



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila

DEPARTMENT ORDER NO.149
Series of 2016

**GUIDELINES IN ASSESSING AND DETERMINING HAZARDOUS WORK
IN THE EMPLOYMENT OF PERSONS BELOW 18 YEARS OF AGE**

SECTION 1. Basis. – This Guidelines is issued pursuant to Article 137 (c) of Presidential Decree No. 442, otherwise known as the *Labor Code of the Philippines*, as renumbered¹, and its implementing rules and regulations; 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”* and its implementing rules and regulations; and Republic Act No. 10361, *An Act Instituting Policies for the Protection and Welfare of Domestic Workers*, otherwise known as Domestic Workers Act or *Batas Kasambahay*, and its implementing rules and regulations.

SECTION 2. Policy. – Pursuant to Republic Act No. 9231, the employment of a person below 18 years of age is prohibited in any 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:

- a. Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or
- b. Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or
- c. Is performed underground, underwater or at dangerous heights; or
- d. Involves the use of dangerous machinery, equipment and tools, such as power-driven or explosive power-actuated tools; or
- e. 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
- f. 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 extreme temperatures, noise levels, or vibrations; or

¹ Department Advisory No. 1, Series of 2015

- g. Is performed under particularly difficult conditions; or
- h. Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes, and other parasites; or
- i. Involves the manufacture or handling of explosives and other pyrotechnic products.

SECTION 3. Purpose. – This Guidelines shall be used by the Labor Laws Compliance Officers of the Department within the framework of Department Order No. 131, Series of 2013 (Rules on Labor Laws Compliance System) in monitoring and assessing compliance with labor standards, occupational safety and health standards, and laws related to child labor.

SECTION 4. Definition of Terms. – As used in this Guidelines, the term:

- a. **Child** refers to any person under 18 years of age²
- 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 development³
- c. **Dangerous heights** refers to any elevated surface of more than two (2) meters
- d. **Department** refers to the Department of Labor and Employment
- e. **Difficult condition** includes work performed for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer
- f. **Establishment** refers to any private entity, whether operating for profit or not, employing individuals where work or any of its incidents are being undertaken, including its branches⁴
- g. **Heavy load** refers to any load that weighs more than 10 kilograms or 20% of a male child's body weight whichever is lesser, or 8 kilograms or 15% of a female child's body weight whichever is lesser
- h. **Industrial classification** refers to the classification of industries under the 2009 Philippine Standard Industrial Classification published by the National Statistical Coordination Board
- i. **Occupational classification** refers to the classification of occupations under the 2012 Philippine Standard Occupational Classification published by the National Statistical Coordination Board

² Section 3(a), Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

³ Section 3(b), Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

⁴ Section 1(k), Rule II of Department Order No. 131-13, Series of 2013

- j. **Underground** refers to any area beneath the surface of the earth
- k. **Underwater** refers to any area below the surface of the water

SECTION 5. Coverage. – This Guidelines shall apply to all establishments employing persons below 18 years of age.

SECTION 6. Hazardous Work and Activities.

- a. Work and activities under the following industrial classifications which would subject the child to the conditions provided under Section 2 of this Guidelines are declared hazardous to persons below 18 years of age:
 - i. *Mining and Quarrying* – This includes the extraction of minerals occurring naturally as solids (coal and ores), liquids (petroleum) or gases (natural gas). Extraction can be achieved by different methods such as underground or surface mining, well operation or seabed mining.
 - ii. *Construction* – This includes general construction and specialized construction activities for buildings (such as dwellings, office buildings, stores, farm buildings and other public and utility buildings) and civil engineering works (such as motorways, streets, bridges, tunnels, railways, airfields, harbours and other water projects, irrigation systems, sewerage systems, industrial facilities, pipelines and electric lines, sports facilities). It includes new work, repair, additions and alterations, the erection of prefabricated buildings or structures on the site and also construction of a temporary nature.
 - iii. *Transportation and Storage* – This includes the provision of passenger or freight transport, whether scheduled or not, by rail, road, water or air and associated activities such as terminal and parking facilities, cargo handling and storage. Also included are the renting of transport equipment with driver or operator, and the postal and courier activities.
 - iv. *Water Supply; Sewerage, Waste Management and Remediation Activities* – This includes activities related to the management of various forms of waste, such as solid or non-solid industrial or household waste, as well as contaminated sites.
 - v. *Forestry and Logging* – This includes the production of roundwood for the forest-based manufacturing industries as well as the extraction and gathering of wild growing non-wood forest products.
 - vi. *Fishing and Aquaculture* – This includes capture fishery and aquaculture, covering the use of fishery resources from marine, brackish or freshwater environments, with the goal of capturing or gathering fish, crustaceans, mollusks and other marine organisms and products.
 - vii. *Hunting, Trapping and Related Service Activities* – This includes hunting and trapping on a commercial basis, taking of animals (dead or alive) for

- food, fur, skin, or for use in research, in zoos or as pets or production of fur skins, reptile, or bird skins from hunting or trapping activities.
- viii. *Security and Investigation* – This includes security-related services such as investigation and detective services; guard and patrol services; or picking up and delivering money, receipts, or other valuable items with personnel and equipment to protect such properties while in transit.
 - ix. *Manufacturing* of alcoholic beverages, tobacco, pyrotechnics, rubber and plastic products, chemicals and chemical products, basic metals, and weapons and ammunitions
- b. Work and activities under the following occupational classifications are declared hazardous to persons below 18 years of age:
- i. **Farmers and Other Plant Growers**
 - 1. Preparatory activities such as clearing of land, plowing, harrowing, irrigating, grafting, and cutting
 - 2. Tending activities such as handling, spraying and application of harmful fertilizers, pesticides, herbicides, and other toxic chemicals and the loading and carrying of heavy loads
 - 3. Harvesting activities such as cutting and picking, spreading for drying, hauling, topping, tumbling, tuxying, stripping, burning of field, sticking and classifying, threshing, loading and carting of produce
 - 4. Post-harvesting activities such as de-husking, scooping, sacking of products, charcoal making, hauling of products as led by animal guide, loading and unloading of packed farm products, coconut kilning and de-meating of crops from shell or core, sealing and carting of produce for warehousing and transport to market and all ancillary work such as clearing, cleaning, and re-cycling of farm waste in its preparation as animal food and other related processes
 - ii. **Animal Producers**
 - 1. Rearing activities such as collecting, loading, unloading, and transporting of feeds, maintenance and care of large and/or dangerous animals, collecting and disposal of dead animals, animal manure and other waste materials, administering of vaccines and vitamins, and handling of disinfectants used for cleaning animal pens/enclosures or for disinfecting animals
 - 2. Harvesting activities such as catching or collecting, ranching, and milking in preparation for warehousing or transport to market

3. Post-harvesting activities such as packaging and processing of dairy and other animal by-products in preparation for warehousing and transport to market
 4. Working in slaughterhouses or abattoirs
- iii. Physical Science, Life Science, and Health Associate Professionals
1. Tasks that involve operating radiation emitting machines/equipment/apparatus, high power laboratory, medical, dental, optical and electronic equipment, and all veterinary-related equipment such as vaccinators
 2. Tasks that involve extracting, collecting, or processing of human or animal blood, fecal remains and other similar body fluids, chemicals and exposure to biological agents
 3. Using a child as human sample in experiments for new drugs and vaccines
- iv. Sales and Services Elementary Occupations
1. Work that require the use of dangerous power tools, machines, devices, and sharp instruments like power saw, lawnmower, grass cutter, and similar implements, except regular household tools and kitchen utensils
 2. Tasks that involve handling, use, and application of or exposure to toxic, corrosive, flammable, and combustible substances and composites, extreme weather conditions, temperatures, noise and vibrations, humidity, dust and other particulates, slippery or constantly wet environment, verbal or physical intimidation or abuse, and shall involve the lifting and carrying of heavy loads
 3. Selling of alcoholic beverages, tobacco, pyrotechnics, chemicals and chemical products, weapons and ammunitions, pornographic merchandise, dangerous high power tools, machines, devices, and sharp instruments
 4. Courier and delivery service-related tasks that expose the child to road accidents, and lifting and carrying of heavy loads
- v. Personal and Protective Services Workers
1. Travel-related tasks that involve escorting, accompanying, or guiding tourists in dangerous activities such as mountain climbing, open sea diving, forest and waterfalls sight-seeing
 2. Personal care of persons with communicable diseases and adults, including all related tasks in a residential or institutional set-up

3. Housekeeping-related tasks that require the use of power instruments, handling, use, and application of toxic, corrosive, flammable, and combustible substances and composites, exposure to extreme temperatures, noise, and vibrations, and manual lifting and carrying of heavy loads
 4. Restaurant services-related tasks that involve bartending; cooking involving the use of pressurized cookers, industrial boilers, steamers and similar equipment; and lifting and carrying of heavy loads
 5. Tasks that involve preparing and serving alcoholic drinks for immediate consumption in the premises of the establishment
 6. Work which exposes the child to sexual abuse such as in lewd shows, KTV bars, massage parlors and other similar establishments
 7. Tasks that involve disposing of dead human bodies such as making arrangements for, and conducting funerals, cremations and burials, and embalming human bodies
- vi. Customer Services Clerks
1. Tasks that involve inbound and outbound sales and technical support services or contact center services to clients over the phone or internet
 2. Any work in gambling facilities
- vii. Other Craft and Related Trade Workers
1. Tasks that involve the driving or operating of high power machinery or equipment, such as but not limited to payloaders, backhoes, bulldozers, cranes, pile driving equipment, trailers, road rollers, tractors, lifting appliances, scaffold witches, hoist, and excavators and loading machines; lifting and carrying of heavy loads; exposure to toxic, corrosive, flammable, and combustible substances and composites, heat, humidity, dust and other particulates, poor ventilation and illumination; ceramics and glass making, metal or wood fabricating, fitting, welding, rigging, treating, and setting, and tool making, including all types of ores, precious stones, metals and leather
 2. Sanding, varnishing, painting and tasks related to textile and garments
- c. Other work and activities that may subsequently be declared as hazardous

SECTION 7. Enforcement and Administration.

a. Actions of the Secretary of Labor and Employment or Regional Director.⁵ – In case of violation, the Secretary of Labor and Employment or his or her duly authorized representative, shall undertake the following actions:

- i. Order the immediate and permanent closure of the establishment if:
 1. The violation has resulted in the death, insanity or serious physical injury of a child employed in such establishment; or
 2. Such firm or establishment is employing a child for prostitution or obscene or lewd shows.

The employer shall pay all employees affected by the closure their separation pay and other monetary benefits provided for by law.

- ii. Order the immediate and temporary closure of the establishment if there is imminent danger to the life and limb of the child in accordance with the occupational safety and health standards. An imminent danger is a condition or practice that could reasonably be expected to cause death or serious physical harm.

In no case shall the closure be lifted unless the imminent danger has been abated. For the duration of the closure, the employer shall pay the wages of all employees affected. If after due hearing, the closure is made permanent, the employer shall pay all employees affected their separation benefits, as provided in the immediately preceding subsection.

- iii. In both cases, require the employer to:
 1. Shoulder the transportation cost of the child from the place of work to an accredited halfway house of the Department of Social Welfare and Development and to the child's residence; and
 2. Shoulder the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses.

b. Violations Not Resulting in Death, Insanity or Injury of the Child.⁶ – The Regional Director, after due notice and hearing, and without prejudice to the filing of the appropriate criminal and civil actions, shall:

- i. In case of a first violation, issue a compliance order for immediate restitution and correction of the violation. Failure to comply with said order constitutes a second violation;

⁵ Section 21, Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

⁶ Section 23, Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

- ii. In case of a second violation, issue a compliance order for immediate restitution and correction of the violation and prohibit the employer from hiring a child for six months commencing from the date of last offense. Failure to comply with said order constitutes a third violation; and
- iii. In case of a third violation, issue a compliance order for immediate restitution and correction of the violation. Failure to comply with said order constitutes a fourth violation justifying closure of the establishment.

In appropriate cases, the Regional Director may file against the employer a case for indirect contempt as provided for under Rule 71 of the Revised Rules of Court.

- c. Enforcement Procedure.⁷ – The proceedings arising from Subsections 7(a) and 7(b) shall be summary in nature. It may be initiated *motu proprio* by the Department or upon complaint by any interested party.

Permanent or temporary closure shall be effected upon service by the Regional Director of a notice of closure on the employer. Within 24 hours from notice, the Regional Director shall call a hearing to confirm the closure, in which the employer shall be given the opportunity to present evidence why closure is not an appropriate remedy. Within 72 hours from the last hearing, the Regional Director shall issue an order confirming or lifting the closure as the case may be.

Any motion for reconsideration of the Regional Director's action shall be resolved by the Secretary of Labor and Employment. Upon issuance of the notice and during the pendency of the proceedings, the child concerned shall not be allowed to work.

- d. Disposition of Investigation Report.⁸ – The investigation report of the Department on violations that may constitute a criminal offense under Republic Act No. 9231, together with other relevant documents and evidence, shall be immediately forwarded to the provincial or city prosecutor concerned who shall determine the filing of the appropriate criminal charge.
- e. Article 128 (Visitorial and Enforcement Power) of the Labor Code, as amended, and other pertinent rules and regulations issued by the Secretary of Labor and Employment shall apply in a suppletory manner.

SECTION 8. Criminal Liability. – Any person who violates, or the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work shall suffer the penalty of a fine of not less than One hundred thousand pesos (P100,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or both such fine and imprisonment at the discretion of the court.⁹

⁷ Section 24, Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

⁸ Section 28, Rules and Regulations Implementing Republic Act No. 9231 Amending R.A. No. 7610, as amended

⁹ Section 16(b), Republic Act No. 7610, as amended by Republic Act No. 9231

SECTION 9. Partnership. – Social partners such as labor organizations, federations, employers' organizations and other non-government organizations shall be tapped to assist the Department in the dissemination and in monitoring the implementation of this Guidelines.

SECTION 10. Separability Clause. – If any part or provision of this Guidelines is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

SECTION 11. Repealing Clause. – Department Order No. 4, Series of 1999 is hereby superseded.

SECTION 12. Effectivity. – This Department Order shall take effect fifteen (15) days after publication in a newspaper of general circulation.


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Secretary

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