

IN EXERCISE of the powers conferred by section 17 (5) of the Children Act, 2020 the Cabinet Secretary, in consultation with the Cabinet Secretary in the Ministry of Labour, Social Security and Services, and the Cabinet Secretary in the Ministry of Education, Science and Technology, makes the following Regulations:

The Children (Employment) Regulations, 2020

Arrangement of Regulations

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	PART I - PRELIMINARY
Citation and Commencement	1. These Regulations may be cited as The Children (Employment) Regulations, 2020 and shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.
Interpretation	2. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it, and unless the context otherwise requires – “Act” means the Children Act, 2020; “authorised officer” has the meaning assigned to it under section 2 of the Employment Act; “child “ has the meaning assigned to it under Article 260 of the Constitution;
Guiding Principles	3. Subject to section 17 of the Act and Part VII of the Employment Act, the employment of children shall be guided by the following principles:

	<p>(a) a child is protected from child labour , and from any form of employment which is hazardous to, or interferes with a child’s education;</p> <p>(b) a child is protected from the worst form of child labour, within the meaning of the Employment Act, and from any form of employment or work which harms or is likely to harm the child’s health, safety or morals; and</p> <p>(c) the employment of a child shall be for the purpose only of the child’s education, and of ensuring the child’s physical, mental, moral and social development.</p>
	PART II – EMPLOYMENT OF CHILDREN
Who May be Employed	<p>4. A child who is between thirteen and sixteen years of age may be employed –</p> <p>(a) in any light work specified in the First Schedule; or</p> <p>(b) as an apprentice or indentured learner in accordance with the Industrial Training Act.</p>
Certain Forms of Employment Prohibited	<p>5. (1) A person shall not employ a child who has not attained the age of sixteen years in connection with any work or process without the prior written permission of an authorised officer.</p> <p>(2) Sub-regulation (1) shall not apply where the child –</p>

(a) helps their family or their family enterprise, other than a hazardous occupation or process specified in the Second Schedule, after the child's school hours or during vacations; or

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or other entertainment or sports activities, and subject to such conditions and safety measures as the Cabinet Secretary may prescribe from time to time.

(3) A person shall not employ a child –

(a) in such circumstances as would cause the child to reside away from the child's parents or guardian, unless the approval of the parents or guardian to such employment is first had and obtained in writing;

(b) in a bar, hotel, restaurant or club where intoxicating liquor is sold, or elsewhere as a tour guide;

(c) to perform any work which denies the child the opportunity to attend school; or

(d) to perform any work which substantially restricts the child's opportunity to play with other children.

(4) Subject to section 17(1) of the Act and section 53(2) of the Employment Act, the employment of a child in any work to be performed as part of the activities specified in the Second Schedule shall be deemed to be harmful to the health, safety and morals of a child.

	<p>(5) For the purposes of this regulation –</p> <p>(a) “artist” means a child who performs or practices in relation to work, hobby or profession directly involving the child as an actor, singer, sports persons, or in such other activity as may be prescribed under these Regulations in relation to entertainment or sports activities; and</p> <p>(b) “family enterprise” means any work, profession, manufacture or business not hazardous to the child’s well-being and which is performed by members of a family with or without the engagement of other persons.</p>
<p>Form of Application, Regulation 5(1)</p>	<p>6. (1) A person or enterprise which intends to employ a child shall submit to an authorised officer a written application containing the following particulars:</p> <p>(a) the name, age and sex of the child to whom the application relates;</p> <p>(b) the proposed working hours during which the child shall be engaged in employment;</p> <p>(c) a Photostat copy of the letter of appointment stating –</p> <p>(i) the nature of activities in which the child shall be engaged;</p> <p>(ii) the terms of employment, including the salary, wages, allowances and other benefits accruing to the child;</p>

	<p>(iii) the section or division where the child is expected to work;</p> <p>(iv) whether the child is provided with accommodation; and</p> <p>(v) whether the proposed employment is permanent or temporary.</p> <p>(2) The application referred to in sub-regulation (1) shall be accompanied by a medical certificate issued by a medical practitioner containing a statement as to whether the child –</p> <p>(a) is in good physical and mental health; and</p> <p>(b) is eligible and fit for employment.</p> <p>(3) A medical certificate issued under sub-regulation (2) is valid for a period of one year.</p> <p>(4) Where the applicant seeks to employ more than one child, a separate application shall be made in respect of each child.</p>
<p>Procedure on Application</p>	<p>7. Upon receipt of an application, the authorised officer shall consider the application and –</p> <p>(a) allow the application; or</p>

	<p>(b) decline to approve the employment of a child, giving reasons for the refusal.</p> <p>(2) The decision of an authorised officer, in respect of one or more children, made under sub-regulation (1) shall be final.</p>
Employment of a Child at Sea	<p>8. (1) No person shall employ a child in a ship, other than a ship upon which only members of the child's family are employed, without the production of a medical certificate issued pursuant to regulation 6.</p> <p>(2) A medical certificate referred to in sub-regulation (1) shall be valid for a period of one year:</p> <p>Provided that a medical certificate which is due to expire during the course of a voyage shall remain in force until the end of that voyage.</p> <p>(3) The continued employment of a child at sea shall be subject to the production, each year, of a further medical certificate attesting to the continued fitness of the child for the specific work for which the child is employed.</p>
Employment of More Than Ten Children	<p>9. A person who is authorised to employ more than ten children below the age of sixteen years on permanent basis shall designate a person, to be approved in writing by the Labour Commissioner, to be responsible for the welfare of the children.</p>
	PART III – REGULATION OF WORKING CONDITIONS
Hours and Period of Work	<p>10. (1) Subject to section 59 of the Employment Act, a child shall not be required or permitted to work in an establishment</p>

	<p>in excess of such number of hours as may be prescribed for such establishments or class of establishments, as the Cabinet Secretary may determine.</p> <p>(2) The period of work on each day shall be so fixed that such period shall not exceed three hours, and that a child shall not work for a period of more than three hours before they have had an interval for rest for at least one hour.</p> <p>(3) A child's period of work shall be so organised that, inclusive of the child's interval for rest under sub-regulation (2), it shall not be spread over more than six hours inclusive of the time spent in waiting for work on any particular day.</p> <p>(4) A child shall not be required or permitted to work overtime.</p>
Weekly Days Off	11. A child employed in an establishment shall be entitled to one day off-duty each week, which day shall be specified by the employer in a notice conspicuously displayed in the establishment, and the day so specified shall not be altered by the employer more than once in three months.
Remuneration	12. A child employed in an enterprise is entitled to monthly remuneration and allowances amounting in the aggregate to such sums as are set from time to time in accordance with section 46 of the Labour Institutions Act.
Leave	<p>13. A child employed in an enterprise is entitled to the following categories of leave with full pay:</p> <p>(a) duly recognised public holidays;</p>

	<p>(b) sick leave in accordance with the terms and conditions of employment;</p> <p>(c) compassionate leave on account of bereavement, or serious illness of a parent or guardian, and in accordance with the child’s terms and conditions of employment;</p> <p>(d) annual leave of not less than thirty calendar days each year; and</p> <p>(e) study leave of not less than ten days each year.</p>
<p>Communication and Access at Working Hours</p>	<p>14. (1) A child’s employer shall take reasonable steps to ensure that, while at work, the child is able to contact and communicate with their parent or guardian or, if it is not reasonably practicable to contact or communicate with a parent or guardian, a relative, friend or other person closely connected with the child.</p> <p>(2) A child’s employer shall allow a parent or guardian of the child to personally call at the child’s workplace while the child is at work.</p> <p>(3) Without prejudice to sub-regulation (2), a child’s employer may restrict or exclude the child’s parent or guardian from a particular area of the child’s workplace, or from contacting the child directly, if –</p> <p>(a) the restriction or exclusion is for a limited period of time; and</p>

	<p>(b) the reason for such restriction or exclusion is –</p> <p>(i) to ensure that the employer’s production is not disrupted; or</p> <p>(ii) To safeguard the health and safety of the child or of any other person at the workplace.</p>
Notice to Parent or Guardian in Certain Cases	<p>15. If a child is injured or becomes ill while at work and is no longer able to work, the child’s employer shall ensure that all reasonable steps are immediately taken to notify a parent or guardian of the child in that regard or, if it is not reasonably practicable to notify a parent or guardian, a relative, friend or other person closely connected with the child.</p>
	PART IV – MISCELLANEOUS PROVISIONS
Register of Children in Employment	<p>16. (1) A person who employs a child shall keep and maintain a register containing, in respect of each child, the following particulars:</p> <p>(a) the name, age, date of birth and sex of the child;</p> <p>(b) names and contacts of child’s parents or guardians;</p> <p>(c) the hours and periods of work of each child, and the intervals of rest to which the child is entitled;</p> <p>(d) the nature of work;</p> <p>(e) the date on which the child commenced and left employment, as the case may be; and</p> <p>(f) such other particulars as may be prescribed under the Act or any other written law.</p>

	(2) The register referred to in sub-regulation (1) shall be available for inspection by an authorised officer at all times during working hours, or when work is being carried on in the establishment.
Offences and Penalty	17. A person who contravenes a provision of these Regulations commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.
	<p style="text-align: center;">FIRST SCHEDULE</p> <p style="text-align: center;">[Regulation 4)(a).]</p> <p style="text-align: center;">LIGHT WORK</p> <ol style="list-style-type: none"> 1. Work performed at school as part of the school curriculum for the benefit of a child. 2. Agricultural or horticultural work not exceeding two hours at a time. 3. Delivery of non bulk newspapers or printed materials. 4. Shop work including shelf stacking. 5. Domestic hair dressing 6. Light office work 7. Car washing by hand in private residential settings 8. Work in a cafe or restaurant, provided that the nature of work is restricted to waiting on tables. <p style="text-align: center;">SECOND SCHEDULE</p>

[Regulation 5 (2) (a).]

ACTIVITIES HARMFUL TO THE HEALTH, SAFETY AND MORALS OF A CHILD

Activity

Work

Domestic Work

House keeping

Food preparation

Laundry

Boda boda transport

Transport

Serving as a porter

Pushing hand carts

Gang wars

Internal conflicts

Bull fighting

Ferrying of ammunitions

Mining and stone crushing

Underground digging and extraction of minerals

Carrying heavy loads

Refining minerals

Sand harvesting

Gathering of sand from river beds, depressions and pits

Lifting heavy loads

Miraa (Khat) picking

Climbing miraa trees to harvest twigs

Herding of animals

Looking after cattle for more than two hours in a day

Brick making

Any brick making process involving extraction, crashing, grinding, screaming and mixing

Agriculture

Working with machinery

	<p>Working with chemicals</p> <p>Moving heavy loads of animal feeds</p> <p>Ferrying heavy farm produce</p>
Industrial undertaking, warehousing	<p>Any type of work so long as within the precincts of these workplaces</p> <p>Earth digging</p> <p>Carrying stones or rocks</p> <p>Shoveling sand, ballast, cement or soil</p>
Building and construction work	<p>Metal work</p> <p>Welding</p> <p>Ascending to high places</p> <p>Work with ladders</p> <p>Work in confined spaces</p> <p>Work with risk of structural collapse</p>
Deep lake and sea fishing	<p>Diving to depths of up to 60 meters to perform any work</p>
Glass factory	<p>Working with molten glass</p> <p>Carrying molten loams</p> <p>Mixing hot steaming chemicals</p>
Matches and fireworks	<p>Making matchsticks</p> <p>Sniffing crater powder</p>
Tannery	<p>Tanning and presuming hides and skins</p>
Urban informal sector and street families	<p>Begging</p> <p>Use of toddlers to ask for alms</p> <p>Demeaning, unsanitary work</p>
Scavenging	<p>Reclaiming usable material from garbage</p> <p>Glue sniffing</p>

	Tourism	Tour guide, entertainment performances, hospitality services
	Service work	Commercial modeling, commercial hairdressing