

TANZANIA
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THE LAW OF THE CHILD (CHILD EMPLOYMENT) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY PROVISIONS

1. Citation and Commencement.
2. Application.
3. Interpretation.

PART II

EMPLOYMENT OF THE CHILD

4. Minimum Age of Employment.
5. Prohibited Forms of Employment.
6. The Worst Forms of Child Labour.
7. Hazardous Employment.
8. Sexual Exploitation.
9. Light Work.
10. Health and Safety.

PART III

MINIMUM EMPLOYMENT STANDARDS

11. Contract of Employment.
12. Break During Work.
13. Remuneration.

PART IV

DUTIES OF THE EMPLOYER AND EMPLOYEE

14. Duty of the Employer.
15. Duty of the Employee and Caregiver.

PART V

CHILD EMPLOYMENT AND TRAINING

16. Training in Selected Sectors.
17. Certificate of Training.

PART VI

COMPLIANCE AND ENFORCEMENT

18. Duties of the Labour Officer.

PART VII

ADMINISTRATION, ENFORCEMENT AND RESPONSE

19. Duties of a Social Welfare Officer.
20. Sanctions for Breach.
21. Dispute Resolution.

THE LAW OF THE CHILD ACT.

(CAP.13)

REGULATIONS

THE LAW OF THE CHILD (CHILD EMPLOYMENT)
REGULATIONS

PART I

PRELIMINARY PROVISIONS

- Citation and Commencement
1. These Regulations may be cited as the Law of the Child (Child Employment) Regulations, 2012.
- Application
2.-(1) These Regulations shall apply to all employers in the public, private and the not-for profit sector in Tanzania Mainland.
- Cap. 366
Cap. Nos. 101, 432, 297
(2) These Regulations shall be read with the Employment and Labour Relations Act, the Labour Institutions Act, the Sexual Offences Special Provisions Act, the Anti Trafficking of Persons Act, the Occupational Health and Safety Act, Persons with Disability Act, 2010 and any other relevant Act or Regulation.
- Interpretation
Cap. 13
3. In these Regulations unless the context otherwise requires:
"Act" means the Law of the Child Act;
"caregiver" means any parent, guardian, institution responsible for caring for children, village leader or a recognized village committee, teacher or any person responsible for caring for a child;
"child" means a person under the age of eighteen years;
"child employment" means any form of work permitted under these Regulations;
"care homes" means registered premises used for caring of patients, children or elderly;
"contract of Employment" means a contract or a written statement of particulars signed by the employer and the child's caretaker;
"domestic chores" are tasks undertaken at the household level as part of a socialization process;

"employee" means an individual who has entered into a contract of employment or entered into any other contract for work;

"employer" means any person who employs and it includes including the government, private institution or an executive agency;

"employment" means legally accepted activities which are within the national accounts of production boundary, activities aiming at attaining decent goals and yielding an income at least equivalent to the set sectoral minimum wage;

"forced Labour" means work or service that is imposed on the child under threat of a penalty and which the child has not undertaken voluntarily.

(a) trafficking of a child for any type of work, including domestic work, agriculture, tourist sector, mining, for sexual exploitation, in bars or any premises considered to place the child at moral, psychological, physical or any other risk;

(b) bonded child labour;

(c) slave labour or practices similar to slavery;

(d) commercial sexual exploitation;

(e) employment or recruitment of a child in armed conflict;

(f) abduction for the purposes of marriage.

"hazardous work" means any work which places a child at risk to suffer physical or mental injury;

"informal sector" includes all unregistered commercial and non commercial enterprises without a formal organisation structure;

"labour officer" means an officer prescribed by the Labour Institutions Act;

"light work" means a work, which is not likely to be harmful to the child's health and development; and does not prejudice the child's attendance at school participation in vocational orientation or training programmes approved by the competent authority or the child's capacity to benefit from the instruction received;

"minimum working age" refers to the age fixed by this Act and the Employment and Labour Relations Act, which is fourteen years or the age of completion of compulsory schooling, whichever is the later;

"premises" means a building, establishment, office, grounds, estate, site and it includes a vessel, vehicle, an aircraft and any other place in which the child works;

"night work" means a work undertaken between 8.00 pm and 6.00 am;

"person with disability" means a person with a physical, intellectual, sensory or mental impairment and whose functional capacity is limited by encountering attitudinal, environmental and institutional barriers;

Cap. 300

Cap. 300

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

- Cap. 300
- “remuneration” means the total value of all payments in money made or owing to an employee;
- “sectoral minimum wage” means a minimum wage determined by a sectoral wage board to specific sector in accordance with section 39 of the Labour Institutions Act;
- “social welfare officer” means a social welfare officer in the service of the Government;
- “week” means the period of six days within which the working week of that employee normally falls.

PART II

EMPLOYMENT OF A CHILD

Mini-
mum Age
of
Employ-
ment
Cap. 366

4.—(1) A child who is under the age of fourteen years shall not be employed.

(2) A child who is over the age of fourteen years and still attending school shall in the following circumstance, not be employed—

- (a) during school hours or on any day on which he is required to attend school;
- (b) for more than two hours on any day on which he is required to attend school;
- (c) for more than twelve hours a week during any school week;
- (d) to work at night;
- (e) to work for more than thirty six hours per week during school holidays;
- (f) to do any work other than light work;
- (g) to work more than six days in any one week.

(3) Notwithstanding the provision of sub-regulation (1), a child may undertake work during school hours where it forms part of work experience programme organised by a school or where such work forms part of an educational programme.

(4) Domestic chores within the family or assisting parents with domestic enterprises shall not be considered as a child employment or prohibited forms of child labour unless the conditions of such work risk the child.

Prohib-
ited
Forms of
Employ-
ment
Cap. 366
Cap. 366

5.—(1) A child shall not be employed or engaged for the purposes of exploitative labour.

(2) For the purposes of the Act and these Regulations, exploitative labour includes those forms of labour set out in section 5 of the Employment and Labour Relations Act, the worst forms of child labour,

hazardous work as set out in section 82 of the Act, forced labour as set out in section 6 of the Employment and Labour Relations Act and section 80 of the Act, and sexual exploitation as set out in section 83 of the Act.

6. The worst forms of child labour includes—

The worst forms of child labour

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

7.—(1) A child shall not be employed or engaged to undertake any work defined as hazardous in section 82 of the Act and under these Regulations:

Hazardous Employment

Provided that hazardous labour as described in the Act shall not be deemed hazardous for a child who has reached the minimum age of sixteen years who undertakes such work under supervision and the work does not place the child at risk of his well-being, education, physical or mental health or moral or social development, and if undertaken with specific instruction or vocational training in the relevant branch.

(2) The list of hazardous work appended to the First Schedule to this Regulation shall constitute a list of all hazardous activities in which a child shall not be employed or permitted to work even on a voluntary basis.

(3) The Ministry may amend the list of hazardous activities and such amendment shall be deemed to be the correct and up to date hazardous list for the purposes of these Regulations.

8.—(1) A person shall not employ or engage children in any activity that involves sexual acts of any nature or activity that exposes the child's sexual parts or exposes a child to sexual scenes or pictures, whether on the employer's premises or elsewhere.

Sexual Exploitation
Cap. 101

(2) In determining other acts which constitute sexual exploitation, reference shall be made to the Penal Code Act.

Cap. 16

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

(3) A person shall not expose a child to the purchase, sale, delivery or use of pornographic materials.

Light
work

9.—(1) A child who has reached the minimum working age may be allowed to undertake light work as provided in the Act and in the Employment and Labour Relations Act.

Cap. 366

(2) The competent authority shall, in determining what constitutes light work take into account any other hazards that are present on the premises or outside the premises when the child is involved in any form of work.

(3) Light work shall not include work that is considered hazardous in any manner and it includes working in the following premises—

(a) premises or environment that increases risk to health and safety including places with dust or fumes, dangerous chemicals, excessive noise, vibrations, heat, bending, standing, or sitting down, places that are excessively wet or filled with water, dangerous working facilities such as sharp instruments, heavy machinery, carrying heavy loads on the back, head or shoulders or the use of fire or exposed flames; and

(b) a premises that exposes a child to moral and psychological hazards including selling of pornographic materials or exposes the child to physical or sexual violence and abuse or activities, circumstances, words or any act that exposes the child to immorality or immoral behaviour.

Health
and
Safety,
Cap. 297

10.—(1) Every employer shall be responsible for ensuring the safety and welfare of any child employee in accordance with the Occupational Health and Safety Act, and any other law regulating health and safety at work.

(2) The employer shall undertake risk assessment to ensure that the workplace is safe and all risks are minimised to the greatest extent possible or removed.

Act No. ...
of 2010

(3) A child with disability shall be provided with rights and entitlements as provided in the Persons with Disability Act and any other law governing employment of people with disability.

PART III

MINIMUM EMPLOYMENT STANDARDS

Contract
of
employ-
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11.—(1) A child shall not be employed without a contract or a written statement of particulars signed by the employer and countersigned by child's caregiver.

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(2) The child shall express his consent to the terms and conditions of the contract or written statement of particulars in the presence of the employer and a caregiver.

(3) A contract shall be read to the child by the caregiver or a local government leader of an once where the child is employed in the absence or inability of the caretaker to do so.

Cap. 366

(4) An employer shall be responsible for preparing contracts of employment.

(5) The employer shall include in the contract all rights and entitlements as provided in part III of the Employment and Labour Relations Act.

(6) The duration of contract shall be in accordance with the Employment and Labour Relations Act and where necessary, further determined by the employer in consultation with the caregiver on behalf of the child and unless otherwise stated, renewal shall be subject to re-negotiated with the child and their caregiver.

Cap. 366

(7) The provisions governing occupational health and safety as provided by the law shall constitute part of the agreement.

(8) The contract shall prescribe the right to medical care for the child if a child is injured or falls ill during work.

(9) A child injured or falling ill as a result of employment shall be paid compensation in accordance with the Worker's Compensation Act.

(10) The contract shall outline the duties of a child and state the specific activities that the child will be engaged in.

(11) The provisions the Employment and Labour Relations Act may be used to guide drafting of contracts.

12.—(1) An employer shall give a child who works for more than three hours in any one day a meal or break interval of at least one hour.

Break
during
work

(2) The child's remuneration shall not be deducted as a result of break periods.

(3) The break period shall not count towards the maximum hours of work on any one day.

(4) A child shall not be required or allowed to work overtime whether for pay or without payment.

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

Remunera-
tion 13.—(1) An employers shall be responsible for paying not less than the sectoral minimum wage rates.

(2) Remuneration for the child shall be in accordance with the Employment and Labour Relations Act, the wage Order and any other Regulations.

Cap. 366 (3) Deductions on remuneration shall not be made unless made in accordance with the provisions of section 28(1) of the Employment and Labour Relations Act and the sectoral minimum wage Rules.

PART IV

DUTIES OF THE EMPLOYER AND EMPLOYEE

Duty of
the
Employer 14.—(1) The employer shall inform the child of all rights, obligations, remedied and dispute settlement mechanism.

(2) The employer shall supervise and ensure that the child employee is not operating dangerous machines, using dangerous work instruments or working in a dangerous and hazardous working environment.

(3) The employer shall not discriminate the child employees on grounds of sex, ethnicity, disability, HIV AIDS status, orphanhood or any other condition.

(4) The employer shall be responsible for providing comfortable accomodation to children with disability.

(5) The employer shall be responsible for providing adequate sanitary facilities for a girl and a boy employees at all times.

(6) The employer shall be responsible for ensuring that the child is working under conditions of safety, including ensuring that they have working gear and any other safety conditions as stipulated in Occupational Health and Safety laws.

(7) The employer shall register all children working in the premises.

(8) The register shall contain details of age, ethnicity, sex, disability and contact details of caregivers.

(9) The employer shall release the register for inspection when required by any authorized institution.

(10) The employer shall abide to all laws and Regulations governing the protection of a child.

15.—(1) A caregiver shall have the duty to report any abuse or exploitation to a social welfare officer or local authorities where the caregiver suspects that there is abuse or exploitation of a child employee.

Duty of
the
Em-
ployee
and
Caregiver

(2) Any other person may report of an abuse or exploitation to a social welfare officer or local authorities where that person suspects that there is abuse or exploitation.

(3) Where a case has been reported to a local authority, the local authority shall have the duty to immediately report the case to a social welfare officer for further action.

(4) A child shall report abuse or exploitation committed at the place of work to a social welfare officer, local government authority or any other institution working on children's rights.

(5) An employee shall work diligently and abide to the terms and conditions of the contract.

(6) The employee shall take measure to ensure good care use of the facilities and equipments belonging to the employer.

PART V

TRAINING AND CHILD EMPLOYMENT

16.—(1) A child may in accordance with section 5 (5) of the Employment and Labour Relations Act and section 82 (4) of the Act, be permitted to participate in training provided that the child is not exposed any hazardous conditions.

Training
in
Selected
Sectors
Cap. 363

(2) Training in a factory, ship or mine shall be conducted in accordance with an approved curriculum and under the regular inspection by a labour officer, occupational health officer and vocational education and training inspector.

(3) Where training conditions have been proved to be safe by a labour Officer or any other institutions responsible for approving standards, child of working age shall be registered by the training provider.

(4) The register shall include age of child date of birth, ethnic group, name of the child, sex, disability status, level of education, health status, names and contact of caregivers and nature of training received.

(5) The Register shall be open for inspection by a labour officer or any other officer authorized by the Act.

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

Certifi-
cate of
Training

(6) The duration of the training in a factory, ship or mine shall not exceed four years.

(7) Use of safety gears during training in a factory, training ship or mine shall be mandatory.

(8) A contract for training shall be in line with the provisions of the Education Act, the Law of the Child (Apprenticeship) Regulations of 2011 and any other Regulations regarding apprenticeship agreements.

17.—(1) A child shall be entitled to a certificate of accomplishment after completion of the full course of training.

(2) The certificate of training shall be in line with government standards for issuing of certificates.

PART VI

COMPLIANCE AND ENFORCEMENT

Duty of a
Labour
Officer
Cap. 300

18.— (1) A labour officer shall inspect working conditions and standards regularly as provided for under the Labour Institutions Act and its successive.

(2) A labour officer shall have the power to interview any child found working in any premises.

(3) The interview shall be conducted in private without any other person being present.

(4) The labour officer shall have a duty of informing the child of all employment rights and entitlements including dispute resolution mechanisms.

(5) The labour officer shall be responsible for ensuring that an employer who employ children have complied with standards of employment set out in the Employment and Labour Relations Act, the Occupational Health and Safety Act and any other relevant Acts.

(6) The labour officer shall, in consultation with a Social Welfare Officer shall take all necessary measures to monitor compliance to Part VII of the Act.

(7) When a child is found working in exploitative conditions, the labour officer shall immediately inform designated authorities including a social welfare officer, local authorities and the police.

PART VII

ADMINISTRATION, ENFORCEMENT AND RESPONSE

Duty of a
Social
Welfare
Officer

19.—(1) The social welfare officer shall, upon receiving information of a breach of these Regulations, be responsible for reporting the breach to the police.

(2) Where a case has been reported to a social welfare officer or any other designated authority, the social welfare officer or any other government official shall ensure that any child is removed or withdrawn from that employment and is offered rehabilitative services.

(3) The social welfare officer shall ensure that the child is referred to institutions or any other fit person that provides temporary shelter or any other services as the case may be.

(4) It shall be the duty of the Social Welfare Officer to establish contact with the caregiver and discuss the circumstances leading to the withdrawal or removal of the child from the exploitative employment, and the consequences of that exploitation.

20. Where a person contravenes any of the provisions regarding the employment of a child, all sanctions, remedies and penalties provided in the Act in the Penal Code, the Employment and Labour Relations Act and any other laws and Regulations shall apply.

Sanctions
for
Breach

Cap.
No. 16
and 366

21.-(1) Any violations of these provisions or any other provisions regarding child employment shall be instituted in courts of law in accordance to the Labour Institutions Act.

Dispute
Resolu-
tion

Cap. 300

(2) A child shall be provided with legal and any other support to facilitate their attendance to a hearing in court.

(3) The regulations governing child justice shall apply with the intention of protecting the child.

SCHEDULE

Made under Regulation 7 (2)

Hazardous Work

A: AGRICULTURE SECTOR

1. Applying pesticides including fertilizers.
2. Harvest and sorting where using dangerous tools and equipments or harvesting plants that can be harmful.
3. Planting where the conditions pose threats or hazards to the health of the child.

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

4. Herding large number of livestock.
5. Operating farm machinery.
6. Assisting technicians in farm workshops if safety measures are not adhered to.
7. Carrying harvest to transport trucks.
8. Carrying wastes for disposal.
9. Cleaning commercial animal houses.
10. Cleaning spraying equipment.
11. Fetching and carrying fire wood for business.

B: FISHERY SECTOR

1. Placing and hauling fishnets.
2. Sorting fish.
3. Cooking for commercial purposes.
4. Carrying ice blocks.
5. Degutting de-scaling, Bisecting fish.
6. Fish salting and drying.
7. Draining boats.
8. Deep sea fishing.

C: MINING AND QUARRYING SECTOR

1. Shaft, drift or trench digging.
2. Carrying ore from shaft.
3. Drilling and blasting.
4. Crushing ore.
5. Grinding or sifting ore.
6. Planning wet and dry sand.
7. Carrying water.
8. Amalgamation and treating the mineral.

D: CONSTRUCTION SECTOR

1. Cement mixing.
2. Painting.
3. Brick making (clay or cement).
4. Trenching.
5. Carrying water
6. Carrying bricks.
7. Excavation operation.
8. Demolition operations.
9. Motor vehicle helper.
10. Store crushing in quarries and transportations to site.

E: SERVICE SECTOR

(a) Domestic services

1. Repairing equipment and dwellings.
2. Giving personal assistance and care to care homes.
3. Hauling firewood and other fuel.
4. Providing Security.

G.N. No. 196

(b) Restaurant

1. Window
2. Washing
3. Carrying
4. Bed making
5. Fetching
6. Cooking
7. Swimming
8. Washing

(c) Community

1. Cobble
2. Electric
3. Auto repair
4. Painting
5. Refuse
6. Laundry
7. Hair dress
8. Barber
9. Water v
10. Scaven
11. Street f
12. Beggar

F: TRADING

1. Carrying
2. Selling

G: TRANSPORT

1. Service
2. Carrying
3. Loading

H: OTHER

1. Carpe
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27th

Law of the Child (Child Employment)

G.N. No. 196 (contd.)

(b) Restaurant and Hotel Service.

1. Window cleaning.
2. Washing beddings and furnishing outside areas.
3. Carrying water.
4. Bed making.
5. Fetching firewood.
6. Cooking food (street food stalls).
7. Swimming pool cleaning.
8. Washing large amounts of dishes.

(c) Community services

1. Cobblers.
2. Electrical repair.
3. Auto repair.
4. Painting.
5. Refuse collection.
6. Laundry shops.
7. Hair dressing saloon and beauty parlours.
8. Barber shop.
9. Water vending.
10. Scavenging.
11. Street food vending.
12. Begging or use of children to beg on streets.

F: TRADE SECTOR

1. Carrying and selling merchandise in the streets.
2. Selling pornographic materials.

G: TRANSPORT SECTOR

1. Service station.
2. Carrying luggage.
3. Loading goods into vehicles.

H: OTHER SECTORS

1. Carpentry and fixture working.
2. Cotton ginning processing and production of hosiery goods.
3. Detergents manufacturing.
4. Lime kilns and manufacture of lime.
5. Jute textile manufacture and coir making.
6. Manufacturing of cement production.
7. Redamation of lead.
8. Manufacturing of cement products.
9. Carpet and mattress making.
10. Cloth printing and dying wearing garments.
11. Hand and power looms.
12. Chemical formulation.
13. Foundry.
14. Tanning.
15. Gradation and cashew nuts descaling and processing.
16. Manufacture of and handling of pesticides.
17. Pottery and ceramic manufactures.
18. Dancing in bars, hotels and night clubs for payment.

Dar es Salaam,
27th March, 2012

HADJI H. MPONDA,
Minister for Health and Social Welfare

