



PRODUCERS
GUILD
OF INDIA

**THE CHILD ACTOR CODE OF WORK
&
POCSO ACT 2012**

INTRODUCTION

Child actors are employed in the audio-visual industry, but there is no structured procedure laid down to regulate: -

- Depiction of children
- The working conditions of child actors across mediums where they may be working under exploitative conditions.

OBJECTIVE

1. To come up with guidelines for depiction of children (as suggested in the section 1 below)
2. To come up with a comprehensive code of work for child actors in the audio- visual industry by suggesting roles and responsibilities of parents, guardians and employers, working conditions; such as number of working hours, meals, safety and health, educational requirements and any other support needed from time to time. (as suggested in the section 1 below)
3. To share details pertaining to the existing laws and regulations for protection of children from offences pertaining to sexual assault / harassment during their employment (as described in the section 2 below)

SECTION 1

Definitions:

'Audio Visual Content/Program' refers to any films/television programs including reality shows, serials, non-news-based programs and web series.

'Producer' refers to an individual producing Audio-Visual Content / Program i.e. films / television programs including reality shows, serials, non-news-based programs and web series

'Child' refers to any person in the age group of 0-18 years

'Infant' refers to a child under the age of 1 year.

Guidelines for DEPICTION OF CHILDREN

1. No child below the age of 12 years should be featured in any situation that has sexual or adult overtones. (BCCC)
2. No child should be allowed to imitate adult gestures with a sexual or vulgar overtone. (BCCC)
3. No child should be placed in situations where they wear make-up and costumed to imitate adult performers. (BCCC)
4. No child should be cast in a role or situation that is inappropriate to the child or that may distress him/her or put him/her in embarrassing situations. Consideration must be given to the child's age, maturity, emotional or psychological development and sensitivity.
5. No child should be shown to be imbibing alcohol, smoking or using any other substance or shown to be indulging in any sort of antisocial activity and delinquent behaviour.
6. No child should be engaged in any situation involving nudity (either of the child or another person).

7. No child should be put in distressing situations to obtain a more realistic depiction of an emotional reaction.
8. In programmes based on victims of child abuse, the content should be sensitively handled, and the way children are projected should not harm or risk their welfare.
9. No child should be made to perform or enact scenes or mouth dialogues that are inappropriate for his/her age or those that may cause him/her distress.
10. Participation of children in scenes depicting violence – whether verbal or physical – should be avoided.
11. The reality shows should not be competition based. No child should be exposed to ridicule, insult or discouragement, harsh comments or any behaviour that could affect his/her emotional health.
12. The remarks by the judges on reality shows/talent hunt shows should be encouraging. A child's sensitivity should be borne in mind while evaluating his/her performance in reality shows.
13. It should be ensured that the children are not caused anxiety or distress by their involvement in such programmes or by their broadcast.

Guidelines for WORKING CONDITIONS

Defining Age-related Norms for the Participation of Children

1. There should be age-appropriate regulation on the number of hours a child can shoot in a day. The number of hours needs to be determined depending on the age of the child, with younger children spending less time at the shoot.
2. A child shall only participate in one shift per day, with a break after every hour.
3. It is inadvisable for infants below the age of 3 months to participate except in programmes on promotion of breast feeding or immunization.

4. Between the age of 3 and 6 months, when the infant is totally dependent on the milk feeds, it should be mandatory for the mother to be present at the time of shooting to ensure breast feeding during the breaks.
5. Formal agreement/contract between the content producer and the child (represented by parents/guardians) must be compulsory. The agreement should be transparent in terms of content type, pattern and format. AGE DRIVEN WORKING CONDITIONS / PROVISIONS
6. Any child must be involved in only one audio visual project / program at a time. Also, participation of children in reality / talent / live shows must be possibly scheduled on holidays to ensure that the child's education is not affected in any manner in line with the Right to Education Act.

Care and Attention

1. Children are to be directly supervised by at least one parent or a known person² and by a person with specified child-care qualifications.
2. An infant may only be allowed to participate in a programme if one of the infant's parents or a known person is always present. In addition, where an infant is allowed to participate for more than one hour on a single day, a registered nurse or midwife must always be present.
3. Children **under 6 years** may always be supervised by at least one parent or a known person as well as by a registered nurse, a midwife or a person with an early childhood or child-care qualification.
4. The qualification degree or diploma should be recognized by Government of India.
5. Children **6 years or over** may be supervised by at least one parent or a known person.
6. The ratio of supervisors to children is prescribed as follows:
 - (i) One supervisor for up to two children under 3 years.
 - (ii) One supervisor for up to four children who are at least 3 years old but less than 8 years.

(iii) One supervisor for up to six children who are at least 8 years but less than 14 years.

(iv) One supervisor for up to 10 children who are at least 14 years but less than 18 years.

(A known person is one who has authorized written mandate from the parents)

Protection and Safety

1. Extremely important to maintain the overall environment on the sets or in the studios secure for children. Internally vital for all production units to formulate regulations with respect to children such as basic norms, model practices, smooth process to formalize consent of parents, educating staff to follow prescribed set of principles related to involvement with children and a detailed policy framework for child protection.
2. Adequate safeguards to ensure that the infant is not exposed to hazardous lighting, unhygienic cosmetics or doesn't come in contact with persons suffering from a contagious ailment/medical condition. Fitness certificates specifically mentioning that the person is not suffering from contagious diseases should be obtained from unit members prior to commencement of shooting/production with children.
3. Producer should not allow children to participate in shooting/production if they are not physically fit due to illness/injury or if they are suffering from a contagious disease/medical condition which may affect the health of other persons/unit members present during shooting/production.
4. Plan aerial performance sequences with appropriate rigging, use crash mats, safety netting, appropriate emergency and contingency procedures. The child should be wearing harnesses and mats should always be placed, have an effective communications system between those at a height and those on the ground.
5. Choreograph performers appropriately to minimize the potential for them to drop or propel objects hazardously (including themselves);
6. Dangerous stunts or use of weapons should be avoided.
7. Producer must confirm in writing from the infant's parents that the infant:

- i. Was born in good health.
 - ii. Did not suffer a post-natal problem.
 - iii. Is feeding properly and its weight gain from birth till commencement of shooting/production has been satisfactory. Producer should provide healthy, nutritious and enough food, water, milk and other requisite drinks to the children during shooting/production at timely intervals such as breaks for meals/morning and evening breakfast.
8. Recreational toys/objects/materials spreading fun and entertainment & adequate rest facilities for children must be provided on the production set. After patiently listening to the concerned children, suitable facilities should be made available to them depending upon their age and requirements.
9. Ensure that children don't share dressing rooms with adults particularly from the opposite sex. Producer must guarantee suitable basic facilities for the child to dress in a private space and maintain separate toilets for girls.
10. Whilst producers must ensure that parents/guardian should be present right through the shooting/production with the child, they must also arrange for systematic counseling of the parents/guardian to avoid displaying anger, disappointment or frustration if the child is eliminated or does not perform as per expectations.
11. For audio visual content/programs wherein the subject matter pertains to abuse/violence/death etc., producer must guarantee ready availability of a child psychologist/counselor to protect the child actors from distress, anxiety, trauma.
12. Producer must always mandatorily deploy a child psychologist/counselor for reality shows involving children so as to take care of them in case they suffer performance anxiety or endure pain, anguish, frustration caused due to losing or performing below expected levels.
13. Producer must offer proper travelling/commuting facilities for the child and also make sure that no child should travel/commute without being accompanied by parents/guardians/known person.
14. A comprehensive analysis and assessment of the production set should be undertaken with due cognizance to the presence of young children and their physical/mental abilities and attributes. The assessment must also consider the child's safety and security against physical or mental harm/pain/abuse.

CONDITIONS FOR CONSENT OF PARENTS / GUARDIAN

1. Written Consent of parents/guardian must be mandatorily obtained by the producer prior to confirming engagement of child in the audio-visual content/program by filling the consent form. As regards orphaned children, the head of their respective institution/organization can sign the consent.
2. A parent/guardian shall give consent to their child's employment within the restrictions/limitations enshrined in the Right to Education Act and fill proper information in the consent form to the producer about the days and times when the child is 'required to attend/be at school'. The duly filled form shall be given to the Producer, who shall retain a copy of the form and make sure that the child is kept free from shooting/production as and when it is required to attend school.
3. The consent form must contain the following information/details about the child:
 - Name
 - Sex
 - Date of birth
 - Health status
 - Producer's name and address
 - Day(s) / date(s) the child participates in shooting / production Parents /Guardian name (both mother and father)
 - Occupation of Parents/Guardian
 - Name of Known Person (an individual who has been formally authorized in writing by the parents/guardian to take care of the child in their absence) School and Class name
 - Number of Hours the child is 'required to be at school'
 - Number of Hours the child is required to participate in an external program which includes tutoring on set, at home or through a distance education program.

- Include any informal arrangement entered between the child and its school
 - Statement of the parent/guardian according consent to their child performing/participating in audio visual content/programs.
 - Signature of a parent/guardian (if child has mother and father, signature of both parents is compulsory).
4. No financial or any other form of temptation/inducement must be given by the Producer to the child or its parents/guardian to lure them for the purpose of obtaining their consent (also punishable under the POCSO Act).
 5. Any probable/anticipated repercussions of the child's participation are to be made clear. For instance, the possibility of bullying/intimidation.
 6. All requisite information / details about any physical / mental / psychological effects of the audio-visual content / program being produced on babies / infants / children, must be compulsorily shared by the producer with the parents.
 7. The production staff must be made fully aware of these guidelines for working with children.
 8. Appropriate background checks are made on the child's health and educational circumstances. In some cases, it may be helpful for programme makers to keep a documented trail of relevant checks, correspondence and any concerns raised through the process.
 9. Documented risk assessments completed during the pre-production stages (which cover both health and safety and physical and emotional wellbeing) may be particularly useful for reference, should regulatory matters arise post telecast.

Education of Child Participants

It is universally agreed in principle that participation/indulgence in sports and cultural activities boost the all-round growth and development of the child.

Concurrently, education is a fundamental right of the children and The Right to Education Act, 2009 makes education mandatory for all children in the age group of 6-14 years.

It is the primary responsibility and duty of parents and the producer / production unit to make sure that the school attendance of child actors is not hampered due to their acting commitments.

To the best extent possible, the producer/production unit must try to arrange/plan the child's shooting/production schedule around holidays and school vacations.

Setting up of Regulatory & Monitoring Mechanisms

A need for self-regulation is essential, in the absence of which, regulatory frameworks are necessary to supervise whether children are protected and not harassed in audio visual programs.

Research on the impact of participation in audio visual programs on children who are at a vulnerable age.

The Ministry of Women and Child Development, the Ministry of Labour and Employment and the Ministry of information and broadcasting should analyze the rights of children in audio visual programs at regular intervals.

It is suggested that the guidelines recommended by the National Commission for the Protection of Child Rights (NCPCR) be included in the current draft Self-Regulation Guidelines for the Broadcasting Sector (2008) for a child, being developed by the Ministry of Information and Broadcasting.

Payment for Children

Since Children who are minors i.e. below the age of 18 years, are not permitted by law either to operate bank accounts or sign legal documents like contracts/agreements, hence at least 50% amount payable to them towards their engagement/involvement in audio visual content/project should be set aside in the form of fixed deposit or bonds, maturing when they reach the age of 18 years.

Out of the balance 50% payable to the child's parents/guardians, the pending payment of school fees for the relevant academic year should be cleared by the producer so as to ensure that the child continues to freely attend the school and indirectly reducing the parents' burden. In normal cases, the child's parents would be its formal guardians unless a case could be made that this would serve against the best interests/rights of the child.

SECTION 2

SEXUAL CRIMES AGAINST CHILDREN

The increasing incidence of sexual offences against children had to be addressed through a separate legislation, as the Indian Penal Code (IPC) did not specifically provide for sexual offences against children, particularly boys. It recognized limited forms of sexual violence against girls and considered acts other than rape as amounting to “outraging the modesty of women” which was punishable with a maximum term of two years and/or fine.

The **Protection of Children from Sexual Offences (POCSO) Act, 2012** was enacted by the Government of India to protect children from offences of **sexual assault, sexual harassment** and **pornography**, while safeguarding the interest of the child at every stage of the judicial process, by incorporating child-friendly mechanism for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts.

POCSO Act, 2012, provides a comprehensive definition and recognition of crime which covers all possible sexual crimes and sexual exploitation against children.

- The Act applies to the whole of India, except the State of Jammu and Kashmir.
- Under the act, a person below the age of 18 years is a child.
- It safeguards the interest of child at every stage of the judicial process by incorporating child-friendly mechanism.
- The Act is gender-neutral law, wherein the law takes cognizance of sexual crimes committed against both girls and boys under the age of 18 years.
- It ensures punishment for all perpetrators irrespective of age and gender.
- POCSO Act provides for more severe punishment, when the sexual offence is committed by a person in a position of trust or authority such as police officer or a member of security forces or public servant etc.
- POCSO Act makes it mandatory for every citizen to report cases of sexual offences against children to the police. Failing to report the commission of an offence or failing to record such offence shall be punishable.
- Courts cannot exercise their discretionary powers in POCSO cases. They cannot reduce the term of imprisonment to a term less than the minimum term stipulated under the Act.

- For offences under this act the burden of proof is shifted on the accused, keeping in view the vulnerability and innocence of children

OFFENSES UNDER POCSO:

POCSO Act addresses a wide range of sexual offences which include anything from **complete and partial penetration; non-penetrative sexual assault; stalking of a child; showing children pornography; using the child for pornography; exhibitionism etc.** The law protects children from both physical and or non-physical contact forms of abuse.

▶ **Penetrative Sexual Assault:** Person is said to commit the offence if-

- Penetrates his genitals into private parts or mouth of a child, or makes the child to do so with him or any other person;
- Manipulates any part of body of the child to cause any of the above; or
- Inserts, to any extent, any object or a part of the body (not being the genitals) into private parts of a child, or makes the child to do so with him or any other person;
- Apply his mouth to private parts or Mouth

PUNISHMENT: Not less than 7 years that may extend to life imprisonment in rarest of rare cases, and a fine.

▶ **Sexual assault:** Committed by anyone with a sexual intent: -

- Touching the private parts of a child
- Making the child touch the private parts of such person or any other person
- Does any other act which involves physical contact without penetration

PUNISHMENT: Not less than 3 years that may extend to 5 years, and a fine

▶ **Penetrative Sexual Assault or Sexual Assault** deems to be “aggravated” under following circumstances: -

Status of the offender: When the offender is –

- Police officer
- Member of the armed forces or security forces
- Public servant: A judge, court officer, government officer, etc.
- Management or staff of any custodial institution for children.
- Management or staff of a Hospital.
- Management or staff of an educational/religious institution
- Relative of the child through blood, adoption, marriage, guardianship, foster care, or having a domestic relationship with parent, or living in the same or shared household with the child
- Management or staff of an institution providing services to children
- Person having been previously convicted of a sexual offence.
- Person in a position of trust or authority of a child in an institution, home of the child, or any other place.

Nature of the assault –

- Penetrative sexual assault by a gang.
- Use of deadly weapons, fire, heated substance or corrosive substance (acid, cigarette, knife, sharp weapons). For instance, splashing acid on a child after committing penetrative sexual assault would constitute an aggravating factor.
- Repeated penetrative sexual assaults.
- Assault followed by an attempt to murder the child.
- Assault in the course of communal or sectarian violence.
- Assault followed by stripping and parading of the child naked in public.

Impact on the victim -

- Grievous hurt or bodily harm and injury
- Physical incapacitation, mental illness, or temporary/ permanent impairments because of the assault.
- Pregnancy.
- HIV or any other dangerous infection or disease which could temporarily/permanently impair the child.

Status of the child victim -

- A child with disability, by taking advantage of the child's mental or physical disability.
- A child below 12 years of age.
- A child, with the knowledge that such child is already pregnant.

PUNISHMENT: Aggravated Penetrative Sexual Assault - Rigorous imprisonment not less than ten years, may extend to life and fine. Aggravated Sexual Assault - Not less than 5 years that may extend to 7 years, and a fine

► Sexual harassment:

- Makes a child exhibit his/her body;
- Shows any object to a child in any form or media for pornographic purposes;
- Carries any act with sexual connotation;
- Repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means.
- Entices a child for pornographic purposes or gives gratification thereof.
- Threatens to use, in any form or media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act.

PUNISHMENT: 3 years and a fine under Section 12

► Use of minor for pornographic purposes:

- Involving a child in the preparation, production and/or distribution of pornography via print, electronic, computer or any other medium.
- Whoever uses a child in any form of media (including, program or advertisement telecast by television channels or internet or any other electronic or printed form, whether or not such program or advertisement is intended for personal use or for distribution).
- Whoever uses a child for the purposes of sexual gratification, which includes-

- representation of the sexual organs of a child.
- usage of a child engaged in real or simulated sexual acts
- indecent or obscene representation of a child shall be guilty of the offence of using a child for pornographic purposes

(Usage of a child shall include involving a child through any medium like print, electronic, computer or any other technology for preparation, production, offering, transmitting, publishing, facilitation and distribution of the pornographic material)

**PUNISHMENT: 5 years and a fine,
and in the event of second conviction, 7 years and a fine.**

► **Abetment:** A person abets an offence, who-

- Instigates any person to do that offence
- Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence;
- Intentionally aids, by any act or illegal omission, the doing of that offence -

Whoever employs, harbors, receives or transports a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under the POCSO Act, is said to aid the doing of that act.

PUNISHMENT: It is the same as for the commission of the offence.

► **Attempt:**

Whoever attempts to commit any offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence, shall be punished.

PUNISHMENT: Upto half the punishment prescribed for the commission of the offence.

PROCESSES UNDER POCSO ACT

▶ **Procedures for Recording Statement of the Child**

- Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer.
- No child is to be detained in any police station in the night for any reason what so ever.
- Police officials are directed not to be in uniform while recording the statement of the child so victimized.
- The statement of the child is to be recorded exactly as the child narrates.
- Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence.
- In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
- Frequent breaks for the child during the trial.
- Child not to be called repeatedly to testify.
- No aggressive questioning or character assassination of the child is to be done.
- Should conduct in-camera trial of cases.

▶ **Duties of the Special Juvenile Police Unit:**

Within 24 hours of the reporting of the case, the police must -

- Determine if the child needs care and protection. The child should be produced before the Child Welfare Committee (CWC) if he/she is found to need care and protection or has no parental support.
- If the medical examination has not been conducted, ensure it is done and that samples are collected for forensic tests.
- In case urgent medical attention is required, the child should be taken to the nearest hospital.
- The matter must be reported to the CWC and the Special Court. In case a Special Court has not been designated, it must be reported to a Sessions Court.

- The Police must ensure, during the investigation that the child, at no point of time, comes in contact with the accused.
- The Police Officer shall ensure that the identity of the child is protected from public/media

► **The police should also inform the child and his guardian about the following:**

- Availability of support services including counselling.
- Right to legal aid and representation.
- Availability of public and private emergency and crisis services.
- Availability of victims' compensation benefits.
- Developments in the case, including arrest of the accused, applications filed, and court proceedings.
- Procedural steps involved in a criminal prosecution.
- Status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation.
- Rendering of a verdict after trial.
- Sentence imposed on an offender.
- Filing of charges against a suspected offender.
- Bail, release or detention status of an offender or suspected offender.
- Schedule of court proceedings that the child is either required to attend or is entitled to attend.

► **Special Court**

- Create a child-friendly atmosphere by allowing a family member, a guardian, a friend or a relative, in whom the child has trust or confidence, to be present in the court. Statement of child to be recorded as spoken by the child.
- Ensure that child is not called repeatedly to testify in the court.
- Not permit aggressive questioning or character assassination of child and ensure that the dignity of the child is maintained.
- Ensure that the identity of child is not disclosed.

- Assistance of special educators to children having mental and physical disability.
- Statement may be recorded by audio-visual means
- In-camera trials are mandatory which means that only persons connected to the case will be allowed in the court room.
- Child's evidence will be recorded within 30 days of the court taking cognizance of the offence and in the presence of parents of child or any other person in whom child has trust or confidence.
- Trial shall be completed as far as possible within one year. Grant interim compensation to be paid to the victim during pendency of the case.
- Juvenile Justice (Care and Protection of Children) Act, 2015 will apply if the sexual offence has been committed by a person who was below the age of 18 years at the time of alleged offence.
- Ensure that the child does not see the accused at the time of testifying.
- Services of professionals and experts can be taken in pre-trial and trial stage to assist the child in recording of evidence.

► **Role of Commissions for Protection of Child Rights**

Under the POCSO Act, the National Commission for Protection of Child Rights and the State Commissions for Protection of Child Rights have been vested with the responsibilities of:

- Monitoring the implementation of the provisions of the POCSO Act 2012.
- Conduct inquiries into matters relating to an offence under the Act.
- Reporting the activities undertaken under the POCSO Act 2012, in its Annual Report.

► **Obligation of Media, Studio and Photographic facilities to report cases**

Any personnel of the media or hotel or lodge or hospital or club or studio or photographic facilities, by whatever name called, irrespective of the number of persons employed therein, shall, on coming across any material or object which is sexually exploitative of the child (including pornographic, sexually-related or making obscene representation of a child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit or to the local police, as the case may be.

Do's and Don'ts for Media while covering cases of Sexual offences against Children

Do	Don't
Be exact when describing the nature of the offence—use the right terminologies	Use ambiguous or minimizing language (e.g. "sexual relationship with a child" or "affair with a minor" etc.
Be clear that 'consent is immaterial'	Blame the victim. It is NOT his or her fault. The abuser is solely responsible for this crime
Hold institutions or individuals in position of power accountable	Refer to abuse as an "alleged accusers." They are not "alleged"
Report on relevance of CSA in society; look beyond the story as it unfolds in the criminal justice system	Assume the victim is alone; often it takes one person coming forward for others to share like experiences
include information about the social and cultural impact of CSA cases	Downplay the severity of this crime, the long -term effects of which can be devastating
Focus on multiple aspects of the case including rehabilitation, prevention. Source experts in the field, such as child advocates, lawyers, and psychologists. Always check your facts with credible organizations	Only focus on the role of police and judiciary
Seek help of a support Person/NGO or a person known to the victim and the family before interviewing	Directly approach the victim and family on your own with all the questions
Read the case file (if available) or the copy of the FIR before approaching the victim and families with specific questions	Ask them questions directly on the offence and its nature or publish the FIR in your article

Take consent of the parent or the trusted adult/organization before talking to the victim	Directly approach the victim without parental consent
Focus on the modus operandi of the offender and grooming process to create larger awareness Highlight cases from different socio-economic strata and high-profile pedophiles	Focus only on the nature of sexual offence e.g. Rape etc. Label this as a problem pertaining to poor and uneducated communities