

Authoritative English text of this Department Notification Shram (A)4-4/93, dated-12.10.1999, as required under clause of article 348 of Constitution of India).

Government of Himachal Pradesh
Department of Labour & Employment

Notification

Shram (A)4-4/93

Dated Shimla-171002, the 12.10.1999.

Whereas the draft "Himachal Pradesh Child Labour (Prohibition and Regulation) Rules, 1999" were published in the Rajpatra, Himachal Pradesh dated- 05.6.1999 vide notification of even no. dated- 5th March, 1999, in pursuance of the provisions of section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (Act No. 61 of 1986), for inviting objections suggestions from the persons likely to be affected thereby.

And whereas the objections and suggestions received within the stipulated period in respect of the said draft rules have been duly considered by the State Government;

Now, therefore, in exercise of power conferred by section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (Act No. 61 of 1986), the Government of Himachal Pradesh is pleased to make the following rules namely:-

H.P. Child Labour (Prohibition and Regulation) Rules 1999.

1. Short title and commencement- (1) These rules may be called the Himachal Pradesh Child Labour (Prohibition and Regulation) Rules, 1999.

(2.) They shall come into force from the date of their publication in Rajpatra Himachal Pradesh.

2. Definitions- (1) In these rules, unless the context otherwise requires:-

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

(b) "Form" means a form specified under these rules;

(c) "Register" means a register required to be maintained under section 11;

(d) "Schedule" means the Schedule appended to the Act; and

(e) " Section" means a section of the Act;

(2) The words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

3. Working Hours:- The number of hours of work which shall constitute a normal working day as required under sub-section (1) of section 7, shall be four and an half hour with one hour's rest after first three hours of work.

4. Maintenance of register under section 11-(1) Every occupier of an establishment shall maintain a register in respect of children employed or permitted to work there in Form "A".

(2)The register referred to in sub-rule (1) shall be maintained on yearly basis but shall be retained by the occupier for a period of three years, after the date last entry was made therein.

5. Certificate of age-(1) All children in employment or seeking employment in any of the occupations set forth in part_'A' of the Schedule or in any workshop wherein any of the processes set forth in part-'B' of the Schedule are carried on shall produce a certificate of age from the appropriate medical authority, whenever required to do so by an inspector, appointed under section-17 of the Act.

(2) The appropriate medical authority for the purpose of sub-rule (1) shall be a Government Medical Officer not below the rank of an Assistant Civil Surgeon or a regular Doctor of equivalent rank employed in the Employees State Insurance Dispensaries or Hospitals.

(3) The certificate of age as referred to in Sub-rule (1) shall be issued in Form B and no fee shall be charged for the same.

6. Prohibition of Employment of Child Labour in Dangerous operation:- The following areas shall be deemed to be of a dangerous character where the employment of Child Labour shall be prohibited, namely:-

(a) dangerous machines, including powers process other than hydraulic process, milling machines used in metal trades, guilloton machines, circular saws plates and printing machines;

(b) work machinery in motion;

(c) self acting Machines;

(d) carrying of excessive weights beyond sixteen kilograms in case of male child and thirteen kilograms in case of female child;

(e) explosives;

(f) inflammable dust, gas, etc

(g) exposure to chemical and toxic substances and

(h) Cotton ginning.

7. Protection of Child Labour- (1) The establishment employing child labour in the following work shall provide in the protection, namely.

(a) Protection of eyes- Effective screening and suitable goggles shall be provided for the protection of the eyes in the following process, namely:-

(i) Welding or cutting of metals by means of electric oozy acetylene or similar processes;

(ii) all works on furnaces where there is risk of exposure to excessive light;

(iii) processes relating to cutting or forging of metals; and (iv) any other process where there is risk to the eyes.

(b) fencing of machinery;

(c) protection from fire and explosive risk:

(d) protection from leakage of inflammable liquid,; and

(e) safety valves for closed vassels in which gas is passed and in which the pressure is liable to rise to a dangerous degree.

(2). Adequate precautions shall he taken by the establishment to prevent the omission of effluents which may be dangerous or poisonous.

(3). Breathing apparatus shall be provided by the establishment in operations, where dangerous gas or fumes are liable to escape.

8. Health measures. —(1) Every establishment shall be kept clean and free from effluvia arising from any drain, privy or other nuisance.

(2) Effective and suitable provisions shall be made in every establishment for securing and maintaining healthy atmosphere in work room by providing the following facilities, namely:-

(a) Adequate ventilation for the circulation of fresh air: and

(b) Such room temperature as are required for the workers for reasonable conditions of comfort and prevention of injury to health keeping in view the climate conditions.

(3) In every establishment effective arrangements shall be made to provide and maintain, at suitable points conveniently situated, for all child laborers employed therein, a sufficient supply of wholesome drinking water.

(4) In every establishment sufficient latrines and urinals accommodations shall be provided.

9. Safety education- Every establishment employing child labour shall impart sufficient safety education to the child labour before their engagement.

FORM- A

(See rule 4 (1))

Year _____ Place of work _____

Name and address of occupier _____

Nature of work being done by the establishment

Sr. No	Name of Child	Father's Name	Date of Birth	Permanent address	Date of joining the establishment
1	2	3	4	5	6

Nature of work on which employed	Daily hours of work	Intervals of rest	Wages paid	Remarks	
7	8	9	10	11	

FORM- B

Certificate of Age

(SEE Rule 5 (3))

I here by certify that I have personally examined.

(name) _____

Son/Daughter of _____

Residing at _____

And that he/ she has completed his/ her fourteenth Year and his/her age, as nearly as can be ascertained from my examination is _____ years (completed). His/ her descriptive marks are _____ thumb- impressions/sign of child _____

Medical Authority

Place: _____

Designation

Date-----

[Authoritative English text of this Department Notification No. Shram (A)4-5/2017, dated 27-09-2018 as required under clause (3) of Article 348 of the Constitution of India].

GOVERNMENT OF HIMACHAL PRADESH

DEPARTMENT OF LABOUR & EMPLOYMENT

NOTIFICATION

In exercise of the powers conferred by Section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Governor, Himachal Pradesh is pleased to amend the Himachal Pradesh Child Labour (Prohibition and Regulation) Rules, 1999 notified vide this Department Notification No. Shram (A)4-4/1993 dated 12-10-1999, namely:—

1. Short title and commencement—(1) These rules may be called as the Himachal Pradesh Child and Adolescent Labour (Prohibition and Regulation) First Amendment Rules, 2018.

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

2. Amendment of Short Title.—In the Himachal Pradesh Child Labour (Prohibition and Regulation) Rules, 1999 (hereinafter referred to as the 'said rules'), in rule 1, in sub-rule (1), for the words, brackets, signs and figures "Himachal Pradesh Child Labour (Prohibition and Regulation) Rules, 1999", the words, brackets, signs and figures "Himachal Pradesh Child and Adolescent Labour (Prohibition and Regulation) Rules," shall be substituted.

3. Amendment of rule 2.—In rule 2 of the said rules:-

(i) 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);
and

(ii) after clause (b), the following clause shall be inserted, namely:-

(ba) "Fund" means the Child and Adolescent Labour Rehabilitation Fund constituted under sub-section (1) of section 14B of the Act;

(bb) "Inspector" means the Inspector appointed by the State Government under section 17 of the Act"

4. Insertion of new rule 2A, 2B and 2C.—After rule 2 of the said rules, the following rules shall be inserted, namely:—

"2A. Awareness on prohibition of employment of child and adolescents in contravention to Act.—The State Government shall, ensure that the children and adolescents are not employed or permitted to

work in any occupation or process in contravention to the provisions of the Act, through appropriate measures,—

(a) arrange public awareness campaigns in media including 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 to the provisions of the Act, aware 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 or instances of employment of children or adolescents in contravention to 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, ports and port authorities, airports and other public places including shopping centers, markets, cinema halls, hotels, hospitals, panchayat offices, police stations, resident welfare association offices, industrial areas, schools, 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 sensitization 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, doctors and concerned officials of the 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 Part A and B of the Schedule to the Act;

(ii) shall not include work or occupation or process at any stage of the 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 perform any tasks during school hours or between 7 P.M. and 8 A.M.;

(v) 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 extracurricular activity assigned to him by the school;

(vi) shall not be engaged in any task 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 and overall development of the child.

Explanation 1.—For the purposes of this rule, only –

(a) real brother and sister of the child;

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

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

Explanation 2.—For the purposes of this rule, in case of any doubt as to whether the task performed by a child amounts to helping his family for securing compliance with the provisions of section 3, the Inspector may seek clarification from the State Government and shall abide by the clarification so obtained.

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 C and the list of child participants or guardian, as the case may be, consent of parents, name of the individual from the production or event who shall be responsible for the safety and security of the child;

(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 Central/ 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, 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) appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school;

(e) 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;

(f) at least 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 nationalized bank in the name of the child which may be credited to the child on attaining majority; and

(g) 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 to sub-section (2) of section 3 of the Act, 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 shows on television, internet, radio or any other media including reality shows which includes quiz shows and talent shows;

(iii) drama serials;

(iv) participation as anchor of a show or events; and

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

5. Substitution of rule 3.— For rule 3 of the said rules, the following rule shall be substituted, namely:—

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. Amendment of rule 4.—In rule 4 of the said rules, in sub-rule (1), for the word “children”, the word “adolescents” shall be substituted.

7. Insertion of new rule 4A.—After rule 4 of the said rules, the following rule shall be inserted, namely:—

“4A. 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 of the Act, to the Child and Adolescent Labour Rehabilitation 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 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;

(ii) the interest accrued on the proportionate amount of the Fund in favour of the child or adolescent shall be annually transferred to the account of the child or adolescent, as the case may be, by the bank or officer responsible to invest the amount under information 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 including the interest 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 judgement 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 judgement.”

8. Substitution of rule 5.—For rule 5 of the said rules, the following rule shall be substituted, namely:—

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), taken into account –

(i) the Aadhar card of the adolescent, and in the absence thereof;

(ii) 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;

(iii) 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.

(3) The ossification test or any other latest medical age determination test shall be conducted on the order of the appropriate authority of the rank of Labour Commissioner, 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.

(4) The certificate of age referred to in sub-rule (1) shall be issued in Form B.

(5) The charges payable to the medical authority for the issue of the certificate of age shall be same as specified by the Central Government or 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, —

- (i) “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;
- (ii) “adolescent” means an adolescent as defined in clause (i) of section 2 of the Act.¹.

9. Insertion of new rules 5A, 5B, 5C, 5D and 5E.— After rule 5 of the said rules, the following rules shall be inserted, namely:—

“5A. Persons who may file complaint.—Any person who may file a complaint under the Act for commission of any offence include school teachers and representatives from school management committee, child protection committee, 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.

5B. Manner of compounding the offence.—(1) An accused person,-

- (i) who commits an offence first time under sub- section (3) of section 14 of the Act; or
- (ii) who being parent or a guardian, commits an offence under the said section, may file application to the District Magistrate having jurisdiction for compounding the offence under sub-section (1) of section 14D of the Act.

(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 time specified in such certificate; or

(ii) 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 the said clause within the specified time and such delayed payment shall also 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 State 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 of the Act.

5C. Duties of District Magistrate.—(1) The District Magistrate shall –

- (i) 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 State Government under section 17A of the Act;
- (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) nodal officer referred to under clause (i) for the purposes of his local limits of jurisdiction;
 - (e) Labour Officer for the purposes of his local limits of jurisdiction;
 - (f) 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;
 - (g) a representative of the District Legal Services Authority to be nominated by the District Judge;
 - (h) a member of the District Anti-trafficking Unit;
 - (i) Chairperson of the Child Welfare Committee of the District;
 - (j) 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;
 - (k) any other person nominated by the District Magistrate; and

(1) Secretary of the Task Force shall be any of the nodal officers referred to in clause (i) and nominated by the 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 Central/ 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) Apart from 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 in accordance with the provisions of—

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

(ii) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976); (iii) the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016;

(iv) any National Child Labour Project;

(v) 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 Central/State Government from time to time in this regard.

5D. 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 Central/State Government from time to time for the purposes of securing the compliance with the provisions of the Act; and

(iii) report 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.

5E. 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 is prohibited and hazardous occupations or processes are carried out;
- (ii) the intervals at which an Inspector shall report to the State Government complaints received to him relating to the subject matter of inspection under clause (i) and the details of action taken by him thereafter;
- (iii) maintenance of record electronically or otherwise 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) details of compounding amount imposed and recovered; and
 - (d) details of rehabilitation services provided to children and adolescents under the Act.”.

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

11. Insertion of Form C.— After Form B appended to the said rules, the following Form shall be inserted, namely:—

“FORM C

[See Rule 2C(b)]

Undertaking under rule 2C(b) of the Himachal Pradesh Child and Adolescent Labour (Prohibition and Regulation) Rules, 1999

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

Sl. No.	Name of the Child/Children	Parent’s/Guardian’s Name	Address
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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 (61 of 1986) and the Himachal Pradesh Child and Adolescent Labour (Prohibition and Regulation) Rules, 1999 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 will be complied.

Name and Signature

Date.....