

APPRENTICESHIP REGULATIONS

(Cap. 47, section 47)

[19 July 1976]

PART I

PRELIMINARY

1. Citation

These regulations may be cited as the Apprenticeship Regulations.

2. Interpretation

In these regulations, unless the context otherwise requires—

“hours worked” (工作時數) means the time during which an apprentice is employed, exclusive of the intervals allowed for meals or rest;

“overtime employment” (超時受僱) means any period during which an apprentice is at work outside the period of employment permitted under regulation 8;

“period of employment” (受僱時間) means the period, inclusive of the intervals allowed for meals or rest, within which an apprentice may be employed on any day;

“rest day” (休息日) means a continuous period of not less than 24 hours during which a registered apprentice is entitled to abstain from working for his employer; (*L.N. 155 of 1980*)

“week” (星期) means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

PART II

APPRENTICESHIP IN DESIGNATED TRADES

3. Minimum period of apprenticeship

(1) Subject to paragraph (2), the period of apprenticeship required to be served by an apprentice in a designated trade shall not be less than 3 years in any case.

(2) Paragraph (1) shall not apply where the Director in exercise of his powers under the Ordinance reduces the period of apprenticeship in any case or class of cases.

(*13 of 1982 s. 11*)

4. Terms and conditions to be contained in contract of apprenticeship

Every contract of apprenticeship in a designated trade shall contain all such provisions as may be necessary to bind the parties to the contract of apprenticeship and to define the rights and obligations of the parties, and shall include provisions with respect to the following—

- (a) that the apprentice of his own free will and with the consent of his guardian (if any) binds himself to serve his employer as an apprentice during the period of apprenticeship stated in the contract of apprenticeship;
- (b) that during the period of apprenticeship the employer will—
 - (i) employ the apprentice and, to the best of his ability, skill and knowledge, teach the apprentice or cause him to be taught in such skills and operations as may be specified by the Director in relation to the designated trade in which he is apprenticed; and
 - (ii) permit the apprentice to attend any course of instruction specified in an attendance order made by the Director;
- (c) the period of apprenticeship;
- (d) the period of probation to be served by the apprentice;
- (e) the wages to be paid to the apprentice, and the frequency and manner of payment of wages;
- (f) the normal hours of attendance by the apprentice at his place of employment;
- (g) the payment of sickness allowance or the entitlement to sick leave during any illness of the apprentice;
- (h) the entitlement of the apprentice to leave and holidays with pay;
- (i) any other terms and conditions under which the apprentice is employed; and
- (j) the grounds on which the apprentice may be suspended from employment or the contract of apprenticeship may be terminated.

(13 of 1982 s. 11)

5. Period of probation

- (1) Every apprentice in a designated trade shall serve a period of probation of not less than 3 months or more than 6 months commencing from the date on which his employment under the contract of apprenticeship begins.
- (2) During the period of probation either the employer or the apprentice may terminate the contract of apprenticeship by giving to the other party 7 days' notice, orally or in writing, of his intention to do so.
- (3) Where any party terminates a contract of apprenticeship during a period of probation without notice as required by paragraph (2), the party terminating the contract shall pay to the other party a sum equal to the amount of wages which would have accrued to the apprentice during the period of notice.

6. Probationary period to be part of apprenticeship

A period of probation served by an apprentice shall be counted as part of the period of apprenticeship under his contract of apprenticeship.

7. Medical examination of apprentices

- (1) Every apprentice who enters into a contract of apprenticeship in a designated trade shall be medically examined as to his fitness to be employed in the designated trade.
- (2) The medical examination of the apprentice shall be arranged by the employer and shall take place prior to the registration of the contract of apprenticeship.
- (3) The cost of the medical examination shall be borne by the employer.

PART III

HOURS OF EMPLOYMENT AND OVERTIME

8. Hours of work and periods of employment of apprentices

- (1) Subject to this Part, every employer shall comply with the following provisions in relation to registered apprentices under his employment—
 - (a) the total hours worked by a registered apprentice shall not exceed 8 hours in any day or 48 hours in any week;
 - (b) the total period of employment of a registered apprentice on any day shall not exceed 9 hours and such period shall, subject to paragraph (2), not begin earlier than 7 a.m. or end later than 7 p.m.; (*L.N. 155 of 1980*)
 - (c) no registered apprentice shall be required or permitted to work continuously for a period of more than 5 hours without being allowed an interval for a meal or rest after he has worked continuously for 5 hours—
 - (i) in the case of an apprentice under 16 years of age, of not less than one hour; and
 - (ii) in any other case, of not less than half an hour;
 - (d) no registered apprentice shall be required or permitted to work during any part of an interval allowed to him for a meal or rest under sub-paragraph (c) ;
 - (e) no registered apprentice shall be employed on more than 6 days in any week;
 - (f) in any week in which a statutory holiday, within the meaning of the Employment Ordinance (Cap. 57), occurs, a registered apprentice shall be given a day in that week, other than the statutory holiday, as a rest day. (*L.N. 155 of 1980*)
- (1A) Notwithstanding paragraph (1)(a) and (b), in the case of a registered apprentice of the age of 16 years or above, the Commissioner may grant to the employer permission in writing that the apprentice may work such period as is specified in the permission but so that the period is not more than 10 hours in a day between the hours of 7 a.m. and 7 p.m. and the permission may be subject to such conditions, including conditions as to the number and frequency of rest days and part rest days, as the Commissioner sees fit. (*L.N. 155 of 1980*)

- (1B) Nothing in paragraph (1A) shall be taken so as to permit the employer to extend the hours worked by a registered apprentice under paragraph (1)(a) to more than 48 hours per week.
- (2) Notwithstanding paragraph (1)(b) and paragraph (1A), in the case of a registered apprentice of the age of 18 years or above, the Commissioner may grant to the employer permission in writing that the employment of the apprentice may begin earlier than 7 a.m. or end later than 7 p.m. on any day. (*L.N. 155 of 1980*)
- (3) For the purposes of—
 - (a) paragraph (1)(c), work shall be deemed to be continuous unless interrupted by the intervals prescribed in that paragraph;
 - (b) paragraph (1)(e), a full day spent by an apprentice to attend a course of instruction at a technical institution in compliance with an attendance order shall be deemed to be employment for one full day.

9. Overtime employment of apprentices

- (1) Notwithstanding regulation 8 and without prejudice to regulation 10, a registered apprentice of the age of 16 years or above may be employed on overtime subject to the following conditions—
 - (a) the total hours of overtime shall not exceed in the aggregate—
 - (i) in the case of an apprentice under the age of 18 years, 150 hours in any year or 2 hours in any day;
 - (ii) in the case of an apprentice under the age of 18 years who attains the age of 18 years during a year, 200 hours in that year or 2 hours in any day; and
 - (iii) in the case of an apprentice of the age of 18 years or above, 250 hours in any year or 2 hours in any day;
 - (b) the total hours worked by the apprentice shall not exceed 10 in any day;
 - (c) the total period of employment of an apprentice on any day shall not exceed 12 hours and such period shall, subject to paragraph (2), not begin earlier than 7 a.m. or end—
 - (i) in the case of an apprentice under the age of 18 years, later than 7 p.m.;
 - (ii) in other cases, later than 9 p.m.; (*L.N. 155 of 1980*)
 - (d) the employer shall not require or permit an apprentice to work overtime if such overtime work would prevent the apprentice from attending a course of instruction which he is required to attend under an attendance order.
- (2) Notwithstanding paragraph (1)(c), in the case of an apprentice of the age of 18 years or above, the Commissioner may grant to the employer permission in writing that the employment of the apprentice may begin earlier than 7 a.m. or end later than 9 p.m. on any day. (*L.N. 155 of 1980*)

- (3) For the purposes of paragraph (1)(a), in order to reckon the aggregate hours of overtime account shall be taken only of that period during which an apprentice works in excess of the number of hours specified in regulation 8(1)(a) or a permission granted under regulation 8(1A) or outside the period of employment specified in regulation 8(1)(b). (*L.N. 155 of 1980*)

10. Power to extend limits of overtime employment

The Commissioner may in any particular case authorize an employer in writing to employ a registered apprentice on overtime in excess of the aggregate number of overtime hours, or in excess of the total hours which may be worked in any day, permitted under regulation 9.

11. Power to prohibit overtime employment

The Commissioner may, if he is satisfied that the overtime employment of a registered apprentice may prejudicially affect the health of the apprentice, by notice in writing served on the employer, either prohibit the overtime employment of the apprentice or specify such conditions in respect of such overtime employment as he thinks fit.

12. Offences

Any employer who—

- (a) contravenes regulation 8 or 9 ;or
- (b) fails to comply with a notice served under regulation 11,

shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

PART IV

REGISTRATION

13. Register

- (1) The Director shall cause a register to be maintained in the form specified by him which shall contain—
- (a) all entries required to be made under the Ordinance in respect of registered contracts of apprenticeship; and
 - (b) such particulars as he thinks fit of all contracts of apprenticeship registered under the Ordinance.
- (2) The register shall be kept at the place appointed by the Director and shall be open to inspection by any person free of charge during normal office hours upon application in writing to the Director. (*L.N. 155 of 1980*)

(13 of 1982 s. 11)

14. Mode of registration of contracts of apprenticeship

- (1) A contract of apprenticeship required to be registered under the Ordinance or to which section 17 of the Ordinance applies shall be sent to the Director together with 2 copies of it.

- (2) The registration of a contract of apprenticeship shall be effected by entering in the register the entries and particulars referred to in regulation 13.
- (3) When a contract of apprenticeship is registered under paragraph (2)—
 - (a) the original contract and the 2 copies shall be endorsed with a note of its registration and the serial number in the register; and
 - (b) the original contract shall be retained by the Director, one copy shall be sent to the employer and the other copy to the apprentice or his guardian (if any).

(13 of 1982 s. 11)

15. Mode of registration of variation document

- (1) A variation document required to be registered under the Ordinance shall be sent to the Director together with 2 copies of it.
- (2) The registration of a variation document shall be effected by entering in the register the particulars of the variation.
- (3) When a variation document is registered under paragraph (2)—
 - (a) the original variation document and the 2 copies shall be endorsed with a note of its registration; and
 - (b) the original variation document shall be retained by the Director, one copy shall be delivered to the employer and the other copy shall be delivered to the apprentice or his guardian (if any).

(13 of 1982 s. 11)

PART V

MISCELLANEOUS

16. Records to be maintained by employers

- (1) Every employer who employs registered apprentices shall keep or cause to be kept a record in the specified form of the following particulars in relation to each registered apprentice—
 - (a) his full name and address;
 - (b) the number of his Hong Kong identity card;
 - (c) the date of his birth;
 - (d) the name and address of his guardian (if any);
 - (e) the date of commencement of his apprenticeship;
 - (f) the educational standard attained by him at the date of commencement of his apprenticeship;
 - (g) any course of instruction attended by him under an attendance order;
 - (h) the special qualifications (if any) specified for the purposes of section 23 of the Ordinance and obtained by him.

- (2) In addition to keeping a record under paragraph (1), an employer shall make or cause to be made—
 - (a) a report in the specified form on the work performed by every registered apprentice during each period of 6 months and such report shall be completed by a responsible person under whose supervision he has worked during that period;
 - (b) a record of particulars in the specified form of all overtime worked by every registered apprentice; and
 - (c) a record of particulars in the specified form of all absences of every registered apprentice from work and courses of instruction under an attendance order, whether by reason of illness, holidays or otherwise.
- (3) If the guardian of the registered apprentice is a party to the contract of apprenticeship, such guardian shall furnish the employer with all information in his possession to enable the employer to comply with paragraph (1).
- (4) Any employer who, without reasonable excuse, contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.