

**[ DOLE DEPARTMENT ORDER NO. 65-04, July 26, 2004 ]**

**RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9231 AMENDING R.A. 7610, AS AMENDED**

Pursuant to Section 10 of Republic Act No. 9231 (An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose Republic Act No. 7610, as amended, Otherwise Known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), the following Implementing Rules and Regulations are hereby promulgated:

**Chapter 1 - Preliminary Provisions**

*SECTION 1. Coverage* - These Rules shall cover all persons and entities engaging the services of or employing children.

*SECTION 2. Declaration of State Policy and Principles* - The State shall provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination and other conditions prejudicial to their development including child labor and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of, and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts are committed by the said parent, guardian, teacher or person having care and custody of the child.

The State shall also protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interest of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principles of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

*SECTION 3. Definition of Terms* - As used in these Rules, the term:

- a. **Child** refers to any person under 18 years of age.
- b. **Child Labor** refers to any work or economic activity performed by a child that

subjects him/her to any form of exploitation or is harmful to his/her health and safety or physical, mental or psychosocial development.

c. **Working Child** refers to any child engaged as follows:

i. when the child is below eighteen (18) years of age, in work or economic activity that is not child labor as defined in the immediately preceding sub-paragraph; and

ii. when the child is below fifteen (15) years of age, (i) in work where he/she is directly under the responsibility of his/her parents or legal guardian and where only members of the child's family are employed; or (ii) in public entertainment or information.

d. **Parent** refers to either the biological or adoptive mother or father.

e. **Guardian** refers to any person who exercise substitute parental authority regardless of whether or not such parental authority over a child is bestowed by a court.

f. **Members of the family** refer to the child's parents, guardian, brothers or sisters whether of full or half blood, and other ascendants and descendants or collateral relatives within the fourth civil degree of consanguinity.

g. **Employer** refers to any person, whether natural or juridical who, whether for valuable consideration or not, directly or indirectly procures, uses, avails itself of, contracts out or otherwise derives benefit from the work or services of a child in any occupation, undertaking, project or activity, whether for profit or not. It includes any person acting in the interest of the employer.

h. **Department** refers to the Department of Labor and Employment.

i. **Collective needs of the family** refer to such basic needs as food, shelter, light and water, clothing, education, medical, transportation and other expenditure items necessary for the survival of the family of the child.

j. **Work permit** refers to the permit secured by the employer, parent or guardian from the Department for any child below 15 years of age in any work allowed under Republic Act No. 9231.

k. **Hours of work** include (1) all time during which a child is required to be at a prescribed workplace, and (2) all time during which a child is suffered or permitted to work. Rest periods of short duration during working hours shall be counted as hours worked.

l. **Workplace** refers to the office, premises or worksite where a child is temporarily or habitually assigned. Where there is no fixed or definite workplace, the term shall include the place where the child actually performs work to render service or to take an assignment, to include households employing children.

m. **Public entertainment or information** refers to artistic, literary, and cultural performances for television show, radio program, cinema or film, theater, commercial advertisement, public relations activities or campaigns, print materials, internet, and other media.

n. **Formal education** refers to the institutionalized, hierarchically structured and chronologically - guided educational system running from elementary to tertiary levels.

o. **Non-formal education** refers to any organized, systematic educational activity conducted outside of the formal education system to provide selected type of learning.

p. **Alternative learning system** refers to a parallel and comparable learning system which provides a viable alternative to the existing formal education system.

q. **Forced labor and slavery** refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage or deception.

r. **Child pornography** refers to any representation of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

s. **Recovery and reintegration** refers to various interventions and services that facilitate the process of healing and eventual return of the child to the family and community.

t. **Normal development of the child** refers to the physical, emotional, mental, and spiritual growth of a child within a safe and nurturing environment where he/she is given adequate nourishment, care and protection and the opportunity to perform tasks appropriate at each stage of development.

## **Chapter 2 - Prohibition on the Employment of Children**

*SECTION 4. General Prohibition* - Except as otherwise provided in these Rules, no child below 15 years of age shall be employed, permitted or suffered to work, in any public or private establishment.

*SECTION 5. Prohibition on the Employment of Children in Worst Forms of Child Labor* - No child shall be engaged in the worst forms of child labor. The phrase "worst forms of child labor" shall refer to any of the following:

a. All forms of slavery, as defined under the "*Anti-trafficking in Persons Act of 2003*" , or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict.

b. The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances;

c. The use, procuring or offering of a child for illegal or illicit activities, including the production or trafficking of dangerous drugs or volatile substances prohibited under existing laws; or

d. Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:

i. Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or

ii. Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or

iii. Is performed underground, underwater or at a dangerous heights; or

iv. Involves the use of dangerous machinery, equipment and tools such as power driver or explosive power-actuated tools; or

v. Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or

vi. Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to the extreme temperatures, noise levels or vibrations; or

vii. Is performed under particularly difficult conditions; or

viii. Exposes the child to biological agents such as bacteria, fungi, viruses, protozoa, nematodes and other parasites; or

ix. Involves the manufacture or handling of explosives and other pyrotechnic products.

**SECTION 6. *Prohibition on the Employment of Children in Certain Advertisements*** - No child below 18 years of age shall be employed as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by products, gambling or any form of violence or pornography.

### **Chapter 3 - Exceptions to the Prohibition**

**SECTION 7. *Exceptions and Conditions*** - The following shall be the only exceptions to the prohibitions on the employment of a child below 15 years of age:

a. When the child works under the sole responsibility of his/her parents or

guardian, provided that only members of the child's family are employed.

b. When the child's employment or participation in public entertainment or information is essential, regardless of the extent of the child's role.

Such employment shall be strictly under the following conditions:

- i. The total number of hours worked shall be in accordance with Section 15 of these Rules;
- ii. The employment does not endanger the child's life, safety, health and morals, nor impair the child's normal development;
- iii. The child is provided with at least the mandatory elementary or secondary education; and
- iv. The employer secures a work permit for the child in accordance with Section 8-12 of these Rules.

#### **Chapter 4 - Requirements to Avail of Exceptions to Employment Prohibition**

*SECTION 8. Work Permit* - Except as provided in Section 13, no child below 15 years of age shall be allowed to commence work without a work permit. An employer must first secure a work permit from the Regional Office of the Department having jurisdiction over the workplace of the child. In cases where the work is done in more than one workplace falling under the jurisdiction of more than one Regional Office, the application shall be made with the Regional Office having jurisdiction over the principal office of the employer. However, at least two days prior to the performance of the work, the employer shall inform the Regional Office having jurisdiction over the workplace of the activities to be undertaken involving the child.

*SECTION 9. Requirements for the Issuance of Work Permit* - The employer shall submit to the appropriate Regional Office the following:

a. A duly accomplished and verified application for work permit containing the following information:

BLOCKQUOTE>i. Terms and conditions of employment including hours of work, number of working days, remuneration, and rest period, which shall be in accordance with law;

ii. Measures to ensure the protection, health, safety, morals, and normal development of the child, including but not limited to the following:

- 1. comfortable workplace and adequate quarters;
- 2. break or rest periods in comfortable day beds or couches;
- 3. clean and separate dressing rooms and toilet facilities for boys and girls;
- 4. provision for adequate meals and snacks and sanitary eating facility;