

Sikkim Children Rules, 1982

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Rule SIKKIM-CHILDREN-RULES-1982 of 1982

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Sikkim Children Rules, 1982Published vide Notification No. 13 (44) 80-81/SW/414Last Updated 25th February, 2020No. 13 (44) 80-81/SW/414. - In exercise of the powers conferred by Section 64 of the Sikkim Children Act, 1982 (4 of 1982), the Government of Sikkim hereby makes the following Rules, namely :

1. Short title.

- These rules may be called the Sikkim Children Rules, 1982.

2. Definitions.

- In these rules, unless the context otherwise requires:(i)"Act" means the Sikkim Children Act, 1982;(ii)"Government" means the Government of Sikkim;(iii)"Section" means a section of the Act;(iv)"Schedule" means a schedule to these Rules.

3. Certification of institutions.

- Any institution or association desiring to be certified under sub-section (2) of section 8, sub-section (2) of section 9, sub-section (2) of section 10 as a fit person or fit institution or an approved place for, the reception and care of neglected children and juvenile delinquents, may make an application to the Chief Inspector, who shall cause the institution to be inspected and shall make a report to the Government regarding provisions made in the institution for the boarding, lodging and general health of the inmates and the quality of the literacy or vocational training made available.

4. Registers to be maintained by certified school/s.

- The Chief Inspector shall, subject to general control of the Government, prescribe the registers and records to be maintained by the managers of a certified school in respect of children committed to such school.

5. Provision for literacy, craft education etc. in Children's Home/Special School.

(1) It shall be the duty of the manager to provide adequate arrangements for furthering literacy, and imparting craft education and physical education to every inmate of the Children's Home/Special School so that he shall be kept gainfully occupied for at least 5 to 6 hours every day. (2) For the purposes of imparting instruction, the manager shall in consultation with the Education Inspector divide the children into suitable age groups and lay down a syllabus for literacy and craft work separately for each age group. It shall also draw up a time-table for literacy and craft programme for each age group in consultation with the Education Inspector. No change in the final syllabus and time table shall be made without the previous approval of the Education Inspector. (3) Adequate provision shall be made if possible for free recreation including organized games, walks and visits outside the Children's Home/Special School boundaries.

6. Inspection by the Chief Inspector.

- The Chief Inspector may visit any certified school at any time, hear complaints of inmates, if any, and make suggestions to the Managers thereof.

7. Duties of the Inspection Staff.

(1) Every Chief Inspector and Inspector shall during his visit of a certified school give every child an opportunity to make verbal or written complaints to him if such child so wishes to make. (2) Every Chief Inspector or Inspector shall at the conclusion of his inspection note in the visitor's book of the certified school the fact that he has inspected it on a particular date. (3) The Inspector shall submit his detailed report to the Chief Inspector of his inspection of the certified school. (4) The Chief Inspector shall communicate to the Managers of the certified school inspected by him or his Inspector, such suggestions which may deem fit and necessary.

8. Educational Inspection.

(1) In addition to the Officers appointed under section 58, the District Education Officer of each district or his immediate assistant authorised by him in this behalf, shall also be ex-officio Inspector of certified schools within his jurisdiction. He shall carry out purely educational curriculum approved by the Education Department of the Government. He shall also carry out inspection of such certified schools within his jurisdiction as require recognition of the educational curriculum prescribed by them. (2) The agricultural, industrial and other technical classes shall be inspected by

the authorised officers of the concerned Departments of the Government.(3)Every such Inspector or authorised officers of the concerned Department shall inspect the premises of each certified school, see the children and satisfy himself that all the registers pertaining to the various classes are maintained according to the rules for the time being in force and that proper arrangements are made for the safe custody of all such records. Each year he shall personally arrange for the inspection of the classes of each such school and shall submit an inspection report of such school to the Chief Inspector through the Head of his Department. The Head of Department shall forward such report to the Chief Inspector.

9. Remand or Committal of Juveniles to Custody.

- When a child is taken charge of under sub-section (I) of section 16 and sub-section (1) of section 21, a police officer shall unless, by an order of the court under the rule 15 is committed to the care or allowed to remain in the custody of his parent, guardian, relatives or fit person, be remanded to an Observation Home or in a place of safety until he can be brought before the Competent Authority.

10. Inspection of a place of safety.

(1)Every place of safety in the State in which a child is detained shall be open to inspection by the District Magistrate or any Magistrate deputed by the District Magistrate of the first class. In all cases, places of safety shall be liable to be inspected by the Chief Inspector and his inspecting staff.(2)The occupier or Manager of such place of safety shall give every facility to the Probation Officer who visits for the purpose of making inquiries into his case.

11. Measures to be taken by After Care Organizations to enable the Child to live a useful life.

- The practical training given to the inmates of school - going age, as far as practicable, aim at giving the inmate training in Borne productive craft and keeping him usefully occupied. For this purpose, the manager after taking into account the stay of the inmate in the Children's Home/Special School may send him to an outside school in consultation with the Chief Inspector. Record shall be kept in respect of each inmate and in all suitable cases the parent or guardian if alive, shall be kept informed of the progress of the inmate.(2)No inmate shall be employed in such manner as to impair his capacity for profiting by instruction or depriving him of reasonable recreation or leisure.(3)No inmate shall be employed for private or domestic work either by the District Association or the Children's Home/Special School.

12. Manner of detention of children not committed to the Observation Home or certified school.

(1)Any offender ordered to be kept in safe custody under section 25 may be kept, if the court thinks fit, in the juvenile section to be specially provided and located away from adult criminals in every prison.(2)No child shall be handcuffed or roped while in custody or in being escorted to Court or

Hospital or to the place of safety, as the case may be and he shall not be accompanied by a Police Officer in uniform.

13. Duties of Probation Officers.

(1) A Probation Officer shall carry out all given to him, by the court and perform the following duties: (i) to make initial inquiries regarding the home and school conditions, conduct, character, antecedents and health of the children under his supervision; (ii) to attend regularly the court and submit reports; (iii) to keep diary, case files and registers; (iv) to visit regularly children placed under probation or supervision and also places of employment or schools attended by such children and to submit regular . monthly reports; (v) to take children, whenever possible certified schools or fit person institutions; from Court or Observation Home to (vi) to bring before the court immediately children who have not been of good behaviour during the period of supervision; (vii) to advise and give guidance and assistance to the children placed under supervision or released on licence and endeavors to find them employment; (viii) to run recreation clubs; and (ix) to perform any other duty which may be specified by the Court or any releasing authority in respect of children under his supervision. (2) A Probation Officer shall not employ a child or youthful offender under his supervision, for his own private purpose or take away any private service from him.

14. Constitution and procedure of Children's Courts.

(1) Every Children's Court established under section 4 shall consist of a salaried Magistrate with such Honorary Magistrates not exceeding two in number, one of whom shall be a woman as may be specially appointed for this purpose, by the Government: Provided that in the absence of anyone or both of the Honorary Magistrates, it shall be competent for the salaried Magistrate sitting singly or with the Honorary Magistrate who may be present, as the case may be, to exercise all or any of the powers of a Children's Court. (2) The proceedings of the Children's Court shall be informal. The Police Officers shall not appear in the said courts in uniform. Usage of certain expressions such as sentence, conviction and accused shall be avoided. (3) The Children's Court shall ordinarily holds its sittings within the complex of the Observation Home wherever it exists, subject to such directions as the Government may determine concerning the place at which, the day on which and the manner in which a Children's Court may - hold its sittings where there are no Observation Homes subject to subsection (2) of section 31.

15. Medical opinion regarding age and physical and mental condition of children.

- In every case, concerning a child, the Court shall obtain medical opinion regarding his age and his physical and mental condition and when passing orders in such a case shall, after taking into consideration the medical opinion and such other evidence as may be available record a finding in respect of his age.

16. Supply of information regarding children by courts.

(1)Whenever the court orders a child to be detained in a certified school or fit person institution, it shall forward to the Managers of such schools or institutions a copy of its judgment if any, or order, together with information regarding the age and address of the child, if known, and any particulars of his home and previous record, that may have been discovered.(2)The officer-in-charge of the place of safety or the Police Station concerned shall, on the issue of orders by a court for the detention of a juvenile in a certified school, or institution forward to the Manager of such school or institution copies of any record he may have of the juvenile's previous history.

17. Contribution of parent or other person.

(1)The court making an order under subsection(1)of section 55 may direct the parent or other person liable to maintain the child or youthful offender to pay in court, in advance, in the beginning of each month such sum of money as the court may think fit, not exceeding Rs. 50/in the whole per mensem, towards the maintenance of such child or youthful offender.(2)All such recoveries shall be credited by the court into a Government treasury as Miscellaneous Receipts of Government.

18. Manner in which a child or youthful offender may be committed to the care of a parent, guardian, relative or other fit person.

(1)The court making an order committing a child or youthful offender to the care of, or allowing a child to remain in ,the custody of a parent, guardian, relative or other fit person, as the case may be, under section 19 or clause(b) of section 24 may direct such parent, guardian. relative or fit person to enter into a bond in the form specified in Schedule I or IA with or without sureties and in such sum of money as the court may think fit, to keep him under proper care and control, and to be responsible for his good behaviour. In addition to the conditions prescribed/specified in the form of the bond Schedule I, the court may impose such other conditions as it may think fit for securing that the child or youthful offender as the case ,may be. to lead an honest and industrious life.(2)When a child or youthful offender has been placed under the supervision of a Probation Officer, the court shall impose a condition, that all necessary assistance may be rendered by the parent, guardian, relative or other person as the case may be, to the Probation Officer to enable him to carry out the duties of supervision(3)When a child or a youthful offender has been ordered to be sent on his own bond, back to a relative or fit person or to his native place under section 38 the court shall take his bond in the form specified in Schedule II.

19. Authorization of person to act under sub-section (1) of section 16.

- The State Government may authorize the District Collector or such persons as they think fit to take action under subsection (1) of section 16.

20. Release on licence under section 52.

(1) A child detained in a certified school or fit person institution shall not be released by the Chief Inspector under sub-section (1) of section 52 except on the conditions specified in the form in Schedule III. (2) On the release of any child on licence by order of the Chief Inspector under sub-rule (1), information shall be sent by the school or institution to the committing court of the actual date of release of the child.

21. Short leave of absence to inmates of certified schools.

(1) The Manager of a certified school or fit person institution may, on sufficient cause being shown to his satisfaction grant permission in writing to an inmate to absent himself for short periods not exceeding 15 days in aggregate in the year, exclusive of the time required for going to and returning from the destination, for the purpose of visiting parents or relations: Provided that as far as possible the previous consent of the Chief Inspector shall be obtained for granting leave exceeding a week at a time. (2) The permission granted under sub-rule (1) may at any time be cancelled by an order in writing by the Manager and the inmate may be recalled by him without giving any reasons therefor. (3) The Chief Inspector on the application of a parent or relative recommended by the Manager of a certified school or fit person institution may, in selected cases grant vacation leave upto six weeks, excluding the days of journey at a time to inmates from certified schools or fit person institutions. Such permission may be cancelled by the Chief Inspector by an order in writing and the inmate may be recalled by him without giving any reasons therefor. (4) The time during which an inmate is absent from the school or institution under sub-rule (1) or (3) shall be deemed to be part of the time of the detention in the school or institution. (5) If any inmate fails to return to the school or institution after the expiry of the period permitted under sub-rule (1) or (3) or when recalled under sub-rule (2) or (3), the Manager shall report the matter to the Chief Inspector and any Police Officer may, on the application in writing of such Manager or Chief Inspector, arrest the inmate without warrant and send him back to the school or institution. (6) The time which elapses after the failure of an inmate under sub-rule (5) to return to the school or institution shall be excluded in computing the time of his detention in the school or institution. (7) Any parent or guardian contributing towards the maintenance of the child in a certified school or fit person institution under an order passed by a court under sub-section (1) of section 55, shall be exempt from the payment of such contribution for the period during which the child is absent from the institution under sub-rule (1) or (3).

I A

Annexure (Where a bond with surety/sureties is to be executed) I/We..... of..... residing in the Block of..... in the district of..... hereby declare myself/ourselves surety/sureties for the aforesaid..... that he/she has undertaken to do and perform and in case of his making default therein, I/we hereby bind myself/ourselves jointly and severally to forfeit to the Government of Sikkim the sum of Rupees..... (Rs.....) Dated this the..... day of 19..... In the presence of..... Before

me(Signed)Schedule IForm of bond to be executed by a parent, guardian, relative or fit person to whose care a child or youthful offender is committed(See rule 18).Whereas I..... being the parent/guardian/relative or person in whose custody/to whose carehas been allowed to remain/ ordered to be committed by thechildren's court/Magistrate to execute a bond in the sum of Rswith one surety/two sureties. I hereby bind myself on the said.....being allowed to remain in my custody/ committed to my care. I shall have the said..... properly taken care of and I do further bind myself to be responsible for the good behaviour of the said.....and to observe the following conditions for a period of.....years commencing from... ..

- 1. That I shall not change my place of residence without giving previous intimation in writing to the court through the Probation Officer;**
- 2. That I shall not remove the saidfrom the limits of the jurisdiction of the court without previously obtaining the written permission of the court;**
- 3. That I shall send the said daily to school/to such daily work as is approved by the court. unless prevented from doing so by circumstances beyond my control;**
- 4. That I shall report immediately to the court through the Probation Officer, if the said.....misbehaves or absconds from custody;**
- 5. That I shall produce the said..... before the court whenever so required by the court;**
- 6. That I shall render all necessary assistance to the Probation Officer to enable him to carry out the duties of supervision.**
- 7.**
- 8.**
- 9.**
- 10. In the event of my making default herein, I bind myself to forfeit to the Government of Sikkim the sum of Rs.....
(Rupees.....) only dated this the day of.....19.....**

Before me(Signed)Signature of person executing the bond.

II

Bond to be signed by a child or youthful offender who has been repatriated or sent to a relative or fit person to his native place(See rule 18).Whereas I,..... inhabitant of have been ordered to be repatriated or sent back to my native place by the Children's Court/Magistrate of under sub-section..... of section of the Sikkim Children Act, 1982, on my entering into a bond to observe the conditions mentioned herein below. Now, therefore, I do solemnly promise to abide by these conditions during the period specified in the order made by the Court. I hereby bind myself as follows:

1. That during the period of 1 shall not leave the....

.....place of relative or fit

person..... in which I am repatriated or sent and shall not return to or go any where else.

2. That during the said period I shall attend work/school in the place to which I am repatriated or sent

3. That I shall be of good behaviour and shall not in any way commit any breach of conditions laid down in this bond and accepted by me.

4. That during the period specified in the order I shall particularly observe the following conditions:

(a)That I shall accept the guidance and assistance of the relative or fit person to whom I am repatriated or sent or to whose care and custody, I am entrusted as named in the. order and will obey the directions given to me from time to time by the said person;(b)that I shall not play truant from home, school work or place to which I am repatriated or sent;(c)that I shall live honestly and peaceably and will endeavour to earn an honest livelihood, attend school regularly and obey the authorities and shall not change any employment/school without the permission of the relative or fit person to whom I am repatriated or sent.(d)(e)(f)In case of my making default in observing any of the conditions specified above, I shall on my reappearance before the Court receive such order as the Court deems fit.Signature or mark of.

III

Form or order of release on licence(See rule 20)I Chief Inspector of certified schools, State of Sikkim, do by this licence permitson/daughter

of.....caste..... ofson/daughtercaste

..... residing atnumber..... who was ordered to be detained in a certified school by thecourt under section..... ..of the Sikkim

Children Act, 1982 for a term of years on the..... day of19
....., and who is now detained in the.....school at..... to be discharged
from the said school on condition that he/she be placed under the supervision and authority of the
Secretary/Society/Advisory Board/Probation Officer/Superintendent, during the remaining portion
of the aforesaid period of detention. This licence is granted subject to the conditions mentioned
below:

- 1. The licensee shall proceed to the house of his parents/guardian/relative or a person residing at..... Block..... District..... and live under the authority of the..... until the expiry of the period of his detention unless the remission is sooner cancelled.**
- 2. He/she shall not without the consent of the said Court remove himself/herself' from that place or any other place.**
- 3. He/she shall. obey such instructions as he/she may receive from the said..... :with regard to punctual and regular attendance at employment or otherwise.**
- 4. He/she shall abstain from committing any offence and shall lead a sober and industrious life to the satisfaction of the said.....**
- 5.**
- 6. In the event of his committing any breach of the above conditions, the remission of the period of detention shall be liable to be cancelled and on such cancellation, he shall be dealt with under section.**

Signature of the Chief Inspector of Certified Schools.I hereby acknowledge that I am aware of the conditions stated above which have been read over/explained to me and that I accept the same.,Dated.....Signature of mark of licenseeCertified that the conditions specified in the above have been read over/explained to and that he/she has accepted them as the conditions upon which the remission of the period of detention has been granted to him/her and that he/she has been released accordingly on theDated.....Signature of the head of office or certifying Authority.