**Ministry of Labour & Employment**

**Government of India**

Consequent upon enactment of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (35 of 2016), Ministry of Labour & Employment has prepared draft for the Child Labour (Prohibition and Regulation) Amendment Rules, 2016 in accordance with the provisions of the Act and the same is being placed on the website of this Ministry for comments of all stake holders including members of general public. The comments on the Draft Rules, as given below, may be submitted to Shri Rajeev Arora, Joint Secretary, Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi -01 or through E-mail at anita.tripathi76@gov.in within 15 days i.e. up to 29.12.2016.

**Draft Child Labour (Prohibition and Regulation) Amendment Rules, 2016**

1. (1) These rules may be called the Child Labour (Prohibition and Regulation) Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Child Labour (Prohibition and Regulation) Rules, 1988 (hereinafter referred to as the Principal rules), in rule 1, in sub-rule (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Rules, 1988, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988” shall be substituted.

3. In rule 2 of the principal rules,-

1. for clause (a), the following clause shall be substituted, namely:-

‘(a) “Act” means the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986)’;

1. for clause (b), the following clause shall be substituted, namely:-

‘(b) “Committee” means the Technical Advisory Committee constituted under sub-section (1) of section 5 of the Act’;

1. after clause (d), the following clause shall be inserted, namely:-

‘(dd) “Municipality” means an institution of self-government constituted under article 243Q of the constitution;’;

1. after clause (e), the following clause shall be inserted, namely:-

‘(ee) “Panchayat” means a Panchayat constituted under article 243B of the constitution;’;

1. for clause (g), the following clauses shall be substituted, namely:-

‘(g) “section” means the section of the Act;

 (h) the 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.’.

4. After rule 2 of the principal rules, the following rules shall be inserted, namely:-

“2A. Prevention of child employment.- To ensure that the children and adolescents are not employed or permitted to work in any occupation or process in contravention to the Act, the Central Government, through appropriate measures, shall –

1. arrange public awareness campaigns in media including the television, radio, internet and the print media to make the general public, including the employers and the children and adolescents who may be employed in contravention of the Act to aware the provisions of the Act, and thereby discourage employers or other persons from engaging children and adolescent in any occupation or process in contravention of the provisions of the Act;
2. promote reporting of enterprises or instances of employment of children or adolescents in contravention of the Act, by developing and advertising easily accessible means of communication to authorities specified by the Central Government;
3. display to the possible extent the provisions of the Act and these rules and other information relating thereto in railway coaches, at railway stations, major bus stations, ports and port authorities, airports and other public places including shopping centers, markets, cinema halls, hotels, hospitals, panchayat offices, police stations, court complexes, and offices of all authorities authorised under the Act;
4. promote through appropriate method the inclusion of the provisions of the Act in learning material and syllabus in school education; and
5. promote inclusion of training and sensitisation material on the provisions of the Act and the responsibilities of various stakeholders thereto, in police, judicial and civil service academies, teachers training and refresher courses and arrange sensitization programmes for other relevant stakeholders including, panchayat members.

2B. Child to help his family, etc.- (1) Subject to the provisions of section 3, a child without affecting his school education, in any manner, may-

1. help his family in his family enterprise, subject to the condition that such help,-
2. shall not be in any hazardous occupation or process listed in Part B of the Schedule;
3. shall not include work or occupation or process that is remunerative for the child or his family or the family enterprise;
4. shall only be allowed to help in his family, or in a family enterprise where his family is the occupier;
5. shall not perform any tasks during school hours or between 7 pm and 8 am;
6. shall not be engaged in such tasks of helping which hinders or interferes 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 homework or any extra-curricular activity assigned to him by the school;
7. shall not be any engagement which continues more than the period which may make him tired without rest and such rest shall be of at least to fresh his health and mind and a child shall not help for more than three hours excluding the period of rest in a day; and
8. shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise;
9. aid or assist his family in such manner which is not incidental to any occupation, work, profession, manufacture 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 and development of the child;

Explanation 1.- For the purposes of this rule, for comprising the family of a child, only –

1. real brother and sister of the child, or
2. brother or sister of the child through lawful adoption by the parents of the child; and
3. real brother and sister of the parents of the child;

shall be included.

Explanation 2.- For the purpose of this rule, an Inspector may seek the clarification from the Central Government, in case of any doubt in respect of ‘help’ for securing compliance with the provisions of section 3, and shall abide by the clarification so obtained;

2C. Child to work as an artist, etc.- (1) Subject to the provisions of section 3, a child may be allowed to work as an artist subject to the following conditions –

1. no child shall be allowed to work for more than five hours in a day, and for not more than three hours without rest;
2. 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, name of the individual from the production or event who shall be responsible for the safety and security of the child;
3. 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 including,-
	1. ensuring facilities for physical and mental health of the child;
	2. timely nutritional diet of the child;
	3. safe, clean shelter with sufficient provisions for daily necessities; and
	4. compliance to all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and against sexual offences;
4. appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school;
5. 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;
6. 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 nationalised bank in the name of the child which may be credited to the child on attaining majority; and
7. no child shall be made to participate in any audio visual and sports activity against his will and consent.

(2) For the purposes of clause (c) to the explanation of sub-section (2) of section 3, the expression “such other activity” contained therein, shall mean –

1. any activity where the child himself is participating in a sports competition or event or training for such sports competition or event;
2. cinema shows on television, internet, radio or any other media including reality shows which includes quiz shows and talent shows;
3. drama serials;
4. participation as anchor of a show or events; and
5. any other artistic performances which the Central Government permits in individual cases.”.

5. After rule 15 of the principal rule, the following rules shall be inserted, namely:-

“15A. 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 is permissible under the law for the time being in force regulating the hours of work of the adolescent in such establishment.”.

6. In sub-rule (1) of rule 16 of the principal rules, for the word “children”, the word “adolescent” shall be substituted.

7. After rule 16 of the principal rules, the following rule shall be inserted, namely:-

“16A. The manner of payment of amount to the child or adolescent under sub-section (4) of section 14B, etc.,- (1) The amount credited to the Fund constituted under sub-section (1) of section 14B and deposited or invested, as the case may be, under sub-section (3) of that section, 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:-

1. 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 inform the bank in which the amount of the Fund is 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;
2. the interest accrued on the proportionate amount of the Fund in favour of the child or adolescent shall be bi-annually transferred to the account of the child or adolescent, as the case may be, by the bank or officer referred to in clause (i) under information to the Inspector referred to therein;
3. when the concerned child or adolescent completes the age of eighteen years, then, as soon as may be possible forthwith, the total amount in his favour remaining in the bank or remaining so invested under sub-section (3) of section 14B shall be transferred to the account of child or adolescent, as the case may be; and
4. the Inspector referred to in clause (i) shall prepare a report of the amount transferred under clause (ii) and clause (iii) with particulars of the concerned child or adolescent sufficient to identify him and send a copy of the report annually to the Central Government for information.

(2) Subject to the direction of the Court, any amount recovered in accordance with the Judicial pronouncement in favour of a child or adolescent in respect of the contravention of the provisions of the Act shall also be deposited in the Fund referred to in sub-rule (1) and shall be spent in accordance with such pronouncement.”.

8. In rule 17 of the principal rules, for sub-rule (1), the following sub-rules shall be inserted, namely:-

“(1) All adolescent employed in any of the occupations set-forth in the schedule, shall produce a certificate of age from the appropriate medical authority, required to do so by an Inspector.

(1A) The appropriate medical authority shall, while examining an adolescent for issuing the certificate of age under sub-rule (1), take into account –

1. the Aadhar Card of the adolescent; and in the absence thereof;
2. the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the adolescent, if available; and in the absence thereof;
3. the birth certificate of the adolescent given by a corporation or a municipal authority or a panchayat;

and only in the absence of the methods specified in clauses (i) to (iii), the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test and such test shall be conducted on the order of appropriate authority specified by the Central Government in this behalf and such determination shall be completed within fifteen days from the date of such order. ”.

9. After rule 17 of the principal rules, the following rules shall be inserted, namely:-

“17A. Any person who may file a complaint for commission of the offence under sub-section (1) of section 16 may include school teachers and representatives from school management committee who shall be sensitised to file complaint in the event that any of students in their respective schools is employed in contravention to the provisions of the Act.

17.B. Manner of compounding the offence.- (1) An accused person,-

1. who commits an offence first time under sub-section (3) of section 14; or
2. who being parent or a guardian, commits an offence under section 14;

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

(2) The District Magistrate shall after hearing the accused person and the Inspector concerned on application filed under sub-rule (1) dispose of the application and if application is allowed, issue the certificate of compounding subject to –

1. the payment of a sum of fifty percent of the maximum fine provided for such offence within a time specified in such certificate; or
2. 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 Central 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.

17C. Duties of District Magistrate. - (1) The District Magistrate shall –

1. specify such officers subordinate to him, as he considers necessary, to be called the nodal officers, who shall exercise all or any of the powers and perform all or any of the duties of the District Magistrate conferred and imposed on him by the Central Government under section 17A and the District Magistrate may, as he thinks appropriate, assign such powers and duties to a nodal officer to be exercised and performed by him within his local limits of jurisdiction as subordinate officer;
2. preside over as chairperson of the Task Force to be formed in a District consisting of –
3. Inspector appointed under section 17 by Central Government for the purposes of his local limit of jurisdiction;
4. Superintendent of police for the purposes of his local limit of jurisdiction;
5. Additional District Magistrate for the purposes of his local limit of jurisdiction;
6. Nodal officer referred to under clause (i) for the purposes of his local limit of jurisdiction;
7. Deputy Labour Commissioner for the purposes of his local limit of jurisdiction;
8. two representatives each from a voluntary organisation involved in rescue and rehabilitation of employed children in the district on rotation basis for a period of two years;
9. a representative of the District Legal Services Authority to be nominated by the District Judge; and
10. a member of the District Anti Trafficking Unit;
11. Chairperson of the Child Welfare Committee of the District;
12. Child Labour Protection Officer in the District under the Integrated Child Protection Scheme of the Ministry of the Government of India dealing with women and child development;
13. Any other person nominated by the District Magistrate;
14. 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 (ii) 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 Central 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 Central 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) of that sub-rule 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 provisions of –

1. the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) and the rules made there under;
2. the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
3. the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016;
4. any National Child Labour Project;
5. any other law for the time being in force under which such children or adolescents may be rehabilitated; and
6. subject to the direction of the concerned court and in accordance with the judicial pronouncements;
7. the guidelines for rescue and repatriation issued by the Central Government from time to time in this regard.

17D. Duties of Inspectors.- An Inspector appointed by the Central Government under section 17, for the purposes of securing compliance with the provisions of the Act, shall –

1. comply with the norms of inspection issued by the Central Government from time to time;
2. comply with the instructions issued by the Central Government from time to time for the purposes of securing the compliance with the provisions of the Act by the Inspector; and
3. report the Central Government quarterly regarding the inspection made by him for the purposes of securing the compliance with the provisions of the Act and the action taken by him for such purposes.

17E. Periodical inspection and monitoring for the purposes of section 17B etc.- The Central Government shall create a system of monitoring and inspection for carrying into effect the provisions of section 17 which may include inter-alia –

1. 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;
2. the intervals at which an Inspector shall report to the Central Government complaints received to him relating to the subject matter of inspection under clause (i) and the details of action taken by him thereafter;
3. maintenance of record electronically or otherwise of-
4. 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 the Act;
5. number and details of the offences compounded;
6. details of compounding amount imposed and recovered; and
7. details of rehabilitation services provided to children and adolescent under the Act.”.

10. In Form A appended to the Principal rules, in column heading of column 2, for the words “Name of child”, the words “Name of adolescent” shall be substituted.

11. After Form B appended to the Principal rules, the following Form shall be inserted, namely:-

“**FORM C**

 [ See Rule 2C(b)]

Undertaking under Rule 2C(b) of the

Child Labour (Prohibition and Regulation) Rules, 1988

 I …………………………………………….. Producer of …………………………………. An audio visual media production/organizer of ……………………………………………………………. A commercial event, involving the participation of the following child/children, namely:-

 S.No. Name of the Child/ Parent’s/Guardian’s Address

 Children Name

 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 & Regulation)Rules, 1988 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.

Dated:……………….. Name and Signature ”.

F.No. .................

(....................................)

Joint Secretary to the Government of India

Note.- The principal rules were published in the Gazette of India extra-ordinary vide G.S.R 847(E) dated 10.08.1988.