

A Guide to the Employment of Child Entertainers



**LABOUR INSPECTION DIVISION
LABOUR DEPARTMENT
HONG KONG**

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Introduction

The Employment of Children Regulations, made under the Employment Ordinance (Cap. 57), prohibit the employment of children in industrial undertakings and regulate the employment of children in non-industrial establishments, so as not to interfere with their schooling.

However, an employer in the entertainment, advertising or related field may, due to genuine need of the industry, find it necessary to employ child entertainers of different ages in his productions. This guide outlines the main features of the application procedures for employing child entertainers and lists out the standard conditions imposed by the Commissioner for Labour in order to help employers understand their obligations and child employees know their entitlements.

For more detailed conditions and restrictions for the employment of children, please refer to “A Concise Guide to the Employment of Children Regulations”.

Definition of children

A “child” is defined under the Employment Ordinance as a person under the age of 15 years.

General prohibition of employment of children

No person shall employ a child in any industrial undertaking. Subject to certain restrictions in the Employment of Children Regulations, children aged 13 or over may be employed in non-industrial establishments. However, children of this category, who have not completed Form III of secondary education, are forbidden to enter into employment in any place of public entertainment except for non-profit making purposes.

A child who works in any place of employment, whether for wages or not, shall be deemed to be employed therein for the purposes of the Regulations.

The Employment of Children Regulations do not apply in relation to children who are registered apprentices under the Apprenticeship Ordinance (Cap.47).

Special permission granted by the Commissioner for Labour

For the development of art or training, the Commissioner for Labour may permit the employment of children of different ages as entertainers by granting exemption from certain provisions of the Employment of Children Regulations. An employer intending to employ child entertainers should apply to the Commissioner in writing before the employment commences.

To ensure that the children's schooling is not interfered and their well-being including safety, health and morals are not jeopardized, the Commissioner will impose specific conditions and restrictions upon the grant of special permissions.

Classification of child entertainers

According to the pattern of employment, child entertainers are broadly classified into the following two categories:

- (a) Extras - ad hoc employment in a particular programme or production; and
- (b) Contract artistes/freelancers - employment on a contract covering a certain period of time or on programme basis.

Different application procedures and employment conditions are set for the employment of different categories of child entertainers.

Application procedures

(a) Extras

The application (Form CEF-1) should reach the Labour Department at least 48 hours before commencement of the employment. A script or storyboard of the production should also be submitted.

(b) Contract artistes/freelancers

The application (Forms CEF-1 and CEF-2), together with a script or storyboard of the production, should reach the Labour Department at least 7 days before commencement of the employment. Besides, copies of each child employee's employment record (Form CEF-4), his parent's written

consent to the employment (Form CEF-5), as well as a valid school attendance certificate* or evidence of completion of Form III in respect of the child, should be submitted at the same time.

Standard conditions imposed upon the grant of the special permission

(a) Basic conditions

- (i) No child shall be employed
 - before 7 a.m. or after 11 p.m.;
 - for a period of employment more than 8 hours on any day;
 - for working more than 4 hours on school day during the school term;
 - during school hours;
 - for more than 4 days in a week and during school term for more than 3 days from Monday to Saturday;
 - during the 12 hours immediately following the ending of his work on any day; and
 - to work continuously for more than 5 hours without a break of not less than 1 hour for a meal or rest and, in the case of a child under the age of 6, without an additional rest period of not less than half an hour within the said spell of 5 hours.
- (ii) Free transport should be provided to take each child employee home if he is required to work after 7 p.m.
- (iii) No child shall be engaged in any act that is dangerous to his life, health or morals.

(b) Additional conditions for child extras

The following documents shall be maintained and made available for inspection by Labour Inspectors of the Labour Department during the employment period, and shall be sent to the Labour Department within 14 days from the last day of employment:

* A "school attendance certificate" is a document issued by the school head, certifying that the child employee is attending at the school. When a child is offered an employment, his parent should apply to the school head for this certificate.

- (i) an employment record in respect of each and every child entertainer containing his personal particulars and information about the employment; and
- (ii) a written consent to the employment from the child's parent and indicating the name of school and class the child is attending.

(c) Additional conditions for contract artistes/freelancers

The following documents shall be maintained and made available for inspection by Labour Inspectors:

- (i) an employment record in respect of each and every child entertainer containing his personal particulars and information about the employment;
- (ii) a written consent to the employment from the child's parent; and
- (iii) a valid school attendance certificate or evidence of completion of Form III in respect of the child.

Children participating in cultural performance

An organising institution intending to arrange children to participate in cultural performances will only be required to notify Labour Department 14 days before the commencement of the performance in a standard notification form (Form CEF-6), rather than to seek special permission from the Commissioner for Labour, if the following criteria are met:

- (a) the children and/or their parents/guardians do not receive any pecuniary reward, in whatever terms or titles, for taking part in the performance*; and
- (b) the safety, health and welfare, as well as the schooling and morals of the children are not jeopardized in the course of the activities, e.g. the frequency of performances does not exceed seven days per month or four days per week.

If the Labour Department is satisfied that the criteria outlined above are fully met, the organising institution will be informed in writing that formal application

* *For example, lunch box, costumes or transport provided free of charge by the organising institution will not be treated as pecuniary reward; while meal/clothing/traveling allowances in monetary terms will be counted as part of wages or pecuniary reward.*

for the Commissioner for Labour's permission is not required. To protect the welfare of child performers, the organising institution should take out accident or other relevant insurance so that the children are protected in case of accident during performance.

If, after scrutinising the notification, the Labour Department considers that a formal application for the Commissioner for Labour's approval is required, the organising institution will also be informed in writing that formal application should be submitted. Such application should be accompanied by the required documents, including written consent from the child's parent/guardian and valid school attendance certificate.

Employment of overseas child entertainers

Overseas employees employed in Hong Kong are subject to certain immigration conditions imposed by the Immigration Department of HKSAR Government. Employers intending to employ overseas child entertainers to perform in Hong Kong should apply to the Commissioner for Labour in writing like their local counterparts. According to circumstances of each case, the Commissioner may waive certain provisions to be complied with by the employers and impose additional conditions and restrictions.

Offences and penalties

Any person who unlawfully employs a child is liable to a maximum fine of \$50,000 upon conviction. Any employer who breaches any conditions imposed by the Commissioner for Labour may result in cancellation of the special permission and criminal prosecution.

Relevant labour legislation

(a) Occupational Safety and Health Ordinance (Cap. 509)

This Ordinance and its subsidiary regulations are enacted to:

- (i) ensure the safety and health of employees at work;

- (ii) prescribe measures that will make the workplaces of employees safer and healthier for them;
- (iii) improve the safety and health standards applicable to certain hazardous processes, plant and substances used or kept in workplaces; and
- (iv) generally improve the safety and health aspects of working environments of employees.

A hotline at 2559 2297 is provided for handling public enquiries on occupational safety and health. Reporting of accidents and dangerous occurrences at workplaces can be made to hotline at 2815 0678.

(b) **Employees' Compensation Ordinance (Cap. 282)**

Under the Employees' Compensation Ordinance, all employers must have sufficient insurance coverage for their liabilities under the Ordinance and at common law for injuries at work of their full-time and part-time employees including child employees.

(c) **Employment Ordinance**

The provisions under the Employment Ordinance are applicable to child employees as appropriate.

Enquiries and complaints

Enquiries relating to the employment of child entertainers may be made to Enquiry Hotline at 2717 1771 (the hotline is handled by the "1823") or through the Labour Department homepage at <http://www.labour.gov.hk>.

Complaints may be made through our 24-hour Complaint Hotline at 2815 2200 or directed to the Headquarters of the Labour Inspection Division, Labour Department at 17/F Harbour Building, 38 Pier Road, Central, Hong Kong. All complaints will be dealt with in strict confidence.