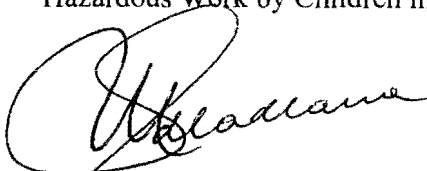

GOVERNMENT NOTICE

DEPARTMENT OF LABOUR**No. R. 7****15 January 2010****BASIC CONDITIONS OF EMPLOYMENT ACT, NO 75 OF 1997****REGULATIONS ON HAZARDOUS WORK BY CHILDREN IN SOUTH AFRICA**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, in terms of Section 44(1) of the Basic Conditions of Employment Act, No 75 of 1997 and Section 43(1) of the Occupational Health and Safety Act, No 85 of 1993, hereby publish Regulations on Hazardous Work by Children in South Africa.



**M M S MDLADLANA, MP
MINISTER OF LABOUR**

Regulations on Hazardous work by children in South Africa

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Health and Safety of Children at Work Regulations

OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

The Minister of Labour, on the recommendation of the Occupational Health and Safety Advisory Council, has in terms of section 43(1) made the following regulations.

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates—

- (a) **"the Act"** means the Occupational Health and Safety Act, 1993;
- (b) **"child"** means a person under eighteen years of age;
- (c) **"child worker"** means any child who
 - (i) is employed by or works for an employer and who receives or is entitled to receive any remuneration; or
 - (ii) who works under the direction or supervision of an employer or any other person;
- (d) **"employer"** means an employer as defined in the Act who employs or provides work for a child.

2. Purpose and interpretation

- (1) The purpose of these regulations is to prohibit or place conditions upon the work that may be required, expected or permitted to be performed by child workers, and which is not prohibited in terms of any law.
- (2) No provision in these regulations may be interpreted as permitting the employment of—
 - (a) a child who is under 15 years of age or is subject to compulsory schooling in terms of any law;
 - (b) a child who is 15 years of age or older and is not subject to compulsory schooling in any work which is prohibited in terms of any law.
- (3) Any person who requires or permits a child worker to work must comply with these regulations in addition to any other provisions of this Act, its regulations or any other law applicable to such work.
- (4) These regulations must be interpreted in accordance with International Labour Organisation's Worst Forms of Child Labour Convention, 1999.¹

¹ The text of the Convention is available at www.ilo.org

3. Risk assessment

- (1) Every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect of such work undertake a risk assessment process which must include at least the following —
 - (a) identifying the risks and hazards to which any child worker may be exposed;
 - (b) analysing and evaluating the risks and hazards that are identified;
 - (c) preparing and implementing –
 - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified; and
 - (ii) a monitoring plan.
- (2) Without limitation to the obligations in terms of sub-regulation (1), an employer must for the purposes of complying with sub-regulation (1) take into account, to the extent that they are relevant to any work, the following factors –
 - (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
 - (b) the increased vulnerability of children to sleep disruption;
 - (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
 - (d) the relative lack of experience and maturity of children in making safety judgments;
 - (e) the reduced ability of children to adapt to inflexible work routines;
 - (f) the reduced ability of children to perceive dangers correctly;
 - (g) the reduced capacity of children to understand safety messages;
 - (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
 - (i) the implications of children working at the period when their skeletal structures and bones are still developing;
 - (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
 - (k) the physiological, hormonal and other vulnerabilities of children at puberty.
- (3) In the risk assessment process referred to in sub-regulations (1) and (2), the employer take into account the guidelines provided in Schedule 1 to these regulations.

4. Respiratory hazards

No employer may require or permit any child worker to undertake any work in respect of which a person over the age of 18 performing the same work would be required in terms of the Act to wear respiratory protection equipment.

5. Work in elevated position²

- (1) No person may require or permit a child worker –
 - (a) to work in an elevated position unless –
 - (i) the work is performed under the supervision of a competent adult employee or by the employer; and
 - (ii) those fall protection measures which are reasonably practicable, and which comply with or exceed the requirements of the Construction Regulations are provided;
 - (b) to work at a height of more than 5 metres above the floor or ground.
- (2) For the purposes of this regulation, work in an elevated position, means work at a height of more than 2 metres from the floor or ground.

6. Lifting of heavy weights

- (1) No person may require or permit a child worker to perform any work that involves lifting an object that weighs more than the lesser of
 - (a) 15 kgs; or
 - (b) 20 % of the child's body weight.
- (2) Subject to sub-regulation (1), a child worker who lifts objects weighing more than 7,5 kgs as part of their work may not be required or permitted to lift such an object more than once per minute.
- (3) Subject to sub-regulations (1) and (2), a child worker who lifts objects weighing more than 5.kgs may not be required or permitted to do so continuously for longer than 2 hours.
- (4) For the purposes of sub-regulation (3), a child worker shall be regarded as lifting a weight continuously unless they do not lift such a weight for a period of at least 30 minutes.

7. Work in a cold environment³

- (1) No person may require or permit a child worker to work in an environment below an actual dry-bulb temperature specified in this regulation, unless the child is supplied with suitable protective warm clothing –
 - (a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;

² Regulation 8 of the Construction Regulations (published in Government Gazette 25207, Government Notice R 1010 of 18 July 2003) requires any contractor undertaking construction work to prepare and implement a fall protection plan in respect of all employees, regarding all risks relating to working from an elevated position, which considers the nature of work undertaken, and sets out the procedures and methods to be applied in order to eliminate the risk. That regulation applies in addition to this regulation.

³ Regulation 2(1) to (3) of the Environmental Regulations for Workplaces published in Government Gazette 10988, Government Notice R 2281 of 16 October 1987 further regulates work in a cold environment. That regulation applies in addition to this regulation.

(b) 6°C where the work involves repeated entry into, or presence for more than one hour in such environment.

- (2) For the purposes of sub-regulation (1), suitable protective warm clothing means the items of protective clothing specified in Regulation 2(2)(b)(i) to (vi) of the Environmental Regulations for Workplaces published in Government Gazette 10988, Government Notice R 2281 of 16 October 1987.

8. Work in a hot environment⁴

No person may require or permit a child worker to work perform hard manual labour where the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, determined over a period of one hour, exceeds 30 unless the child –

- (a) is acclimatised to such working environment before he is required or permitted to work in such environment;
- (b) has water breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

9. Work in noisy environment⁵

No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 12 of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993.

10. Power tools and cutting or grinding equipment

- (1) No person may require or permit a child worker to use any power tool, or any cutting or grinding equipment unless-
- (a) they have conducted a risk assessment in terms of regulation 3 and have determined that it is safe and without significant risks for the child to use;
 - (b) if the risk assessment indicated that it is safe and without significant risks for the child to use if used with safety equipment or facilities, they
 - (i) provide the child with the necessary safety equipment and facilities in term of regulation 2 of the General Safety Regulations, made in terms of the Occupational Health and Safety Act, 1993; and
 - (ii) instruct the child in the use, maintenance and limitations of such equipment;

⁴ Regulation 2(4) of the Environmental Regulations for Workplaces published in Government Gazette 10988, Government Notice R 2281 of 16 October 1987, further regulates work in a hot environment and applies in addition to this regulation.

⁵ The Noise Induced Hearing Loss Regulations apply to all employers or self-employed persons whose activities may expose persons to noise at or above the noise-rating limit set in the those regulations, and apply in addition to this regulation.

- (c) the child has received adequate training from a competent person in the safe and appropriate use of the power tool or other such equipment before starting such work; and
 - (d) the child is supervised by a competent person when using power tool or other equipment.
- (2) Despite sub-regulation (1), no person may require or permit a child worker to use any power tool or other machinery if an inspector has issued a notice in terms of section 30(1) of the Act prohibiting the use by child workers of such tool or other machinery.

11. Report to department of social development

A labour inspector who finds a child worker being employed or used in contravention of the Act or in contravention of these regulations shall refer the child for investigation to a child protection organisation designated in terms of the Children's Act No 38 of 2005 or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

12. Offences and penalties

- (1) Any person who contravenes or fails to comply with any provision of these regulations shall be guilty of an offence and on conviction shall be liable to a fine or to imprisonment for a period of 12 months and, in the case of an continuing offence, to an additional fine of R200 or to additional imprisonment for each day on which the offence continues: Provided that the period of such additional imprisonment shall not exceed 90 days.
- (2) If a person is convicted of a offence under these regulations, and the action or omissions that constitutes the offence is also a worst form of child labour as defined in regulation 9 of the Regulations on Hazardous Work by Children, made in terms of the Basic Conditions of Employment Act, 1997, the court on convicting that person and determining a sentence must take into account that –
 - (a) that South Africa has ratified Worst Forms of Child Labour Convention, 1999;
 - (b) that the offence constitutes a worst form of child labour in terms of that Convention.

13. Summary

- (1) Any person who employs a child worker must display the prescribed summary of these regulations in the work-place where it can be read by employees including child workers who are at the workplace, which may include a summary of other relevant regulations and laws, in their workplace. This summary is provided in Schedule 2 to these regulations.

- (2) The existence of this displayed summary and its contents must be brought to the attention of all employees, including child workers.

14. Short title and commencement

These regulations shall be known as the Health and Safety of Children at Work Regulations and will come into effect 21 days after the date of publication in the *Government Gazette*

Schedule 1: Guidelines on risk assessments and plans of safe work procedures regarding permitted work by child workers

These are the guidelines issued in terms of regulation 3(3), which an employer of a child worker under the age of 18 years old must take into account when conducting a risk assessment in terms of regulation 3(1).

1. Definitions

In these Guidelines these terms means the following, unless the context indicates otherwise—

- (1) **"child"** means a person under 18 years old;
- (2) **"child worker"** means a child referred to in the definition of "employer" and who works in terms of paragraph 3 of these guidelines;
- (3) **"employer"** means a person who employs, or provides work to a child or permits a child to work at any place under their control or with any machinery under their control, or allows a child to assist in any other manner in carrying on their business.

2. Risk assessment required

- (1) Regulation 3 provides that every employer who employs, or provides work to, a child worker or permits any child worker to work at any place under their control or with any machinery under their control must in respect of such work undertake a risk assessment process which must include at least the following –
 - (a) identifying the risks and hazards to which any child worker may be exposed;
 - (b) analysing and evaluating the risks and hazards that are identified;
 - (c) preparing and implementing –
 - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified; and
 - (ii) a monitoring plan; and
 - (iii) a review plan.
- (2) A risk assessment is a way for an employer to
 - (a) evaluate the worksite in a systematic way to identify potential hazards and safety issues so the employer is able to take steps to prevent the hazard causing or contributing an exposure, injury, or illness;
 - (b) identify how many child workers might be affected by the hazard and under what circumstances this may occur; and
 - (c) assess the likelihood and severity of any health consequences that may arise from the exposure to the hazard.
- (3) A risk assessment must be appropriate to the employer's workplace and the hazards and risks associated with the processes and activities that take place in the workplace. A risk assessment must cover the full range of work that child

workers may be engaged in at the workplace, and work where child workers may be present.

- (4) A risk assessment enables the employer to plan and implement measures to control or remove the hazard and thereby reduce the risk.

3. Application regarding child workers

- (1) The provisions on risk assessment apply to children who are allowed to work in terms of the law.
- (2) A child who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.
- (3) In terms of the South African Schools Act a child is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.
- (4) An exception to the prohibition on work by younger child workers, referred to in sub-paragraph (2), is that younger children are permitted to work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA. Employers in these sectors should study the sectoral determination, which can be accessed on www.labour.gov.za.

4. Children's characteristics and recommendations for safety

- (1) Children are in a special time in their development and are not yet ready to take on the duties and responsibilities of adults. Below are characteristics to keep in mind when supervising them in any setting.
 - (a) physical, cognitive, and emotional development differ from adults:
 - (i) physical size, development, maturity, & judgment vary for any given age;
 - (ii) bone plates, ligaments and tendons are still growing;
 - (iii) chemicals metabolize faster and smaller doses may have bigger impacts;
 - (b) more sleep is needed by children than adults at a time when sleep habits and patterns may not be good;
 - (c) children typically explore, experiment, and take risks, but lack a sense of vulnerability; sometimes they try to do "a little more" to prove themselves;
 - (d) children desire acceptance from adults and peers, and are susceptible to peer pressure, yet want to assert their independence;
 - (e) children may be inexperienced in work practices or lack role models for responsibilities associated with the world of work;

- (f) children often lack assertiveness and may be afraid to ask questions or speak up because they are concerned about looking stupid or losing their job;
- (g) children may have limited skills in communicating with supervisors.

5. Increased risks of children at work

- (1) Regulation 3(2) provides that the risk assessment should take into account, to the extent that they are relevant to any work by child workers, a range of factors.
- (2) These factors, together with examples of how they could become relevant at work, are:
 - (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors For example chemicals may metabolize faster and have greater impact at smaller doses.
 - (b) the increased vulnerability of children to sleep disruption, for example children require more sleep than adults and children's body clock is more vulnerable under conditions of shift work;
 - (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone, for example –
 - children working alone in retail outlets are easier targets for criminals
 - children in domestic service are isolated in private homes and may be subjected to sexual abuse by others in the homes;
 - (d) the relative lack of experience and maturity of children in making safety judgments, for example children may not have sufficient insight to know that a mechanical tool is faulty, or that a ladder is not sufficiently stable, so may continue using the device in a situation where an adult would know to stop;
 - (e) the reduced ability of children to adapt to inflexible work routines, for example children may not be able to maintain concentration when working for long periods without a break, increasing the likelihood of injury due to fatigue or stress related to prolonged work without rest;
 - (f) the reduced ability of children to perceive dangers correctly, for example –
 - children, especially teenagers, typically explore, experiment, and take risks, but lack a sense of vulnerability;
 - sometimes they try to do "a little more" to prove themselves;
 - they desire acceptance from adults and peers, and are susceptible to peer pressure, yet want to assert their independence;
 - children may be inexperienced in work practices or lack role models for responsibilities associated with the world of work;
 - (g) the reduced capacity of children to understand safety messages, for example some safety messages require cognitive processes that children may not have acquired;
 - (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature, for example whether the handle of a power tool is too big for the size of that child's hands, thereby reducing the child's ability to control the power tool;

- (i) the implications of children working at the period when their skeletal structures and bones are still developing, for example children's growth and development may be adversely affected by having to carry heavy loads or do repetitive work;
- (j) from an ergonomic perspective, children's physical development is not typically suited to the design of machinery, tools, equipment and protective equipment that is appropriate for children's stature; these must be assessed whether the mismatch jeopardizes a healthy and safe working environment. For example most equipment, including safety equipment, is designed for adults, so will not fit most children's body build; as a result, children may be forced into awkward postures to use a device, or may not be able to benefit from the use of gloves to protect themselves from hazards to the skin, because of poor fit of a glove;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty, for example –
 - working children may be more susceptible to sexual exploitation by adults who take advantage of children;
 - chemicals that cause endocrine disruption may have serious effects on children's hormonal function.

6. Preparation for employment of child workers, and for risk assessment

The employer should prepare carefully for the employment of child workers, and for the risk assessment, including the following steps:

- (a) understand the relevant child labour and health and safety regulations;
- (b) walk through the workplace to identify job activities that are prohibited;
- (c) increase knowledge about special needs of child workers;
- (d) train supervisors and co-workers about working with child workers;
- (e) involve workplace health and safety personnel, if any;
- (f) training of child workers on health and safety should be age-appropriate, ie it should be conducted in a manner that child workers of the employed age-group can understand;
- (g) identify age-appropriate health and safety education materials;
- (h) incorporate special considerations for child workers in the employers' *plan of safe work procedures*;
- (i) discuss work issues with parents of child workers and/or school(s) attended by child workers, as needed;
- (j) educate child workers about potential harassment and abuse by other employees or customers, or potential for threats of violence at the workplace.

7. Plan of safe work procedures

- (1) Regulation 3(1)(c)) requires the preparation of a plan of safe work procedures.

- (2) The employer should consider at least the following strategies when drawing up such a plan:
- (a) follow all child labour and relevant other safety and health regulations;
 - (b) conduct thorough orientation when a new child workers starts working, or when work practices change, such as set out in the orientation checklist in paragraph 8;
 - (c) utilize safety training checklists, such as the checklist in paragraph 9, in order to ensure all topics are covered;
 - (d) in orientation and training, consider the list of health and safety topics in paragraph 10;
 - (e) provide for child-sensitive supervision to child workers taking into consideration the guidelines in paragraph 11;
 - (f) consider a child workers's physical capacity to perform the job safely, the child's maturity to exercise good judgment, and the child's ability to read and understand written instructions and safety signs;
 - (g) involve co-workers: create a mentoring program among experienced workers, including experienced child workers;
 - (h) encourage child workers to ask questions and ask for assistance regularly.

8. Checklist on safety orientation of child workers

The employer should keep a written record on whether each of the following safety orientation steps have been taken regarding each child worker: whether the child worker has been –

- (a) informed about the elements of the written safety program that outlines the employer's safety efforts;
- (b) informed about any staff health and safety meetings;
- (c) told to report all injuries and shown how to do this;
- (d) told to report all hazards to her/his supervisor and shown how to do this;
- (e) informed about all machinery hazards;
- (f) informed about what tasks child workers are prohibited from performing;
- (g) informed about all other hazards and ways to protect themselves (i.e., chemicals, use of ladders, slippery floors, etc.);
- (h) shown where the first aid supplies are located and who to call for first aid;
- (i) told what to do during any emergencies that could occur;
- (j) shown how to operate a fire extinguisher and other emergency equipment;
- (k) informed of and trained on any chemical hazards according to the relevant hazardous chemical regulations, including how to read a label and precautions to take when using them;
- (l) trained on the safe methods to perform the specific job the child workers was assigned including any hazards associated with that job;

- (m) provided any formal training required to do his/her job, such as proper lifting, use of knives, grill and fryer operation, spill clean-up etc.

9. Checklist on basic training principles

(1) What to train child worker on:

- (a) job safety requirements, including safety regarding the specific tasks the worker would perform, and health and safety requirements for such work under the law;
- (b) how to recognize hazards;
- (c) what precautions to take;
- (d) what to do if a problem or emergency arises;
- (e) how to report an injury;
- (f) where they can go to for further advice.

(2) How to train:

- (a) give clear instructions;
- (b) ask worker to repeat instructions;
- (c) show worker how to perform the task;
- (d) watch worker perform the task, and correct errors;
- (e) make the training age-appropriate and make it fun and easy to understand;
- (f) encourage them to ask questions.

(3) When to train:

- (a) when worker is first hired;
- (b) when worker is given new task or tool;
- (c) when a new hazard is introduced into workplace;
- (d) after an incident (an injury or close call);
- (e) when the child worker returns to the work environment after a significant period of absence;
- (f) regularly, such as through on-site safety training.

(4) On-site safety training

- (a) "On-site Safety Training" means a short, concise safety training session held out in a work area. It has been widely used in some industries and has proven effective in preventing injuries. Monthly or weekly on-site safety training is recommended to help keep safety on the minds of the workers, make it part of the normal routine, and demonstrate the importance you place on safety.
- (b) The on-site training session should keep the following in mind:
 - (i) keep the training sessions short, for instance, 10-15 minutes maximum, to keep worker attention;

- (ii) focus on a single topic and keep it simple;
- (iii) hold on-site training regularly; a common practice is monthly or weekly on the same day;
- (iv) select days and times when workers are fully attentive; first thing Monday morning or last thing Friday are not good times;
- (v) pick a location that is relatively free from distractions, either out in the workplace or where employees normally are found - a quiet break room is acceptable. Sometimes the best place is near where the hazards are;
- (vi) keep your presentation informal. Use language workers will understand. Be upbeat and enthusiastic.
- (vii) choose topics that apply directly to your operation, and be specific in telling workers how it applies to them personally. Keep it relevant;
- (viii) injury incidents or near misses are good subjects. Let the workers suggest topics and highlight issues;
- (ix) use visual aids such as safety signs, flip charts, diagrams, illustrations, or actual objects. Demonstrate a procedure if appropriate. Use handouts if needed, but keep them simple;
- (x) encourage questions and discussion. Be sure workers are paying attention and actively learning;
- (xi) have workers sign a sheet documenting their presence at the training, and keep on file.

10. Health and safety topics to cover in orientation and training

When taking steps regarding orientation referred to in paragraph 8 or regarding training referred to in paragraph 9, the following topics should be considered relative to the possible risks which could arise in the working environment:

Basic safety and training principles

Tractor safety

Cold environment: working where it is below 6 degrees C

Crime and abusive customers

Electrical safety

Eye protection

Fire safety

Hearing protection

Height: working more than 2m above the floor or ground

Hot environment: Heat stress & sun exposure

Incident and injury reporting

Irrigation safety

Kitchen safety: avoiding burns, safe handling of knives, using electrical appliances

Lifting of heavy objects

Ladder safety

Lighting and safety

Machine safety

Noisy environment: ear protection

Personal protective equipment, use, maintenance, inspection and limitations

Safety signs and signage

Slips, trips, and falls

Shop safety
 Tools: Hand tool safety
 Tools: Outdoor power tool safety
 Tools: Power tools, generally
 Transportation and travelling safety
 Tree fruit harvest safety
 Water safety
 Working at night
 Working away from home
 Working near embankments or excavations
 Working with or near chemical substances

This list is not exclusive, so add other relevant work related topics as deemed necessary or appropriate

11. Supervision of child workers

The following factors should be taken into consideration in a plan on safe work procedures, regarding the supervision of child workers, to reduce risks regarding their work:

- (a) keep adolescent characteristics in mind as described in paragraph 4 in mind and assign age-appropriate tasks;
- (b) consider a young worker's physical capacity to perform the job safely; maturity to exercise good judgment; and ability to read and understand written instructions and safety signs;
- (c) provide a clear assignment of duties with specific information about those tasks;
- (d) provide appropriate safety training on assigned equipment and tasks, including the need to report all safety hazards and injuries;
- (e) teach them how to recognize risks, and encourage them to make good decisions about taking appropriate precautions or action;
- (f) provide information on how to cope with emergencies, who to contact, and how to reach them. Phone numbers, the address of the workplace, and directions to the workplace should be put on notice boards or walls where easy to find;
- (g) provide increased supervision by co-workers or supervisors who work well with youth, are consistent, and who set a good example by following the safety rules, and designate appropriate adult employee(s) as *child worker safety officers, with the responsibility of specifically monitoring the safety of child workers in the workplace and to intervene if they feel the work is too risky;
- (h) create an atmosphere where child workers feel free to ask questions or express concerns;
- (i) be sure child workers have an understanding of their rights and responsibilities;
- (j) provide positive feedback when child workers follow through with these responsibilities.

12. Examples of steps that may be included in a plan of safe work procedures

The following are examples of guidelines and tips to be taken into account when drafting a plan of safe work procedures, or when implementing a plan, in specific situations.

(1) Guidelines on the risk of crime and abusive customers:

(a) Handling cash:

- (i) Leave a clear, unobstructed view of the cash register from the street;
- (ii) Post signs saying cash register contains minimal cash;
- (iii) Store cash in a drop safe, limited-access safe or comparable safe container;
- (iv) Don't count cash or close the till in front of customers;
- (v) Practice the "buddy system" during cash drops.

(b) Creating a safer retail environment:

- (i) Develop a workplace violence prevention plan, and use it to train employees;
- (ii) Train employees on what to do in case of a robbery;
- (iii) Train employees on how to de-escalate a potentially violent situation. Establish a policy that employees not resist or pursue shoplifters;
- (iv) Establish a reporting process for violent incidents and threats;
- (v) Consider displaying a "no safe keys held on the premises" notice.

(c) Notices:

- (i) Post emergency telephone numbers in an accessible place;
- (ii) Places notices on laws against assault, stalking or violent acts.

(d) Staffing:

- (i) Schedule at least two people per shift. child workers may not work without adult (age 18 or older) supervision after 8 pm;
- (ii) Don't require child workers who serve customers to wear revealing uniforms or clothing;
- (iii) Keep background noise to a minimum.

(e) Entering and leaving:

- (i) Have more than one exit employees can reach in case of emergency;
- (ii) Practice the "buddy system" to walk to public transportation and parking areas.
- (iii) Although back doors should be locked at night, employees should still be able to exit easily, especially during an emergency situation.

(f) Security and lighting:

- (i) Use alarms and locks. Make sure they work properly;
- (ii) Use security surveillance cameras or mirrors, if possible;
- (iii) Provide a "panic" button, silent alarm or other means for employees to communicate with police or security;

- (iv) Provide adequate lighting and security in parking lots and other areas where employees go alone at night;
- (v) Work with your local police and security to identify any special arrangements which might be useful in a particular location.

(2) Proper lifting of weights / loads

(a) Assess the load:

- (i) Check if the shape or mass of the load presents a risk to safe manual lifting;
- (ii) Use a lifting aid or hand truck/ trolley if possible. Get help if you need it;
- (iii) Check for slivers, nails, exposed staples;
- (iv) Use gloves if necessary;
- (v) Make sure you have a clear path to where you are moving it to.

(b) Lifting the load:

- (i) Place your feet to ensure a stable base to do the lift;
- (ii) Bring the load as close to you as possible before lifting;
- (iii) Establish a good hand grip to lift the load
- (iv) Lift with your legs, not your back;
- (v) Keep your head up, your back straight and don't bend at your hips.

(c) Moving the load:

- (i) Keep the load close to your body;
- (ii) Look where you are going;
- (iii) Shift your feet to turn, don't twist your body.

(d) Putting it down:

- (i) When putting a load down, let your leg muscles carry it down;
- (ii) Make certain your fingers and toes are clear before putting the load down;
- (iii) Place the load first then, move it into the required position. Do not twist your body while placing a load as it can cause back strain.

Schedule 2: Summary of regulations on the health and safety of children at work and on hazardous work by children

The Minister of Labour has made regulations to protect the health and safety of child workers at work under –

- (a) section 44 and 45 of the Basic Conditions of Employment Act, 1997 (called the BCEA regulations);
- (b) section 43 of the Occupational Health and Safety Act, 1993 (called the OHSA regulations).

This is a summary of the most important provisions of these two sets of regulations.

Any person who employs or uses the services of a child worker must display this summary in the workplace where it can be read by employees including child workers who are at the workplace.

1. Definitions

In this summary these terms means the following, unless the context indicates otherwise—

- (1) **"child"** means a person under 18 years old;
- (2) **"child worker"** means a child referred to in the definition of "employer";
- (3) **"employer"** means a person who employs, or provides work to a child, subject to paragraph 3 below.

2. Purpose of regulations and notice

- (1) The purpose of the regulations is to –
 - (a) protect the health and safety at work of child workers who are lawfully entitled to work;
 - (b) prohibit categories of work which child workers may not perform;
 - (c) place conditions on the work that may be performed by child workers
 - (d) identify which categories of work constitute worst forms of child labour, and to make appropriate enforcement provisions in this regard;

3. Coverage and interpretation of regulations

- (1) The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.
- (2) The OHSA regulations cover all work performed by child workers as defined in those regulations.
- (3) For the purposes of the BCEA regulations, any person who allows a child worker to assist them in carrying on their business is the employer of that child.

- (4) The regulations do not -
 - (a) permit the employment of any child worker who is under 15 years of age or is subject to compulsory schooling in terms of any law;
 - (b) reduce any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law, insofar as it applies to the employment of a child.
- (5) These regulations must be interpreted in accordance with the International Labour Organisation's Minimum Age Convention, 1973 and it's Worst Forms of Child Labour Convention, 1999. The text of the Convention is available at www.ilo.org.

4. Minimum age of work

- (1) A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.
- (2) However, a child worker who is under 15 or subject to compulsory schooling may -
 - (a) work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA (employers in these sectors should study the sectoral determination which can be accessed on www.labour.gov.za);
 - (b) do the following work, other than as an employee as defined in the BCEA –
 - (i) collect contributions on behalf of a fund-raising organisation registered in terms of the Fund Raising Act (Act No. 107 of 1978);
 - (ii) do voluntary work for a church, charitable organisation or amateur sports club; and
 - (iii) as part of his/her schooling, do work that is appropriate for a person of that age or which does not place at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) Even though the child worker may perform types of work referred to in subparagraph (2)(a) to (b) above, such work is still subject to the provisions of the regulations summarised here.
- (4) In terms of the South African Schools Act a child worker is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

5. Access to nutrition, health care and educational services

An employer who employs a child worker must ensure that their employment does not interfere with -

- (a) their access to adequate nutrition;

- (b) their access to adequate primary health care services; and
- (c) the education of a child worker who is enrolled at a school or at any other educational institution.

6. Work away from parents or legal guardian

(1) A child worker may only perform work which will result in its being away overnight from its parents or legal guardian –

- (a) if the child's parent or legal guardian consents in writing;
- (b) if the child is enrolled in school, the schooling of a school going child is not adversely affected.

(2) In addition, the employer must provide –

- (a) full details of the accommodation arrangements to the parent or legal guardian of the child worker for their approval;
- (b) free of charge to the child, accommodation that –
 - (i) is clean, comfortable, suitable and safe for the child;
 - (ii) is not occupied by any adult other than the parent, legal guardian or a child worker minder appointed or designated by the parent of the child, if they accompany the child; and
 - (iii) sufficient bedding, lavatory and washing facilities for the child worker;
- (c) the child worker with nutritious food or, if the child is able to purchase such food within a reasonable distance from the place of work or accommodation, provide the child with an allowance sufficient to purchase food and enable the child to purchase it at appropriate intervals.

(3) It is an offence for any person to recruit a child worker to perform work in violation of sub-paragraph (1) and (2)..

7. Prohibition of piecework and task work

(1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of which the remuneration of an employee is based mainly on the completion of set tasks.

(2) This does not prevent a child worker being paid a commission or receiving an incentive payment on the completion of a task if –

- (a) the child is paid at least the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
- (b) in the absence of any such minimum wage, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received, and is calculated on a consistent basis.

8. Maximum daily and weekly working time

- (1) A child worker may not work more than 8 hours on any day.
- (2) A child worker who is not enrolled at school may not work for more than 40 hours in any week.
- (3) A child worker who is enrolled in school may not work for more than –
 - (a) 20 hours in any week during school term, and
 - (b) 40 hours in any week that falls entirely within school holidays
 - (c) two hours on any school day; or four hours on any school day followed by a non-school day (e.g. a Friday, or the last day of a school term.)

9. Night work

- (1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).
- (2) A child worker, other than one who is expected to be at school the following day, may work between 6 pm and 11 pm if –
 - (a) the work is in a restaurant, cinema, theatre or shop where there is adequate adult supervision; or
 - (b) the work is baby-sitting or child minding;
- (3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6pm must, at the end of the shift, provide him/her with safe transport home, at no cost to the child, parent or care-giver.

10. Prohibited work

An employer may not require or permit a child to work in any of the work:

- (a) deep sea fishing;
- (b) commercial diving or other hazardous work under water;
- (c) slaughtering of animals;
- (d) meat, poultry, or seafood processing;
- (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
- (f) logging;
- (g) protecting or safeguarding any person or property or work involving the handling of firearms;
- (h) refining petroleum products;
- (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
- (j) brewing, manufacturing or selling any liquid which in its final form would contain more than one per cent of alcohol;

- (k) work in a bar, shebeen, tavern or pub or other establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
- (l) the manufacture or application of tar or asphalt;
- (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
- (n) work in a health care or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
- (o) work involving exposure to a hazardous substance, to lead, asbestos, silica, coal or other hazardous dusts or to pressurised gases;
- (p) the production, transport, handling, storage, use of, or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock and stone crushing;
- (u) operating vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front-end loaders, earth moving equipment or similar heavy equipment;
- (w) driving any motor vehicle or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

11. Worst forms of child labour

(1) In addition, no person may require or permit a child to work in any of the following -

- (i) underground mining;
- (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
- (iii) the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
- (iv) the manufacture of auramine, isopropanol or magenta;
- (v) the gasification of coal;
- (vi) diving operations using aqualungs;
- (vii) free diving below depths of 10 metres;
- (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
- (ix) work involving exposure to ionising radiation;

- (x) work in chemically-based mineral extraction or similar operations;
- (xi) any work in an environment in which the actual dry-bulb temperature is below minus 18 °C;
- (xii) hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, (as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993) determined over a period of one hour, is greater than 36;
- (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse.

(2) Any form of work listed in sub-paragraph (1) above constitutes a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999, adopted by the International Labour Organisation. These prohibitions may overlap to some extent with the prohibitions listed in paragraph 10, but the activities referred to in this paragraph are considered as exposing children to very serious harm. Penalties for breach should therefore be higher.

(3) No person may –

- (a) employ a child in circumstances in which the child is unreasonably confined to the employer's premises;
- (b) require or permit a child to engage for that person's benefit in one of following activities when this work is performed by a child as part of an organised business activity conducted by that person –
 - (i) begging;
 - (ii) scavenging or collecting waste from garbage or waste dumps; or
 - (iii) use, recruit, procure or offer a child for the commission of any serious offence (they are listed in schedules 1 and 2 of the Criminal Procedure Act, 1977).

(4) The BCEA regulations define which specific substances agents are considered very harmful to children.

12. Risk assessment

(1) Every employer who employs or provides work to a child worker, or permits any child worker to work at any place under their control, or with any machinery under their control, must in respect of such work undertake a risk assessment process which must at least the following:

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing –
 - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified;
 - (ii) a monitoring plan; and
 - (iii) a review plan.

(2) The following factors must be taken in to account when making the risk assessment:

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
- (b) the increased vulnerability of children to sleep disruption;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
- (d) the relative lack of experience and maturity of children in making safety judgments;
- (e) the reduced ability of children to adapt to inflexible work routines;
- (f) the reduced ability of children to perceive dangers correctly;
- (g) the reduced capacity of children to understand safety messages;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing;
- (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty.

(3) In the risk assessment process, the employer must have regard to the guidelines contained in Schedule 1 to the Health and Safety of Children at Work Regulations issued in terms of the OHSA.

13. Respiratory hazards

A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHSA to wear respiratory protection equipment, i.e. equipment such as masks that protects workers from inhaling hazardous dusts or fumes.

14. Work in elevated position

(1) A child worker may not work at a height of more than 5 metres above the floor/ground.

(2) A child worker working at a height of more than 2 metres from the floor/ground must work under the supervision of the employer or a competent adult employee, and reasonable fall protection must be provided, such as a safety harness or railings.

15. Lifting of heavy weights

(1) A child worker performing any work may not, as part of their work, lift an object weighing more than –

- (a) the lesser of 15 kg or 20 % of the child's body weight;
- (b) more than 7,5 kg more than once per minute.

(2) A child worker may not lift objects weighing more than 5 kg at work for more than 2 hours without being granted a 30-minute period in which he or she is not required to lift such a weight.

16. Work in a cold environment

(1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing –

- (a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;
- (b) 6°C where the work involves repeated entry into, or presence for more than one hour in such environment.

(2) The protective warm clothing supplied to child worker must comply with Regulation 2(2)(b)(i) to (vi) of the Environmental Regulations for Workplaces

17. Work in a hot environment

(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child –

- (a) is acclimatised to such working environment before he/she is required or permitted to work in such environment;
- (b) has drink breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

(2) The term 'average temperature' referred to here is technically the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, and determined over a period of one hour.

18. Work in noisy environment

No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 12 of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993. DB(A) is a unit used in measuring noise, and takes into account how often loud noises are heard, even if an environment is not noisy all the time.

19. Power tools and cutting or grinding equipment

(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use is safe and without significant risks for the child.

- (2) If the risk assessment indicates that the power tool or other equipment is safe and without significant risks for the child worker to use, if used with safety equipment or facilities, the child –
- (a) must be provided with the necessary safety equipment and facilities that are usually required in terms of occupational health and safety regulations; and
 - (b) must be instructed in the use, maintenance and limitations of such equipment.
- (3) Before starting such work the child worker must receive adequate training in the safe and appropriate use of the power tools or machinery from a person competent in their use.
- (4) The child worker must be supervised by a competent person when using power tools or other equipment.
- (5) An inspector may issue a notice prohibiting the use by child workers of any power tool or other machinery.

20. Report to Department of Social Development

- (1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHSA regulations shall refer the matter for investigation to a child protection organisation designated in terms of the Children's Act No 38 of 2005 or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.
- (2) The relevant social worker must then investigate the circumstances of the child worker to determine whether he/she is in need of care and protection and, if so, take appropriate action to protect the child.

BCEA Regulations on Hazardous Work by Children

BASIC CONDITIONS OF EMPLOYMENT ACT, 1997

The Minister of Labour has, on the advice of the Employment Conditions Commission, made the following regulations in terms of section 44 and 45 of the Basic Conditions of Employment Act, 1997.

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned but, unless the context otherwise indicates—

- (a) **"the Act"** means the Basic Conditions of Employment Act, 1997;
- (b) **"child"** means a person under eighteen years of age;
- (c) **"child worker"** means a child who is an employee as defined in the Act, which includes a child who assists any person to carry on or conduct their business; and
- (d) **"employer"** means a person who –
 - (i) employs a child; or
 - (ii) allows a child worker to assist in carrying on or conducting their business;
- (e) **"worst form of child labour"** means any work by a child in an activity listed in regulation 9.

2. Purpose and interpretation

- (1) The purpose of these regulations is to –
 - (a) place conditions on the work that may be performed by child workers who are at least 15 years of age and no longer subject to compulsory schooling in terms of any law;
 - (b) prohibit any person from permitting or requiring such child workers to perform particular types of work specified in the regulations.
- (2) No provision in these regulations may be interpreted as –
 - (a) permitting the employment of any child who is under 15 years of age or is subject to compulsory schooling in terms of any law;
 - (b) reducing any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law insofar as it applies to the employment of a child who is at least 15 years of age and no longer subject to compulsory schooling.

- (3) These regulations must be interpreted in accordance with International Labour Organisation's Minimum Age Convention, 1973 and the Worst Forms of Child Labour Convention, 1999.⁶
- (4) To the extent that any sectoral determination establishes a basic condition of employment that applies specifically to child workers employed in that sector, the provisions of that determination shall have precedence over these regulations; provided that the provisions in these regulations on the worst forms of child labour shall always apply unless specifically excluded by the sectoral determination.

3. Access to nutrition, health care and educational services

Every employer who employs a child worker must ensure that their employment does not interfere with their access to -

- (a) adequate nutrition;
- (b) adequate primary health care services; and
- (c) education if the child is enrolled at a school or other educational institution.

4. Work away from parents or legal guardian

- (1) It is an offence for any person to require or permit a child worker to perform work which will result in the child being away overnight from their parents or legal guardian unless that person has the written consent of the child's parent or legal guardian and provided that –
 - (a) the child is not enrolled in school or, if the child is enrolled in school, the child's schooling is not adversely affected;
 - (b) full details of the accommodation arrangements are supplied to, and approved by, the parent or legal guardian of the child;
 - (c) the employer provides accommodation to the child that –
 - (i) is free of charge to the child;
 - (ii) is clean, comfortable, suitable and safe for the child;
 - (iii) is not occupied by any adult other than the parent, legal guardian or a child minder appointed by parent of the child, if they accompany the child; and
 - (iv) has sufficient bedding, lavatories and washing facilities for the child;
 - (d) the employer supplies the child with nutritious food or, if the child is able to purchase such food within a reasonable distance from his or her place of work or accommodation, the employer provides the child with an allowance sufficient to purchase such food at intervals that enable such purchase.
- (2) It is an offence for any person to recruit a child worker to perform work in violation of sub-regulation (1).

⁶ The text of the Conventions is available at www.ilo.org

5. Prohibition of piece-work and task work

- (1) It is an offence for any person to require or permit a child worker to perform piece work or task work.
- (2) For the purposes of this regulation,
 - (a) "piece work" means work in terms of which the remuneration of the child worker is based mainly on the quantity of work done;
 - (b) "task work" means work in terms of which the remuneration of the child worker is based mainly on the completion of set tasks.
- (3) This regulation does not prevent the payment of a commission or an incentive payment on the completion of a task to a child worker provided that —
 - (a) the child is paid the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
 - (b) if no such minimum wage is prescribed, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received and is calculated on a consistent basis.

6. Maximum daily and weekly working time

- (1) It is an offence for any person to require or permit a child worker who is not enrolled in school to work for more than 40 hours of work in any week.
- (2) It is an offence for any person to require or permit a child worker who is enrolled in school to work
 - (a) for more than 20 hours in any week falling in the school term;
 - (b) for more than 40 hours of work in any week that falls entirely within school holidays.
- (3) It is an offence for any person to require or permit child worker to work -
 - (a) on more than 8 hours on any day; or,
 - (b) if the child is enrolled in school, for more than —
 - (i) two hours on any day on which a child is expected to be at school; or
 - (ii) four hours on any day on which a child is expected to be at school but is not expected to be at school the following day.

7. Night work

- (1) It is an offence for any person to require or permit a child worker to work —
 - (a) before 6 am on any day;
 - (b) after 6 pm on any day; or
 - (c) in breach of sub-regulations (2) and (3).

- (2) A child worker, other than a one who is expected to be at school the following day, may work between 6 pm and 11 pm –
 - (a) in a restaurant, cinema, theatre or shop provided that there is adequate adult supervision; or
 - (b) for the purposes of baby-sitting or child minding.
- (3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6pm on any day in terms of sub-regulation (2) must at the end of the child's shift provide that child with safe transport to the child's home at no cost to the child, or the child's parent or caregiver.

8. Prohibited work

- (1) It is an offence for any person to require or permit a child worker to work in any of the following –
 - (a) deep sea fishing;
 - (b) commercial diving or other hazardous work underwater;
 - (c) slaughtering of animals;
 - (d) meat, poultry, or seafood processing;
 - (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
 - (f) logging;
 - (g) the protecting or safeguarding of any person or property, or work involving the handling of firearms;
 - (h) the refining of petroleum products;
 - (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
 - (j) the brewing manufacturing or selling of any liquid which in its final form would contain more than one per cent of alcohol;
 - (k) work in a bar, shebeen, tavern or pub, or another establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
 - (l) the manufacture or application of tar or asphalt;
 - (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
 - (n) work in health care or veterinary or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
 - (o) work involving exposure to any of the following –
 - (i) hazardous substance or agent;

- (ii) lead, asbestos, silica, coal or other hazardous dusts ;
- (iii) pressurised gases;
- (p) the production, transport, handling, storage, use of or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock or stone crushing;
- (u) the operation of vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front end loaders, earth moving equipment or similar heavy equipment;
- (w) driving of any motor vehicles or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

9. Worst forms of child labour

- (1) In addition to any prohibition contained in regulation 8 it is an offence for any person to –
 - (a) require or permit a child to work in any of the following -
 - (i) underground mining;
 - (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
 - (iii) in the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
 - (iv) in the manufacture of auramine, isopropanol or magenta;
 - (v) in the gasification of coal;
 - (vi) diving operations covered by the Diving Regulations, made in terms of the Occupational Health and Safety Act, 1993, irrespective of whether or not the child is an employee as defined in the Diving Regulations;
 - (vii) free diving below depths of 10 metres;
 - (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
 - (ix) work involving an exposure to ionising radiation or a hazardous substance or agent;
 - (x) work in chemically-based mineral extraction or similar operations;
 - (xi) doing any work in an environment in which the actual dry-bulb temperature is below -18 °C;
 - (xii) doing hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, as defined in the Environmental Regulations for Workplaces,

- made in terms of the Occupational Health and Safety Act, 1993, determined over a period of one hour, is greater than 36;
- (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse;
 - (b) employ a child in circumstances in which the child is unreasonably confined to the employer premises;
 - (c) require or permit a child to engage for that person's benefit in one of following activities when this work is performed by a child as part of an organised business activity conducted by that person –
 - (i) begging;
 - (ii) scavenging or collecting waste from garbage or waste dumps; or
 - (d) use, recruit, procure or offer a child for the commission of any offence listed in Schedule 1 or Schedule 2 of the Criminal Procedure Act, 1977.
- (2) For the purposes of regulation (1) a hazardous substance or agent is any one –
- (a) listed in Schedule One of the Regulations for Hazardous Chemical Substances, made in terms of the Occupational Health and Safety Act, 1993;
 - (b) listed in Annexure B of the Regulations for Hazardous Biological Agents, made in terms of the Occupational Health and Safety Act, 1993;
 - (c) registered with the Department of Agriculture as a Hazard Group I or II pesticide; or
 - (d) listed in Schedule 1 to these regulations.
- (3) Any form of work listed in this regulation shall constitute a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999, adopted by the International Labour Organisation.

10. Investigation and prosecution of alleged offences concerning worst forms of child labour

- (1) A labour inspector, who receives a complaint that any person has required or permitted a child to perform a worst form of child labour, or who in the performance of their duties observes any circumstances that may constitute work by a child in a worst form of labour must –
 - (a) investigate the alleged offence forthwith; or
 - (b) if the labour inspector is not authorised to investigate the contravention, refer it to a labour inspector who is so authorised.
- (2) A labour inspector who investigates an allegation that a person has required or permitted a child to perform a worst form of child labour must –
 - (a) conduct the investigation thoroughly and expeditiously;
 - (b) prepare a written report that must be filed with the Director-General.
- (3) The report prepared in terms of sub-regulation (2) must contain a recommendation as to whether or not –

- (a) the alleged offence constitutes a worst form of child labour;
 - (b) a prosecution should be initiated in terms of this regulation or any other regulation or law.
- (4) The Director-General must forward a copy of the report to the relevant prosecuting authority unless the investigation establishes no evidence of any offence.
- (5) For the purposes of these regulations, a labour inspector includes any public servant or any designated agent of a bargaining council who has been designated by the Minister in terms of section 63(1)(b) of the Basic Conditions of Employment Act for the purpose of enforcing this regulation.

11. Medical examinations

- (1) A labour inspector who has reason to believe that a child worker is employed in any work that may endanger his or her health may issue a written instruction to the employer requiring that the child be examined by a medical practitioner chosen by the child or a parent of the child or by the inspector.
- (2) The costs of an examination in terms of this regulation shall be borne by the employer.

12. Report to department of social development

A labour inspector who finds a child worker being employed or used in contravention of Chapter 6 of the Act or in contravention of these regulations shall refer the child for investigation to a child protection organisation designated in terms of the Children's Act No 38 of 2005 or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

13. Offences and Penalties

- (1) Any person who requires or permits a child worker to work for them in contravention of these regulations commits an offence.
- (2) Any person who is convicted of an offence in terms of these regulations may be sentenced to a fine or to imprisonment for a period of up to three years.
- (3) If any person is charged with an offence in terms of which it is alleged that that person permitted a child worker to work in breach of any provision of these regulations it is an defence if that person can establish that the child –
 - (a) was not an employee of that person; and
 - (b) did not in any manner assist in carrying on or conducting the business of that person.
- (4) Where any person is prosecuted for any offence involving the causing of injury to, or the death of, a child worker or any offence for a breach of any law

regulating health and safety at work and a labour inspector is of the view that the person being prosecuted may have required or permitted a child to perform any work that constituted a worst form of child labour as contemplated in these regulations, the labour inspector must bring such information to the attention of the relevant prosecuting authority.

- (5) If a person is convicted of an offence, including an offence in terms of sub-regulation (4) in terms of which that person required or permitted a child worker to perform a worst form of child labour, the court on convicting that person and determining a sentence must take into account that –
 - (a) that South Africa has ratified the Worst Forms of Child Labour Convention, 1999;
 - (b) that the offence constitutes a worst form of child labour in terms of that Convention.

14. Exemptions

- (1) The Minister may exempt work performed by a child worker who is 15 years or older from the application of these regulations on application by an employer or, in the case of work performed in terms of a learnership or approved vocational training programme, a sector education and training authority.
- (2) The Minister may not grant an exemption in terms of this regulation, unless the Minister is satisfied the child worker will not be exposed to a significant risk of hazards that may affect the child's health or development.

15. Summary

Any person who employs a child worker must display the prescribed summary of these regulations in the workplace where it can be read by employees including child workers who are at the workplace, which may include a summary of other relevant regulations and laws, in their workplace. This summary is provided in Schedule 2 to these regulations.

16. Short title and commencement

These regulations shall be known as the BCEA Regulations on Hazardous Work by Children and will come into effect 21 days after the date of publication in the *Government Gazette*.

Schedule 1: Hazardous substances and agents

Hazardous substances and agents referred to in regulation 9(2)(d):

- 4-Aminobiphenyl
- Arsenic and arsenic compounds
- Asbestos
- Benzene
- Benzidine
- Beryllium and beryllium compounds
- N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
- Bis(chloromethyl)ether and chloromethyl methyl ether

1,4-Butanediol dimethanesulfonate (Busulphan; Myleran)
 Cadmium and cadmium compounds
 1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU;
 Semustine)
 Chromium [VI] compounds
 Coal-tars
 Cyanide
 Erionite
 Ethylene oxide
 Formaldehyde
 Gallium arsenide
 Lead
 Mercury
 Mineral oils, untreated and mildly treated
 Mustard gas (Sulfur mustard)
 2-Naphthylamine
 Nickel compounds
 Phosphorus-32, as phosphate
 Plutonium-239 and its decay products, as aerosols
 Radioiodines, short-lived isotopes, including iodine-131
 Radionuclides, a-particle-emitting, internally deposited
 Radionuclides, b-particle-emitting, internally deposited
 Radium-224, -226, -228, and their decay products
 Radon-222 and its decay products
 Shale-oils
 Silica, crystalline
 Soots
 Sulfuric acid, strong-inorganic-acid mists containing
 Talc containing asbestiform fibres
 2,3,7,8-Tetrachlorodibenzo-para-dioxin
 Thiotepa
 Treosulfan
 Vinyl chloride

Schedule 2: Summary of regulations on the health and safety of children at work and on hazardous work by children

The Minister of Labour has made regulations to protect the health and safety of child workers at work under –

- (a) section 44 and 45 of the Basic Conditions of Employment Act, 1997 (called the BCEA regulations);
- (b) section 43 of the Occupational Health and Safety Act, 1993 (called the OHSA regulations).

This is a summary of the most important provisions of these two sets of regulations.

Any person who employs or uses the services of a child worker must display this summary in the workplace where it can be read by employees including child workers who are at the workplace.

1. Definitions

In this summary these terms means the following, unless the context indicates otherwise—

- (1) **"child"** means a person under 18 years old;
- (2) **"child worker"** means a child referred to in the definition of "employer";
- (3) **"employer"** means a person who employs, or provides work to a child, subject to paragraph 3 below.

2. Purpose of regulations and notice

- (1) The purpose of the regulations is to –
 - (a) protect the health and safety at work of child workers who are lawfully entitled to work;
 - (b) prohibit categories of work which child workers may not perform;
 - (c) place conditions on the work that may be performed by child workers
 - (d) identify which categories of work constitute worst forms of child labour, and to make appropriate enforcement provisions in this regard;

3. Coverage and interpretation of regulations

- (1) The BCEA regulations cover child workers as defined in those regulations, namely children who are employed, including children who assist any person to carry on their business.
- (2) The OHSA regulations cover all work performed by child workers as defined in those regulations.
- (3) For the purposes of the BCEA regulations, any person who allows a child worker to assist them in carrying on their business is the employer of that child.
- (4) The regulations do not -
 - (a) permit the employment of any child worker who is under 15 years of age or is subject to compulsory schooling in terms of any law;
 - (b) reduce any other condition of employment or prohibition applicable to the employment of any person in the Act or any other law, insofar as it applies to the employment of a child.
- (5) These regulations must be interpreted in accordance with the International Labour Organisation's Minimum Age Convention, 1973 and it's Worst Forms of Child Labour Convention, 1999. The text of the Convention is available at www.ilo.org.

4. Minimum age of work

(1) A child worker who is under 15 years of age or is subject to compulsory schooling may not be employed as an employee and may not assist any person to carry on their business.

(2) However, a child worker who is under 15 or subject to compulsory schooling may -

(a) work in the performance of advertising, artistic or cultural activities in terms of a permit granted in terms of *Sectoral Determination 10: Children in the Performance of Advertising, Artistic and Cultural Activities* issued by the Minister of Labour in terms of the BCEA (employers in these sectors should study the sectoral determination which can be accessed on www.labour.gov.za);

(b) do the following work, other than as an employee as defined in the BCEA -

- (i) collect contributions on behalf of a fund-raising organisation registered in terms of the Fund Raising Act (Act No. 107 of 1978);
- (ii) do voluntary work for a church, charitable organisation or amateur sports club; and
- (iii) as part of his/her schooling, do work that is appropriate for a person of that age or which does not place at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

(3) Even though the child worker may perform types of work referred to in paragraph (2)(a) to (b) above, such work is still subject to the provisions of the regulations summarised here.

(4) In terms of the South African Schools Act a child worker is subject to compulsory schooling until the last school day of the calendar year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.

5. Access to nutrition, health care and educational services

An employer who employs a child worker must ensure that their employment does not interfere with -

- (a) their access to adequate nutrition;
- (b) their access to adequate primary health care services; and
- (c) the education of a child worker who is enrolled at a school or at any other educational institution.

6. Work away from parents or legal guardian

(1) A child worker may only perform work which will result in its being away overnight from its parents or legal guardian -

- (a) if the child's parent or legal guardian consents in writing;
- (b) if the child is enrolled in school, the schooling of a school going child is not adversely affected.

- (2) In addition, the employer must provide —
 - (a) full details of the accommodation arrangements to the parent or legal guardian of the child worker for their approval;
 - (b) free of charge to the child, accommodation that —
 - (i) is clean, comfortable, suitable and safe for the child;
 - (ii) is not occupied by any adult other than the parent, legal guardian or a child worker minder appointed or designated by the parent of the child, if they accompany the child; and
 - (iii) sufficient bedding, lavatory and washing facilities for the child worker;
 - (c) the child worker with nutritious food or, if the child is able to purchase such food within a reasonable distance from the place of work or accommodation, provide the child with an allowance sufficient to purchase food and enable the child to purchase it at appropriate intervals.
- (3) It is an offence for any person to recruit a child worker to perform work in violation of sub-paragraphs (1) and (2).

7. Prohibition of piecework and task work

- (1) No person may require or permit a child worker to perform piecework or task work. Piecework is work in terms of which remuneration is based mainly on the quantity of work done. Task work is work in terms of which the remuneration of an employee is based mainly on the completion of set tasks.
- (2) This does not prevent a child worker being paid a commission or receiving an incentive payment on the completion of a task if —
 - (a) the child is paid at least the minimum wage prescribed for that work in terms of any sectoral determination or bargaining council agreement;
 - (b) in the absence of any such minimum wage, the child, in addition to any commission or incentive payment received, is paid a basic wage, calculated on the basis of time worked, and this wage is more than the commission or incentive payment received, and is calculated on a consistent basis.

8. Maximum daily and weekly working time

- (1) A child worker may not work more than 8 hours on any day.
- (2) A child worker who is not enrolled at school may not work for more than 40 hours in any week.
- (3) A child worker who is enrolled in school may not work for more than —
 - (a) 20 hours in any week during school term, and
 - (b) 40 hours in any week that falls entirely within school holidays
 - (c) two hours on any school day; or four hours on any school day followed by a non-school day (e.g. a Friday, or the last day of a school term.)

9. Night work

- (1) A child worker may not work before 6 am or after 6 pm on any day, except where allowed in sub-paragraph (2).
- (2) A child worker, other than one who is expected to be at school the following day, may work between 6 pm and 11 pm if –
 - (a) the work is in a restaurant, cinema, theatre or shop where there is adequate adult supervision; or
 - (b) the work is baby-sitting or child minding;
- (3) Unless the parent or legal guardian agrees otherwise in writing, any person who requires or permits a child worker to work after 6pm must, at the end of the shift, provide him/her with safe transport home, at no cost to the child, parent or care-giver.

10. Prohibited work

An employer may not require or permit a child to work in any of the work:

- (a) deep sea fishing;
- (b) commercial diving or other hazardous work under water;
- (c) slaughtering of animals;
- (d) meat, poultry, or seafood processing;
- (e) the manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
- (f) logging;
- (g) protecting or safeguarding any person or property or work involving the handling of firearms;
- (h) refining petroleum products;
- (i) filling cars with petroleum or other chemical fuels at a filling station, or doing work close to such activity;
- (j) brewing, manufacturing or selling any liquid which in its final form would contain more than one per cent of alcohol;
- (k) work in a bar, shebeen, tavern or pub or other establishment whose primary business is to sell alcoholic beverages to the general public, for consumption on the premises;
- (l) the manufacture or application of tar or asphalt;
- (m) work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens;
- (n) work in a health care or related facility, in circumstances where there is likely exposure to biological agents, including but not limited to Hepatitis, HIV, and tuberculosis, anaesthetics, anti-neoplastic medications or addictive drugs;
- (o) work involving exposure to a hazardous substance, to lead, asbestos, silica, coal or other hazardous dusts or to pressurised gases;

- (p) the production, transport, handling, storage, use of, or other work involving exposure to explosives or flammable substances;
- (q) work in a casino or other gambling establishment;
- (r) electrical work involving high voltage cables or other power sources in excess of 250 volts;
- (s) welding, brazing or soldering;
- (t) rock and stone crushing;
- (u) operating vibrating equipment such as rock drills and riveters;
- (v) operating tractors, winches, forklift vehicles, front-end loaders, earth moving equipment or similar heavy equipment;
- (w) driving any motor vehicle or mobile plant;
- (x) work in vehicles transporting passengers or heavy goods;
- (y) work in a confined space.

11. Worst forms of child labour

(1) In addition, no person may require or permit a child to work in any of the following -

- (i) underground mining;
- (ii) work in connection with the operation of a smelter or furnace, or rolling mills that form and cut metals;
- (iii) the production of aluminium, brass, bronze or similar alloys, charcoal or the fuel, coke;
- (iv) the manufacture of auramine, isopropanol or magenta;
- (v) the gasification of coal;
- (vi) diving operations using aqualungs;
- (vii) free diving below depths of 10 metres;
- (viii) work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
- (ix) work involving exposure to ionising radiation;
- (x) work in chemically-based mineral extraction or similar operations;
- (xi) any work in an environment in which the actual dry-bulb temperature is below minus 18 °C;
- (xii) hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, (as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993) determined over a period of one hour, is greater than 36;
- (xiii) work in circumstances in which it is reasonably foreseeable that the child will be exposed to physical, psychological or sexual abuse.

(2) Any form of work listed in sub-paragraph (1) constitutes a worst form of child labour as contemplated in the Worst Forms of Child Labour Convention, 1999,

adopted by the International Labour Organisation. These prohibitions may overlap to some extent with the prohibitions listed in paragraph 10 but the activities referred to in this paragraph are considered as exposing children to very serious harm. Penalties for breach should therefore be higher.

(3) No person may –

- (a) employ a child in circumstances in which the child is unreasonably confined to the employer's premises;
- (b) require or permit a child to engage for that person's benefit in one of following activities when this work is performed by a child as part of an organised business activity conducted by that person –
 - (i) begging;
 - (ii) scavenging or collecting waste from garbage or waste dumps; or
 - (iii) use, recruit, procure or offer a child for the commission of any serious offence (they are listed in schedules 1 and 2 of the Criminal Procedure Act, 1977).

(4) The BCEA regulations define which specific substances agents are considered very harmful to children.

12. Risk assessment

(1) Every employer who employs or provides work to a child worker, or permits any child worker to work at any place under their control, or with any machinery under their control, must in respect of such work undertake a risk assessment process which must at least the following:

- (a) identifying the risks and hazards to which any child worker may be exposed;
- (b) analysing and evaluating the risks and hazards that are identified;
- (c) preparing and implementing –
 - (i) a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified;
 - (ii) a monitoring plan; and
 - (iii) a review plan.

(2) The following factors must be taken in to account when making the risk assessment:

- (a) the increased biological sensitivity of children to chemicals, biological agents, carcinogens and hormone disruptors;
- (b) the increased vulnerability of children to sleep disruption;
- (c) the vulnerability of children to direct and indirect coercion or abuse from any person, particularly when working alone;
- (d) the relative lack of experience and maturity of children in making safety judgments;
- (e) the reduced ability of children to adapt to inflexible work routines;

- (f) the reduced ability of children to perceive dangers correctly;
- (g) the reduced capacity of children to understand safety messages;
- (h) whether the design of any machinery, tools, equipment and protective equipment is appropriate for children's stature;
- (i) the implications of children working at the period when their skeletal structures and bones are still developing;
- (j) children's physical development in relation to ergonomics, in order to ensure a healthy and safe working environment;
- (k) the physiological, hormonal and other vulnerabilities of children at puberty.

(3) In the risk assessment process, the employer must have regard to the guidelines contained in Schedule 1 to the Health and Safety of Children at Work Regulations issued in terms of the OHSA.

13. Respiratory hazards

A child worker may not undertake any work where a person over the age of 17 performing the same work would be required in terms of the OHSA to wear respiratory protection equipment, i.e. equipment such as masks that protects workers from inhaling hazardous dusts or fumes.

14. Work in elevated position

- (1) A child worker may not work at a height of more than 5 metres above the floor/ground.
- (2) A child worker working at a height of more than 2 metres from the floor/ground must work under the supervision of the employer or a competent adult employee, and reasonable fall protection must be provided, such as a safety harness or railings.

15. Lifting of heavy weights

- (1) A child worker performing any work may not, as part of their work, lift an object weighing more than –
 - (a) the lesser of 15 kg or 20 % of the child's body weight;
 - (b) more than 7,5 kg more than once per minute.
- (2) A child worker may not lift objects weighing more than 5 kg at work for more than 2 hours without being granted a 30-minute period in which he or she is not required to lift such a weight.

16. Work in a cold environment

- (1) The employer of a child worker working in an environment below the following actual dry-bulb temperature must be supplied with suitable protective warm clothing –
 - (a) 0°C where the work involves repeated entry into, or presence for more than two minutes in such environment;

- (b) 6°C where the work involves repeated entry into or presence for more than one hour in such environment.

(2) The protective warm clothing supplied to child worker must comply with Regulation 2(2)(b)(i) to (vi) of the Environmental Regulations for Workplaces

17. Work in a hot environment

(1) No person may require or permit a child worker to work or perform hard manual labour where the average temperature over one hour exceeds 30°C unless the child –

- (a) is acclimatised to such working environment before he/she is required or permitted to work in such environment;
- (b) has drink breaks every 15 minutes; and
- (c) is cognisant of the need to drink at least 150ml of liquid every break and the employer provides the child with the necessary liquids.

(2) The term 'average temperature' referred to here is technically the time-weighted average WBGT index as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993, and determined over a period of one hour.

18. Work in noisy environment

No person may require or permit a child worker to perform any work involving an exposure to a noise level in excess of 80 dB(A) unless the child is supplied with hearing protective equipment that complies with regulation 12 of the Noise-Induced Hearing Loss Regulations, made in terms of the Occupational Health and Safety Act, 1993. DB(A) is a unit used in measuring noise, and takes into account how often loud noises are heard, even if an environment is not noisy all the time.

19. Power tools and cutting or grinding equipment

(1) A child worker may not use any power-driven machinery or power tool, or any cutting or grinding equipment unless a risk assessment conducted in terms of the regulations has determined that its use is safe and without significant risks for the child.

(2) If the risk assessment indicates that the power tool or other equipment is safe and without significant risks for the child worker to use, if used with safety equipment or facilities, the child –

- (a) must be provided with the necessary safety equipment and facilities that are usually required in terms of occupational health and safety regulations; and
- (b) must be instructed in the use, maintenance and limitations of such equipment.

(3) Before starting such work the child worker must receive adequate training in the safe and appropriate use of the power tools or machinery from a person competent in their use.

(4) The child worker must be supervised by a competent person when using power tools or other equipment.

(5) An inspector may issue a notice prohibiting the use by child workers of any power tool or other machinery.

20. Report to Department of Social Development

(1) A labour inspector who finds a child worker being employed or used in contravention of the Act or of the BCEA or OHSA regulations shall refer the matter for investigation to a child protection organisation designated in terms of the Children's Act No 38 of 2005 or to the provincial department of social development in the province where the child works or lives, unless the labour inspector is satisfied that the child will not suffer any detriment due to steps being taken by the inspector to ensure compliance with the law.

(2) The relevant social worker must then investigate the circumstances of the child worker to determine whether he/she is in need of care and protection and, if so, take appropriate action to protect the child.