducting the rescue operation taking into account the time available, point of raid in accordance with the law for the time being in force, confidentiality of the plan, protection of victims and witnesses and the interim relief in accordance with the guidelines for rescue and repatriation issued by the State Government from time to time and the Task Force

shall also cause to upload the minutes of such meeting on the portal created for such purpose by the State Government,

(3) Apart from the duties referred to in sub-rule (1), the District Magistrate shall ensure through Nodal Officers referred to in clause (i) thereof that the children and adolescent who are employed in contravention of the provisions of the Act and rescued shall be rehabilitated,-

(a) in accordance with the provision of-

(i) the Juvenile Justice (Child Care and Protection of Children) Act, 2015 (2 of 2016) and the rules made there under;

(ii) the Bonded Labour System (Abolition) Act, 1976(19 of 1976);

(iv) the Central Sector Schemes for Rehabilitation of Bonded Labourers , 2016;

(v) any National Child Labour Project or School under the Department of School and Mass Education.

(vi) any other law for the time being in force under which such children or adolescent may be rehabilitated; and

(b) subject to the direction of the any Court and in accordance with the judicial pronouncements;

(c) the guidelines for rescue and repatriation issued by the State Government, from time to time, in this regard.

**14. Duties of Inspector.**— An Inspector appointed by the State Government under section 17, for the purpose of securing compliance with the provisions of the Act, shall,-

(i) comply with the norms of inspection issued by the State Government from time to time;

(ii) comply with the instruction issued by the State Government from time to time for the purpose of securing the compliance with the provisions of the Act by the Inspector; and

- (iii) report the State Government quarterly regarding the inspection made by him for the purpose of securing the compliance with the provisions of the Act and the action taken by him for such purpose.

15. **Periodical inspection and monitoring.**-- The State Government shall create a system of monitoring and inspection for carrying into effect provisions of section 17 which may include inter-alia-

- (i) the number of periodical inspection to be conducted by the Inspector of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out;
- (ii) the intervals at which an Inspector shall report to the State Government complaints received to him relating to the subject matter of inspection under clause (i) and the details of action taken by him thereafter;
- (iii) Maintenance of record electronically or otherwise of,-
  - (a) children and adolescent found to be working in contravention of the Act including children who are found to be engaged in family or family enterprises in contravention of Act;
  - (b) number and details of the offences compounded;
  - (c) details of compounding amount imposed and recovered; and
  - (d) details of rehabilitation services provided to children and adolescent under the Act.

16. **Health and Safety.**-- The establishments employing adolescent labour shall ensure steps on the following things for protections, namely,

- (a) Cleanliness in the place of work and its freedom from nuisance;
- (b) Disposal of wastes and effluents;
- (c) Ventilation and temperature;
- (d) Dust and fume;
- (e) Artificial humidification;
- (f) Lighting;
- (g) Drinking water;
- (h) Latrine and urinals;
- (i) spittoons;

- (j) Fencing of machinery;
- (k) Work at or near machinery in motion;
- (l) Employment of [Adolescent] dangerous machines;
- (m) Instructions, training and supervision in relation to employment of [Adolescent] on dangerous machines;
- (n) Device for cutting off power;
- (o) Self-acting machines;
- (p) Easing of new machinery;
- (q) Floors, stairs and means of access;
- (r) Pits, sumps, openings in floors, etc
- (s) Excessive weights
- (t) Protection of eyes
- (u) Explosive or inflammable dust, gas etc.
- (v) Precautions in case of fire
- (w) Maintenance of buildings; and
- (x) Safety of buildings and machinery

By order of the Governor

  
Principal Secretary to Government

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**FORM – A**  
[See rule 5]

SL No.	Name of Adolescent	Father's Name	Date of Birth	Permanent Address	Date of Joining the Establishment	Nature of Work on which employed	Daily Hours of Work	Intervals of Rest	Wages Paid	Remarks



**FORM – B**  
[See Rule 10 (4)]

**CERTIFICATE OF AGE**

Certificate No. ....

I hereby certify that I have personally examined (name) .....  
son/daughter of ..... residing at ..... and that he / she has  
completed his / her fourteenth year and his / her age, as nearly as can be  
ascertained from my examination, is ..... years (completed). His /  
her descriptive marks are ..... Thumb impression / signature of child  
.....

Place .....  
Date .....

Medical Authority  
Designation

**FORM C**  
[See Rule 8 (b)]

Undertaking under rule 2C (b) of the Child Labour (Prohibition and Regulation) Rules, 1994

I ..... Producer of  
..... an Audio Visual Media Production/Organizer of  
..... a Commercial event, involving the  
participation of the following child /children, namely:-

Sl. No.	Name and address of the Child/Children	Name and address of Parent's/Guardian's
01	02	03

do hereby undertake that in the course of the involvement of the above mentioned child/children in the event ..... (specify the event), there shall be no violation of any provision of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and Child and Adolescent Labour (Prohibition and Regulation) Rules, 2017 and full care shall be taken of the physical and mental health and other requirements of the child / children so that he/they should not feel any inconvenience. I also undertake that during the event all laws applicable for the time being in force for the protection of children, including their right to education, care and protection and legal provisions against sexual offences would be complied.

Place : .....

Date : .....

**Full signature of the Producer /  
Authorized representative of the Producer**