

SUBSIDIARY LEGISLATION 452.92**YOUNG PERSONS (EMPLOYMENT)
REGULATIONS**

5th April, 2004

LEGAL NOTICE 440 of 2003, as amended by Legal Notices 427 of 2007 and 257 of 2012.

1. (1) The title of these regulations is the Young Persons (Employment) Regulations. Title and scope.

(2) The purpose of these regulations is to:

- (a) prohibit work by children;
- (b) establish that the minimum employment age shall not be lower than the minimum age at which compulsory full-time schooling ends;
- (c) regulate work by adolescents and young persons; and
- (d) ensure that employers guarantee that young people have working conditions which suit their age and are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development or to jeopardise their education.

(3) These regulations shall apply to any person under eighteen years of age having a contract of employment or any form of employment relationship with an employer.

(4) These regulations shall not apply to occasional work or short-term work involving -

- (a) domestic service in a private household, or
- (b) work in a family undertaking:

Provided that, in either case, the work to be performed cannot be regarded as being harmful, damaging or dangerous to a young person.

(5) These regulations shall come into force on the 5th April, 2004.

2. (1) In these regulations:

"the Act" means the Employment and Industrial Relations Act;

"adolescent" means any young person who has reached sixteen years of age, or any other age which may from time to time be established as the school leaving age by virtue of the Education Act, but is less than eighteen years of age;

"child" means any young person, of either sex, who is under sixteen years of age, or any other age which may from time to time be established as the school leaving age by virtue of the Education Act;

Interpretation.
Amended by:
L.N. 257 of 2012.
Cap. 452.

Cap. 327.

Cap. 327.

"Director" shall have the same meaning assigned to it by article 2 of the Act;

Cap. 327. "Director of Education" has the same meaning assigned to it by article 2 of the Education Act;

"light work" means all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which the tasks are performed:

- S.L. 424.18
- (a) has been shown by a risk assessment, in terms of the General Provisions for Health and Safety at Workplaces Regulations, and any other relevant health and safety legislation which may be in force from time to time, carried out by the employer in accordance with the same General Provisions for Health and Safety at Workplaces Regulations, to be work which is not likely to be harmful to the safety, health or development of children; and
 - (b) the Director of Education has no objection to the carrying out of such work on the grounds that such work is harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the Minister responsible for education or by such other person duly authorised by the said Minister to act on his behalf, or their capacity to benefit from the instruction received;

Cap. 424. "Occupational Health and Safety Authority" means the Authority established by virtue of the Health and Safety Authority Act;

"parent" includes any person having the legal care or custody of a young person;

"rest period" means any period which is not working time;

"working time" means any period during which the young person is at work, at the employer's disposal and carrying out his activity or duties;

"work" includes any duty, activity, task or service producing a product or result, and being performed for payment or for free or in exchange for goods, for services, for profit or for benefit;

"young person" means any person under eighteen years of age.

(2) Subject to the provisions of subregulation (1), terms and expressions used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act.

Work by children.
Amended by:
L.N. 257 of 2012.
Cap. 327.

3. (1) Subject to subregulation (2) and (3), no person shall employ a child unless the child has been granted written permission in terms of the provisions of the Education Act.

(2) An employer shall apply to the Director for written authorisation to employ a child in cultural, artistic, sports or advertising activities, and the Director may issue such authorisation, in individual cases, for the employment of a child in such activities:

Provided that:

- (a) the employer carries out a risk assessment, in terms of the General Provisions for Health and Safety at Workplaces Regulations, and any other relevant health and safety legislation which may be in force from time to time, in accordance with the same General Provisions for Health and Safety at Workplaces Regulations, which shows that such activities are not likely to be harmful to the safety, health or development of the child; and S.L. 424.18
- (b) the Director of Education has no objection to the carrying out of such activities on the grounds that such work is not likely to have an adverse effect on the child's attendance at school, or on his participation in vocational guidance or training programmes approved by the Minister responsible for education or by such other person duly authorised by the said Minister to act on his behalf, or on the capacity to benefit from the instruction received.

(3) Subregulation (1) shall not apply in respect of the employment of children who are at least:

- (a) thirteen years of age and the employment is for the purposes of taking part in cultural, artistic, sports, advertising or educational activities, approved by the Minister responsible for education:

Provided that the employer shall submit a written notification to the Director prior to employing such children and shall abide with the provisions of subregulation (4);

or who are:

- (b) fourteen years of age, if they are:
- (i) working under a combined work/training scheme or an in-plant work-experience scheme approved by the Minister responsible for education:

Provided that the employer shall submit written notification to the Director prior to employing such children; or

- (ii) performing light work other than that covered by subregulations (2) and (3)(a):

Provided that the employer shall seek written authorisation from the Director prior to employing such children.

(4) In issuing the authorisation referred to in subregulation (2), and in the cases referred to in subregulation (3)(a), the Director may, at his discretion, attach such conditions as the Director deems fit on any issue relating to the conditions of employment of children, including on working time, night work, rest periods, and breaks, and it shall be the duty of an employer of such a child to comply fully with these conditions:

Provided that under no circumstance shall these conditions be less favourable than the conditions of work applicable to children referred to in subregulation (3)(b).

(5) The authorisation granted by the Director referred to in subregulation (2) and subregulation (4) may be withdrawn at any time, and any decision taken by the Director on any issue related to the employment of children and relating to the conditions of employment in this regard shall be final.

Working time.

4. (1) The working time for a child who is authorised to work in terms of regulation 3(3)(b) shall not exceed that shown in the Schedule.

(2) The working time for adolescents shall not exceed eight hours a day and forty hours a week.

(3) Any time spent on training by a young person working under a theoretical and, or practical combined work, training scheme or an in-plant work-experience scheme shall be counted as working time.

(4) (a) Where a young person is employed by more than one employer, working days and working time shall be cumulative and shall not exceed the working days and working times established by these regulations.

(b) It shall be the duty of the employer to ascertain whether a young person is performing work for another employer and to ascertain the working time in any other employment.

(c) If a young person has more than one employment, it shall also be the duty of the parent, in the case of employment of a child, or in the case of the employment of an adolescent, the duty of the adolescent, to inform the employer of the hours of work carried out for another employer.

(d) An employer shall not permit a young person to carry out any form of work on any day on which that young person has done any form of work for any other employer, unless the aggregate working time with more than one employer on that day does not exceed the total time for which such a young person may lawfully work for one employer on that day according to these regulations.

(5) Whenever an employer employs a young person in contravention of the preceding sub-regulation, the employer shall be guilty of an offence and the young person, if he or she is an adolescent, or the parent in the case of a child, shall also be guilty of an offence.

(6) Whenever an employer is prosecuted for an offence under this regulation, it shall be a defence for him to prove:

(a) that he did not know, and could not by reasonable enquiry have known, that the employee had carried out work for any other employer on the day in respect of which the prosecution is brought; or

(b) that he did not know, or could not by reasonable enquiry have known, that the aggregate of the periods

for which the employee worked on that day exceeded the period for which the employee could lawfully work for one employer on that day.

5. (1) No child employed in terms of regulation 3(3)(b) shall perform work between 8 p.m. on any one day and 6 a.m. of the following day.

Night work.
Amended by:
L.N. 257 of 2012.

(2) Subject to the provisions of subregulations (3) and (4), no adolescent shall perform work between 10 p.m. on any one day and 6 a.m. of the following day.

(3) The Director may, at his discretion, and if there are exceptional circumstances affecting a particular branch of activity or a particular area of work, grant authorisation for work to be performed by adolescents in specific areas of activity during the period in which night work is prohibited:

Provided that in such cases:

- (a) the adolescent shall be supervised by an adult where a risk assessment performed by the employer, in accordance with the General Provisions for Health and Safety at Workplaces Regulations, has shown that this is necessary on grounds of health and safety; and
- (b) in any case, no work shall be carried out between midnight and 4 a.m:

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Provided further that an adolescent attending an educational institution approved under the Education Act shall not be assigned any work between midnight and 6 a.m. on any weekday during the period the adolescent is expected to attend such educational institution.

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(4) The provisions of subregulation (2) prohibiting night work shall not apply for work performed in the following sectors, if there are objective grounds for such work to be carried out at night and provided that suitable compensatory rest is allowed and that the principles set out in regulation 1(2) are safeguarded:

- (a) shipping or fisheries sectors;
- (b) hospitals or similar establishments;
- (c) cultural, artistic, sports or advertising activities.

6. (1) Children employed in terms of regulation 3(3)(b) shall be entitled to:

Daily and weekly rest periods.

- (a) a minimum daily rest period of fourteen consecutive hours for each twenty-four hour period; and
- (b) a minimum weekly rest period of two consecutive days in any calendar week, one day of which shall be a Sunday.

(2) Adolescents shall be entitled to:

- (a) a minimum daily rest period of twelve consecutive hours for each twenty-four hour period; and
- (b) a minimum weekly rest period of two days in any

calendar week, which shall if possible be consecutive and which in principle, shall include Sunday.

(3) The employer may, in exceptional circumstances and where justified by technical or organisation reasons, submit a written request to the Director for authorisation to reduce the minimum weekly rest period referred to in subregulation (1) and (2), but this may in no circumstance be less than thirty-six consecutive hours. Such authorisation by the Director shall be given in writing:

Provided that the employer shall give the reasons for his request and keep a copy of the authorisation.

(4) The minimum rest periods referred to in this regulation may be split up in the case of activities involving separate periods of work spread over the day or are of short duration.

(5) Subject to objective reasons, the provisions of subregulation (2) shall not apply for work performed in the following sectors:

- (a) shipping or fisheries;
- (b) hospitals or similar establishments;
- (c) agriculture;
- (d) tourism industry, hotels and catering;
- (e) activities involving periods of work split up over the day:

Provided that the employee is granted appropriate compensatory rest time and that the purposes of these regulations set out in regulation 1(2) are safeguarded.

Annual rest.

7. A child employed in terms of regulation 3(3)(b) shall have an aggregate minimum of twenty-one days free of any work during the child's school holidays.

Breaks.

8. (1) An employer shall not require or permit a young person to work for any period exceeding four and a half hours without an uninterrupted break of at least thirty minutes.

(2) A young person shall not be entitled to be paid in respect of the break specified in subregulation (1).

Work by adolescents in the event of *force majeure*.

9. An employer may, in unusual and unforeseeable circumstances beyond the employer's control, or as a result of exceptional events the consequences of which could not have been avoided despite the exercise of all due care, allow adolescents to carry out work and be exempted from the provisions of regulations 4(2), 5(2), 6(2)(a) and 8:

Provided that:

- (a) such work is of a temporary nature and has to be performed immediately;
- (b) that adult workers are not available to replace the adolescents; and
- (c) that the adolescents are allowed equivalent compensatory rest time within the following three

weeks.

- 10.** (1) An employer who employs a young person shall: Other duties of the employer.
- (a) before employing the young person, require the production of a birth certificate, or other satisfactory evidence attesting to the age of the young person;
 - (b) before employing a young person, obtain the written permission of a parent of the young person; and
 - (c) maintain a register, or other satisfactory record, including, in relation to every young person employed, the following particulars:
 - (i) full name;
 - (ii) date of birth;
 - (iii) the time the young person commences and finishes work each day;
 - (iv) the rate of wages or salary due to the young person for his or her normal working hours each day, week, month or year, as the case may be; and
 - (v) the total amount actually paid to each young person by way of wages or salary.

(2) An employer shall keep, at the place where a young person is employed, such records as are necessary to show that the provisions of these regulations are being complied with. Such records shall be retained by the employer for at least three years.

(3) Where -

- (a) there is a dispute between an employer and employee, or
- (b) there is a prosecution for an offence under these regulations,

and the records required to be kept by an employer under the preceding subregulations are not available, apart from being guilty of an offence in terms of the provisions of subregulations (1) and (2), the onus of proof that the provisions of any other regulation has been complied with shall lie on the employer.

11. (1) An employer who contravenes or fails to comply with any of the provisions of these regulations shall be guilty of an offence against the Act.

Offences.
Amended by:
L.N. 427 of 2007.

(2) The parent of a young person who aids or abets an employer in contravening any provision of these regulations shall be guilty of an offence against the Act.

(3) A person guilty of an offence under these regulations shall be liable, on conviction, to a fine (*multa*) of not less than five hundred and eighty-two euro and thirty-four cents (582.34) and to a further fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) for every day during which the offence continues after conviction:

Provided that an offence under this regulation shall

continue to subsist until the offender shall have conformed and complied with the infringed provisions of these regulations.

Repeals less favourable provisions.

12. These regulations supersede any less favourable relevant provisions in any regulations, orders or other subsidiary legislation made under or kept in force under the Act, and any such relevant provisions are hereby being revoked.

SCHEDULE

Regulation 4(1): Working time for a child

Description of work	Age (years)	Working time
(a) Regulation 3(3)(b)(i): work performed under a combined work and, or training scheme, or an in-plant work-experience scheme:	14-16	eight hours a day and 40 hours a week;
(b) Regulation 3(3)(b)(ii): light work performed during school term-time outside the fixed school hours: Provided that the maximum daily working time shall be:	14-16 14- up to 15 over 15-16	two hours on a school day and 12 hours a week; (a) seven hours per day; (b) eight hours per day;
(c) Regulation 3(3)(b)(ii): light work performed during a period of at least a week during school holidays:	14- up to 15 over 15-16	seven hours a day and 35 hours a week*; eight hours a day and 40 hours a week*.

* The specified working time shall be without prejudice to the provisions of these regulations.