

PREVENTING CHILD EXPLOITATION

**Child Labour and Regulated
Activities involving Children**



LEGAL ASSISTANCE CENTRE

2018



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On any given day in 2016 children aged 5-17 years



METRICS

- 152 million were in child labour
- Of which, 73 million were in hazardous work

REGIONAL PREVALENCE OF CHILD LABOUR

Africa	19.6%
Americas	5.3%
Arab States	2.9%
Asia and the Pacific	7.4%
Europe and Central Asia	4.1%



OF THE 152 MILLION CHILDREN IN CHILD LABOUR

AGE PROFILE

48%

5-11 years-olds

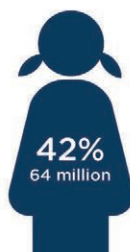
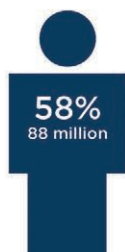
28%

12-14 years-olds

24%

15-17 years-olds

GENDER



ECONOMIC ACTIVITY



70.9%

Agriculture



11.9%

Industry



17.2%

Services

Source: Internal Labour Organisation (ILO), *Global Estimates of Child Labour: Results and Trends, 2012-2016*, available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575499.pdf.

1. Introduction

This booklet is meant to inform people of the rules about child labour and the participation of children in certain regulated activities. It should also help people to understand and report illegal child labour or exploitation of children. The booklet explains the laws which protect children from being taken advantage of, forced into work, or involved in work that is inappropriate for their age. Not all employment undertaken by children is illegal – this booklet explains what kinds of employment are allowed for children of various ages.

The rules on child labour and activities involving children come from these Namibian laws:

- Namibian Constitution
- Labour Act 11 of 2007
- Child Care and Protection Act 3 of 2015 and its regulations.

There are also rules about child labour and child exploitation in several international agreements which Namibia has joined:

- Convention on the Rights of the Child
- African Charter on the Rights and Welfare of the Child
- International Labour Organisation (ILO) Convention 138 concerning Minimum Age for Admission to Employment
- International Labour Organisation (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
- Protocol to the Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.



2. Overview

Internationally, there is a difference between “child work” and “child labour”. Child work is not regulated by law. Employment by children is regulated to make sure that it does not become child labour. There are particularly stiff criminal penalties for exploiting children in ways that are internationally considered to be amongst the worst forms of child labour.

Child work refers to activities that do not have a negative impact on a child’s health, schooling or development. These activities would include reasonable household chores, helping out with reasonable and safe tasks at a family farm or business (outside school hours), and reasonable chores at school such as weeding or cleaning the school yard. Participation in this kind of work can often be good for a child’s development.

Child labour covers economic exploitation of children, and any work that is likely to be hazardous to a child or to interfere with the child’s education, harm the child’s health or have a negative effect on the child’s mental, spiritual, moral or social development. This protection is guaranteed by the Namibian Constitution, the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The Namibian Constitution says that this protection applies to children under age 16.



Child work ✓

The difference between “child work” and “child labour” will often depend on the child’s age, the type and purpose of the work, the hours of work involved and the conditions in which the work is performed. Child labour is work that children are too young to do, or work that harms a child’s health, is bad for the child’s development, or interferes with the child’s schooling.



Child labour ✗

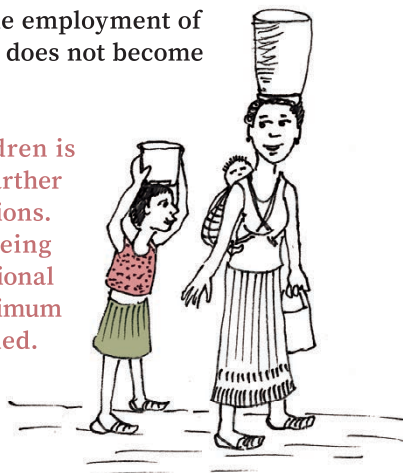
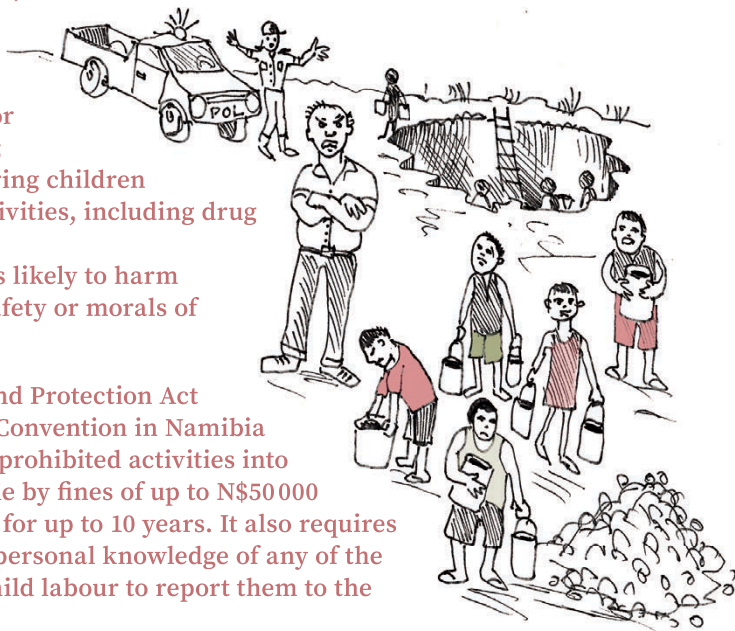
Worst forms of child labour: Certain types of child labour are subject to strong prohibitions. Namibia has joined an International Labour Organisation (ILO) agreement which forbids these kinds of child labour:

- (a) all forms of slavery or practices similar to slavery, including the sale and trafficking of children, forced labour, and recruitment of children for use in armed conflict;
- (b) using or offering children for prostitution or pornography;
- (c) using or offering children for illegal activities, including drug dealing;
- (d) work which is likely to harm the health, safety or morals of children.

The Child Care and Protection Act implements this Convention in Namibia by making these prohibited activities into crimes punishable by fines of up to N\$50 000 or imprisonment for up to 10 years. It also requires anyone who has personal knowledge of any of the worst forms of child labour to report them to the police.

Namibia's Labour Act sets rules regarding the employment of children to make sure that child employment does not become child labour.

Child employment: The employment of children is regulated by the Labour Act, which goes even farther than the Namibian Constitution in its protections. Children under age 14 are prohibited from being employed at all. This is in line with the International Labour Organisation (ILO) agreement on the minimum age for employment, which Namibia has joined. The Labour Act also provides different sets of rules for children aged 14-16, and for children aged 16-18. These rules will be discussed in Section 3.



The International Labour Organisation (ILO) agreement on the minimum age for employment makes exceptions to the rules on minimum age for activities such as participation in artistic performances – as long as these activities are regulated through appropriate permits, and with respect to maximum hours and conditions of child participation. For example, children may have opportunities to act in a play or a film, to be photographed for an advertisement or to take part in activities such as sporting events, beauty contests, choir recitals or dance performances. They may receive some prize or financial reward for their participation in such activities. It is important to protect children in such contexts, but it is not very helpful to treat these kinds of activities as “employment”. Namibia’s Child Care and Protection Act regulates child participation in certain activities to protect children against mistreatment and exploitation.

Regulated child activities: The Child Care and Protection Act regulates child participation in these kinds of activities:

- programmes designed to promote personal development
- vocational training
- performances, displays, activities, contests or events for advertising, beauty, sport, educational, religious, traditional, cultural or artistic purposes.

There is no minimum age for participation in such activities, but the child can participate only with the consent of a parent or guardian. There are various other rules about child participation in any such activities. If the activity is a profit-making one (aside from raising money for some charitable purpose), the person organising the activity must have a licence if children are going to be involved. These rules are discussed in detail in the next section.



3. Understanding the rules

Who is a “child”?

A child for purposes of the laws on child work, child labour and regulated activities is anyone under age 18. No child under age 14 is allowed to be employed in any way. There is no minimum age for child participation in regulated activities, as long as the rules that protect children against exploitation are followed.

Can children work without this being considered illegal “child labour”?

Yes. Children are allowed to do reasonable household chores which are appropriate to their age and do not interfere with their schooling. Children who are age 14 and older can be legally employed as long as the rules in the Labour Act are followed.

Note that there are also certain activities regulated by the Child Care and Protection Act, which are not considered to be employment. These activities include vocational training and performances, displays, activities, contests or events for advertising, beauty, sport, educational, religious, traditional, cultural or artistic purposes - whether or not the child received any reward for participation.

The following sections explain the legal rules on child employment, child labour and child participation in regulated activities in detail.

3.1 EMPLOYMENT OF CHILDREN

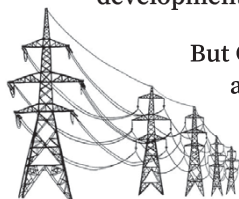
Are there different rules for employing children of different ages?

Yes.

Children under age 14: Children under age 14 cannot be employed at all.

Children between ages 14 and 16: Children between the ages of 14 and 16 can be employed only under certain circumstances.

- (1) They *cannot* work at night (meaning after 8:00 pm and before 7:00 am). No exceptions to this rule are allowed.
- (2) They *cannot* be employed to do any kind of job in the following places:
 - (a) underground or in a mine
 - (b) places where construction or demolition take place
 - (c) places where goods are manufactured
 - (d) places involved with the generation or supply of electricity
 - (e) places where machinery is being installed or dismantled
 - (f) places where any work-related activities that take place could endanger the child's health, safety or development.



But Government can make exceptions allowing for employment in any of these places – subject to conditions aimed at protecting the children involved, if necessary.



- (3) Government can ban other kinds of employment of children between 14 and 16 in future regulations made under the Labour Act.

Children between ages 16 and 18: The rules for this age group are the same as the rules for children between the ages of 14 and 16, with one exception. For children between age 16 and 18, Government can make future regulations allowing night work in certain circumstances.

What penalty can someone face for employing children illegally?

An employer who is convicted of employing a child in violation of the Labour Act could face a fine of up to N\$20 000, imprisonment for up to 4 years, or both.

Some kinds of child employment are even more serious crimes in terms of the Child Care and Protection Act. This law has a separate offence for inducing or allowing a child to engage in employment which:

- is likely to harm the health, safety or morals of a child
- is inappropriate for the child's age
- endangers the child's well-being, education, health, or development.

This is a crime punishable by a fine of up to N\$50 000, imprisonment for up to 10 years, or both. This crime is broader than the one in the Labour Act, because it does not apply only to the employer – it could apply to the employer or the child's parent or a person who arranged the employment of the child.

But, daddy,
I don't want
to work at the
shebeen!!
The men there
get drunk and
grab me.



As long as you live
under my roof and
eat my food, you will
do what I tell you.



This is inappropriate work for a 15-year-old which is endangering the child's safety and well-being. It could be a crime for the employer in terms of the Labour Act, and a crime for the employer and the child's father in terms of the Child Care and Protection Act.

I really enjoy my
work with you in the
bakery. I like helping
you bake the pies.



I have been letting you work
until 8:30 in the evenings.
But the labour inspector just
told me that children between
age 14 and 16 are not allowed
to work past 8:00 pm.
I was not aware of this rule.
We must adjust your hours
to follow the law, and to make
sure that you get enough
time to play and rest!



The original working hours in this example violated the Labour Act. But this situation probably did not harm or endanger the child in any way, and the work was appropriate for the child's age. So it was probably not a violation of the Child Care and Protection Act.

In terms of the Child Care and Protection Act, anyone who owns, has responsibility over, or even resides on premises where inappropriate or dangerous child employment has occurred also commits a crime if he or she was aware of the situation and did not report it. The penalty is a fine of up to N\$20 000, imprisonment for up to 5 years, or both.



I have no idea
what goes on
in this building
that I rent.
I see children
going inside, but
maybe they are
getting help with
their school work.

Has the child who is employed illegally committed a crime?

No. The child has not committed any crime.

What will happen to a child who is illegally employed?

A child who is working illegally may be a child who is in need of protective services. (The term “protective services” covers a wide range of State interventions which can improve a child’s safety, security or well-being.) If a report of illegal child employment is received, a social worker will do an investigation to see if the child needs help. The process is described in more detail in section 3.6.

3.2 FORCED LABOUR

What is “forced labour”?

“Forced labour” in terms of the Labour Act is any work that someone does against their will because of a threat of penalty, punishment or other harm. The Namibian Constitution says that forced labour does not include

- any labour which is part of the civic duties of every person in Namibia (such as a rule that everyone must clean the public pavement in front of their own house or shop)
- any labour required in terms of a court order (such as community service imposed for a criminal offence)
- any labour required of persons who are lawfully detained, which is reasonably necessary in the interests of hygiene (such as helping to clean the cells or the showers in a prison)
- any labour required during a public emergency.

According to the Labour Act, forced labour does include work by an employee’s child performed in terms of an arrangement between the employer and the employee – such as where a farmer arranges for an employee’s son to herd the farmer’s cattle. It also does include work performed by anyone at the order of a traditional leader.

The Child Care and Protection Act says that “forced labour or services” means labour or services obtained through threats, force, intimidation or other forms of coercion or physical restraint.

It is illegal to coerce a child or an adult into forced labour. But children are particularly vulnerable to forced labour because of their lack of power. Forced labour is considered to be one of the worst forms of child labour.

What is the punishment for requiring a child to engage in forced labour?

In terms of the Labour Act, requiring *anyone* to engage in forced labour is a crime punishable by a fine of up to N\$20 000, imprisonment for up to four years, or both. This applies to forced labour carried out by either *adults or children*.



But requiring a *child* to engage in forms of forced labour that can be *harmful* to the child is an even more serious crime in terms of the Child Care and Protection Act. This crime is punishable by a fine of up to N\$50 000, imprisonment for up to 10 years, or both. (This crime is discussed in more detail in the next section on the worst forms of child labour.)

3.3 WORST FORMS OF CHILD LABOUR

The Child Care and Protection Act criminalises all the worst forms of child labour set out in the International Labour Organisation (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Slavery

It is a crime to use a child in slavery, to offer a child for slavery, or to facilitate such an arrangement. This applies to other practices which are similar to slavery, including debt bondage, servitude and forced labour.

“*Slavery*” is defined in the Child Care and Protection Act as forcing a child by any means to submit to the control of someone else “as if that other person were the owner” of the child. In other words, severe forms of exploitation might amount to “slavery”, depending on the degree of control over the person being exploited.

“*Debt bondage*” is the situation where someone secures a debt by promising to provide some kind of labour or personal services as security for the debt. For example, suppose that a child is provided with transport to another part of Namibia, against a promise to work on a farm in that area until the costs of the transport are repaid. This situation would be a form of debt bondage, as well as the crime of trafficking.

Children in armed forces

It is a crime to recruit, enlist or employ a child in armed services, or to facilitate such an arrangement. This would include police, military or security forces, whether they are run by government or privately. It applies to armed forces in Namibia or in other countries.

The regulations issued under the laws setting up the Namibian Defence Force and the Namibian Police forbid admission of children under age 18 to these forces. Children under age 18 are also specifically prohibited from being private security officers in terms of the Security Enterprises and Security Officers Act. But, for example, children were conscripted as child soldiers to fight on behalf of the rebel forces in the past war in the Democratic Republic of Congo. Children of varying ages, with some as young as 11 years old, were taken from the streets and forced to engage in horrific war crimes.

Sexual exploitation

It is a crime to use a child for sexual exploitation, to offer a child for this purpose, or to facilitate such an arrangement.

“*Sexual exploitation*” is not defined in the Child Care and Protection Act in connection with the worst forms of child labour. The ILO Convention on the Worst Forms of Child Labour does not use this term, but rather refers to using a child for prostitution, for the production of pornography or for pornographic performances. The term is defined in the Combating of Trafficking in Persons Act as committing any crime of a sexual nature against a child.

Child pornography

It is a crime to use a child for child pornography, to offer a child for this purpose, or to allow or facilitate such an arrangement. This is a crime regardless of whether or not it was done for profit.

“*Child pornography*” is not defined in the Child Care and Protection Act or in the ILO Convention on the Worst Forms of Child Labour. However, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (which has been joined by Namibia) defines it as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.” Some say that this definition is not broad enough because it does not cover sexually-suggestive images of children where the child’s sexual parts are not visible.

This is an illustrated manual for doctors on how to examine child rape victims. It has some illustrations of children's genitals, but it is NOT child pornography.



This is a website with photos of children in sexually-suggestive poses. It has some illustrations of children's genitals. This is child pornography.

Drug production, drug dealing and other crimes

It is a crime to use or employ a child for drug production, drug trafficking or any other criminal activity, to offer a child for this purpose or to facilitate such an arrangement.

“Drugs” are not defined in the Child Care and Protection Act or the ILO Convention on the Worst Forms of Child Labour. The ILO Convention notes that “drugs” are defined in other international treaties. There are three main international treaties on drugs, all joined by Namibia, which together list over 100 types of drugs:

- (1) *Single Convention on Narcotic Drugs, 1961*
- (2) *Convention on Psychotropic Substances, 1971 and*
- (3) *UN Convention Against Illicit Traffic in Narcotic and Psychotropic Substances, 1988.*

Guidance on the rules regarding drugs in Namibia can be found in the Medicines and Related Substances Control Act 13 of 2003 and the Abuse of Dependence-Producing Substances and Rehabilitation Centres Act 41 of 1971.

We will get little Jonny to climb in through the window and unlock the door for us so that we can get inside to get the goods. He is small enough to fit.



Exploitation for begging

It is a crime to use or employ a child for begging, to offer a child for this purpose, or to facilitate such an arrangement.

I make my young cousin beg on the street. She is small and pretty, so people give her lots of money. I let her keep a dollar or two every day, then I take the rest.



This is a crime.



I am unemployed and homeless. I beg at this robot because I have no money. I bring my baby along because there is no one else who can look after the baby.

This is NOT a crime.

Harmful forms of child labour

It is a crime to force, induce or allow a child to perform any kind of labour that –

- is likely to harm the health, safety or morals of the child
- is inappropriate for the child's age
- may harm the child's –
 - well-being
 - education
 - physical or mental health OR
 - spiritual, moral or social development.

This applies regardless of whether or not the child was given any reward for the labour in question. In other words, it does not have to look like “employment” to be illegal.



After I had triplets, I forced my niece Mary to drop out of school so that she could help me with the cooking, cleaning and child care. She is only ten years old, but she works very hard.

This is a crime.



My nephew Sam likes to help me feed the baby in the evenings. I let him help if he has finished all his homework first. He says that helping out with child care will help him learn how to be a good father someday.

This is NOT a crime.

Forced participation in certain activities

It is a crime to force a child to participate in any performance, display, activity, contest or event UNLESS it is

- (a) part of a school curriculum or requirement or
- (b) the requirement to participate falls within the reasonable exercise of parental authority.

This applies regardless of whether or not the activity involves any reward.

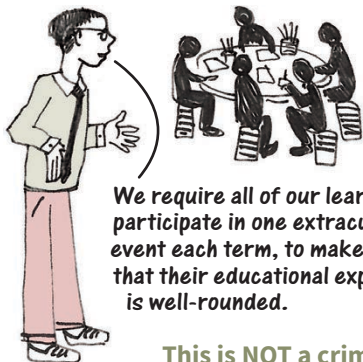
Lucy hates beauty contests. She is so frightened of going on stage that it gives her headaches and stomach-aches every single time. But I make her take part in beauty contests as often as possible, because I want her to win some extra money for our family.

This is a crime.



My daughter Susanne does not like to go to her speech therapy sessions after school. But I make her attend, because it is really helping her with her speech problem.

This is NOT a crime.



We require all of our learners to participate in one extracurricular event each term, to make sure that their educational experience is well-rounded.

This is NOT a crime.

Harmful activities

It is also a crime to induce or allow a child to participate in any performance, display, activity, contest or event that –

- is likely to harm the health, safety or morals of a child
- is inappropriate for the child's age
- may harm the child's –
 - well-being
 - education
 - physical or mental health OR
 - spiritual, moral or social development.

This applies regardless of whether or not the activity involves any reward.

The drama school gets Emily to hand out flyers on the street all day. They say she draws in customers because she is small and cute. She has to miss school, and some days it is very hot out, but they pay her a small amount and give her juice.



This is a crime.

Every student who qualifies for the debate team can take part in the annual debate. To qualify, they must also attend after-school practices twice a week. This helps to develop their public speaking skills.



This is NOT a crime.

These crimes are punishable by a fine of up to N\$50 000, imprisonment for up to 10 years, or both.

Note that the worst forms of child labour may also involve the additional crime of trafficking, which is discussed in section 3.5.

I heard that Ruth took Martha to a man's farm so that he could have sex with her. I think Ruth got some money for doing this, but I am not sure.



Whether or not any money changed hands, it sounds like Ruth has committed a crime.

The provisions of the Child Care and Protection Act on child labour and exploitation of children cover this situation. And Ruth has probably also committed the crime of trafficking which falls under the Combating of Trafficking in Persons Act. Ruth is going to be in big trouble.

3.4 REGULATED ACTIVITIES

What kinds of activities are regulated?

The Child Care and Protection Act regulates child participation in certain categories of activities:

- programmes designed to promote personal development
- vocational training
- performances, displays, activities, contests or events for advertising, beauty, sport, educational, religious, traditional, cultural or artistic purposes.

Children can participate in such activities only with the consent of a parent or guardian.

If the activity is a profit-making one (aside from raising money for some charitable purpose), the person organising the activity must have a licence if children are going to be involved.

It should be noted that the Minister of Gender Equality and Child Welfare may make future regulations that prevent child participation in certain categories of activities altogether. This step would probably take place if the Minister became aware of some category of activity that could be harmful to children even if all the safeguards in the law were followed.

Is there any age limit for child participation in the activities regulated by the Child Care and Protection Act?

No. Even very young children or babies might be photographed for an advertisement, appear in a locally-produced film or take part in a Christmas play at a church.

How does a child's parent or guardian give consent?

The parent or guardian must sign a consent form. This form is available in the Child Care and Protection Act regulations. The person who is organising the activity should provide consent forms for each child. The consent form must contain the name and birth date of the child. It must also state the name and address of the person responsible for the activity, the date or dates of the activity, the days and hours when the child will participate, whether accommodation and food will be provided, and whether any reward will be given to the child for the participation (such as prize money or an honorarium).

Note that parental consent is required for all of the activities covered by the law, regardless of whether or not a licence is required.

It is a crime for the person organising the activity to fail to get proper consent in respect of each child who is participating. The penalty is a fine of up to N\$4,000, imprisonment for up to 12 months, or both. And remember that this penalty could apply in respect of each child who participated in the activity without proper consent!

CONSENT BY PARENT, GUARDIAN OR CARE-GIVER FOR CHILD TO PARTICIPATE IN ACTIVITY

PART A: PARTICULARS OF THE PERSON GRANTING CONSENT									
Surname							Sex	<input type="checkbox"/> Male	<input type="checkbox"/> Female
First name									
ID number and date of birth									/ /
Relationship to child	Tick the one that applies: <input type="checkbox"/> parent <input type="checkbox"/> guardian <input type="checkbox"/> care-giver								
Residential address									
Postal address									
Telephone									
Cellphone									
Email									

PART B: PARTICULARS OF THE CHILD									
Surname							Sex	<input type="checkbox"/> Male	<input type="checkbox"/> Female
First name									
ID number and date of birth									/ /
Residential address									

PART C: NATURE OF THE ACTIVITY									
Describe your understanding of the nature of the activity in which the child will participate.									

PART D: PARTICULARS OF THE PERSON RESPONSIBLE FOR THE ACTIVITY									
Surname							Sex	<input type="checkbox"/> Male	<input type="checkbox"/> Female
First name									
ID number and date of birth									/ /
Residential address									
Postal address									
Telephone									
Cellphone									
Email									

Declaration

I hereby provide my consent to allow the child described in Part B to participate in the activity described in Part C, for which the person described in Part D is responsible, as contemplated in section 234(2)(c) of the Child Care and Protection Act, 2015. I certify that the above-mentioned particulars are, to the best of my/our knowledge, true and correct.

Signature: _____
 Name: _____
 Date: _____
 Place: _____

Is there any punishment for a child who participates in a regulated activity without parental consent?

No. The duty to get consent for the activity falls on the person organising the activity, not on the participating child.

Why are licences required for income-generating activities involving children?

Licences are necessary where an activity involving children will generate income for a non-charitable purpose. The reason for this is that exploitation of children is more likely to take place in a context where there is a profit motive.

Chief, the children are tired. They have been dancing for hours now!

I don't care! The tourists are paying me a lot for this! The children must keep going until all the tour buses leave.

CULTURAL DANCING HERE TODAY



A licence is not required if the activity is generating income **ONLY** for the charitable benefit of

- a registered non-profit organisation
- a registered welfare organisation
- a school
- a religious institution OR
- some other charitable purpose.

Note that no licence is required for any activity which has already been authorised by a local authority council or a regional council. But even though no licence is required, all the legal rules aimed at protecting children who participate in the activity must still be followed.

DANCE AGAINST CANCER HERE TODAY

We are having a performance to raise money for new toys for the children's cancer ward at the hospital. There are some children participating in the programme. Do we need to get a licence?



No. There are some rules about child participation which apply to a wide range of activities, but you do not need a licence if the profit is all for charity.

Who is eligible to get a licence?

Anyone over age 18 can apply for a licence for a profit-making activity involving children. But no licence will be issued to anyone who has been convicted of an offence relating to children or employment law in the last 10 years before the application.

How does someone get a licence for an activity involving children?

A person who is organising an activity involving children which requires a licence must apply to the local children's commissioner (who will be a magistrate). The application must include consent from a parent or guardian for each child involved in the activity. The application must also include details about the activity, including the name and address of the person responsible for the activity, the date or dates of the activity, the days and hours when the child will participate, whether accommodation and food will be provided, and whether any reward will be given to the child for the participation.

The children's commissioner may ask for more information, and may even ask the person organising the activity to appear at the court in person before deciding whether or not to issue the licence. If the application for a licence is denied, the children's commissioner must give reasons for this decision. If the application for a licence is granted, the licence will include a time period which cannot be longer than 12 months. It may also include special conditions aimed at protecting the children involved in the activity.

What is the penalty for failing to get a licence as the law requires?

Failing to get a licence for an activity involving children is a crime, if a licence was required for that activity. It is also a crime to violate any of the rules in the law about child participation in activities. In other words, getting a licence does not exempt you from following all the legal rules on child participation. It is also a crime to violate any of the terms of the licence, such as the stated dates or conditions. These crimes are punishable by a fine of up to N\$4,000, imprisonment of up to 12 months, or both.

Is there any punishment for a child who participates in a licenced activity without parental consent?

No. The duty to get consent for the activity falls on the person organising the activity, not on the participating child.

What safeguards apply to regulated activities involving child participation?

There are some protective rules about child participation in ANY regulated activities, no matter whether or not a licence is required. Failure to comply with any of these rules is a crime. The penalty is a fine of up to N\$4 000, imprisonment for up to 12 months, or both.

(1) MAXIMUM HOURS, REST BREAKS AND NIGHT WORK

MAXIMUM HOURS, REST BREAKS AND NIGHT WORK			
Age of child	Maximum time for participation in activity	Maximum time child can be required to be present	Rest period of half an hour
Under age 5	2 hours/day	3 hours/day	after every hour
Ages 5-9	3 hours/day	4 hours/day	after every hour
Age 10 or older	4 hours/day	5 hours/day	after every 2 hours
Children may take part in the regulated activities at night (after 8:00 in the evening) no more than three times in a single week.			

There is some flexibility on rest breaks. If it is not practical for a child to be granted the required rest break due to the nature of the activity, the person responsible for the activity must give the child a rest break as soon as possible. But the time period before the required rest break cannot under any circumstances be extended by more than half an hour.

Even if the rules on maximum hours are observed, a person may never force a child to perform or participate in a regulated activity if the child is unwilling or unfit to do so.

(2) REST AREAS

There must be a safe area where the children may rest and play.

(3) FOOD

Food provided must be nutritious and appropriate to the age of the child and the length of the activity. Even if the activity does not require the child to be accommodated overnight, there may be a need to feed the child a snack, lunch or some other meal. There should be a meal area for children and their caregivers which is separate from the meal area for other adults.

(4) ACCOMMODATION

If accommodation outside the home is necessary, full details of such accommodation must be provided to the child's parent, guardian or other caregiver. The accommodation must be safe, suitable for a child of that age, clean and comfortable. It must not be occupied by any adult unless that adult is the child's caregiver or someone approved by the child's caregiver. If the activity requires a child to stay overnight, there must be a parent, guardian or other caregiver present – or someone approved to act in that role by the relevant caregiver.

This tent is for the child actors and their mothers and aunts. We have arranged showers and toilets in the building next door, and we will serve dinner at these picnic tables here. The rest of the film crew will be in the tent over there. They will have completely separate facilities, and they will also have their meals over there. Let me know if you have any questions! I hope that you will all be comfortable.



(5) CARE-GIVER ACCESS

There must be reasonable access to a caregiver, or someone approved to act as a caregiver, throughout the activity. The person in this role may accompany the child to all aspects of the activity – such as wardrobe, makeup or hairdressing. This person must be within sight of the child at all times.

(6) REWARDS FOR PARTICIPATION IN THE ACTIVITY

The child may receive some kind of reward for participating in the activity. If the reward exceeds N\$500 in cash, or is some item with a value of more than N\$500, then the reward must be given to the child's parent or caregiver – but *it must be used only for the benefit of the child*. (There are no rules about rewards which are N\$500 or less in value.)

Lucy has won first prize! The prize money is N\$1000.



Mommy, this is great! Now you can buy that new traditional dress you wanted!

No, Lucy, this money is for you! We can use some of it for your stationery for the new school year. But I will also give you part of the money to spend on something you choose for yourself.

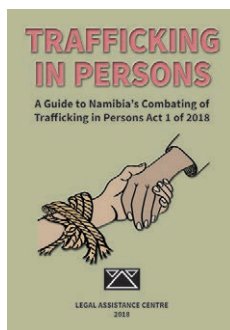
(7) SAFETY

There must be a first-aid kit available at the place where a child takes part in an activity. The environment must be smoke-free and alcohol free. The child must not be exposed to a dangerous environment at any place connected with the activity – including the rest areas and the accommodation (if applicable). All aspects of the activity must be safe for children. The rule which requires the presence of the child's parent or guardian, or someone approved by them to act as a caregiver for the child, helps to make sure that the rules on safety will be followed, and allows the child to feel more at ease.

3.5 CHILD TRAFFICKING

What is the link between child trafficking and child labour?

Child trafficking involves actions such as the recruitment, transport, delivering, receiving, keeping or selling a child. Trafficking of children may take place for purposes of sexual exploitation, criminal exploitation, forced labour or services, slavery (including forced marriage) or servitude, amongst other purposes. These clearly overlap with some forms of illegal child labour, particularly with the worst forms of child labour. However, not all child trafficking is done for the purposes of child labour, and not all child labour involves child trafficking.



3.6 REPORTING AND INVESTIGATION

Who has a duty to report instances of child labour?

Any member of the public who becomes aware of any of the **worst forms of child labour** has a legal duty to report this immediately to the police. Any member of the public is also expected to report **any other instances of child labour** to a state-employed social worker or a member of the police.

Members of the public who report child labour can do this anonymously, without revealing their identity. There is protection for anyone who makes a report in good faith, even if the report is mistaken. For example, you cannot be sued for defamation if you report an instance of suspected child labour in good faith, even if it turns out that you are wrong.

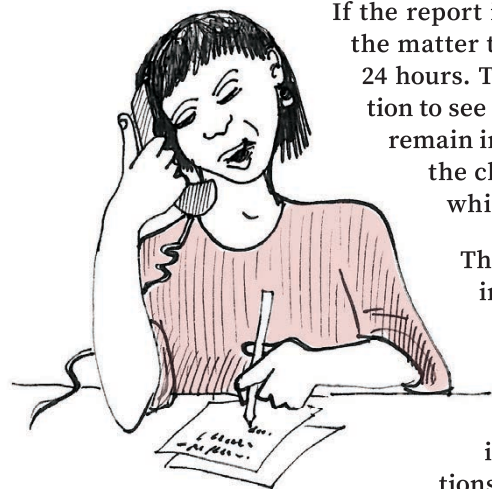
The only exception to the ability to keep your identity confidential would be if you needed to testify in court because you had specific knowledge no one else could provide.

There is a strong duty on **professionals who work with children** to report any instances of **child labour** to a state-employed social worker or a member of the police. A professional who fails to comply with this reporting duty commits a crime. The penalty is a fine of up to N\$20 000, imprisonment for up to five years, or both.



The people subject to this duty include school principals, teachers, school counsellors, doctors, dentists, pharmacists, nurses, physiotherapists, psychologists, psychological counsellors, speech therapists, occupational therapists, traditional leaders, traditional health practitioners, legal practitioners, religious leaders, labour inspectors, social workers in private practice and staff members at children's homes, child detention centres, places of safety, crèches, kindergartens or pre-schools, shelters and early childhood development centres. Professionals cannot make anonymous reports.

What happens after an incident of child labour is reported?



If the report is made to the police, they must refer the matter to a government social worker within 24 hours. The social worker will assess the situation to see whether or not it is safe for the child to remain in the current environment, or whether the child needs to be moved to a safe place while the matter is being investigated.

The social worker will then do a thorough investigation and make a recommendation on what steps to take to protect the best interests of the child. The social worker will also alert the Ministry of Labour, which may get involved in enforcement of the prohibitions on illegal child labour.

A children's court would then decide if any steps must be taken to protect the child. The best interests of the child will always be the primary concern.

MATTHEW'S STORY

Matthew is only 13, but he has been working in the local car wash without his parent's knowledge because he wanted a new cell phone. When this was reported, the social worker checked on his home environment and discovered that he has a loving family and all the basic necessities of life. The employer had to face the consequences of employing Matthew illegally. The social worker explained the law to Matthew and helped him to understand that he is too young for employment. He agreed to put his education and development first, ahead of a new cell phone. His parents also realised that they need to be more aware of Matthew's whereabouts after school. Matthew apologised to his parents for his behaviour.



KAREN'S STORY

Karen, who is 16, has been working in a hairdresser's shop in her community. She sometimes works very late in the evening, and then walks home in the dark. A client of the hairdresser reported this employment to a social worker. The client was not sure if this kind of employment was illegal or not, but she thought that someone should investigate. The social worker found out that Karen's schoolwork has been suffering since she took this job. The work violates the Labour Act because Karen often works after 8pm. The social worker who investigated found out that Karen's mother is disabled and cannot work, while her father is deceased. The family did not know that Karen might be eligible for a State maintenance grant and her mother might be eligible for a disability pension. The social worker was able to help them make grant applications. The Ministry of Labour gave the employer a warning about the restrictions on night work and arranged to monitor future compliance. Karen and her employer agreed that shorter hours would be better for her even without the night work. Karen's health and her school work have improved, and she is under less pressure now that the family has support.



GRACE'S STORY

When Grace turned 14, her father told her she must drop out of school to become a model and support the family. Grace has four younger brothers and sisters. Her father is an alcoholic. Grace wanted to take care of her siblings and felt pressured to do what her father said. But Grace fell under the influence of some older people while she was working. She started engaging in sex with wealthy men who offered her money. Grace was worried that her father would beat her if she did not come back home with money – but then Grace's father used the money Grace provided to buy alcohol while the other children still went hungry. Grace confided in one of her colleagues, an older and experienced model. Grace's friend reported Grace's situation to a social worker, who came to investigate. The social worker immediately decided that Grace and the other children must be removed from the home. They went to live with Grace's aunt, who makes sure that they are well taken care of. Grace is back in school again, and also getting counselling to help her deal with her experiences.




Report Child Labour in Namibia!



Anyone who has information about illegal child labour **MUST** report this to a social worker or police officer. Children can also make reports about child labour on their own.

#ENDviolence Against Children
uni.cf/endviolence

unicef 

**SLAVERY
TRAFFICKING
DANGEROUS WORK
PROSTITUTION**

These types of **child labour**
are all forms of
violence
against children.

MAKE THE INVISIBLE VISIBLE

NAMIBIAN CONSTITUTION

Provisions on Child Labour

Article 15: Children's Rights

- (2) Children are entitled to be **protected from economic exploitation** and **shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education**, or to be **harmful to their health or physical, mental, spiritual, moral or social development**. For the purposes of this Sub-Article children shall be persons **under the age of sixteen (16) years**.
- (3) No children **under the age of fourteen (14) years** shall be employed to work in any **factory or mine**, save under conditions and circumstances regulated by Act of Parliament. Nothing in this Sub-Article shall be construed as derogating in any way from Sub-Article (2) hereof.

PROTECTING CHILDREN FROM EXPLOITATION

Child Labour and Child Activities

