© **TN/CCN/467/2012-14** GOVERNMENT OF TAMIL NADU 2019

[Regd. No.
[R. Dis. No. 197/2009.
[Price : Rs. 3.20 Paise.

PUBLISHED BY AUTHORITY

No. 52] chennai, wednesday, December 25, 2019
Margazhi 9, Vikari, Thiruvalluvar Aandu–2050

Part iiI—Section 1(a)

General Statutory Rules, Notifications, Orders, Regulations, etc., issued by Secretariat Departments.

Notifications by government

Contents

Pages.

labour and employment DEPARTMENT

Amendments to the Tamil Nadu Child Labour (Prohibition and Regulation) Rules .. 126-132

Notifications by government

labour and employment DEPARTMENT

Amendments to the Tamil Nadu Child Labour (Prohibition and Regulation) Rules.

[G.O. Ms. No. 220, Labour and Employment (U2), 15th November 2019,
äŠðC 29, Mè£K, F¼ðœÀõ˜ Ý‡´&2050*.]*

No. SRO A-46/2019.— In exercise of the powers conferred by Section 18 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Central Act 61 of 1986), the Governor of Tamil Nadu hereby makes the following amendments to the Tamil Nadu Child Labour (Prohibition and Regulation) Rules,1994 the draft of the same having been previously published as required by sub-section (1) of Section 18.

Amendments

In the said Rules,—

(1) in rule 1, in sub-rule (1), for the words “Child Labour” the words “Child and Adolescent Labour” shall be substituted;

(2) in rule 2,

(i) for clause (a), the following clause shall be substituted, namely: —

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

(ii) after clause (c), the following clauses shall be inserted, namely: —

“(ca) “Fund” means the Child and Adolescent Labour Rehabilitation Fund constituted under sub-section (1) of Section 14B of the Act;

(cb) “Inspector” means the Inspector appointed by the State Government under Section 17 of the Act;

(cc) “Municipality” means an institution of self – Government constituted under Article 243Q of the Constitution;

(cd) “Panchayat” means a Panchayat constituted under Article 243B of the Constitution;”;

(iii) after clause (f), the following clause shall be added, namely:-

"(g) words and expressions used in these Rules, but not defined therein but defined in the Act, shall have the meanings as assigned to them in the Act.";

(3) after rule 2, the following rules shall be inserted, namely:-

"2A. Awareness on Prohibition of Employment of Child and Adolescents in Contravention of the Act. — The State Government, to ensure that the children and adolescents are not employed or permitted to work in any occupation or process in contravention of the provisions of the Act, through appropriate measures, shall, –

(a) arrange public awareness campaigns using folk and traditional media and mass media including television, radio, internet based application and the print media to make the general public, including the employers and the children and adolescents who may be employed in contravention to the provisions of the Act, awareness 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 provisions of the Act;

(b) promote reporting of enterprises, establishments or instances of employment of children or adolescents in contravention of the provisions of the Act, by developing and advertising easily accessible means of communication to authorities specified by the State Government;

(c) display to the possible extent the provisions of the Act, these rules and any other information relating thereto in railway coaches, at railway stations, major bus stations, toll plazas, trade fairs, malls, exhibitions, amusement parks and other public places including shopping centers, markets, cinema halls, hotels, hospitals, Panchayat offices, police stations, resident welfare association offices, industrial areas, schools, educational institutions, court complexes, and offices of all authorities authorised under the Act;

(d) promote through appropriate method the inclusion of the provisions of the Act in learning material and syllabus in school education; and

(e) promote inclusion of training and sensitisation material on the provisions of the Act and the responsibilities of various stakeholders thereto, in State Labour Department, Directorate of Industrial Safety and Health, offices of the District Collectors, Department of Revenue, Police and Judicial and civil service academies, teachers training and refresher courses and arrange sensitisation programmes for other relevant stakeholders including, Panchayat members, doctors, Employers and concerned officials of the State Government.

2B. 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, –

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

(i) shall not be in any hazardous occupation or process listed in the Schedule to the Act;

(ii) 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;

(iii) shall only be allowed to help in his family, or in a family enterprise, where his family is the occupier;

(iv) shall not be in performing any task during school hours and between 7 p.m. and 8 a.m.;

(v) shall not be 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;

(vi) shall not be in any task engaged continuously without rest which may make him 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;

(vii) shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise; and

(viii) shall not be in contravention to any other law for the time being in force.

(b) 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, education and overall development of the child.

Explanation 1.- For the purposes of this rule, in addition to parents, only-

(a) biological brother and sister of the child;

(b) brother or sister of the child through lawful adoption by parents of the child; and

(c) biological brother and sister of parents of the child, shall be included for comprising of the family of a child.

Explanation 2.- For the purposes of *Explanation* 1, it is hereby clarified that preliminarily, any doubt as to whether a person is a biological brother or sister, may be removed by examining the pedigree of such person issued by the concerned Municipality or Panchayat, as the case may be, or any other legal document issued by concerned authority of the State Government.

(2) Where a child receiving education in a school remains absent consecutively for thirty days without intimation to the Principal or Head Master of the school, then, the Principal or Head Master shall report such absence to the concerned Nodal Officer referred to in clause (i) of sub-rule (1) of rule 3C for information.

2C. 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 than five hours in a day, and for not more than three 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 3 and the list of child participants, consent of parents or guardian, as the case may be, name of the individual of 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 State 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 and clean shelter with sufficient provisions for daily necessities; and

(iv) 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;

(d) arrangement of appropriate facilities for education of the child 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) appointment of one responsible person 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 shall 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

(g) that 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" contained 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 events; and

(v) any other artistic performances which the State Government permits in individual cases, which shall not include street performance for monetary gain.

2D. 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.

2E.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 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 for such child or adolescent is opened in a nationalized 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;

(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 or adolescent, as the case may be, by the bank or officer responsible to invest the amount under intimation 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) with 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.";

(4) for rule 3, the following rule shall be substituted, namely:-

"3. 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, and in the absence thereof;

(ii) The 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;

(iii) The birth certificate of the adolescent given by a corporation or a municipal authority or a Panchayat; and only in the absence of any 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.

(3) The ossification test or any other latest medical age determination test shall be conducted on the order of the appropriate authority not below the rank of District Collector as may be specified by the State Government in this behalf, and such determination shall be completed within fifteen days from the date of such order.

Form 1.

(5) The charges payable to the medical authority for the issue of the certificate of age shall be same as specified by the State Government, as the case may be, for their Medical Boards.

(6) The charges payable to the medical authority shall be borne by the employer of the adolescent whose age is determined under this rule.

Explanation.- For the purposes 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.";

(5) after rule 3, the following rules shall be inserted, namely : —

"3A. Persons who may file complaint.- Any person who may file a complaint under the Act for commission of any offence, include child himself, school teachers and representatives from school management committee, District Level Child Protection Committee, Task Force constituted under State Action Plan, Panchayat or Municipality, who shall be sensitized to file complaint, in the event that any of students in their respective schools is employed in contravention to the provisions of the Act.

3B. Manner of Compounding Offences.- (1) An accused person

(i) Who commits an offence for the first time under sub-section (3) of Section 14; or

(ii) Who being parent or a guardian, commits an offence under the said section, may file an application through the Inspector 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 an application filed under sub-rule (1), dispose of such application, 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 period to be specified in such certificate; or

(ii) The payment of an additional sum of twenty-five per cent 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 the said clause within the specified period, and such delayed payment shall be made within a further period as may be specified by the District Magistrate, which shall not exceed the period specified in that clause.

(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 proceedings shall be continued as specified under sub-section (2) of Section 14D.

3C. Duties of District Magistrate.—(1) The District Magistrate shall –

(i) Specify such officers subordinate to him, as he considers necessary, to be called District 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 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; and

(iii) Preside over as Chairperson of the Task Force to be formed in a district consisting of –

(a) Inspector appointed under Section 17 for the purposes of his local limits of jurisdiction;

(b) Superintendent of Police for the purposes of his local limits of jurisdiction;

(c) Additional District Magistrate for the purposes of his local limits of jurisdiction;

(d) District Nodal Officer referred to under clause (i) for the purposes of his local limits of jurisdiction;

(e) 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;

(f) A representative of the District Legal Services Authority to be nominated by the District Judge;

(g) A member of the District Anti-trafficking Unit;

(h) Chairperson of the Child Welfare Committee of the District;

(i) District Child Protection Officer;

(j) District Education Officer;

(k) Any other person nominated by the District Magistrate;

(l) Chief Medical Officer;

(m) Secretary of the Task Force shall be any of the nodal officers referred to in clause (i) and nominated by 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) In addition to the duties referred to in sub-rule (1), the District Magistrate shall ensure through nodal officers that the children and adolescents who are employed in contravention of the provisions of the Act are rescued and shall be rehabilitated –

(a) in accordance with the provisions of –

(i) State Action Plan for elimination of Child Labour and Prohibition and Regulation of Adolescent Labour;

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

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

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

(v) any National Child Labour Project;

(vi) any other law or scheme for the time being in force under which such children or adolescents may be rehabilitated; and subject to -

(I) the directions, if any, of a court of competent jurisdiction;

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

3D. Duties of Inspectors.—An Inspector appointed by the State Government under Section 17, for the purposes 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 instructions issued by the State Government from time to time for the purposes of securing the compliance with the provisions of the Act; and

(iii) report to the State 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.

3E. Periodical Inspection and Monitoring.— The State Government shall create a system of monitoring and inspection for carrying into effect the provisions of Section 17, which may include–

(i) the number of periodical inspection to be conducted by the Inspector of the places at which the employment of children and adolescent is prohibited and hazardous occupations or processes are carried out;

(ii) the intervals at which an Inspector shall report to the State Government about the complaints received by him relating to the subject matter of inspection under clause (i) and the details of action taken by him thereafter;

(iii) maintaining of records electronically or manually by the inspector for inspection and monitoring purpose relating to the details of -

(a) children and adolescent found to be working in contravention of the provisions of the Act including children who are found to be engaged in family or family enterprises in contravention of the Act;

(b) number and details of the offences compounded;

(c) compounding amount imposed and recovered; and

(d) rehabilitation services provided to children and adolescents under the Act.";

(6) in rule 4,-

(i) in sub-rule (1), for the word "children", the word "adolescent" shall be substituted;

(ii) for sub-rule (2), the following sub-rule shall be substituted, namely:-(2) the date of birth indicated in column (4) of

Form 2 shall be as in certificate of age referred to in sub-rule (1) of rule 3."; (7) in Form 2,-

(i) in the heading, for the words "child workers", the words "Adolescent Workers" shall be substituted;

(ii) in the heading in column 2, for the words "Name of the child", the words "Name of the adolescent" shall be substituted;

(8) after Form 2, the following Form shall be added, namely:-

"FORM 3

[*See* rule

2C(1)(b)]

I …….. producer of ……. an audio - visual media production or organizer of ……. a commercial event, involving the participation of the following child/children, namely:-

Serial No.	Name of the Child/ Children	Parent's/Guardian's Name	Address

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 of the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Central Act 61 of 1986) and the Tamil Nadu Child and Adolescent Labour (Prohibition and Regulation) Rules, 1994 and full care shall be taken of the physical and mental health, and other requirements of the child/children, so that he/they feel no 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 will be complied with.

Dated:……..

Name and Signature of the Producer.".

Md. NASIMUDDIN,

Principal Secretary to Government.

printed and published by the Director of Stationery and printing, chennai on behalf of the Government of Tamil Nadu