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 Intramuros, Manila

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TO : All Heads of DOLE Offices, DOLE Regional Directors, Labor Inspectors, Hearing Officers, Sheriffs and Child Labor Program Coordinators

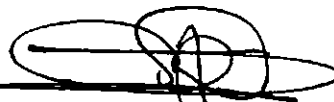
SUBJECT: *Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases*

The Department of Labor and Employment strongly upholds the rights of children including their protection from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development, particularly child labor and its worst forms. Recognizing the vulnerability of children to abuse and exploitation, there is a need for the DOLE to strengthen the enforcement of Republic Act No. 9231 (*An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose Republic Act No. 7610, As Amended, Otherwise Known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act"*) through the issuance of procedural guidelines in pursuing child labor cases.

This *Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases* builds on the combined experiences and lessons learned by DOLE Regional Offices in carrying out the provisions of RA 9231 and related laws. It intends to provide a clear procedure for the DOLE implementers in the performance of their duties and functions as provided under RA 9231. The Manual will likewise pave the way for a speedy action and resolution of the implementers on reported child labor cases.

With this Manual, it is expected that the DOLE, through its Child Labor Prevention and Elimination Program, will be able to assist in pursuing child labor cases thereby increasing the number of erring employers penalized. This will greatly contribute to the government's efforts to eradicate the child labor menace in our country.

In view thereof, the *Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases: for DOLE Regional Directors, Labor Inspectors, Sheriffs, Hearing Officers and Child Labor Program Coordinators* is hereby issued and adopted. It shall take effect immediately and remain in force until revoked.



MARIANITO D. ROQUE
 Secretary

29 June 2010

Dept. of Labor & Employment
 Office of the Secretary



101640

Manual on the Conduct of Inspection, Rescue and Enforcement Proceedings in Child Labor Cases

**for DOLE Regional Directors, Labor Inspectors, Sheriffs,
Hearing Officers and Child Labor Program Coordinators**

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Introduction

The Philippines is a signatory to two major international instruments on child labor. The first is ILO Convention No. 138, which sets the international standard on the minimum age of employment. The second is ILO Convention No. 182, which defines and prohibits the worst forms of child labor. The country ratified ILO C138 on June 4, 1998 and ILO C182 on November 28, 2000.

In compliance with the obligations under these Conventions, the Philippines enacted Republic Act No. 9231, *An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for This Purpose Republic Act No. 7610, As Amended, Otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act"* on December 19, 2003. On July 26, 2004, the Department of Labor and Employment issued Department Order No. 65-04 or the *Rules and Regulations Implementing R.A. 9231 Amending R.A. 7610, as amended*.

Prior to the enactment of Republic Act 9231, the country has existing laws on child labor, such as Presidential Decree 603, or the *Child and Youth Welfare Code*; Articles 272 to 274 of the *Revised Penal Code* (Act No. 3815 as amended); the aforementioned Republic Act 7610; and Republic Act No. 7658, or *An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for this Purpose Section 12, Article VIII of R.A. 7610*. R.A. 9231 differs from its precursors in that it defines the worst forms of child labor; prescribes stiffer penalties for the commission of unlawful acts; and provides strict enforcement procedures that allow swift corrections or sanctions on violations.

This Manual builds on the *Handbook for Implementors in Handling Worst Forms of Child Labor: The Sagip Batang Manggagawa Approach* developed in 1998, as well as the combined experiences and lessons acquired by DOLE in the implementation of R.A. 9231 and related laws. It discusses the operational guidelines for DOLE Regional Directors, Labor Inspectors, Sheriffs, Hearing Officers and Child Labor Program Coordinators in conducting inspections, rescue operations, closure, and other enforcement proceedings. The flowchart and procedural steps applicable to DOLE are discussed within the context of inter-agency and multi-sectoral response. The steps that pertain mainly or exclusively to other government units, however, are not discussed in-depth.

PART ONE:
Salient Features of
Republic Act No. 9231 and its
Implementing Rules and
Regulations

I. DEFINITION OF CHILD

For purposes of employment of children, the term *child* applies “to all persons under eighteen (18) years of age” as defined in the last paragraph of Section 2 of R.A. 9231. This is a modification of the definition provided under Section 3 (a) of R.A. 7610, which refers to *children* as “persons below eighteen (18) years of age or those over but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition”.

II. EMPLOYMENT OF CHILDREN

The minimum employable age is fifteen (15) years old. Children below fifteen (15) years old shall not be employed, permitted, or suffered to work in any public or private establishment¹ except in the following two (2) instances, which are the only exceptions to the prohibition:

- 1) When the child works directly under the sole responsibility of his or her parents or legal guardian.² A child below fifteen (15) years of age may be employed under this exception strictly under the following conditions:
 - a) The child works directly under the sole responsibility of his or her parents or legal guardian;
 - b) Where only members of the child’s family are employed;
 - c) The child’s employment neither endangers his or her life, safety, health, and morals, nor impair his or her normal development;
 - d) The parent or legal guardian shall provide the child with the prescribed primary and/or secondary education;
 - e) The employer first secures a work permit for the child from the DOLE upon compliance with the requirements for the issuance thereof.³

- 2) When the child’s employment or participation in public entertainment or information is essential.⁴ A child below fifteen (15) years old may be employed or may participate in public entertainment or information through cinema, theatre, radio, television, or other forms of media provided that:
 - a) Such employment or participation is essential;
 - b) The employment contract is concluded by the child’s parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the DOLE;
 - c) The employer shall ensure the protection, health, safety, morals and normal development of the child;

¹ Section 2, R.A. 9231 amending Section 12, R.A. 7610; Section 4, D.O. 65-04.

² Id.; Section 7, D.O. 65-04.

³ Id.; see Section 9, D.O. 65-04 for the requirements.

⁴ Id.; Section 7, D.O. 65-04.

- d) The employer shall institute measures to prevent the child’s exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time;
- e) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child;
- f) The child is provided with at least the prescribed elementary or secondary education;⁵ and
- g) The employer first secures a work permit for the child from the DOLE which shall ensure the observance of the above requirements.⁶

For both exceptions, the total number of hours worked should not be more than four (4) hours a day and in no case beyond twenty (20) hours a week. Additionally, no work should be performed between 8:00 p.m. and 6:00 a.m. of the following day.⁷

Children aged 15 and above are allowed to engage in work or economic activity that is not child labor, i.e., it does not subject them to any form of exploitation or is not harmful to their health and safety or physical, mental, or psychosocial development.⁸ Their total number of hours worked should not be more than eight (8) hours a day and in no case beyond forty (40) hours a week. No work should be performed between 10:00 p.m. and 6:00 a.m. of the following day.⁹

TABLE 1. SUMMARY OF CONDITIONS FOR EMPLOYMENT OF CHILDREN

	<i>Children below 15 years of age</i>	<i>Children aged 15 to below 18</i>
Rule	Children below 15 years of age shall not be employed except: 1. When the child works directly under the sole responsibility of his or her parents or legal guardian, or 2. When the child’s employment or participation in public entertainment or information is essential	Children 15 to below 18 years of age may be engaged in any work or economic activity that is not child labor
Total number of hours worked	Not more than four (4) hours a day and in no case beyond twenty (20) hours a week	Not more than eight (8) hours a day and in no case beyond forty (40) hours a week
Time of work	No work performed between 8:00 p.m. and 6:00 a.m. of the following day	No work performed between 10:00 p.m. and 6:00 a.m. of the following day
Work permit	The employer must first secure a work permit for the child and comply with the conditions thereof	Work permit is not required
Access to education and training	Employer should provide the child with access to at least elementary and secondary education	Employer should provide the child with access to at least elementary and secondary education

⁵ Section 7, D.O. 65-04.

⁶ Section 2, R.A. 9231 amending Section 12, R.A. 7610.

⁷ Section 3, R.A. 9231 amending Section 12, R.A. 7610 .

⁸ Section 3 (c) in relation to Section 3(b), D.O. 65-04.

⁹ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

III. PROHIBITED EMPLOYMENT OF CHILDREN

A. Child Labor

Child labor refers to any work or economic activity performed by a child that subjects the child to any form of exploitation or is harmful to the child's health and safety or physical, mental, or psychosocial development.¹⁰

B. Employment of Children in Certain Advertisements

Section 5 of R.A. 9231, amending Section 14 of R.A. 7610, prohibits the employment of a child as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, gambling, or any form of violence or pornography.

C. Worst Forms of Child Labor

The *worst forms of child labor* are enumerated in Section 3 of R.A. 9231 in four (4) broad categories, to wit:

- 1) all forms of slavery or practices similar to slavery, including recruitment of children for use in armed conflict;
- 2) prostitution or pornography;
- 3) illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances; and
- 4) hazardous work or work that is likely to be harmful to the health, safety or morals of children.

Hazardous work or work that is likely to be harmful to the health, safety or morals of children is one that:

- a) Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or
- b) Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or
- c) Is performed underground, under water, or at dangerous heights; or
- d) Involves the use of dangerous machinery, equipment and tools, such as power-driven or explosive powder-actuated tools; or
- e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or
- f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or
- g) Is performed under particularly difficult conditions; or

¹⁰ Section 3 (b), D.O. 65-04.

- h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes, and other parasites; or
- i) Involves the manufacture or handling of explosives and other pyrotechnic products.

IV. SPECIFIC PROVISIONS ON THE WORKING CHILD'S INCOME

A. Ownership and Usage of the Working Child's Income¹¹

The income of the child shall be owned by the child and shall be used primarily for the child's support, education, or skills acquisition. Part of the child's income may be used for the collective needs of the family but the amount so expended should not exceed twenty percent (20%) of the child's income.

B. Administration of the Working Child's Income¹²

The child's income and/or property shall be administered or managed by both the father and the mother of the child. In the absence or incapacity of either parent, the other will be the administrator. In the absence or incapacity of both, the following persons listed in the order of preference shall be the administrator:

- 1) surviving grandparent or the one designated by the court if there are several;
- 2) oldest brother or sister over 21 years old, unless unfit or disqualified; and
- 3) the child's actual custodian over 21 years old, unless unfit or disqualified.

C. Trust Fund to Preserve Part of the Working Child's Income¹³

When the child's gross earnings in a year amount to at least Two Hundred Thousand Pesos (P200,000), at least thirty percent (30%) of the amount shall be deposited by the administrator in a Trust Fund under the child's name.

For a child earning less than Two Hundred Thousand Pesos (P200,000) a year, at least thirty percent (30%) of the income may be deposited in a Savings Account under the name of the child each time he or she receives an income. The accumulated savings shall be immediately transferred to the Trust Fund for the child should his/her total gross income for a given year amount to at least Two Hundred Thousand Pesos (P200,000).

The administrator shall render a semi-annual accounting of the Trust Fund to the appropriate Regional Office of the DOLE. The administrator shall submit a

¹¹ Section 3, R.A. 9231 amending Section 12, R.A. 7610; Section 16, D.O. 65-04.

¹² *Id*; Section 17, D.O. 65-04.

¹³ Section 18, D.O. 65-04.

verified financial statement in an appropriate form prescribed by the Department. Upon reaching the age of 18, the child shall have full control over the Trust Fund.

V. ADMINISTRATIVE SANCTIONS

The administrative sanctions provided under R.A. 9231 are generally in the form of closure of the erring business, firm or establishment and/or suspension or cancellation of the working child's permit. The DOLE orders such closure primarily to prevent the employment of children in hazardous and exploitative work and to put an end to their involvement or participation in any undertaking that falls within the purview of the worst forms of child labor in contemplation of the law.

Table 2 summarizes these different administrative sanctions.

A. Immediate closure of the establishment

(1) Grounds for immediate and permanent closure

The Secretary of Labor and Employment or the Regional Director shall order the immediate and permanent closure of any business, firm, or establishment if any of the following grounds are present:¹⁴

- a) *Death*. The violation of any provision of R.A. 9231 has resulted in the death of a child/ren employed in the establishment.
- b) *Insanity*. The violation of any provision of R.A. 9231 has resulted in the insanity of a child/ren employed in the establishment.
- c) *Serious physical injury*. The violation of any provision of R.A. 9231 has resulted in serious physical injury of a child/ren employed in the establishment.
- d) *Prostitution*. The firm or establishment is engaging or employing a child/ren for prostitution.
- e) *Obscene or lewd shows*. The firm or establishment is employing a child/ren for obscene or lewd shows.

As elucidated in Section 21(a)(ii) of D.O.65-04, immediate and permanent closure shall be ordered when the establishment "is employing a child for prostitution or obscene or lewd shows"¹⁵, so that for the immediate closure to apply, there must be a child or children engaged in prostitution. The phrase "employing a child" should be understood in the light of the definition of "employer" under Section 3(g) of D.O.65-04:

(g) "*Employer*" refers to any person, whether natural or juridical who, whether for valuable consideration or not, directly or indirectly procures, uses, avails itself of, contracts out or otherwise derives benefit from the

¹⁴ Section 16g under Section 6, R.A. 9231 amending R.A. 7610; Section 21, D.O. 65-04.

¹⁵ Underscoring supplied.

work or services of a child in any occupation, undertaking, project or activity, whether for profit or not. It includes any person acting in the interest of the employer.

In this regard, "prostitution" is defined as any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.¹⁶

(2) Grounds for immediate and temporary closure

The Secretary of Labor and Employment or the Regional Director shall order the immediate and temporary closure of any business, firm, or establishment on the ground of imminent danger to the life and limb of the child. The *Occupational Safety and Health Standards* define "imminent danger" as the existence of a condition or practice that could reasonably be expected to cause death or serious physical harm before abatement under the enforcement procedures can be accomplished.

Except for prostitution and obscene or lewd shows which are grounds for immediate and permanent closure, the other worst forms of child labor, by their very nature, are likely to constitute imminent danger and therefore, depending on the particular circumstances, are likely to be grounds for immediate and temporary closure.

(3) Procedure for Immediate Closure

3.1 Issuance of Notice of Closure and Order of Closure

For purposes herein, the term "immediate" shall mean a reasonable time not to exceed five (5) working days reckoned from receipt by the Regional Director of the complaint or petition for closure and relevant documentary evidence in support thereof.

Such documentary evidence shall be attached to the Notice of Closure and Order of Closure and shall include a combination of any or all, but not limited to, the following documents as may be applicable, to wit:

- Inspection Report
- Proof of child's age, such as the NSO-authenticated Certificate of Live Birth;
- Sworn Statement of the complainant-child or children and their witnesses;
- Photographs;
- Daily Time Records and/or Time Sheet;
- Results of Physical and Medical Examination as issued by a competent medical practitioner;
- Accident Report;

¹⁶ Section 3(c), R.A. 9208.

- Results of ultra-violet (UV) testing for receipt of marked money by the offender during entrapment operations; and
- Business License/Permit/SEC Registration of the business, firm, or establishment concerned.

In any of the grounds for immediate and permanent closure, the prescribed procedure is a close-now-hear-later process, which shall be summary in nature. In this procedure, the Notice of Closure shall include a statement duly notifying the establishment concerned of a subsequent hearing that will be conducted to determine whether to affirm or reverse the Closure Order.

3.2 Effecting the Closure Order

The procedure for conducting the immediate closure is a “close now hear later” process. The second paragraph of Section 24 of the Rules states that the permanent or temporary closure shall be “effected upon service of a notice of closure on the employer”. The ordinary import of the word “effect” is to accomplish or execute; and “upon” is immediately after, very soon after, or on the occasion of.¹⁷ Thus, the actual closure should be accomplished or effected immediately or very soon after, or on the occasion of the service of the Notice of Closure on the employer.

a) Close-now-hear-later

The hearing is conducted after the establishment is actually closed to determine whether the closure should be confirmed or lifted. Section 24 provides that the hearing should take place within 24 hours from the issuance of the Notice of Closure. Within 72 hours from the last hearing, the Regional Director shall issue an Order confirming or lifting the closure.

Jurisprudence is settled on the issue of whether a “close now hear later” procedure complies with the due process requirement. The Supreme Court has consistently held that due process does not demand prior notice and hearing. It is enough that a subsequent hearing or an opportunity to be heard is provided.

The Supreme Court held in *Central Bank of the Philippines vs. Court of Appeals*:

Contrary to the notion of private respondent, Sec. 29 does not contemplate prior notice and hearing before a bank may be directed to stop operations and placed under receivership. When par. 4 (now par. 5, as amended by E.O. 289) provides for the filing of a case within ten (10) days after the receiver takes charge of the assets of the bank, it is unmistakable that the assailed actions should precede the filing of the case. Plainly, the legislature could not have intended to authorize “no prior notice and hearing” in the closure of the bank and at the same time allow a suit to annul it on the basis of absence thereof.

¹⁷ Webster’s Third New International Dictionary, Merriam-Webster (1993).

In the early case of *Rural Bank of Lucena, Inc. vs. Arca* (1965), We held that a previous hearing is nowhere required in Sec. 29 nor does the constitutional requirement of due process demand that the correctness of the Monetary Board's resolution to stop operation and proceed to liquidation be first adjudged before making the resolution effective. It is enough that a subsequent judicial review be provided.

Even in *Banco Filipino*, We reiterated that Sec. 29 of R.A. 265 does not require a previous hearing before the Monetary Board can implement its resolution closing a bank, since its action is subject to judicial scrutiny as provided by law.

It may be emphasized that Sec. 29 does not altogether divest the bank or non-bank institution placed under receivership of the opportunity to be heard and present evidence on arbitrariness and bad faith because within ten (10) days from the date the receiver takes charge of the assets of the bank, resort to judicial review may be had by filing an appropriate pleading with the court. x x x

This "close now hear later" scheme is grounded on practical and legal considerations to prevent unwarranted dissipation of the bank's assets and as a valid exercise of police power to protect the depositors, creditors, stockholders and the general public.

In *Rural Bank of Buhi, Inc. vs. Court of Appeals*, We stated that –

"x x x due process does not necessarily require a prior hearing; a hearing or an opportunity to be heard may be subsequent to the closure. One can just imagine the dire consequences of a prior hearing: bank runs would be the order of the day, resulting in panic and hysteria. In the process, fortunes may be wiped out and disillusionment will run the gamut of the entire banking community."¹⁸

In the case of *Pollution Adjudication Board vs. Court of Appeals*, the Supreme Court also held that the ordinary requirements of procedural due process yield to the necessities of protecting vital public interests through the exercise of police power, thus:

Ex parte cease and desist orders are permitted by law and regulations in situations like that here presented precisely because stopping the continuous discharge of pollutive and untreated effluents into the rivers and other inland waters of the Philippines cannot be made to wait until protracted litigation over the ultimate correctness or propriety of such orders has run its full course, including multiple and sequential appeals such as those which Solar has taken, which of course may take several years. The relevant pollution control statute and implementing regulations were enacted and promulgated in the exercise of that pervasive,

¹⁸ Central Bank of the Philippines vs. Court of Appeals, 220 SCRA 536, 544-546.

sovereign power to protect the safety, health, and general welfare and comfort of the public, as well as the protection of plant and animal life, commonly designated as the police power. It is a constitutional commonplace that the ordinary requirements of procedural due process yield to the necessities of protecting vital public interests like those here involved, through the exercise of police power. The Board's *ex parte* Order and Writ of Execution would, of course, have compelled Solar temporarily to stop its plant operations, a state of affairs Solar could in any case have avoided by simply absorbing the bother and burden of putting its WTP on an operational basis. Industrial establishments are not constitutionally entitled to reduce their capitals costs and operating expenses and to increase their profits by imposing upon the public threats and risks to its safety, health, general welfare and comfort, by disregarding the requirements of anti- pollution statutes and their implementing regulations.¹⁹

In the case of child labor, there is all the more reason to close erring establishments immediately and hear or provide the opportunity to be heard subsequently. The grounds for immediate closure as specified in the law are of the nature where the life, health, safety, and morals of children are at stake. The best interests of the children should be the paramount consideration and the State should exercise its police power to protect them.

b) Closure after Notice and Hearing

The Secretary of Labor and Employment or the Regional Director may order the closure of any business, firm, or establishment found to have violated any of the provisions of R.A. 9231 more than three (3) times. Prior notice and hearing is required before the issuance of such Closure Order, unless there is a ground for immediate closure, as set forth above. The hearing for the issuance of a Closure Order shall be summary in nature.

- Rescue Operations in relation to closure proceedings:
Presence or Participation of DOLE personnel

Section 24 of the Rules provides that the proceedings for closure "may be initiated *motu proprio* by the Department or upon complaint by any interested party." Thus, the closure proceedings may be initiated by the DOLE Regional Office even without a prior rescue operation or even without the presence of DOLE personnel in such an operation. The foregoing notwithstanding, the participation of the DOLE in the rescue operation is hereby encouraged.

In case a complaint or petition for closure is filed by any interested party after a rescue operation had already been conducted without the presence of DOLE personnel, the DOLE Regional Director shall take

¹⁹ Pollution Adjudication Board vs. Court of Appeals, G.R. No. 93891 (1991).

cognizance of the complaint or petition and proceed with the appropriate steps, which may include an ocular visit or inspection or investigation, to validate the existence of any ground for closure.

B. Closure of the establishment for violating other provisions of the Act more than three (3) times²⁰

(1) Violations of other provisions of the Act

Section 23 of the Rules provides the procedure for closure for violating the other provisions of R.A. 9231 more than three (3) times. The heading of Section 23 is "Violations Not Resulting in Death, Insanity or Injury of the Child" but it should be read to refer also to violations not involving prostitution, obscene or lewd shows, or imminent danger. Section 21 of the Rules covers the enforcement procedure for these latter violations. Thus, if the business, firm, or establishment is found to have violated any of the following provisions of R.A. 9231 more than three (3) times and such violations do not involve any of the grounds for immediate closure, the Secretary of Labor and Employment or the Regional Director may, after due notice and hearing, order the closure of the establishment:²¹

- Section 12: Employment of children below 15 years old
(including failure to secure a work permit and violations of the conditions of the work permit under Section 22, D.O. 65-04)
- Section 12-A: Hours of work of a working child
- Section 12-D(1): Engagement of children in slavery or practices similar to slavery
- Section 12-D(3): Use, procuring, or offering a child for illegal or *illicit activities, including the production and trafficking of dangerous drugs and volatile substances*
- Section 12-D(4): Employment of children in hazardous or harmful work
- Section 13: Access to education and training for working children
- Section 14: Prohibition on the employment of children in certain advertisements

(2) Procedure

In case of a 1st violation, a compliance order shall be issued requiring immediate restitution and correction of the violation by the establishment. Failure to comply with said order constitutes a 2nd violation.

In case of a 2nd violation, a compliance order shall be issued for immediate restitution and correction of the violation and prohibit the employer from hiring a child for 6 months commencing from the date of the last offense. Failure to comply with said order constitutes a 3rd violation.

²⁰ Section 16(g), R.A. 7610 as amended by Section 6 of R.A. 9231; Section 23, D.O. 65-04.

²¹ *Id.*

In case of a 3rd violation, a compliance order shall be issued for immediate restitution and correction of the violation. Failure to comply with the compliance order issued after the 3rd violation shall constitute a 4th violation, which justifies **closure of the establishment.**

C. Closure of business, firm or establishment under leasehold agreement

Where the building, structure, unit, or space where illegal activities are being undertaken is under leasehold agreement, the DOLE Regional Director shall furnish a copy of the Notice and Order of Closure to the LGU. The space or premises closed shall not be opened for the duration of the lease contract. For purposes of reopening the closed premises, it is incumbent upon the building owner to make a commitment that the closed premises shall not be used for purposes violative of and repugnant to the provisions of R.A. 9231.

D. Installation of Signage on the Closed Premises

A signage with the words “off limits” shall be conspicuously displayed outside the business, firm or establishment. Unauthorized entry of the premises or removal of such sign will warrant the imposition of appropriate administrative penalties.

TABLE 2.
ADMINISTRATIVE SANCTIONS

Grounds	Sanctions
1. Violation of any provision of R.A. 9231 resulting in the death, insanity, or serious physical injury of a child; or engagement or employment of a child in prostitution or obscene or lewd shows ²²	<ul style="list-style-type: none"> • Immediate and <u>permanent</u> closure of the establishment • Employer pays all employees affected by the closure their separation pay and other monetary benefits • Employer shoulders the transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child’s residence • Employer shoulders the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child’s funeral expenses
2. Imminent danger to the life and limb of the child ²³	<ul style="list-style-type: none"> • Immediate and <u>temporary</u> closure of the establishment • For the duration of the closure, employer pays the wages of all the employees affected • If the closure is made permanent after due hearing, pay all employees affected by the closure their separation pay and other monetary benefits • Employer shoulders the transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child’s residence • Employer shoulders the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child’s funeral expenses
3. Violations that do not result in the death, insanity,	<ul style="list-style-type: none"> • <i>First violation:</i> Immediate restitution and correction of

²² Section 6, R.A. 9231 amending Section 16, R.A. 7610; Section 21(a), D.O. 65-04.

²³ Section 6, R.A. 9231 amending Section 16, R.A. 7610; Section 21(b), D.O. 65-04.

Grounds	Sanctions
serious physical injury of a child; or do not involve prostitution, obscene or lewd shows, or imminent danger (including violations warranting the suspension or cancellation of the work permit) ²⁴	the violation <ul style="list-style-type: none"> • <i>Second violation</i>: Immediate restitution and correction of the violation; and prohibition from hiring a child for six (6) months beginning from the date of the last offense • <i>Third violation</i>: Immediate restitution and correction of the violation. • <i>Fourth violation</i>: Closure of the establishment
4. Fraud or misrepresentation in the application for work permit or any of its supporting documents ²⁵	Suspension or cancellation of the work permit for the child
5. Violation of the terms and conditions in the working child's employment contract and/or the employer's undertaking ²⁶	Suspension or cancellation of the work permit for the child
6. Failure to institute measures to ensure the protection, health, safety, morals, and normal development of the working child ²⁷	Suspension or cancellation of the work permit for the child
7. Employer's failure to formulate and implement a program for the education, training and skills acquisition of the child ²⁸	Suspension or cancellation of the work permit for the child
8. Deprivation of access to formal, non-formal or alternative learning systems of education for the working child ²⁹	Suspension or cancellation of the work permit for the child

VI. CRIMINAL COMPLAINT

The criminal complaint for the violation of the provisions of R.A. 9231 shall be filed with the Family Court³⁰ by any of the following: (a) offended party; (b) parents or guardians; (c) ascendant or collateral relative within the third degree of consanguinity; (d) officer, social worker, or representative of a licensed child-caring institution; (e) officer or social worker of the Department of Social Welfare and Development; (f) barangay chairman of the place where the violation occurred, where the child resides, or is employed; or (g) at least 3 concerned, responsible citizens where the violation occurred.³¹

VII. PENALTIES

The penalties for the punishable acts under R.A. 9231 range from 6 months imprisonment to life imprisonment, depending on the specific violations committed. All forms of child labor that are not among the worst forms enumerated in R.A. 9231 are penalized with imprisonment of six (6) months and one (1) day to six (6) years or a fine of P50,000 to P300,000 or both at the discretion of the court. This includes the violation of the maximum work hours for the working child and the prohibition on the employment of children in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, gambling, or any form of violence or

²⁴ Section 6, R.A. 9231 amending Section 16, R.A. 7610; Section 23, D.O. 65-04.

²⁵ Section 22, D.O. 65-04.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 9, R.A. 9231 amending Section 16, R.A. 7610.

³¹ Section 8, R.A. 9231 amending Section 27, R.A. 7610.

pornography. It also includes the employment of children below 15 years old outside the circumstances allowed by law and in activities that are not classified as the worst forms of child labor.

Stiffer penalties are imposed on the worst forms of child labor. The penalty for slavery, practices similar to slavery, prostitution and pornography is the same as the imposable penalty for child trafficking under R.A. 9208, which is life imprisonment and a fine of P2,000,000 to P5,000,000.

The penalty for the use, procuring or offering of a child for illegal or illicit activities depends on the type of activity. If the production and trafficking of dangerous drugs and volatile substances is involved, the penalty is that provided in R.A. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*, which is life imprisonment and a fine of P10,000,000 if dealing with dangerous drugs; imprisonment of 20 years and a fine of P500,000 if dealing with any controlled precursor and essential chemical.

R.A. 9231 does not provide a penalty for other forms of illegal or illicit activities. This means that the applicable penalty is the one provided in R.A. 7610 since it was not amended by R.A. 9231, i.e. *prision correccional* medium (2 years, 4 months, and 1 day) to *reclusion perpetua* (40 years).

For the employment of children in hazardous or harmful work, the penalty is a fine of P100,000 to P1,000,000 or imprisonment of 12 years and 1 day to 20 years, or both at the discretion of the court.

If the violation is committed by a corporation, the board of directors/trustees and officers, which include the president, treasurer, and secretary of the corporation who participated in or knowingly allowed the violation shall be liable.

TABLE 3. SUMMARY OF PENALTIES

Punishable Acts	Persons Liable	Penalties
Employment of children below 15 years old (other than under the exceptions allowed by law) ³² in an activity that is not one of the worst forms of child labor	(a) Employers (b) Parents, biological or by legal fiction, and legal guardians	(a) Imprisonment of six (6) months and one (1) day to six (6) years or a fine of P50,000 to P300,000 or both at the discretion of the court ³³ (b) <i>1st and 2nd violation</i> - Fine of P10,000 to P100,000 or community service of thirty (30) days to one (1) year, or both at the discretion of the court; <i>3rd violation</i> - one (1) year community service; <i>4th and succeeding violations</i> - one (1) year community service and imprisonment of thirty (30) days to one (1) year, or both at the discretion of the court ³⁴

³² Section 6, R.A. 9231 amending R.A. 7610.

³³ *Id.*

³⁴ Section 6, R.A. 9231 amending Section 16, R.A. 7610.

Punishable Acts	Persons Liable	Penalties
Violation of the hours of work of a working child ³⁵	(a) Employers (b) Parents, biological or by legal fiction, and legal guardians	(a) Same as above (b) Same as above
Violation of the provision on ownership, usage and administration of the working child's income ³⁶	Parents, biological or adoptive, and legal guardians	<i>1st and 2nd violation</i> - Fine of P10,000 to P100,000 or community service of thirty (30) days to one (1) year, or both at the discretion of the court; <i>3rd violation</i> - one (1) year community service; <i>4th and succeeding violations</i> - one (1) year community service and imprisonment of thirty (30) days to one (1) year, or both at the discretion of the court ³⁷
Violation of the provision on trust fund to preserve part of the working child's income ³⁸	Parents, biological or adoptive, and legal guardians	Same as above
Violation of the prohibition on the employment of children in certain advertisements ³⁹	Employers	Imprisonment of six (6) months and one (1) day to six (6) years or a fine of P50,000.00 to P300,000.00 or both at the discretion of the court ⁴⁰
Engagement of children in slavery or practices similar to slavery, such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict ⁴¹	Any person who commits the violation	Life imprisonment and a fine of P2,000,000.00 to P5,000,000.00 ⁴²
Use, procuring, offering, or exposing of a child for prostitution, for the production of pornography or for pornographic performances ⁴³	Any person who commits the violation	Life imprisonment and a fine of P2,000,000.00 to P5,000,000.00 ⁴⁴

³⁵ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

³⁶ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

³⁷ Section 6, R.A. 9231 amending Section 16, R.A. 7610.

³⁸ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

³⁹ Section 5, R.A. 9231 amending Section 14, R.A. 7610.

⁴⁰ Section 6, R.A. 9231 amending Section 16, R.A. 7610.

⁴¹ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

⁴² Section 6, R.A. 9231 amending Section 16, R.A. 7610 in relation to Section 10(c), R.A. 9208.

⁴³ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

⁴⁴ Section 6, R.A. 9231 amending Section 16, R.A. 7610 in relation to Section 10(c), R.A. 9208.

Punishable Acts	Persons Liable	Penalties
Use, procuring, or offering a child for the production and trafficking of dangerous drugs and volatile substances ⁴⁵	Any person who commits the violation	Life imprisonment and a fine of P10,000,000.00 if dealing with dangerous drugs; imprisonment of 20 years and a fine of P500,000.00 if dealing with any controlled precursor and essential chemical ⁴⁶
Use, procuring, or offering a child for other illegal or illicit activities ⁴⁷	Any person who commits the violation	<i>Prision correccional</i> medium (2 years, 4 months and 1 day) to <i>reclusion perpetua</i> (40 years) ⁴⁸
Employment of children in hazardous or harmful work ⁴⁹	Any person who commits the violation, the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work	Fine of P100,000 to P1,000,000.00 or imprisonment of twelve (12) years and one (1) day to twenty (20) years, or both at the discretion of the court ⁵⁰

⁴⁵ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

⁴⁶ Section 6, R.A. 9231 amending Section 16, R.A. 7610 in relation to Section 5, R.A. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

⁴⁷ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

⁴⁸ Section 10(e), R.A. 7610.

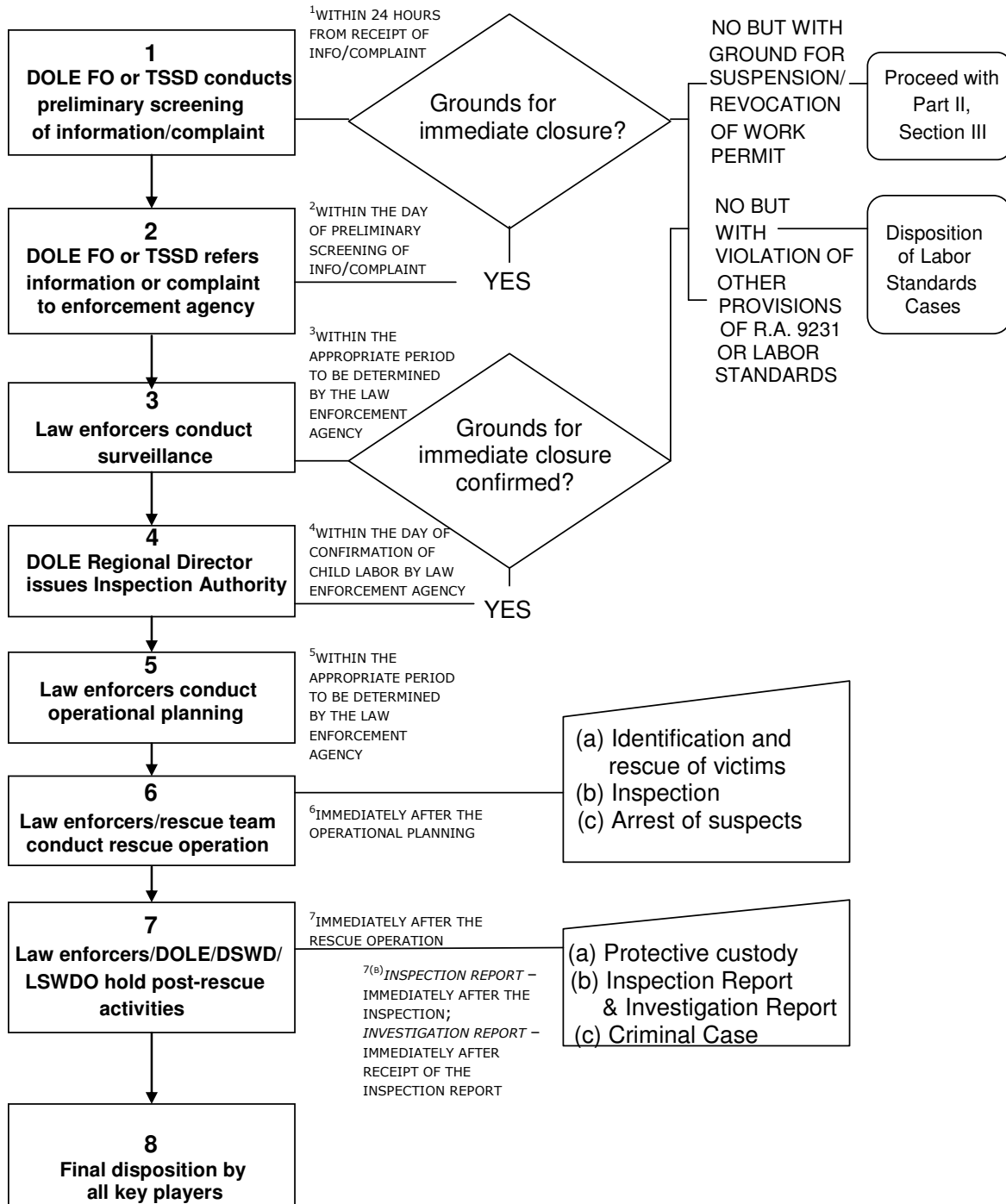
⁴⁹ Section 3, R.A. 9231 amending Section 12, R.A. 7610.

⁵⁰ Section 6, R.A. 9231 amending Section 16, R.A. 7610.

**PART TWO:
Standard Operating Procedures
for Child Labor Cases**

I. PROCEDURE FOR RESPONDING TO INFORMATION OR COMPLAINT ON CHILD LABOR INVOLVING GROUNDS FOR IMMEDIATE CLOSURE

FLOWCHART 1



This Section discusses the procedure for responding to information or complaint on child labor that involves grounds for the immediate closure of the firm, business, or establishment. The source of the information or complaint may be a Labor Inspector who comes across a suspected case of child labor in the course of a routine inspection or it may be a complaint from a third party. A “third party” refers to any source other than the Labor Inspectors. This includes, but is not limited to, concerned citizens; media; community-based organizations; non-government organizations; law enforcement and other government agencies; or personnel or employees of DOLE who act in their personal capacity or initiative. The complaint may come in varied forms, such as telephone calls, anonymous letters, formal complaints, and text messages.

STEP 1: RECEIPT AND PRELIMINARY SCREENING OF THE COMPLAINT OR INFORMATION

KEY RESULT:	The preliminary screening is conducted to determine the sufficiency and nature of the complaint or information.
KEY PLAYERS:	DOLE Field Office or TSSD (or Regional Director if the information is obtained in the course of a routine inspection)
TIMEFRAME:	Within 24 hours from receipt of the complaint or information

1.1. ***Sufficiency and nature of the complaint or information on suspected child labor.*** Within 24 hours from receipt of a complaint or information on suspected child labor, the FO or TSSD (or the Regional Director if the information is obtained in the course of a routine inspection) shall determine the sufficiency and nature of the same.

1.1.1. In determining *sufficiency*, the FO or TSSD should check if the complaint or information provides the following:

(a) *Name and/or address of the firm, business, or establishment or other information that may establish identity and location.* The name of the firm, business or establishment should be provided. If the name is not reported, it is sufficient if the address or other information is provided that may lead to the identification of the firm, business, or establishment, such as location, landmarks, and description.

(b) *Type of business/economic activity/principal product.* If the type of child labor is not specified, it may be inferred from the type of business, economic activity, or principal product. For example, if the type of business is a garments factory, it would most likely involve slavery, practices similar to slavery, or hazardous or harmful work. If the business is a night club, it would most likely involve the use, procuring, offering, or exposing a child to prostitution or pornography.

(c) *Estimated number of minors.* If the exact number of victims and their identity are not known, an estimate of the number of victims will give

an idea of the scale of the operations and will help facilitate the identification of the victims.

- (d) *Age range and gender of the minors.* The complaint or referral may not provide the exact ages of the minors but it will be helpful if an estimate or age range is provided. The age range and gender will help determine the nature of the case and the appropriate assistance.

1.1.2. In determining the *nature*, the FO or TSSD (or the Regional Director if the information is obtained in the course of a routine inspection) shall make a preliminary assessment of whether the complaint or information possibly involves a ground for the immediate closure of the establishment. If the information or complaint involves any of the situations in the checklist below, it shall be considered for possible rescue of the victims and immediate closure of the establishment and the steps laid out in this Section shall be undertaken.

- Death.* The violation of any provision of R.A. 9231 has resulted in death of a child employed in the establishment.
- Insanity.* The violation of any provision of R.A. 9231 has resulted in insanity of a child employed in the establishment.
- Serious physical injury.* The violation of any provision of R.A. 9231 has resulted in serious physical injury of a child employed in the establishment.
- Prostitution.* The firm or establishment is employing or engaging a child for prostitution.
- Obscene or lewd shows.* The firm or establishment is employing or engaging a child for obscene or lewd show.
- Imminent danger.* A condition or practice that is reasonably expected to cause death or serious physical harm to the child in accordance with the occupational safety and health standards.

- 1.2. ***No ground for immediate closure but the information or complaint involves a ground for suspension or revocation of work permit, other violations of the Act, or labor standards violations.*** If there is no ground for immediate closure but the information or complaint involves a ground for suspension or revocation of the work permit, proceed with PART II, Section III, page 43. If there is a violation of other provisions of R.A. 9231⁵¹ or labor standards violations, follow the *Manual on the Disposition and Settlement of Labor Standards Cases*.

1.2.1. Violations constituting grounds for the suspension or cancellation of work permit⁵²

- Fraud or misrepresentation in the application for work permit or any of its supporting documents

⁵¹ Follow Section 23, D.O. 65-04 for the issuance of compliance orders as discussed on page 17 of this Manual. Follow the Manual on the Disposition and Settlement of Labor Standards Cases for the steps in conducting the notice and hearing.

⁵² Section 22, D.O. 65-04.

- Violation of the terms and conditions in the working child's employment contract and/or the employer's undertaking including:
 - hours of work which should not be more than 4 hours a day/20 hours a week; not between 8:00 p.m. to 6:00 a.m. the following day
 - number of working days
 - remuneration
 - rest period⁵³
- Failure to institute measures to ensure the protection, health, safety, morals, and normal development of the working child, including but not limited to:
 - comfortable workplace and adequate quarters
 - break or rest periods in comfortable day beds or couches
 - clean and separate dressing rooms and toilet facilities for boys and girls
 - provision for adequate meals and snacks and sanitary eating facility
 - provision of all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick child in case of emergency⁵⁴
- Employer's failure to formulate and implement a program for the education, training, and skills acquisition
- Deprivation of access to formal, non-formal, or alternative learning systems of education

1.2.2. Other violations of R.A. 9231

- Employment of children below 15 years old other than under the sole responsibility of their parents or for public entertainment or information
- Employment of children below 15 years old without a work permit
- Children 15 to below 18 work more than 8 hours a day/40 hours a week and/or between 10:00 p.m. to 6:00 a.m. the following day
- Violation of the prohibition on the employment of children in advertisements directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, gambling, or any form of violence or pornography
- Violation of the provision on ownership, usage, and administration of the working child's income
- Violation of the provision on trust fund to preserve part of the working child's income

1.3. **Information obtained in the course of a routine inspection.** If the information on suspected child labor is obtained in the course of a routine inspection, the Labor Inspector must use the regular Checklist for Labor Inspectors and indicate in the Notice of Inspection Results only a general statement of the findings. The findings on suspected child labor shall be reported to the Regional Director immediately after the inspection with a recommendation that it should be referred to a law enforcement agency for further verification.

⁵³ Section 9(a)i, D.O. 65-04.

⁵⁴ Section 9(a)ii, D.O. 65-04.

- 1.4. **Information from a law enforcement agency or a tried and tested source.** If the complaint or information is substantiated by a surveillance report or other supporting documents from a reliable third party, such as law enforcement or other government agency or non-government organization with a proven track record, proceed with STEP 4, page 25 if after review of the documentation there are grounds for the immediate closure of the establishment.
- 1.5. **Complaint or information involves a child already rescued from or is no longer working in the establishment.** If the complaint or information involves a child who had already been rescued or is no longer working in the establishment, e.g. when the case is referred by a law enforcement agency after the agency has conducted a raid and rescue operation without the assistance or participation of DOLE, the complaint shall be set for hearing for purposes of determining whether the establishment should be closed. Prior to the hearing, the Regional Director may order the conduct of inspection or ocular visit whenever necessary. The procedure in PART II, SECTION II, page 35 for the immediate closure of the establishment shall apply subject to the following modifications:
- 1.5.1. The Notice of Closure and the lifting or confirming of the immediate and permanent/temporary closure will not apply.
 - 1.5.2. The Order resolving the closure proceedings shall state whether there is a ground for the immediate and permanent or immediate and temporary closure of the establishment, or whether the case should be dismissed.

STEP 2: REFERRAL OF THE COMPLAINT OR INFORMATION TO THE APPROPRIATE LAW ENFORCEMENT AGENCY

KEY RESULT:	The complaint or information is referred to the appropriate law enforcement agency.
KEY PLAYERS:	DOLE Field Office or TSSD (or Regional Director if the information is obtained in the course of a routine inspection)
TIMEFRAME:	Within the day of the preliminary screening of the complaint or information

- 2.1. **Referral to a law enforcement agency.** Within the day of the preliminary screening of the complaint or information, the FO or TSSD (or Regional Director) shall refer the complaint or information to the appropriate law enforcement agency with a request to conduct surveillance on the establishment. The referral may be verbal or written, whichever is more expedient and prudent, taking into consideration the urgency and confidentiality of the complaint.

- 2.2. **Request for feedback on the results of the surveillance.** Upon referral to the appropriate law enforcement agency, the FO or TSSD (or Regional Director) shall request the law enforcement agency to inform the FO or TSSD (or Regional Director) of the results of the surveillance operations immediately upon completion of the surveillance.

STEP 3: SURVEILLANCE

KEY RESULT:	The surveillance is conducted.
KEY PLAYER:	Law enforcement agency
TIMEFRAME:	Within the appropriate period to be determined by the law enforcement agency

- 3.1. **Surveillance.** The law enforcers and/or their agents shall conduct the surveillance within the appropriate period as they may determine taking into consideration, whenever appropriate, the *IACAT Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases*.
- 3.2. **Feedback.** The FO or TSSD (or Regional Director) shall coordinate regularly with the law enforcement agency for feedback on the status of the referral.

STEP 4: INSPECTION AUTHORITY

KEY RESULT:	The Inspection Authority is issued.
KEY PLAYERS:	Regional Director
TIMEFRAME:	Within the day of notification from the law enforcement agency that the surveillance confirmed the existence of child labor

- 4.1. **Inspection authority.** Within the day of notification from the law enforcement agency that the surveillance confirmed the existence of child labor, the Inspection Authority shall be issued and signed by the Regional Director. The inspection should be conducted simultaneous with and not prior to the rescue operation to avoid jeopardizing the rescue.
- 4.2. **Response to a negative surveillance.** If the surveillance conducted by the law enforcement agency yields negative results, an inspection of the establishment shall be conducted within the soonest possible time but no later than six (6) months from the date of the completion of the surveillance.

STEP 5: OPERATIONAL PLANNING

KEY RESULT:	The operational planning is conducted.
KEY PLAYERS:	Law enforcers in coordination with the other members of the rescue team
TIMEFRAME:	Within the appropriate period determined by the law enforcement agency

- 5.1. **Coordination of the operational planning.** Within the appropriate period determined by the law enforcement agency, the law enforcers shall coordinate and plan the details of the rescue with the other members of the rescue team. The team shall include the law enforcers and their agents, Labor Inspectors and focal persons on child labor, DSWD/LSWDO representatives, NGO representatives who provide assistance to the victims, and/or such members as may be necessary depending on the circumstances.

The operational planning shall be conducted in accordance with the standard operating procedures of the law enforcement agency and, whenever appropriate, the *IACAT Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases*.

- 5.2. **Matters to be discussed at the operational planning.** The following, among others, are the matters that should be covered during the operational planning:

(a) Objectives and step-by-step plan

- i. What are the specific objectives of the operation?
- ii. What are the detailed steps in achieving the objectives and what is the timing of each step?
- iii. When will DOLE representatives enter the premises to conduct the inspection and how much time will they be given?
- iv. When will the DSWD/LSWDO and/or NGO representatives come in?
- v. What are the alternative steps in case one course of action does not proceed as originally planned?

(b) Risk assessment

- i. What are the risk factors and what corresponding security measures will be taken?

(c) Personnel requirements, tasking, and coordination

- i. Who will be involved and what will be their specific roles?
- ii. Who will fund what aspects of the operation?
- iii. Who will coordinate with the local police and/or the barangay officials and what is the timing of the coordination?
- iv. Who will recover the personal belongings of the victims and what is the timing of the recovery?
- v. Who will conduct the inspection and when will it be conducted?
- vi. Who will enter the premises first? Who will be the back-up?
- vii. Who will identify and separate the minors from the adults?

- viii. Who will give the signal for DOLE, DSWD/LSWDO, and other non-law enforcement personnel to enter the premises and what is the agreed signal?
 - ix. Who will conduct the initial interview with the child for purposes of obtaining preliminary information?
 - x. Who will conduct the in-depth interview with the child for purposes of post-rescue investigation and preparation of the child's sworn statement?
- (d) Logistical requirements
- i. How many vehicles are needed and who will provide the vehicles?
 - ii. Are the team members equipped with mobile phones and are they fully charged and with load?
 - iii. What are the forms and documents needed?
 - iv. What is the designated processing area where the victims will be brought immediately after the rescue?
 - v. Where will the victims stay for temporary shelter?

STEP 6: ACTUAL RESCUE OPERATION

Immediately after the operational planning, the team shall conduct the rescue operation, which involves three major components: (a) rescue of the victims; (b) inspection; and (c) arrest of the suspects. The components are discussed separately in order to identify clearly the different tasks involved, but during the actual execution some of the tasks may overlap or occur simultaneously.

KEY RESULT:	The victims are identified and rescued; inspection is conducted; and suspects are arrested.
KEY PLAYERS:	Law enforcers in coordination with DSWD/LSWDO, DOLE, and other members of the rescue team
SAMPLE FORMS:	Inspection Checklist on Child Labor (FORM "A") Child Personal & Work Profile Form (FORM "B")
TIMEFRAME:	Immediately after the operational planning

STEP 6(a): Identification and rescue of the victims

6(a)1. **Objectives of the rescue.** The primary objectives of a rescue operation are to move the victims from a place of danger to a safe place and provide immediate assistance.

6(a)2. **Transfer of child victims to the designated processing area.** The law enforcers shall identify the child victims and separate them from the adults. A representative of the DSWD or LSWDO shall receive the children immediately after the latter are identified, escort them as they are transferred by the law enforcers to the designated processing area, and ensure that their rights are protected, including their right to privacy.

6(a)3. **Guidelines for the protection of children.** In their treatment of the minors, the team shall be guided by the *Philippine Guidelines for the Protection of Trafficked Children*. Although the guidelines apply to trafficking cases, the underlying principles apply to any of the worst forms of child labor and the specific measures may be adapted to address the particular circumstances of the case. In dealing with the media, the team shall ensure that the *Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children* is observed.

6(a)4. **Treatment of adult victims.** If adult victims of forced labor, slavery, or similar practices, or other forms of abuse or exploitation are identified, the team shall be ready to provide the appropriate assistance, which may include rescue.

STEP 6(b): Inspection

6(b)1. **Inspection Checklist on Child Labor.** After the child victims are identified and separated from the adults by the law enforcers, the Labor Inspector and DSWD representatives shall be given by the law enforcers the signal to enter the premises of the establishment. The Labor Inspector shall conduct the inspection and accomplish the Inspection Checklist on Child Labor (FORM "A") immediately upon entering the premises. Only one (1) checklist is needed per establishment.

6(b)2. **Child Personal & Work Profile Form.** The Labor Inspector shall accomplish one (1) Child Personal & Work Profile Form (FORM "B") per child, which shall be attached to the Inspection Checklist on Child Labor. The accomplished Child Labor Information Sheet should be signed and certified by the child in the space provided.

6(b)3. **Child-appropriate interview.** In accomplishing the Inspection Checklist on Child Labor (FORM "A") and the Child Personal & Work Profile Form (FORM "B"), the Labor Inspector shall speak in a non-threatening way, in a language understood by the child, and in a manner that is appropriate to the child's age. As much as possible, the interviewer should be of the same gender as the child, trained in administering child-friendly and gender-sensitive interview methods, and knowledgeable about the issue of child labor. The DSWD/LSWDO should explain the situation to the child, provide support and reassurance to the child during the interview, and ensure that the best interests of the child are protected. This is critical to allay the fears of the child, prevent the child from having the misimpression that he/she is being arrested, and make the child feel that the government has come to help and not to hurt the child.

The following pointers help build a child-appropriate approach to conducting the interview:

- i. The interviewer shall introduce himself/herself to the child.
- ii. The interviewer shall explain his/her designation and role in the operation and present his/her official government ID.

- iii. The interviewer shall explain to the child what is happening and assure the child that the interviewer is there to help the child.
- iv. The interviewer shall explain why the interview is being conducted.
- v. The interviewer shall encourage the child to speak up and shall assure the child that the information gathered from the interview will not be disclosed to the public.
- vi. After the interview, the interviewer shall thank the child and explain to the child what will happen immediately after the interview.
- vii. The interviewer should not explain the details of the entire process of rehabilitation and prosecution, which would be too much information for the child to absorb and understand at this point. The DSWD/LSWDO representative will be in a better position to do this after the child has been transferred from the premises to a safe place and after the child has been given sufficient time to rest.

6(b)4. **Avoidance of multiple interviews.** Whenever possible, the representative of the DSWD/LSWDO should be present during the interview. To avoid multiple interviews, the DSWD/LSWDO representative shall note the information provided by the victims on matters that are relevant to the preparation of the DSWD/LSWDO intake sheet so that the child need not be asked again regarding those matters.

6(b)5. **Business & Employment Records.** The Labor Inspector shall examine the following business and employment records:

- business license/permit/SEC registration;
- list of all workers, regardless of status and designation, including their hiring rates;
- birth certificates of workers;
- daily time records and/or time sheet;
- employment contracts;
- payrolls or their equivalent, such as proof of ATM deposits of workers' salaries;
- proof of remittances to the BIR, SSS, PhilHealth, and Pag-Ibig;
- accident reports;
- medical records;
- other relevant documents.

Whenever possible, the Labor Inspector shall photocopy the business and employment records and ensure that the copies are certified or authenticated by the employer or the employer's representative as true copies of the original.

6(b)6. **Security.** The law enforcers shall secure the premises and ensure the safety and security of the team and the victims while the inspection is being conducted.

6(b)7. **Time consideration.** The foregoing action points 6(b)1 to 6(b)6 should be accomplished as quickly as possible. The victims and the rescue team should leave the premises and transfer to a safe place within the shortest period of time to avoid undue security risks.

STEP 6(c): Arrest of the suspects

6(c)1. **Arrest procedures.** When the requirements for a lawful warrantless arrest are met, the law enforcers shall arrest the suspects and seize relevant evidence in accordance with their standard operating procedures and, whenever appropriate, the *IACAT Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases*.

6(c)2. **Warrantless arrest.** It is advisable that the arrest be conducted simultaneously with the rescue under any of the circumstances when a warrantless arrest is allowed. More often than not, waiting until a suspect is formally charged in court and a warrant of arrest is issued gives the suspects the opportunity to evade arrest and prosecution.

A law enforcement agent (or a private person) may conduct a lawful warrantless arrest when in his/her presence the person to be arrested has committed, is actually committing, or is attempting to commit an offense; or when an offense has just been committed, and he/she has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.⁵⁵

STEP 7: POST-RESCUE ACTIVITIES

The team shall conduct the post-rescue activities, which involve three main tasks: (a) protective custody, immediate assistance to the minors, and transfer to a temporary shelter; (b) preparation and filing of the criminal complaint; (c) submission of the Investigation Report; and (d) initiation of the administrative proceedings for the closure of the establishment or disposition of labor standard cases. Again, the components are discussed separately in order to identify clearly the different tasks involved, but during the actual execution some of the tasks may overlap or occur simultaneously.

STEP 7(a): Protective custody, immediate assistance, and transfer to a temporary shelter.

KEY RESULT:	The victims are under protective custody and provided immediate assistance and temporary shelter.
KEY PLAYERS:	DSWD/LSWDO
TIMEFRAME:	Immediately after the rescue operation

⁵⁵ Section 5, Rule 113 of the Rules of Court.

7(a)1. **Protective custody.** The victims of child labor shall be immediately placed under the protective custody of the DSWD/LSWDO pursuant to Executive Order No. 56, series of 1986.⁵⁶ Custody proceedings through a petition for involuntary commitment or through voluntary commitment of the child shall be in accordance with the provisions of P.D. 603.

7(a)2. **Temporary shelter.** After the children are taken out of the establishment, the rescue team should transport them to a DSWD/LSWDO operated or accredited facility as soon as possible for temporary shelter.

7(a)3. **Immediate assistance.** The DSWD/LSWDO representatives shall be guided by the relevant provisions of the *Philippine Guidelines for the Protection of Trafficked Children* in providing assistance to the victims of child labor.

The DSWD/LSWDO representatives shall provide immediate assistance to the child victims and ensure that the rights of the children are upheld and their interests protected. They shall explain the investigation procedures to the children. They shall accompany and assist the children when they are interviewed by law enforcers; ensure that they are provided with food, water, and personal care items, especially when the post-rescue processing takes several hours; and shield them from media to protect their privacy. In dealing with the media, the DSWD/LSWDO shall ensure that the *Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children* is observed.

STEP 7(b): Submission of the Checklist and Investigation Report

KEY RESULT:	The Inspection Report with attachments is submitted to the Regional Director; the Investigation Report is submitted to the prosecutor.
KEY PLAYERS:	DOLE FO or TSSD/Labor Inspectors
SAMPLE FORMS:	Inspection Report (FORM "C") Investigation Report (FORM "D")
TIMEFRAME:	<i>Inspection Report</i> (FORM "C") – Immediately after the inspection <i>Investigation Report</i> (FORM "D") – Immediately after receipt of the Inspection Report

7(b)1. **Inspection Report.** Immediately after the inspection, the Labor Inspector, through his/her supervisor, shall prepare and submit to the Regional Director an Inspection Report summarizing the inspection proceedings (FORM "C") and attaching the Inspection Checklist on Child Labor (FORM "A"), Child Personal & Work Profile Form (FORM "B"), and the supporting documents.

⁵⁶ Section 28, R.A. 7610.

7(b)2. **Submission of the Investigation Report.** Immediately after receipt of the Inspection Report (FORM "C"), the Regional Director or his/her duly designated representative shall prepare and submit the Investigation Report (FORM "D") to the prosecutor concerned who shall determine the filing of the appropriate criminal charge.⁵⁷

7(b)3. **Contents of the Investigation Report.** The Investigation Report (FORM "D") shall consist of a summary of the inspection proceedings attaching copies of the Inspection Checklist on Child Labor (FORM "A"), Child Personal & Work Profile Form (FORM "B"), Inspection Report (FORM "C"), and the supporting documents.

7(b)4. **Closure of establishment.** The Regional Director shall initiate *motu proprio*⁵⁸ the enforcement procedure for the immediate closure of the establishment within twenty four (24) hours from receipt of the Inspection Checklist on Child Labor Complaints. See PART II, SECTION II, page 35 for the procedure.

STEP 7(c): The law enforcers prepare and file the criminal complaint

KEY RESULT:	The appropriate criminal complaint is filed with the investigating prosecutor for inquest if a warrantless arrest was effected; or for preliminary investigation if there is no arrest.
KEY PLAYERS:	Law enforcers.
TIMEFRAME:	Within the period prescribed by Article 125 of the Revised Penal Code if the suspects are arrested without a warrant.

7(c)1. **Preparation of the complaint.** The law enforcers shall prepare the criminal complaint, which includes interviewing the victims and obtaining their sworn statements. The complaint should be accompanied with supporting documents as indicated in the *IACAT Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases*, including but not limited to the following:

- Affidavits of the arresting officers and witnesses;
- Results of the medical examinations of the victims;
- Birth certificates or other proof of minority, such as baptismal certificates, school records or dental aging;
- Business permits and licenses of the establishment;
- Other business and employment records such as those enumerated in Section 6(b)(5), page 29.

7(c)2. **Interview with minors.** The law enforcers shall be guided by the relevant provisions of the *Philippine Guidelines for the Protection of Trafficked Children* when they interview the minors. In dealing with the

⁵⁷ Section 28, D.O. 65-04.

⁵⁸ Section 24, D.O. 65-04.

media, the law enforcers shall ensure that the *Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children* is observed.

As much as possible, the law enforcer conducting the interview should be of the same gender as the child, dressed in civilian clothes, trained in administering child friendly and gender-sensitive interview methods, and knowledgeable about the issue of child labor.

7(c)3. **Institution of the criminal action.** The law enforcers shall file the criminal complaint with the National Prosecution Service/City/Provincial Prosecution Office for inquest or preliminary investigation. In the case of warrantless arrests, the complaint may be filed directly with the Regional Trial Court when a prosecutor is not immediately available for inquest to avoid violation of Article 125 of the Revised Penal Code.

When the criminal action is filed, the civil action arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately, or institutes the civil action prior to the criminal action.

STEP 8: FINAL DISPOSITION OF THE CASE

KEY RESULT:	The information on child labor is acted upon in all aspects, including the criminal case, administrative proceedings, rehabilitation, and reintegration.
KEY PLAYERS:	<i>Criminal case</i> – law enforcers, prosecutors, and judge <i>Administrative proceedings</i> – DOLE <i>Custody proceedings, rehabilitation, reintegration</i> – DSWD/LSWDO
TIMEFRAME:	<i>Criminal case</i> – trial is terminated by the court within 90 days from the date of filing of the information; decision is rendered within 15 days from the date the case is submitted for judgment ⁵⁹ <i>Administrative proceedings</i> - within the time period provided in Part II, Section II <i>Custody proceedings, rehabilitation, reintegration</i> – within the period determined by the DSWD/LSWDO

8.1. **Case conference.** DOLE shall hold regular case conferences with the team as may be necessary to update each other on the status of the case until the case reaches final disposition in all aspects.

8.2. **Final disposition of the administrative case.** DOLE shall conduct the administrative proceedings for the closure of the establishment and impose the appropriate sanctions. The Regional Director shall furnish the

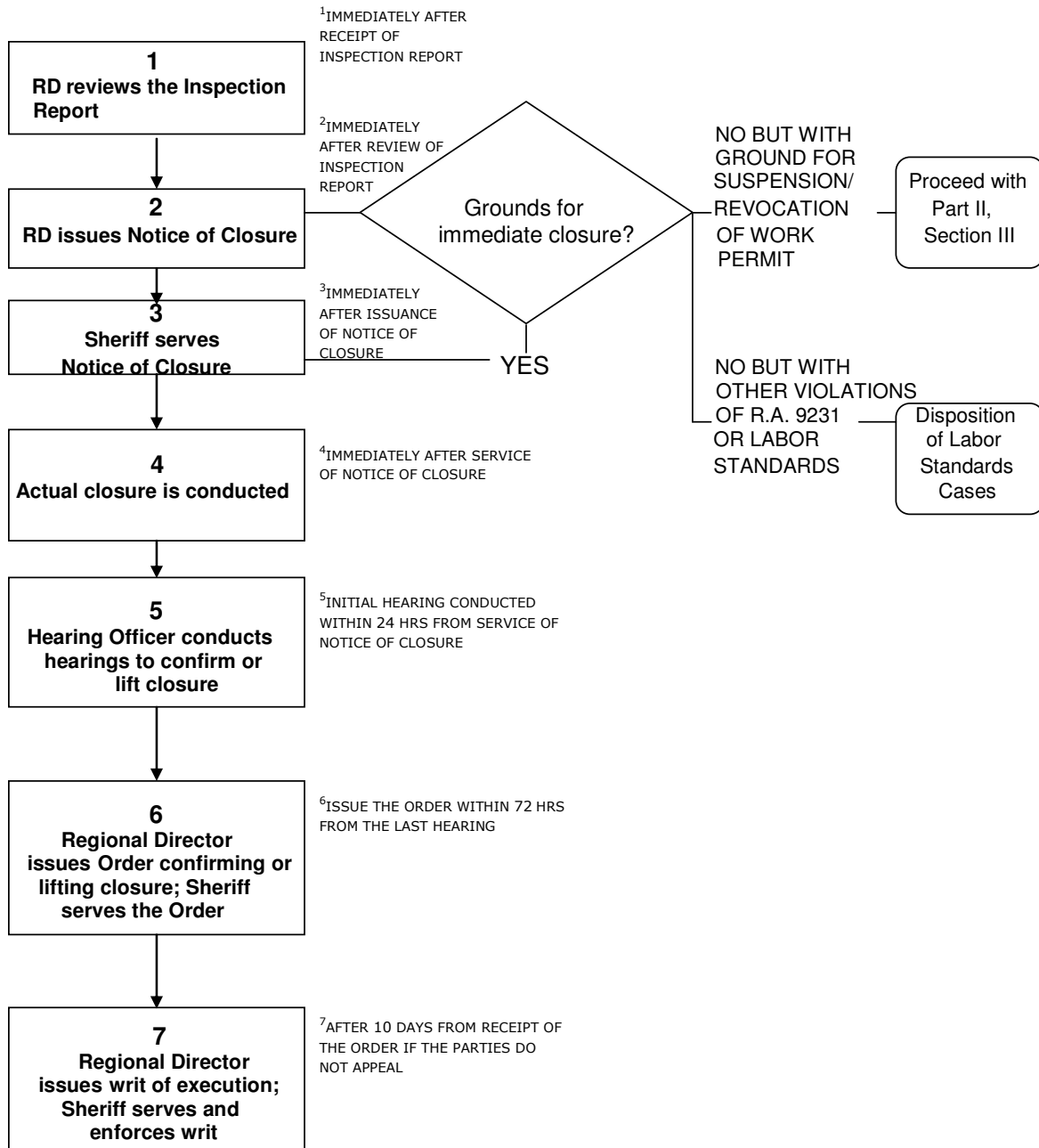
⁵⁹ Section 16-A, R.A. 7610, as amended by Section 9, R.A. 9231.

law enforcement agency and, if a criminal complaint has been filed, the prosecutor with a copy of the Order lifting or confirming the closure immediately after the issuance of the Order. See PART II, SECTION II, page 35 for the procedure.

- 8.3. ***Final disposition of the criminal case.*** The criminal case shall be prosecuted and brought to judgment; perpetrators shall serve their sentence when convicted.
- 8.4. ***Final disposition of the custody proceedings; rehabilitation and reintegration.*** The custody over the child shall be resolved in a petition for involuntary commitment or through a voluntary commitment of the child, whichever is appropriate. The victim shall be provided with health services, education and training, employment services, and such other forms of assistance as may be determined by the DSWD/LSWDO. The pendency of the criminal and/or administrative cases shall not hinder the reintegration of the child if the goals of the rehabilitation and recovery are met provided that a case conference together with the representatives of the concerned law enforcement agency, prosecutor, and other stakeholders shall be conducted prior to the reintegration of the child.

II. ENFORCEMENT PROCEDURE FOR THE IMMEDIATE CLOSURE OF THE ESTABLISHMENT

FLOWCHART 2



This Section discusses the procedure after the Labor Inspector conducts the inspection and submits the Inspection Report to the Regional Director in PART II, SECTION I, STEP 7(b), page 31.

STEP 1: REVIEW OF THE INSPECTION REPORT

KEY RESULT:	The Inspection Report is reviewed by the Regional Director.
KEY PLAYER:	Regional Director
SAMPLE FORMS:	Inspection Report (FORM "C") with the attached Inspection Checklist on Child Labor (FORM "A"), Child Personal & Work Profile Form (FORM "B"), and supporting documents
TIMEFRAME:	Immediately after receipt by the Regional Director of the Inspection Report

1.1. **Review of the Inspection Report.** Immediately after receipt of the Inspection Report (FORM "C") with the attached Inspection Checklist on Child Labor (FORM "A"), Child Personal & Work Profile Form (FORM "B"), and supporting documents, the Regional Director shall review the same to determine if there are sufficient grounds for the immediate closure of the establishment.

1.2. **Grounds for immediate closure.** Proceed with STEP 2 below, if any of the following grounds for immediate closure are present:

1.2.1. Grounds for immediate and permanent closure

- Death.* The violation of any provision of R.A. 9231 has resulted in death of a child employed in the establishment.
- Insanity.* The violation of any provision of R.A. 9231 has resulted in insanity of a child employed in the establishment.
- Serious physical injury.* The violation of any provision of R.A. 9231 has resulted in serious physical injury of a child employed in the establishment.
- Prostitution.* The firm or establishment is employing or engaging a child for prostitution.
- Obscene or lewd shows.* The firm or establishment is employing or engaging a child for obscene or lewd show.

1.2.2. Ground for immediate and temporary closure

- Imminent danger.* The existence of a condition or practice that could reasonably be expected to cause death or serious physical harm to the child in accordance with the occupational safety and health standards.

- 1.3. **No ground for immediate closure but the information or complaint involves a ground for suspension or revocation of work permit, other violations of the Act, or labor standards violations.** If there is no ground for immediate closure but the information involves a ground for the revocation or suspension of the work permit, proceed with PART II, SECTION III; if it involves other violations of R.A. 9231 or labor standards, follow the *Manual on the Disposition and Settlement of Labor Standards Cases*.

STEP 2: ISSUANCE OF THE NOTICE OF CLOSURE

KEY RESULT:	The Notice of Closure is issued.
KEY PLAYER:	Regional Director
SAMPLE FORM:	Notice of Closure (FORM "E")
TIMEFRAME:	Immediately after review by the Regional Director of the Inspection Report

- 2.1. **Issuance of the Notice of Closure.** Immediately after review by the Regional Director of the Inspection Report, the Regional Director shall issue a Notice of Closure (FORM "E") if any of the grounds for the immediate closure of the establishment is present.
- 2.2. **Contents of the Notice of Closure.** The Notice of Closure (FORM "E") shall state the grounds for immediate closure and the date and time of the initial hearing for the confirmation or lifting of the closure, which should be no later than twenty four (24) hours from the service of the Notice of Closure.⁶⁰

STEP 3: SERVICE OF THE NOTICE OF CLOSURE

KEY RESULT:	The Notice of Closure is served on the employer or his/her representative.
KEY PLAYER:	Sheriff or serving officer
SAMPLE FORM:	Notice of Closure (FORM "E")
TIMEFRAME:	Immediately after the issuance of the Notice of Closure

- 3.1. **Service of the Notice of Closure.** Immediately after the issuance of the Notice of Closure (FORM "E"), the same shall be served by the Sheriff or a duly designated process server on the employer or his/her representative. The delivery of the Notice of Closure shall be by personal service at the establishment's address. If service is on the employer's representative, the Notice of Closure shall also be served on the employer at his last known address by registered mail.

⁶⁰ Section 24, D.O. 65-04.

3.3. **Submission of return.** The Sheriff or a duly designated serving officer shall submit his/her return immediately after service stating legibly in the return his/her name, the mode of service, the names of the authorized persons served and the date of actual receipt of the document. If no service was effected, the serving officer shall state in the return the reason for the failure to effect service. The return shall form part of the records of the case.

STEP 4: ACTUAL CLOSURE OF THE ESTABLISHMENT

KEY RESULT:	The establishment is closed down.
KEY PLAYERS:	FO or TSSD in coordination with law enforcers and other appropriate players as may be necessary
SAMPLE FORMS:	Notice of Closure (FORM "E") Notice to the Public (FORM "F") Inventory of Property (FORM "G") Minutes of the Closure (FORM "H")
TIMEFRAME:	Immediately after the service of the Notice of Closure

4.1. **Closure of the establishment.** Immediately after the service of the Notice of Closure, the representatives of the Regional Office, focal person on child labor, and Sheriff, with the assistance of the authorized representatives of the barangay, shall close the establishment and padlock or bar all exit and entry points. The assistance of the law enforcement authorities shall be sought.

The keys to the establishment shall be properly marked or labelled to identify the corresponding locks.

4.2. **Notice to the Public.** A Notice to the Public (FORM "F"), signed by the Regional Director shall be posted conspicuously at the main entrance and exit points of the establishment stating the grounds for closure and penalty for rendering the closure ineffectual.

4.3. **Signboard.** An enlarged replica of the contents of the Notice to the Public shall be printed or painted on a signboard measuring no less than 2 feet x 2 feet. The signboard shall be posted at the main entrance of the establishment.

4.4. **Inventory of Property.** The Sheriff shall prepare an inventory of all the personal property, equipment, furniture, supplies, stocks, etc. that are in the premises. The Inventory (FORM "G") shall be signed by the Sheriff and the employer or his/her representative. Two witnesses shall sign, preferably representatives of the barangay.

Perishable goods may be taken out by the employer or his/her representative provided that they acknowledge in writing the receipt of such goods.

- 4.5. **Safety precautions.** The Sheriff shall ensure that proper safety precautions are taken before the establishment is closed. All exit and entry points shall be locked; windows are closed and, if necessary, barred or boarded; water faucets are off; electrical equipment and appliances are unplugged; electrical switches are turned off; gas tanks are disconnected; and such other safety measures must be executed as may be necessary.
- 4.6. **Minutes of the closure.** The focal person on child labor shall prepare the Minutes of the Closure (FORM "H") to document the steps taken during the closure, record the names and designations of the members of the team who implemented the closure, list the keys that were marked and surrendered by the Sheriff, and note the date and the time that the closure proceedings started and ended.

The Minutes shall be signed by all the members of the team who implemented the closure. The Inventory accomplished by the Sheriff shall be attached to the Minutes. The Minutes, together with the Inventory and the keys, shall be surrendered to the Regional Director immediately after the establishment is closed.

STEP 5: HEARING TO CONFIRM OR LIFT THE CLOSURE

KEY RESULT:	The hearing to confirm or lift the closure is conducted.
KEY PLAYERS:	DOLE Hearing Officer
TIMEFRAME:	<i>Initial hearing</i> - within 24 hours from the service of the Notice of Closure ⁶¹ <i>Termination of the proceedings</i> - within a reasonable period from the date of the initial hearing

- 5.1. **Initial hearing.** Within twenty four (24) hours from the service of the Notice of Closure, a hearing shall be conducted at the Regional Office before the appropriate hearing officer to determine whether the closure shall be lifted or confirmed.
- 5.2. **Termination of the proceedings.** The proceedings shall be terminated within a reasonable period from the date of the initial hearing.
- 5.3. **Nature of the proceedings.** The proceedings shall be summary and non-litigious in nature. The technicalities of law and procedure and the rules governing admissibility and sufficiency of evidence obtaining in the courts of law shall not strictly apply thereto. The hearing officer may, however, avail of all reasonable means to ascertain the facts or the

⁶¹ Section 24, second paragraph, D.O. 65-04.

controversy speedily and objectively, including ocular inspection and examination of well informed persons.

Substantial evidence shall be sufficient to support the Order resolving the proceedings. *Substantial evidence* means relevant evidence that a reasonable mind might accept to support a conclusion.

5.4. **Scope of the proceedings.** The scope of the proceedings shall include the following:

5.4.1. *Child labor complaint.* The proceedings shall inquire into all matters relating to the complaint on child labor as well as other violations of labor laws pertaining to the child.

5.4.2. *All employees affected by the closure.* It shall not be limited to the complaint on child labor but shall include a determination of the separation pay and other monetary benefits of all the employees affected by the closure.⁶²

5.4.3. *Incomplete findings during the inspection.* Incomplete findings or findings that need further verification which could no longer be undertaken during the inspection due to time limitation should also be further investigated during the proceedings.

5.5. **Records of the proceedings.** The proceedings before the Regional Office need not be recorded by stenographers. The hearing officer shall, however, make a written summary of the proceedings including the substance of the positions of the parties and the evidence presented which shall form part of the records of the case. The written summary shall be signed by the parties.

STEP 6: ORDER CONFIRMING OR LIFTING THE CLOSURE

KEY RESULT:	The Order confirming or lifting the closure is issued.
KEY PLAYERS:	<i>Issuance of the Order</i> - Regional Director <i>Service of the Order</i> - Sheriff
SAMPLE FORM:	Order confirming/lifting the closure (FORM "I")
TIMEFRAME:	<i>Issuance of the Order</i> - within 72 hours from the termination of the last hearing ⁶³ <i>Service of the Order</i> - immediately after issuance

6.1. **Issuance of the Order.** Within seventy two (72) hours from the termination of the last hearing, the Regional Director shall issue an Order confirming or lifting the closure of the establishment and resolving issues

⁶² Section 21(a), last paragraph, D.O. 65-04.

⁶³ Section 24, second paragraph, D.O. 65-04.

related to payment of costs, separation pay, and other monetary benefits (FORM "I").

6.2. **Contents of the Order.** The Order shall state the issues involved and the reasons for the decision. The Order shall include the following matters:

- i. Resolve whether the closure is confirmed or lifted
- ii. If the closure is confirmed, order the employer to shoulder the following:
 - cost of transportation;
 - total actual cost of medical management, recovery and reintegration of the child;
 - in case of death, cost of the child's funeral expenses;
 - for the duration of the closure, pay the wages of all the employees affected; and
 - separation pay and other monetary benefits of all employees affected by the closure.
- iii. Period within which to comply with the orders to pay costs, separation pay and monetary benefits; and venue for the payment.

6.3. **Service of the Order.** Immediately after its issuance, the Order shall be served by the Sheriff on the parties or their duly authorized representatives at their last known office or home address or, if they are represented by counsel, through the latter. In the case of personal service, the process server shall submit his/her return within seventy two (72) hours from the date of service stating legibly in the return his/her name, the mode of service, the names of the authorized persons served and the date of actual receipt of the document. If no service was effected, the serving officer shall state in the return the reason therefor. The return shall form part of the records of the case.⁶⁴

6.4. **Copy furnish the law enforcement agency and the prosecutor.** The Regional Director shall furnish the law enforcement agency and, if a criminal complaint has been filed, the prosecutor with a copy of the Order lifting or confirming the closure immediately after the issuance of the Order.

6.5. **Motion for reconsideration.** The aggrieved party may file a motion for reconsideration of the Order of the Regional Office within seven (7) calendar days from receipt by him or her of a copy of said Order. The Regional Director shall resolve the motion for reconsideration within ten (10) calendar days from receipt thereof. A motion for reconsideration filed beyond the seven-day reglementary period shall be treated as an appeal if filed within the ten-day reglementary period for appeal but subject to the requirements for the perfection of an appeal.⁶⁵

⁶⁴ Manual on the Disposition and Settlement of Labor Standards Cases 2006, par. 10, p. 8.

⁶⁵ Manual on the Disposition and Settlement of Labor Standards Cases 2006, par. 11, p. 9.

No second motion for reconsideration shall be entertained in any case.⁶⁶

STEP 7: WRIT OF EXECUTION

KEY RESULT:	The writ of execution is issued, served, and enforced.
KEY PLAYERS:	<i>Issuance of the writ</i> - Regional Director <i>Service of the writ</i> - Sheriff
SAMPLE FORM:	Writ of Execution (FORM "J")
TIMEFRAME:	<i>Issuance of the writ</i> - after the lapse of 10 days from service of the Order when the parties do not appeal with the Secretary of Labor <i>Service and enforcement of the writ</i> - immediately after issuance

- 7.1. ***Issuance and service of the writ.*** If the parties do not appeal the Order of the Regional Director within ten (10) days from receipt of the Order, the Regional Director shall, *motu proprio* or upon proper motion by any interested party, issue the writ of execution (FORM "J") which shall be served by the Sheriff⁶⁷ The writ of execution shall be issued for the purpose of satisfying the monetary claims and/or re-opening the establishment if the Notice of Closure is lifted.
- 7.2. ***Enforcement of the writ.*** In the enforcement of the writ of execution, the assistance of the law enforcement authorities may be sought. The sheriff shall be guided by Rule 39 of the Rules of Court or the *Sheriff's Manual* and may avail of such other means as may be necessary in the execution thereof. If the Notice of Closure is lifted, the establishment shall be re-opened in coordination with the same agencies that closed the establishment.

⁶⁶ *Id.*

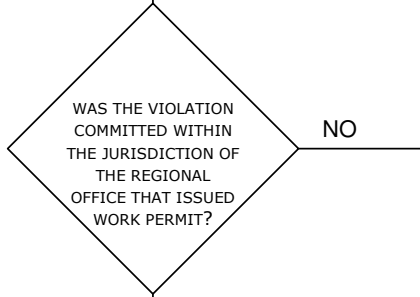
⁶⁷ Manual on the Disposition and Settlement of Labor Standards Cases 2006, pp. 9-10.

III. ENFORCEMENT PROCEDURE FOR SUSPENSION OR REVOCATION OF WORK PERMIT

FLOWCHART 3

¹WITHIN 24 HOURS FROM RECEIPT OF INFO/COMPLAINT

1
Determination of existence of ground for suspension / cancellation of work permit



REGIONAL OFFICE WITH JURISDICTION OVER THE WORKPLACE SHALL IMMEDIATELY STOP THE EMPLOYER FROM REQUIRING THE CHILD TO WORK

WITHIN 24 HOURS THEREAFTER

REGIONAL OFFICE WITH JURISDICTION OVER THE WORKPLACE SHALL PREPARE REPORT TO REGIONAL OFFICE THAT ISSUED THE WORK PERMIT

²WITHIN THE DAY OF PRELIMINARY SCREENING OF INFO/COMPLAINT

2
Notice to Show Cause issued by RD that issued the work permit

³WITHIN 10 DAYS FROM SERVICE OF NOTICE TO SHOW CAUSE

3
Issuance of Suspension, Revocation, or Dismissal Order

STEP 1: DETERMINATION OF EXISTENCE OF GROUND FOR SUSPENSION OR REVOCATION OF THE WORK PERMIT

KEY RESULT:	The preliminary screening determines that there is a ground for the suspension or revocation of the work permit.
KEY PLAYERS:	DOLE Field Office or TSSD (or Regional Director if the information is obtained in the course of a routine inspection)
TIMEFRAME:	Within 24 hours from receipt of the complaint or information

1.1. ***Violations constituting grounds for the suspension or revocation of work permit.***⁶⁸ See Part II, Section I, Steps 1.1 and 1.2, pages 21 to 22 for the procedure for the preliminary determination of grounds for the suspension or revocation of the work permit. The grounds are as follows:

- Fraud or misrepresentation in the application for work permit or any of its supporting documents
- Violation of the terms and conditions in the working child's employment contract and/or the employer's undertaking including:
 - hours of work which should not be more than 4 hours a day/20 hours a week; not between 8:00 p.m. to 6:00 a.m. the following day
 - number of working days
 - remuneration
 - rest period⁶⁹
- Failure to institute measures to ensure the protection, health, safety, morals, and normal development of the working child, including but not limited to:
 - comfortable workplace and adequate quarters
 - break or rest periods in comfortable day beds or couches
 - clean and separate dressing rooms and toilet facilities for boys and girls
 - provision for adequate meals and snacks and sanitary eating facility
 - provision of all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick child in case of emergency⁷⁰
- Employer's failure to formulate and implement a program for the education, training, and skills acquisition
- Deprivation of access to formal, non-formal, or alternative learning systems of education

⁶⁸ Section 22, D.O. 65-04.

⁶⁹ Section 9(a)i, D.O. 65-04.

⁷⁰ Section 9(a)ii, D.O. 65-04.

STEP 2. ISSUANCE OF NOTICE TO SHOW CAUSE

KEY RESULT:	The Notice to Show Cause is issued and served on the concerned parties.
KEY PLAYERS:	<i>Issuance of the Notice</i> - Regional Director <i>Service of the Notice</i> - Sheriff or serving officer
SAMPLE FORM:	Notice to Show Cause (FORM "K")
TIMEFRAME:	Within the day of the preliminary screening of the complaint or information

- 2.1. **Notice to Show Cause.** Within the day of the preliminary screening of the complaint or information, the Regional Director shall issue a Notice to Show Cause (FORM "K") requiring the parties suspected of violating the provisions of R.A. 9231 concerning the work permit to present evidence to show cause within three (3) days from receipt of the Notice why the work permit should not be suspended or cancelled.⁷¹
- 2.2. **Service of Notice to Show Cause.** The Notice to Show Cause shall be served on the parties or their duly authorized representatives at their last known office or home addresses or, if they are represented by counsel, through the latter. In the case of personal service, the process server shall submit his/her return within seventy-two (72) hours from the date of service stating legibly in the return his/her name, the mode of service, the names of the authorized persons served and the date of actual receipt of the document. If no service was effected, the serving officer shall state in the return the reason for failure to effect service. The return shall from part of the records of the case.⁷²
- 2.3. **Child disallowed to work.** Upon issuance of the Notice and during the pendency of the proceedings, the child concerned shall not be allowed to work.⁷³
- 2.4. **Violation committed outside the jurisdiction of the Regional Office that issued the work permit.** In the event that a violation constituting a ground for cancellation or suspension of work permit is committed in a workplace outside the jurisdiction of the Regional Office which issued the work permit, the Regional Office having jurisdiction over the workplace shall immediately stop the employer from requiring the child to work. Within 24 hours thereafter, the Regional Office having jurisdiction of the workplace shall prepare a report to the Regional Office which issued the work permit, for the latter to commence appropriate cancellation or suspension proceedings.⁷⁴

⁷¹ Section 24, par. 3, D.O. 65-04.

⁷² Manual on the Disposition and Settlement of Labor Standards Cases 2006, par. 10, p. 8.

⁷³ Section 24, par. 4, D.O. 65-04.

⁷⁴ Section 24, par. 5, D.O. 65-04.

STEP 3: ISSUANCE OF SUSPENSION, REVOCATION, OR DISMISSAL ORDER

KEY RESULT:	The Order suspending or revoking the work permit or dismissing the case is issued and served.
KEY PLAYERS:	<i>Issuance of the Order</i> - Regional Director <i>Service of the Order</i> - Sheriff or serving officer
SAMPLE FORM:	Order of Suspension, Revocation, or Dismissal (FORM "L")
TIMEFRAME:	Within a reasonable period from receipt of the complaint or information

- 3.1. ***Order of Suspension, Revocation, or Dismissal.*** Within ten (10) days from service of the Notice to Show Cause, the Regional Director shall issue an Order revoking or suspending the work permit or dismissing the case.⁷⁵
- 3.2. ***Motion for Reconsideration.*** Any motion for reconsideration of the Regional Director's action shall be resolved by the Secretary of Labor and Employment.⁷⁶

⁷⁵ Section 24, par. 3, D.O. 65-04.

⁷⁶ Section 24, par. 4, D.O. 65-04.

PART THREE:

Forms & Templates

Form A. Inspection Checklist on Child Labor

**Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT**

Inspection Checklist on Child Labor

INSTRUCTIONS: Accomplish this form in three (3) copies for each establishment inspected. The Regional Office submits to the Bureau of Working Conditions the original copy not later than every 12th day of the month after the covered period, keeps the second copy for the Regional Office file and the third copy for the Field Office. Original supporting documents in the Documents Attached portion, e.g. Child Personal and Work Profile Form, are to be attached to the Regional Office's file.

GENERAL INFORMATION

Name of Establishment	Address	GEO Code
Owner/Manager/President		PSIC Code
Kind of Business/Economic Activity/Principal Product		Inspection Authority No.
Enter premises denied <input type="checkbox"/> permitted <input type="checkbox"/>	Name/designation of person who refused entry	
Access records denied <input type="checkbox"/> permitted <input type="checkbox"/>	Name/designation of person who refused access	
Interview employees denied <input type="checkbox"/> permitted <input type="checkbox"/>	Name/designation of person who disallowed interview	

Employment				
Age Group	Female	Male	Total	No. of Aliens Employed
below 15				Time & No. of Shifts
15 to below 18				
18 & above				

Violation of Republic Act No. 9231 (Elimination of Worst Forms of Child Labor Act):

(a) <u>Violation resulting in:</u>	<input type="checkbox"/> death <input type="checkbox"/> insanity <input type="checkbox"/> serious physical injuries
(b) <u>Child engaged or employed in:</u>	<input type="checkbox"/> prostitution <input type="checkbox"/> obscene or lewd shows <input type="checkbox"/> prohibited advertisement (employment of a child as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, gambling or any form of violence or pornography) <input type="checkbox"/> slavery or similar practices, such as sale or trafficking of children, debt bondage, serfdom, forced labor, recruitment of children for armed conflict <input type="checkbox"/> production/trafficking of dangerous drugs/volatile substances <input type="checkbox"/> other illegal or illicit activities (please specify):
(c) <u>Imminent danger:</u>	<input type="checkbox"/> exposure to a condition or practice that could be reasonably expected to cause death or serious physical harm before abatement under the enforcement procedures can be accomplished
(d) <u>Employment of children below 15 years old</u>	<input type="checkbox"/> Work other than directly under sole responsibility of parents <input type="checkbox"/> Work for public entertainment or information <ul style="list-style-type: none"> <input type="checkbox"/> No work permit <input type="checkbox"/> Children work more than 4 hours a day/twenty (20) hours a week <input type="checkbox"/> Children work between 8:00 p.m. to 6:00 a.m. the following day
(e) <u>Work hours:</u>	<input type="checkbox"/> Children 15 to below 18 work more than 8 hours a day/40 hours a week <input type="checkbox"/> Children 15 to below 18 work between 10:00 p.m. and 6:00 a.m. of the following day <input type="checkbox"/> Children below 15 work more than 4 hours a day/20 hours a week <input type="checkbox"/> Children below 15 work between 8:00 p.m. and 6:00 a.m. of the following day
(f) <u>Others (please specify):</u>	

DOCUMENTS ATTACHED	<input type="checkbox"/> Business permit/license/SEC registration <input type="checkbox"/> Computation of separation pay/monetary benefit <input type="checkbox"/> Accident reports <input type="checkbox"/> Medical records <input type="checkbox"/> Others (please specify):
<input type="checkbox"/> Child Personal & Work Profile Form(s) (No. _____) <input type="checkbox"/> Birth certificate/s (No. _____) <input type="checkbox"/> List of workers and hiring rates <input type="checkbox"/> Employment contracts <input type="checkbox"/> Daily time records/time sheet <input type="checkbox"/> Payrolls or their equivalent <input type="checkbox"/> Production records (if paid by results)	

Proof of remittance to
BIR/SSS/Philhealth/Pag-ibig

FOR REGIONAL OFFICE USE ONLY

Inspection conducted by:

(Signature above printed name)

Date: _____

Recommendations/Comments:

Evaluated by:

(Signature above printed name)

Date: _____

Recommendations/Comments:

Form B. Child Personal & Work Profile Form

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT

Child Personal & Work Profile Form

Name of Establishment			Address		Inspection Authority No.	
Name of Child			Address & Tel. No.			Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
Date of Birth	Current Age	Birth Certificate Available? <input type="checkbox"/> Yes <input type="checkbox"/> No	Age Started Working (with any type of work)		Educational Attainment (Grade/Year Last Attended)	
Occupation/Job Title						
Name of Father			Name of Mother			
Name of Guardian			Hazardous or likely to be harmful to the health, safety, or morals of children			
Form of Labor/Work Conditions <input type="checkbox"/> prostitution <input type="checkbox"/> pornography <input type="checkbox"/> obscene or lewd shows <input type="checkbox"/> imminent danger (exposure to a condition or practice that could be reasonably expected to cause death or serious physical harm) <input type="checkbox"/> slavery or similar practices, such as sale or trafficking of children, debt bondage, serfdom, forced labor, recruitment of children for armed conflict <input type="checkbox"/> production and trafficking of dangerous drugs and volatile substances <input type="checkbox"/> other illegal or illicit activities <input type="checkbox"/> public entertainment or information <input type="checkbox"/> directly under sole responsibility of parents <input type="checkbox"/> others:			<input type="checkbox"/> Debases, degrades or demeans the intrinsic worth and dignity of the child as a human being <input type="checkbox"/> Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals <input type="checkbox"/> Performed underground, under water, or at dangerous heights <input type="checkbox"/> Involves the use of dangerous machinery, equipment and tools, such as power-driven or explosive powder-actuated tools <input type="checkbox"/> Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads <input type="checkbox"/> Performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, so-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations <input type="checkbox"/> Performed under particularly difficult conditions <input type="checkbox"/> Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes, and other parasites <input type="checkbox"/> Involves the manufacture or handling of explosives and other pyrotechnic products			
Pay Scheme <input type="checkbox"/> time-based <input type="checkbox"/> "pakyaw" <input type="checkbox"/> per piece <input type="checkbox"/> per trip <input type="checkbox"/> quota <input type="checkbox"/> others:						
Frequency of Payment <input type="checkbox"/> daily <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> others, please specify:						
Wage received <input type="checkbox"/> directly by child <input type="checkbox"/> by parent/guardian <input type="checkbox"/> others:			Average wage <input type="checkbox"/> per month _____ <input type="checkbox"/> per week _____ <input type="checkbox"/> per day _____ <input type="checkbox"/> others:		Supervision of Parents/Guardian <input type="checkbox"/> With <input type="checkbox"/> Without	
Other benefits <input type="checkbox"/> overtime Pay <input type="checkbox"/> night shift differential pay <input type="checkbox"/> rest day <input type="checkbox"/> rest day premium <input type="checkbox"/> 13 th month pay <input type="checkbox"/> SSS <input type="checkbox"/> service incentive leave with pay <input type="checkbox"/> Pag-ibig <input type="checkbox"/> PhilHealth					Work permit <input type="checkbox"/> With <input type="checkbox"/> Without <input type="checkbox"/> Not applicable	
Ave. work hours per day During school days _____ Non-school days _____			Ave. work hours per week During school days _____ Non-school days _____			
Injuries suffered at work (indicate date or year)						
C E R T I F I C A T I O N						
The above findings were explained to me in a language that I understand. They are true and correct to the best of my knowledge and belief and are based on my personal declarations which I have given freely and voluntarily.						
_____			_____			
(Child's signature above printed name)			Date:			
COMMENTS						
Interview conducted by (Signature above printed name)						Date

Form C. Inspection Report

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT

_____ Office
_____ City

IN RE: Inspection of
(NAME OF BUSINESS/FIRM/ESTABLISHMENT)
(Address of business/firm/establishment)

INSPECTION AUTHORITY NO: _____
Violation of Republic Act No. 9231

(Name of owner/manager)

(Address)

x-----x

INSPECTION REPORT

On _____, 200__, our Office received an information/a complaint that _____ (*name of the business/firm/establishment*) with business address at _____ is engaged in _____ (*provide a summary of the information/complaint*). The business/firm/establishment is owned/operated by _____ as indicated in the _____ (*specify the license or permit*).

In accordance with standard operating procedures, steps were undertaken to verify the information/complaint and an inspection was conducted at the above-named establishment on _____, 200__ in coordination with _____ (*name the government agencies involved*).

The following are the findings after preliminary inquiry, examination of records, interview with employees, and ocular inspection in connection with the investigation conducted by this Office at the above-named business/firm/establishment pursuant to Republic Act No. 9231:

- (a) Non-compliance with General Labor Standards and Social Welfare Benefits: (*expound*)
- (b) Employment of the following minors in prostitution/obscene or lewd shows:
 - 1. (Name of minor)
 - 2. (Name of minor)
 - 3. (Name of minor)
- (c) Violation of Republic Act No. 9231 resulted in death/insanity/serious physical injury (*if applicable*)
- (d) Imminent danger to the life and limb of the child (*expound*)

RECOMMENDATIONS:

In view of the foregoing, the undersigned respectfully submits that there is/are sufficient grounds/ for the IMMEDIATE closure of the establishment, in accordance with Section 6 of Republic Act No. 9231 and Section 21, Chapter 8 of Department Order No. 65-04, or the Rules and Regulations Implementing Republic Act No. 9231. It is hereby recommended that a NOTICE OF CLOSURE be issued against _____.

ATTACHMENTS:

Annex "A" Inspection Checklist on Child Labor
Annex "B" Child Personal & Work Profile Form
Annex "C" etc. (other supporting documents, such as employment records, etc.)

_____ City, Philippines __ day of _____, 200__.

(*Signature above printed name*)
Labor Inspector

Form D. Investigation Report

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Office No. _____
_____ City

OFFICE OF THE CITY/PROVINCIAL PROSECUTOR
(state the address)
_____ City/Province

Sir/Madam:

RE: Investigation of _____ (state name of business/firm/establishment) pursuant to Inspection Authority No. _____ for Violation of Republic Act No. 9231

We are transmitting for your appropriate action our report on the result of the inspection of _____ (state name of business, firm, or establishment) conducted on _____, 200__ pursuant to Inspection Authority No. _____ for violation of Republic Act No. 9231. The said business/firm/establishment is owned/operated by _____ as indicated in the _____ (specify the license or permit).

The findings show that there is/are sufficient ground/s for the IMMEDIATE AND PERMANENT/TEMPORARY closure of the establishment, in accordance with Section 6 of Republic Act No. 9231 and Section 21, Chapter 8 of Department Order No. 65-04, or the Rules and Regulations Implementing Republic Act No. 9231. In view of the foregoing, we respectfully recommend that the appropriate criminal action be instituted against the persons responsible for the violation of the Act.

In support of our recommendation, please refer to the attached documents:

- a. Inspection Report;
- b. Child Labor Inspection Checklist;
- c. Child Personal & Work Profile;
- d. Business license/permit/SEC registration;
- e. List of all workers, regardless of status and designation, including their hiring rates;
- f. Birth certificates of workers;
- g. Daily time records and/or time sheet;
- h. Employment contracts;
- i. Payrolls or their equivalent, such as proof of ATM deposits of workers' salaries;
- j. Proof of remittances to the BIR, SSS, PhilHealth, and Pag-ibig;
- k. Accident reports;
- l. Medical reports;
- m. _____ (specify others, if any)

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

Form E. Notice of Closure

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Office No. _____
_____ City

Form No. ____
2009

IN RE: Inspection of
(NAME OF BUSINESS/FIRM/ESTABLISHMENT)
(Address of business/firm/establishment)

CASE DOCKET NO. _____
Violation of Republic Act No. 9231

(Name of owner/manager)

(Designation)

x-----x

NOTICE OF CLOSURE

On _____, 200____, our Office received an information / a complaint that _____ (*name of the business/firm/establishment*) with business address at _____ is engaged in _____ (*provide a summary of the information/complaint*). The business/firm/establishment is owned/operated by _____ as indicated in the _____ (*specify the license or permit*).

In accordance with standard operating procedures, steps were undertaken to verify the information/complaint and an inspection was conducted at the above-named business/firm/establishment on _____, 200__ in coordination with _____ (*name the government agencies involved*).

The following are the findings after preliminary inquiry, examination of records, interview with employees and ocular inspection in connection with the investigation conducted by this Office at the above-named business/firm/establishment pursuant to Republic Act No. 9231:

- (a) Non-compliance with General Labor Standards and Social Welfare Benefits: (*expound*)
- (b) Employment of the following minors in prostitution/obscene or lewd shows:
 - 1. (Name of minor)
 - 2. (Name of minor)
 - 3. (Name of minor)
- (c) Violation of Republic Act No. 9231 resulted in death/insanity/serious physical injury (*if applicable*)
- (d) Imminent danger to the life and limb of the child

The findings show that there is/are sufficient ground/s for the IMMEDIATE AND PERMANENT/TEMPORARY closure of the establishment, in accordance with Section 6 of Republic Act No. 9231 and Section 21, Chapter 8 of Department Order No. 65-04, or the Rules and Regulations Implementing Republic Act No. 9231.

In view of the foregoing, _____ (*name of the business/firm/establishment*) is hereby ordered **CLOSED**, without prejudice to the filing of criminal, civil, or other appropriate actions.

NOTICE OF HEARING

_____ (*name of the owner/employer*) is hereby directed to appear before _____ (*Name of hearing officer*) on _____, 200__, at _____ a.m./p.m., at _____ (*address of the Regional Office*) and present evidence that may warrant the lifting of this Notice of Closure. Failure to appear shall be deemed a waiver of your right to present evidence.

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

Form F. Notice to the Public

NOTICE TO THE PUBLIC

ORDERED CLOSED and OFF LIMITS by the Department of Labor and Employment pursuant to the Order of Closure dated _____, 200__ for violation of R.A. No. 9231. Unauthorized removal of this sign and/or unauthorized entry into the premises shall be punished with imprisonment and/or fine in accordance with law.

_____ City, Philippines __ day of _____, 200__.

Regional Director

Form G. Inventory of Property

Republic of the Philippines
 DEPARTMENT OF LABOR AND EMPLOYMENT

____ District Office
 _____ City

IN RE: Investigation of
 (NAME OF BUSINESS/FIRM/ESTABLISHMENT)
 (Address of business/firm/establishment)
 X-----X

CASE DOCKET NO. _____
 Violation of Republic Act No. 9231, amending
 Republic Act No. 7610

INVENTORY OF PROPERTY
 (page ____ of ____)

Description of Property	No. of Units/Pieces

COMMENTS:

INVENTORY CONDUCTED BY:

PROPERTIES RECEIVED BY:

 (Signature above printed name)

(Signature above printed name)

Date: _____

Date:

Form H. Minutes of the Closure

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
_____ District Office
_____ City

IN RE: Investigation of
(NAME OF BUSINESS/FIRM/ESTABLISHMENT)
(Address of business/firm/establishment)
X-----X

CASE DOCKET NO. _____
Violation of Republic Act No. 9231, amending
Republic Act No. 7610

MINUTES OF THE CLOSURE

On _____, 200__, on or about __:__ a.m./p.m., in view of the Notice of Closure dated _____, 200_ duly served on the owner/representative of the owner of _____ (*name of business/firm/establishment*) on the same date, a multi-agency team composed of the following proceeded to the named business/firm/establishment and effected the immediate closure of the same:

DOLE representatives:	1. (name)	(designation)
	2. (name)	(designation)
	3. (name)	(designation)
	4. (name)	(designation)
	5. (name)	(designation)
Law enforcers (specify agency):	1. (name)	(designation)
	2. (name)	(designation)
	3. (name)	(designation)
	4. (name)	(designation)
	5. (name)	(designation)
Barangay officials:	1. (name)	(designation)
	2. (name)	(designation)
	3. (name)	(designation)
	4. (name)	(designation)
	5. (name)	(designation)
Others:	1. (name)	(designation)
	2. (name)	(designation)
	3. (name)	(designation)
	4. (name)	(designation)
	5. (name)	(designation)

All employees and persons present in the establishment were informed of the immediate closure and the grounds for such closure and were instructed and given ample time to collect their personal belongings and leave the premises.

(*Name of Sheriff and designation*) prepared an inventory of the property, equipment, goods, and other items found in the establishment at the time of the closure. The inventory was conducted in the presence of (*name of the owner/representative of the owner*) and (*names and designation of the two witnesses*). A copy of the Inventory is hereto attached as Annex "A". All the items listed in the Inventory were turned over to and received by (*name of the owner/representative of the owner*).

The following business and employment records were copied and the original documents were immediately returned to the owner/representative of the owner (indicate whichever is applicable):

- a. Business license/permit/SEC registration;
- b. List of all workers and their hiring rates;
- c. Birth certificates of workers;
- d. Daily time records and/or time sheet;
- e. Employment contracts;
- f. Payrolls (or their equivalent);
- g. Production records (if paid by result);

Form H. Minutes of the Closure (cont.)

- h. Proof of remittances to the BIR, SSS, PhilHealth, and Pag-ibig;
- i. Accident reports;
- j. Medical reports; and
- k. *(indicate others)*.

Copies of the Notice to the Public originally signed by the Regional Director stating the ground for closure and prohibiting the removal of the Notice was posted at the main entrance and exit points of the establishment. A Notice to the Public bearing the contents of the Notice was likewise posted at the main entrance.

All points of entry and exit were padlocked and the keys to the locks marked _____ *(indicate the labels on the keys)* were surrendered by *(name and designation)* to *(name and designation)*.

_____ City, Philippines __ day of _____, 200__.

DOLE representatives: *(signature above printed name)*
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

Law enforcers (specify agency): *(signature above printed name)*
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

Barangay officials: *(signature above printed name)*
(designation)

(signature above printed name)
(designation)

(signature above printed name)
(designation)

Owner/Representative: *(signature above printed name)*
(designation)

Others: *(signature above printed name)*
(designation)

Form I. Order Confirming or Lifting the Closure

Republic of the Philippines
 DEPARTMENT OF LABOR AND EMPLOYMENT
 _____ District Office
 _____ City

IN RE: Inspection of
 (NAME OF BUSINESS/FIRM/ESTABLISHMENT)
 (Address of business/firm/establishment)

CASE DOCKET NO. _____
 Violation of Republic Act No. 9231

 (Name of owner/manager)

 (Designation)

x-----x

ORDER

On ____, 200__, acting on reports of alleged worst forms of child labor at (*name of firm/business/establishment*) located at _____, in violation of Republic Act No. 9231 and in accordance with DOLE Department Order No. 65-04 (Rules and Regulations Implementing Republic act No. 9231), the undersigned Regional Director issued an Inspection Authority designating (*name and designation*) to conduct an inspection at (*name of business/firm/establishment*) located at _____ and within the jurisdiction of this Office.

Accordingly, inspection was made in coordination with the (*specify the law enforcement agency*) and the Department of Social Welfare and Development/Local social Welfare Development Office on _____, 200__. The records show that in the course of the inspection, the LEO examined the following:

_____. In addition, he/she conducted interviews with (*state number of employees*) and noted that the following employees were minors engaged in (*state nature of their work, e.g. prostitution, obscene or lewd shows, work exposing minors to imminent danger or resulting in death or serious physical injuries*):

1. _____
2. _____
3. _____

On the basis of the examination and interviews, it was recommended that an Order be issued for the CLOSURE of the business/firm/establishment. The labor inspector computed the amount due the minor complainants (and of employees similarly situated, if applicable) amounting to _____ (*amount in words*) (Php _____) and which computation now forms part of the records of this case.

A Order of Closure was issued, duly served, and effected on _____, 200__. The Notice directed the owner to appear before this Office on _____, 200__ to present evidence that may warrant the lifting of the closure.

The case was heard on (*specify the dates*) with the parties given the opportunity to adduce evidence in support of their allegations.

The complainant alleged the following: (*summarize the allegations of the complainant*).

The following pieces of evidence were submitted by the complainant for consideration by this Office: (*specify the evidence*).

The business/firm/establishment alleged the following: (*summarize the allegations of the business/firm/establishment*).

The following pieces of evidence were submitted by the establishment for consideration by this Office: (*specify the evidence*).

The DSWD/LSWDO presented evidence of the transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child's residence; and the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses.

Form I. Order Confirming or Lifting the Closure (cont.)

The issues in this case are:

- (1) Whether the closure should be lifted or confirmed;
- (2) Whether separation pay and other monetary benefits of the employee(s) are due and demandable and in what amount;
- (3) Whether the establishment should pay the transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child's residence; the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses; and in what amounts; and
- (4) Others _____.

On the basis of the allegations and evidence thus presented, this Office rules as follows:

Section 16 (g) of Republic Act No. 7610 as amended by Section 6 of Republic Act No. 9231 provides:

- (g) The Secretary of Labor and Employment or his/her duly authorized representative may, after due notice and hearing, order the closure of any business firm or establishment found to have violated any of the provisions of this Act more than three (3) times. He/she shall likewise order the immediate closure of such firm or establishment if: 1) The violation of the provision of the Act has resulted in the death, insanity, or serious physical injuries of a child employed in such establishment; or 2) Such firm or establishment is engaged or employed in prostitution or in obscene or lewd shows.

Section 16 (h) of Republic Act No. 7610 as amended by Section 6 of Republic Act No. 9231 provides:

- (h) In case of such closure, the employer shall be required to pay the employee(s) the separation pay and other monetary benefits provided for by law.

Section 21 of the Rules and Regulations Implementing R.A. 9231 further provides:

Section 21. Actions of the Secretary of Labor and Employment or Regional Director – In case of violation, the Secretary of Labor and Employment or the Regional Director as his or her authorized representative, shall undertake the following actions:

- (a) Order the immediate and permanent closure of the establishment if:
 - i. The violation of the provision of Republic Act No. 9231 has resulted in the death, insanity, or serious physical injuries of a child employed in such establishment; or
 - ii. Such establishment is employing a child for prostitution or obscene or lewd shows.

The employer shall pay all employees affected by the closure their separation pay and other monetary benefits provided for by law.

- (b) Order the immediate and temporary closure of the establishment if there is imminent danger to the life and limb of the child in accordance with the occupational safety and health standards. An imminent danger is a condition or practice that could be reasonably be expected to cause death or serious physical harm.

In no case shall the closure be lifted unless the imminent danger has been abated. For the duration of the closure, the employer shall pay the wages of all employees affected. If, after due hearing, the closure is made permanent, the employer shall pay all employees affected their separation benefits, as provided in the immediately preceding subsection.

- (c) In both cases, require the employer to:
 - i. Shoulder the transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child's residence; and
 - ii. Shoulder the total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses.

Form I. Order Confirming or Lifting the Closure (cont.)

Choose ruling A (for immediate & permanent closure), B (for immediate & temporary closure), C (for imminent danger that has been abated), or D (for no ground for immediate closure), whichever is applicable.

(RULING A) IF THERE IS A FINDING OF DEATH, INSANITY, SERIOUS PHYSICAL INJURIES OF A CHILD EMPLOYED IN THE ESTABLISHMENT OR THE ESTABLISHMENT IS EMPLOYING A CHILD FOR PROSTITUTION OR OBSCENE OR LEWD SHOWS:

Grounds for Closure

Based on the allegations and evidence presented, this Office finds that there is substantial evidence to prove that (*state the findings of fact and explain the reasons for such findings*).

Hence, in accordance with _____ and Section 21 (a) of the Rules and Regulations, the immediate and permanent closure of the establishment is hereby confirmed.

Separation pay and monetary benefits

Based on the examination of records and interview with employees, this Office finds that the following amounts are due to the employee(s), computed as follows: (*explain the basis of the computation and why it is correct*).

Thus, in accordance with Section 16(h) of Republic Act No. 7610 as amended and Section 21(a) of the Rules and Regulations, the employer is hereby ordered to pay the employee(s) their separation pay and monetary benefits as computed above on _____, 200_, at ___:___ a.m./p.m. at (*specify venue*) before the Regional Director or his/her duly authorized representative. Any payments made other than at the prescribed time and place shall not be considered sufficient compliance with this Order.

Other costs

The transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child's residence is computed by the DSWD as follows: (*explain the basis of the computation and why it is correct*).

The total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses is computed as follows based on (*state the basis*).

Hence, in accordance with Section 21(c) of the Rules, the employer is hereby ordered to pay the amounts as computed above on _____, 200_, at ___:___ a.m./p.m. at (*specify venue*) before the Regional Director or his/her duly authorized representative. Any payments made other than at the prescribed time and place shall not be considered sufficient compliance with this Order.

WHEREFORE, the Notice of Closure dated _____ ordering the IMMEDIATE AND PERMANENT CLOSURE of the business/firm/establishment is hereby confirmed. Further, (*name of establishment*) is hereby directed to pay _____ the amount of Php _____ representing _____ on _____, 200_, at ___:___ a.m./p.m. at (*specify venue*) before the Regional Director (*or his/her duly authorized representative*).

SO ORDERED.

_____ City, Philippines __ day of _____, 200__.

(*Signature above printed name*)
Regional Director

Form I. Order Confirming or Lifting the Closure (cont.)

(RULING B) IF THERE IS A FINDING OF IMMINENT DANGER:

Grounds for Closure

Based on the allegations and evidence presented, this Office finds that there is substantial evidence to prove that (*state the findings of fact and explain the reasons for such findings*).

Hence, in accordance with Section 21 (b) of the Rules, the Notice of Closure and the IMMEDIATE AND TEMPORARY CLOSURE of the establishment is hereby confirmed. The establishment shall remain closed until the imminent danger is abated. The owner is hereby ordered to cause the abatement of the imminent danger within ___ days from receipt of this Order. In no case shall the closure be lifted unless the imminent danger has been abated.

Monetary benefits

Based on the examination of records and interview with employees, this Office finds that the following monetary benefits are due to the employee(s), computed as follows: (*explain the basis of the computation and why it is correct*).

Thus, in accordance with Section 16(h) of Republic Act No. 7610 as amended and Section 21 (b) of the Rules and Regulations, the employer is hereby ordered to pay the employee(s) the monetary benefits as computed above on _____, 200_, at ___:___ a.m./p.m. at (*specify venue*) before the Regional Director or his/her duly authorized representative. Compliance with the herein Order to pay the said monetary benefits shall be without prejudice to the payment of additional monetary benefits that may become due and demandable after the issuance of this Order and until the imminent danger has abated. Any payments made other than at the prescribed time and place shall not be considered sufficient compliance with this Order.

Other costs

The transportation cost of the child from the place of work to the DSWD-accredited halfway house and to the child's residence is computed by the DSWD as follows: (*explain the computation*).

The total actual cost of medical management, recovery and reintegration of the child, or in case of death, the child's funeral expenses is computed as follows based on (*state the basis*).

Hence, in accordance with Section 21 (c) of the Rules, the employer is hereby ordered to pay the amounts as computed above.

WHEREFORE, the Notice of Closure dated _____ ordering the IMMEDIATE AND TEMPORARY CLOSURE is hereby confirmed and the establishment shall remain closed until the imminent danger is abated. The owner is hereby ordered to cause the abatement of the imminent danger within ___ days from receipt of this Order. Further, (*name of establishment*) is hereby directed to pay _____ the amount of Php _____ representing _____ on _____, 200_, at ___:___ a.m./p.m. at (*specify venue*) before the Regional Director (*or his/her duly authorized representative*). Failure to comply with this Order shall result in the PERMANENT CLOSURE of the business/firm/establishment.

SO ORDERED.

_____ City, Philippines __ day of _____, 200__.

(*Signature above printed name*)
Regional Director

Form I. Order Confirming or Lifting the Closure (cont.)

(RULING C) IF THERE IS IMMINENT DANGER WHICH HAS BEEN ABATED:

Based on the allegations and evidence presented, this Office finds that there is substantial evidence to prove that imminent danger was in fact present at the time of the inspection and when the Notice of Closure was served and effected. However, the imminent danger had since been abated by the employer who had *(state what the employer did to abate the imminent danger)*.

WHEREFORE, the Notice of Closure dated _____ is hereby ordered lifted and the establishment shall be immediately re-opened upon the issuance and service of the writ of execution when no appeal is taken during the prescribed period. Further, *(name of establishment)* is hereby directed to pay _____ the amount of Php _____ representing _____ on _____, 200_, at ___:___ a.m./p.m. at *(specify venue)* before the Regional Director *(or his/her duly authorized representative)*.

SO ORDERED.

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

(RULING D) IF THERE IS NO GROUND FOR CLOSURE:

Based on the allegations and evidence presented, this Office finds that there is no ground for the closure of the business/firm/establishment *(explain the reasons why the Regional Director should reverse himself/herself)*.

WHEREFORE, the Notice of Closure dated _____ is hereby lifted and the establishment shall be immediately reopened upon the issuance and service of the writ of execution when no appeal is taken during the prescribed period.

SO ORDERED.

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

Form J. Writ of Execution

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
_____ District Office
_____ City

IN RE: Investigation of
(NAME OF BUSINESS/FIRM/ESTABLISHMENT)
(Address of business/firm/establishment)
x-----x

CASE DOCKET NO. _____
Violation of Republic Act No. 9231, amending
Republic Act No. 7610

WRIT OF EXECUTION

TO: (Name of Sheriff/Serving officer)
(Designation)

On _____, 200_, this Office issued an Order the dispositive portion of which reads:

“WHEREFORE, _____

SO ORDERED.”

(SELECT TEXT A OR B, WHICHEVER IS APPLICABLE)

(TEXT A - for payment of monetary claims):

The record shows that the respondent/s failed to comply with the above-stated Order which was received by the respondent/respondent’s representative on _____, 200_. No motion for reconsideration or appeal has been filed within the reglementary period, therefore, the said Order has now become final and executory.

NOW, THEREFORE, you are hereby commanded to proceed to the premises of (name of establishment/owner/manager) at (address) and require the respondent/s to comply with the Order and pay the total amount of (amount in words) (Php _____.) representing the workers’ claim.

You are to collect the above-stated amount from the respondent and deposit the same with the Cashier of this Officer for appropriate disposition, under the supervision of the Office of the Regional Director, to the workers concerned. Otherwise, you are to execute this Writ by attaching the goods and chattels of the respondent/s not exempt from execution or in case of insufficiency thereof, against the real or immovable property.

(TEXT B - for lifting of the closure):

The record shows that no motion for reconsideration or appeal has been filed within the reglementary period, therefore, the said Order has now become final and executory.

NOW, THEREFORE, you are hereby commanded to proceed to the premises of (name of establishment/owner/manager) at (address) and execute the lifting of the Notice of Closure with the assistance of (state the law enforcement agency) and representatives of the barangay, and in the presence of the owner/representative of the owner.

(TEXT APPLICABLE TO BOTH):

Pursuant to the Sheriff’s Manual, you are further ordered to collect from the respondent/s the Execution Fee in the amount of _____(Php_____.) or the amount of actual expenses incurred, whichever is higher.

Return this Writ to this Office within sixty (60) days from receipt hereof together with your written statement in writing of the proceedings that you shall conduct by virtue hereof.

_____ City, Philippines __ day of _____, 200_.

(Signature above printed name)
Regional Director

Form K. Notice to Show Cause

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
_____ District Office
_____ City

IN RE: Work Permit issued to
(NAME OF EMPLOYER)
(Address of employer)
for (NAME OF CHILD)
X-----X

CASE DOCKET NO. _____
Violation of Republic Act No. 9231, amending
Republic Act No. 7610

NOTICE TO SHOW CAUSE

On _____, 200____, our Office received an information / a complaint that _____ (*name of the establishment and name of owners or employers; parent/guardian*) with address at _____ has committed _____ (*provide a summary of the complaint/information, which may involve any of the following:*

- Fraud or misrepresentation in the application for work permit or any of its supporting documents*
- Violation of the terms and conditions in the working child's employment contract and/or the employer's undertaking including:*
 - hours of work which should not be more than 4 hours a day/20 hours a week; not between 8:00 p.m. to 6:00 a.m. the following day*
 - number of working days*
 - remuneration*
 - rest period¹*
- Failure to institute measures to ensure the protection, health, safety, morals, and normal development of the working child, including but not limited to:*
 - comfortable workplace and adequate quarters*
 - break or rest periods in comfortable day beds or couches*
 - clean and separate dressing rooms and toilet facilities for boys and girls*
 - provision for adequate meals and snacks and sanitary eating facility*
 - provision of all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick child in case of emergency¹*
- Employer's failure to formulate and implement a program for the education, training, and skills acquisition*
- Deprivation of access to formal, non-formal, or alternative learning systems of education)*

In view of the foregoing, _____ (*name of the owners/employers if establishment; name of parent/guardian*) is hereby directed to show cause within three (3) days from receipt of this Notice why the work permit should not be suspended or cancelled/revoked. Failure to comply shall be deemed a waiver of your right to present evidence.

Further, _____ (*name of the owners/employers if establishment; name of parent/guardian*) is hereby ordered to immediately stop from allowing _____ (*name of the child*) to work until further notice from this Office.

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

Form L. Order of Revocation, Suspension, or Dismissal

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
_____ District Office
_____ City

IN RE: Work Permit issued to
(NAME OF EMPLOYER)
(Address of employer)
for (NAME OF CHILD)

CASE DOCKET NO. _____
Violation of Republic Act No. 9231, amend
Republic Act No. 7610

x-----x

ORDER

On _____, 200____, our Office received an information / a complaint that _____ (name of the establishment and name of owners or employers; parent/guardian) with address at _____ has committed _____ (provide a summary of the complaint/information, which may involve any of the following:

- Fraud or misrepresentation in the application for work permit or any of its supporting documents
- Violation of the terms and conditions in the working child's employment contract and/or the employer's undertaking including:
 - hours of work which should not be more than 4 hours a day/20 hours a week; not between 8:00 p.m. to 6:00 a.m. the following day
 - number of working days
 - remuneration
 - rest period
- Failure to institute measures to ensure the protection, health, safety, morals, and normal development of the working child, including but not limited to:
 - comfortable workplace and adequate quarters
 - break or rest periods in comfortable day beds or couches
 - clean and separate dressing rooms and toilet facilities for boys and girls
 - provision for adequate meals and snacks and sanitary eating facility
 - provision of all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick child in case of emergency
- Employer's failure to formulate and implement a program for the education, training, and skills acquisition
- Deprivation of access to formal, non-formal, or alternative learning systems of education)

Pursuant to Section 24 of Department Order No. 65-04, a Notice to Show Cause dated _____, 200__ was served on _____ (name of the establishment and name of owners or employers; parent/guardian) on _____, 200__. The Notice to Show Cause ordered the respondent to show cause within three (3) days from receipt why the subject work permit should not be suspended or cancelled/revoked.

(IF RESPONDENT FAILS TO SUBMIT EVIDENCE): Despite due notice, however, respondent failed to submit any evidence; such failure is deemed a waiver of his/her/its right to do so. / (IF RESPONDENT SUBMITS EVIDENCE): On _____, 200__, respondent submitted _____ (indicate the evidence/arguments submitted by the respondent).

(IF WITH VIOLATION):

After review and consideration of all the available evidence, this Office finds that the respondent has (indicate the violation) _____. In view of the foregoing, the subject work permit is hereby ordered suspended for a period of _____ days / cancelled or revoked immediately.

(IF WITHOUT VIOLATION):

After review and consideration of all the available evidence, this Office finds that there is no ground for the suspension/cancellation or revocation of the work permit. Thus, this case is hereby ordered dismissed and respondent may allow _____ (name of the child) to work under the same work permit until the expiration of its period of validity.

_____ City, Philippines __ day of _____, 200__.

(Signature above printed name)
Regional Director

References

Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children published by the Special Committee for the Protection of Children, Department of Justice, 2008.

Guidelines and Operational Procedures on the Master Listing of Child Laborers, Department Order No. 33-02, Series of 2002, Department of Labor and Employment.

Handbook for Implementors in Handling Worst Forms of Child Labor: The Sagip-Batang Manggagawa Approach, published by the Department of Labor and Employment and the United Nations Children's Fund, 1999.

Manual on the Disposition and Settlement of Labor Standards Cases, 2006.

Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases published by the Inter-Agency Council Against Trafficking in Persons, United States Agency for International Development and The Asia Foundation, 2008.

Philippine Guidelines for the Protection of Trafficked Children.

Revised Labor Inspection Manual, 2006.

Sheriff's Manual, 1989.