

Apprenticeship Manual

What you need to know to hire an apprentice

Revised and expanded edition

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Presentation

A challenge for young persons who want or need to work is to find a first job opportunity that respects their status as a developing person and guarantees their labor and social security rights, while encouraging them to continue their education and professional development.

The right to vocational training through special employment contracts is guaranteed in the Federal Constitution of 1988, in the Statute of the Child and Adolescent - ECA (Law 8,069 of 1990) and, more recently, in the Youth Statute enacted through Law 12,852 of August 5, 2013.

This Apprenticeship Manual is being re-issued for the purpose of guiding qualified employers and training entities in the procedures to be followed for hiring apprentices in the light of MTE Administrative Rule No. 723 of 2012.

Studies show that unemployment and turnover rates are much higher among young people - not because they do not know what they want or because the market does not want them, but because for the most part their access to the labor market is constrained, they lack the necessary training and endure working hours that discourage them from continuing their education. This has been a permanent concern of the Ministry of Labor and Employment, since the first steps in professional life are decisive not only for the future of young people but also for the future of companies and the country.

We hope this Apprenticeship Manual will be a source of information and encouragement for educational institutions and companies to be increasingly involved in training young apprentices, thus contributing to prepare our youths to perform competently in the world of work as well as helping them to improve their social relations and participate as citizens in shaping the future of Brazil.

MANOEL DIAS

Minister of Labor and Employment

Introduction

The Brazilian Constitution of 1988 prohibits work for minors under the age of 16 but provides for the possibility of young people 14 years and older entering the labor market as apprentices. In Brazil, apprenticeship has been historically regulated by the Consolidation of Labor Laws (*Consolidação das Leis do Trabalho* - CLT), with updates introduced by Laws 10,097 of December 19, 2000; 11,180 of September 23, 2005; and 11,788 of September 25, 2008.

The Statute of the Child and Adolescent (ECA), approved by Law No. 8,069 of July 13, 1990, in its articles 60 to 69 also provides for the right to apprenticeship, in line with the principle of ensuring full protection to children and adolescents.

Decree 5,598 of December 1st, 2005, which motivated the Ministry of Labor and Employment to develop this Manual, established the necessary parameters for full compliance with the legislation by regulating the hiring of apprentices as proposed.

Apprenticeship is a process that creates opportunities for both the apprentice and the company, as it prepares beginners to perform professional activities and properly cope with different situations in the world of work. At the same time, it allows companies to develop a skilled workforce, which is becoming increasingly necessary in an economic scenario in constant technological evolution.

Technical and vocational training should include theoretical and practical activities organized in tasks of progressive complexity, under a program related to the activities carried out in the contracting companies. The goal is to provide apprentices with basic vocational training.

This training takes place in apprenticeship programs organized and developed under the guidance and responsibility of training institutions legally qualified for that purpose. Apprentices between 14 and 24 years old enrolled in a professional apprenticeship course are admitted by establishments of any nature that have employees governed by the CLT. In the case of apprentices between the ages of 14 and 18, enrollment in apprenticeship programs must observe the legal priority assigned to the National Apprenticeship Services and, alternatively, to Technical Schools of Education and Non-Profit Organizations (NPO) whose objective is to provide assistance to adolescents and promote vocational training and which are registered with the Municipal Council for the Rights of Children and Adolescents (CMDCA).

The age limit of 24 years for hiring apprentices does not apply to persons with disabilities. Because it is a labor standard, it is the responsibility of the MTE to monitor compliance with the legislation on apprenticeship as well as to resolve any doubts raised by any member of the parties involved.

Questions and Answers

1) What is apprenticeship?

Apprenticeship is a process for the methodical technical and vocational training of adolescents and young people, developed through theoretical and practical activities organized in tasks of progressive complexity. These activities are implemented through an apprenticeship contract and based on programs organized and developed under the guidance and responsibility of qualified entities. (Law No. 8,069/90, article 62 and CLT, article 428)

2) What is the apprenticeship contract?

Apprenticeship contract is the special work agreement established in writing and for a fixed term not exceeding two years, in which the employer undertakes to provide the apprentice enrolled in an apprenticeship program with methodical technical and vocational training compatible with his/her physical, moral and psychological development. The apprentice, in turn, undertakes to act with care and diligence in carrying out the tasks necessary for this training.

For the apprenticeship contract to be valid and enforceable the employer must enter in the apprentice's Employment Record Book all information on school enrolment and attendance in case he/she has not completed Fundamental Education. In addition, the apprentice must be enrolled in an apprenticeship program developed under the guidance of an entity qualified to provide methodical technical and vocational training.

3) What is the apprenticeship program?

It is the technical and vocational program that includes carrying out theoretical and practical activities under the pedagogical guidance of an entity qualified to provide methodical technical and vocational training and that involves practical activities coordinated by the employer. The activities should be supervised by the training entity, in which case a series of factors need to be observed, such as the target audience, indicating the maximum number of apprentices per class; socioeconomic profile and justification for providing the service; objectives of the apprenticeship program, specifying the purpose of the actions to be carried out and their relevance to the participating beneficiaries, to society and to the world of work; contents to be developed, containing knowledge, skills and competences, their relevance to the objectives of the program, participants to be assisted and application potential in the labor market; structure of the apprenticeship program and its total duration in hours, observing the alternation between theoretical and practical activities as well as the proportion between them, according to the content to be developed and the profile of participants; mechanisms for monitoring and evaluating the apprenticeship program and mechanisms to ensure the apprentices' inclusion in the labor market upon expiration of the apprenticeship contract; and the duration period - theoretical course hours - observing the concomitance and minimum and maximum limits of practical activities, according to the parameters set forth in Administrative Rule MTE No. 723 of April 23, 2012.

4) What are the development modalities of apprenticeship programs?

Apprenticeship programs can be developed as follows:

- A) Vocational apprenticeship at the initial training level based on the CBO (Brazilian Classification of Occupations) or occupational group; and
- B) Vocational apprenticeship at secondary technical level.

Vocational apprenticeship at the initial training level is understood as the apprenticeship program focused on training in a given and specific occupation, with the theoretical minimum working hours calculated on the basis of the course load of the corresponding secondary level technical course, according to the classification in the National Catalog of Technical Courses established by Resolution No.

3 of July 9, 2008 issued by the Basic Education Chamber of the National Council of Education. In the event that there is no course for the same progression pathway in the Catalog, the time allocated to theory in the training entity must total a minimum of 400 hours (four hundred hours).

Vocational apprenticeship based on occupational groups means the apprenticeship program designed to train the apprentice for a particular group of occupations with a similar technical base and complementary characteristics, thus guaranteeing a training process that increases the possibilities of the apprentice's inclusion in the labor market at the end of the program, whether as a salaried worker, self-employed or in activities of the solidarity economy. The main objective for using this methodology, which is considered an innovation as regards proper training for those starting their professional career, is the possibility of beneficiaries acquiring practical experiences in more than one occupation within the same organization, enriched by the exchange of experiences among apprentices hired by different companies. Lastly, vocational apprenticeship at the secondary technical level occurs when the theoretical part of the apprenticeship program is provided by an institution offering courses at the secondary technical level, in an apprenticeship program regularly registered with the National Register of Professional Apprenticeship - CNAP (whose course must be previously regularized in the competent institution of the education system), providing the complementary information that characterizes a vocational apprenticeship employment contract for the purposes of acknowledging compliance with the quotas established by Law.

5) Who can be an apprentice?

The apprentice is the adolescent or young person between the ages of 14 and 24 who is enrolled in and attending school, in case he/she has not completed Secondary Education, and enrolled in an apprenticeship program (article 428, heading and §1 of the CLT). If the apprentice is a disabled person, there will be no maximum hiring age (article 428, §5 of the CLT).

In places where there is no offer of Secondary Education for the purpose of compliance with the provisions of §1, article 428 of the CLT, the apprentice may be hired without the requirement of school attendance, provided that he/she has already completed Fundamental Education (article 428, §7 of the CLT). Otherwise, this requirement must be met, that is, the hiring will be conditional upon the apprentice attending school.

In compliance with the principles contained in article 227 of the Federal Constitution (FC/88) and in the ECA, adolescents between the ages of 14 and 18 are ensured priority in hiring for the position of apprentice, except where:

I – Practical apprenticeship activities take place within the establishment, subjecting apprentices to unhealthy or dangerous work, without the possibility of avoiding the risk or carrying out the activities entirely in a simulated environment;

II – The law requires, for the performance of practical activities, a license or authorization that is not granted to persons under the age of 18; and

III – The nature of the practical activities is incompatible with the physical, psychological and moral development of adolescent apprentices (article 11, items I, II and III of Decree No. 5,598/05).

In the activities listed above, admission is mandatory in the case of young people between the ages of 18 and 24 (article 11, sole paragraph of Decree 5,598/05) and persons with disabilities 18 years or older.

6) How should the apprentices be selected?

The employer has total freedom to select the apprentice, subject to compliance with the constitutional principle of equality; with the prohibition of all forms of discrimination against the fundamental rights and freedoms; with the legal provisions pertaining to apprenticeship; with the priority given to adolescents in the age group 16 to 18 years; as well as with the particular guidelines and specificities of each professional apprenticeship program.

7) Which establishments are under the obligation to hire apprentices?

SIT No. 97 OF 07.30.2012 - Obligation to hire apprentices:

Art. 2 – As provided for in article 429 of the CLT, establishments of any nature are under the obligation to hire and enroll apprentices in apprenticeship courses at the minimum percentage of five and maximum of fifteen percent of the positions that require professional training.

Establishments of any nature with at least 7 (seven) employees are under the obligation to hire apprentices, according to the percentage required by law (article 429 of the CLT).

Hiring apprentices is optional for micro and small enterprises (SMEs), including those that are part of the Integrated Tax and Contribution Payment System, known as "SIMPLES" (article 11 of Law 9,841/97) as well as for Non-Profit Organizations (NPOs) whose objective is to provide professional education (articles 14, I and II of Decree 5,598/05). In these cases, the maximum percentage established in article. 429 of the CLT should apply.

As regards Non-Profit Organizations (NPOs) whose objective is to provide professional education (articles 14, I and II, of Decree No. 5,598/05), only those offering apprenticeship courses are exempt from complying with the quotas, as they can hire apprentices in lieu of the company, as provided for in article 430, II, c/c article 431, also of the CLT, and are not subject to the limit established in the heading of article 429 (§1 A of article 429).

Apprenticeship contracts that are still in force when the companies are reclassified by the Internal Revenue Service as SMEs should be fulfilled as provided in the contract and in the program.

8) Are public companies and semi-public corporations also under the obligation to hire apprentices?

Yes. They can opt for direct hiring, in which case they should do so by means of a selective process announced through a public notice process, or indirectly through NPOs (article 16 of Decree 5,598/05).

9) During the term of the apprenticeship contract, can the company change the term of the contract to unspecified duration?

No, because the apprenticeship contract is of a special nature and its main objective is the apprentice's vocational training, with the possibility of holding a permanent position in the contracting company. Breach of the contract before the conclusion of the program constitutes early termination of the apprenticeship contract without just cause, thus subjecting the employer to an administrative fine.

10) Does the course offered by the National Apprenticeship Services (SENAI, SENAC, SENAR, SENAT and SESCOOP) generate any financial burden for companies?

No, because the companies participating in what is known as the "S System" already contribute compulsorily to its financing by paying 1 percent on their payroll. In this case, the company will only bear the labor and social security costs of the apprenticeship contract.

11) What about when the apprentice course is offered by Non-Profit Organizations (NPOs)?

The company will enter into an agreement with the NPO, which will include, among other things, possible financial charges arising from the course offered.

12) Can a company that has multiple establishments concentrate all practical activities in one place?

Yes, provided that the establishments are located in the same municipality (article 23, §3 of Decree 5,598/05).

It is important to remember that according to the law only practical activities can be concentrated in the same establishment, and the apprentice must be formally registered by the establishment that is under the obligation to meet the quota requirement (CLT, article 429).

13) Can the practical activities be carried out exclusively at the training institution?

No, since this would be against one of the roles of apprenticeship, which is to put the apprentice in contact with the work environment. The authorization contained in article 23 of Decree 5,598/05 applies to companies that carry out unhealthy, dangerous or strenuous activities (see question 21), whose practical activities in the apprenticeship course must take place in a simulated environment, thus preventing the apprentice from being subjected to those risks.

14) What is the quota of apprentices to be hired?

The apprentice quota is set at a minimum of 5 percent and a maximum of 15 percent per establishment, calculated on the total number of employees whose duties require vocational training. Unit fractions will allow for the admission of one apprentice (article 429, heading and §1 of the CLT).

15) Which positions should not be considered for the purpose of calculating the apprentice quota?

The following positions are excluded from calculation of the apprentice quota:

I – Positions that require technical or university level education and directorship and management or trust positions (article 10, §1 of Decree 5,598/05);

II – Employees under a temporary work contract established by Law No. 6,019 of January 3, 1973 (article 12 of Decree 5,598/05);

III – Apprentices that have already been hired.

16) What happens to the apprenticeship contracts when the company staff is downsized?

Apprentices cannot be dismissed due to downsizing, because the current apprenticeship contracts are linked to the number of employees existing when the quota is calculated. Therefore, downsizing will only generate impacts in the future. In addition, the causes for dismissal are those expressly provided in article 433 of the CLT, which do not include this situation. In this case, the apprenticeship contracts must be honored until they expire.

17) Who is responsible for inspecting the fulfillment of apprenticeship quotas?

The labor inspection office is responsible for inspecting fulfillment of the apprenticeship quotas for which each establishment is accountable.

18) Who is responsible for inspecting the apprenticeship programs developed by NPOs?

It is the responsibility of the Guardianship Councils to authorize NPOs to offer programs for apprentices under the age of 18 by checking, among other aspects, the adequacy of the physical facilities and the general conditions under which apprenticeship is developed; regularity regarding the establishment of the entity and, mainly, compliance with the prohibitions provided for in the ECA and the requirements listed in article 3, heading, and items I to VII of Resolution No. 74 of September 13, 2001, issued by the National Council for the Rights of Children and Adolescents (CONANDA), or in other regulatory provisions that may regulate these requirements.

The Secretariat for Public Employment Policies (SPPE), with the assistance of the apprenticeship inspection coordination offices in each Regional Labor and Employment Office (SRTE), is responsible for validating and inspecting the apprenticeship programs offered by NPOs.

19) What are the penalties and/or appropriate measures applicable in case of breach of the apprenticeship legislation?

Penalties and/or appropriate measures include:

I – Drafting of the respective infraction notice(s) and the consequent imposition of administrative fine(s), within the scope of the MTE (article 434 of the CLT), in which case litigants must be assured the right to full defense and an adversary system;

II – Referral of reports to the Public Labor Prosecutor's Office (MPT) for appropriate legal measures;

III – Formalization of the term of conduct adjustment, initiation of administrative proceedings and/or filing of a public civil action;

IV – Referral of reports to the State Public Prosecutor's Office/Office of the Prosecutor for Childhood and Youth for appropriate legal measures;

V – Nullity of the apprenticeship contract, with consequent characterization of an employment relationship with that employer, in the form of a contract for an unspecified period of time, including where the contract was made through an NPO (article 15 of Decree 5,598/05);

VI – Referral of reports to the State or Federal Public Prosecutor's Office for appropriate legal measures, if evidence of criminal infraction is found.

20) Who is responsible for monitoring the apprentice in carrying out practical activities in the establishment?

The company must formally designate a monitor, after consultation the entity qualified to provide methodical technical and vocational training. The designated professional will be responsible for coordinating practical exercises and monitoring the apprentice's activities in the establishment, always seeking to guarantee a training process that can actually contribute to his/her full development and compliance with the contents of the course in which the apprentice is enrolled, according to the apprenticeship program (article 23, paragraph 1 of Decree 5,598/05).

In turn, the training entity will monitor the apprentices' practical activities in the companies through a professional designated by it.

21) Are companies that have hazardous, unhealthy or strenuous environments and/or tasks under the obligation to hire apprentices?

Yes, these companies must fill the quota by hiring young people between the ages of 18 and 24 (article 11, sole paragraph of Decree 5,598/05) or persons with disabilities from the age of 18, who must be ensured payment of the corresponding allowance for special work conditions relative to the hours of practical activities. Exceptionally, apprentices between the ages of 14 and 18 may be hired to work in these environments, conditional on the nonexistence of one of the cases specified in article 11 of Decree 5,598/05 (see question 4) and provided that the following measures are taken:

1. Obtain a detailed technical opinion signed by a professional legally qualified in occupational safety and health, attesting to the absence of risk that could compromise the health and safety of the adolescent, to be deposited with the Regional Labor and Employment Office of the district where the activities are carried out (Decree No. 6,481/08, article 2, §1, II); and/or
2. Choose to have the adolescents' activities carried out in the premises of the entity in charge of the technical and vocational training, in a protected environment (article 23 of Decree 5,598/05).

22) What is the National Apprenticeship Register?

The National Apprenticeship Register is a national database with information about technical and vocational training entities and the apprenticeship courses offered by them, provided for in article 32 of Decree 5,598/05 and article 3 of Administrative Rule No. 723/2012 available on the MTE website (www.mte.gov.br) by the YouthWeb System.

The entities whose objective is to provide assistance to adolescents and promote vocational education must be included in this register, together with the courses they offer for the purpose of analysis and validation by the Secretariat for Public Employment Policies (SPPE), in the manner provided in Administrative Rule MTE No. 723/2012.

Access to the register is free of charge, via the Internet, and the company should verify that the course in which the apprentice will be enrolled is properly validated.

23) Which institutions are qualified to offer apprenticeship courses and where can they be found?

The institutions qualified to offer apprenticeship courses, which should have adequate structure for the development of apprenticeship programs in order to maintain the quality of the teaching process and monitor and evaluate the results (articles 429 and 430 of the CLT) are:

a) The National Apprenticeship Services:

1. National Industrial Apprenticeship Service (SENAI);
2. National Commercial Apprenticeship Service (SENAC);
3. National Rural Apprenticeship Service (SENAR);
4. National Transportation Apprenticeship Service (SENAT);
5. National Service for Cooperative Apprenticeship (SESCOOP).

b) Where the National Apprenticeship Services do not offer sufficient courses or places to meet the establishments' demand, this may be met by the following entities qualified to provide methodical technical and vocational training. The labor inspection office will be responsible for overseeing the lack of courses or places (article 13, sole paragraph of Decree 5,598/05):

1. Technical Education Schools, including agro-technical schools;
2. Non-profit Organizations whose objective is to provide assistance to adolescents and promote vocational education, which are registered with the Municipal Council for the Rights of Children and Adolescents (CMDCA).

The institutions and courses offered by them and validated by the MTE can be found in the National Apprenticeship Register (see question 21).

24) Can NPOs that are not registered with the CMDCA also offer apprenticeship courses?

As established in article 91 of ECA and article 2 of CONANDA Resolution No. 74/01 (see Administrative Rule No. 723), non-profit organizations providing assistance to adolescents and vocational education can only operate after registration with the CMDCA.

Thus, non-registration with the CMDCA precludes the NPO from offering apprenticeship courses for adolescents between 14 and 18 years old.

25) What are the basic prerequisites for NPOs to register with the CMDCA?

In addition to specific requirements that may be required by the CMDCA, NPOs must meet the basic prerequisites set forth in article 91, sole paragraph of ECA:

- I – Provide physical facilities in adequate occupancy, hygiene, health and safety conditions;
- II – Present a work plan compatible with ECA principles;
- III – Be regularly incorporated for the purpose of providing apprenticeship training;
- IV – Have in their staff reputable persons, with recognized professional ability to deal with subjects related to vocational apprenticeship;

V – The registration will be valid for a maximum of 4 (four) years (Law No. 8.069/90, article, 91 §§1 and 2).

26) Where should the apprenticeship programs of NPOs be registered?

With regard to apprenticeship courses for adolescents between 14 and 18 years old, the programs must be registered with the CMDCA where the entity has been registered (article 2 of CONANDA Resolution No. 74/01) and also delivered at the MTE units, together with the term of commitment and the receipt of inclusion in the National Apprenticeship Register.

Courses for the age group of 18 to 24 years (the limit of 24 years does not apply to apprentices with disabilities) should be included in the National Apprenticeship Registry and have their programs delivered only at the MTE units.

27) Will the apprentice be entitled to any proof of completion of the apprenticeship course?

Yes, a certificate of professional qualification will be awarded to the apprentice who has successfully completed the apprenticeship course (Article 430, § 2, CLT).

28) Is it possible, at any time, to enroll an apprentice in an apprenticeship course in progress?

The apprenticeship course should be designed with contents and activities of progressive complexity according to pre-established content itineraries, with beginning and end dates, and provide for the prohibition to enroll apprentices at any time without prejudice to the programmatic content.

However, if the course is organized in modules that are independent of each other, enrolment will be permitted at the beginning of each module, provided that this possibility is foreseen in the course program. Certification, in this case, should be by module. It is important to point out that apprenticeship contracts will always be signed for the duration of the courses and not of the modules.

29) Can the theoretical training of apprenticeship take place before formalization of the apprenticeship contract by the company?

No, because the vocational apprenticeship program is composed of theory and practice, which must be taught concomitantly under the apprenticeship contract. In addition, as provided in article 428 of the CLT, the employer must ensure the methodical technical and vocational training of the apprentice. Therefore, courses attended prior to the apprenticeship contract cannot be accounted for in the theoretical part of the program.

Likewise, the opposite is not possible either, i.e., the practical part of the program cannot be started before the beginning of the apprenticeship course.

The training entity and the employer are free to agree to provide an introductory course (twenty hours, for example) before the apprentice starts the practical activities in the contracting company, provided that the contract has been duly signed.

30) How can apprentices be hired?

Apprentices must be hired directly by the company where the apprenticeship will take place. In the event that the National Apprenticeship Services or the Technical Education Schools do not offer sufficient courses or places to meet the establishments' demand, apprentices may be hired by the NPO offering the apprenticeship course (articles 430 and 431 of the CLT).

31) Who is responsible for the apprentice's enrollment in the apprenticeship course?

Enrolment is always the responsibility of the employer (article 429 of the CLT).

32) How to formalize the hiring of apprentices?

The hiring of apprentices must be formalized through a written employment contract and duly recorded in the Employment Record Book and in the employees registration form/book or in the electronic employee registration system. The word "apprentice" must be entered in the position field, followed by the position specified in the apprenticeship program with the corresponding position in the Brazilian Classification of Occupations (CBO). In general notes, the special nature of the contract must be specified, stating that it is an apprenticeship contract and indicating the date of commencement and termination of the apprenticeship contract (article 29 of the CLT).

33) What is occupational group and how should the contract be formalized, in case it is used?

Occupational Group "is understood as a set of related occupations with a common technical base, which can cover the areas of production, circulation of goods and provision of services, guaranteeing a broader training process and increasing the worker's chances of occupational inclusion (wage labor, self-employment and solidarity economy)". The institution must teach in the classroom all contents corresponding to the proposed Group.

It is important for the employer choosing the occupational group to, whenever possible, allow the apprentice to perform all the occupations that make up the proposed group on a rotating basis.

In the formalization of the contract, the apprentice can be registered in any of the positions that integrate the occupational group, and the information that the contract will be developed in the occupational group modality must be indicated in the apprenticeship contract and in the Employment Record Book (general notes), with specification of the group, its positions and respective codes in the Brazilian Classification of Occupations (CBO).

If any of the positions in the group presents a more favorable condition for the apprentice as established in a collective bargaining covenant or agreement, this should be the position to be indicated.

Both the training entities and companies should also observe the restrictions on the engagement of minors under the age of 18 in activities described in the List of Worst Forms of Child Labor (TIP LIST). If any of the activities are forbidden for apprentices under the age of 18, the course cannot be taught using an occupational group, except in the cases provided for in article 2, § 1, items I and II of Decree No. 6,481/08 (see question 20).

34) What needs to be necessarily included in the apprenticeship contract?

The following basic information must be included in the apprenticeship contract:

- Qualification of the contracting company;
- Qualification of the apprentice;
- Identification of the entity delivering the course;
- Designation of the position and course in which the apprentice is enrolled (see question No. 33 on occupational group);
- Salary or monthly wage (or hourly wage);
- Daily and weekly workload, with indication of days and hours allocated to theoretical and practical activities (article 12, SIT No. 97 of 07/30/12);
- Initial and final term of the apprenticeship contract, which must coincide with the beginning and end of the apprenticeship course provided for in the respective program;

- General responsibilities of employers and apprentices;
- Signature of the apprentice and of the person legally responsible for the company (article 428 of the CLT). Apprentices in age group 14 - 16 years are considered legally incapable of personally performing all acts of civil life, pursuant to article 3 of the Civil Code (Law No. 10,406, of January 10, 2002),

35) Can the adolescent apprentice between 14 and 18 years of age carry out activities related to the apprenticeship for more than one employer?

Yes, provided that the apprenticeship programs have different contents and that the hours of practical and theoretical activity of each program are added together (article 414 of the CLT and article 21, heading of Decree 5,598/05), for the purpose of compliance with the daily maximum working hours (article 432 of the CLT) and with the rights guaranteed by ECA, mainly as regards ensuring regular school attendance and observing the particular condition as a person in development (article 21, paragraph 1 of Decree No. 5,598/05, and Law 8,069/90, article 67, item IV, and article 69, item I of ECA).

36) Can the employer formalize a new apprenticeship contract with the same apprentice after the end of the previous one, including when the term of the first contract is less than two years?

No, because the primary purpose of the apprenticeship contract would be frustrated by maintaining the apprentice in the company after termination of the previous contract, by means of a new contract of the same nature, although of different content, instead of enabling the apprentice to enter the labor market. In addition, article 452 of the CLT considers any contract that succeeds another fixed-term contract within a six-month period to be of an indefinite term, except where the expiration date of the latter depended on the delivery of services or the occurrence of certain events.

37) Can the apprenticeship contract be extended?

No, because the apprenticeship contract, although belonging to the group of fixed-term contracts, is of a special nature. The term of the contract is linked to the duration of the apprenticeship course, whose content is organized following a model of progressive complexity, according to a program previously prepared by the training entity and validated in the National Apprenticeship Register, which is incompatible with the extension.

38) Can a young person who has signed an employment contract be hired as an apprentice?

Not in the same company, no.

39) What should be the apprentice's salary?

The law guarantees the apprentice the right to the minimum wage-hour's pay, according, if applicable, to the state floor. However, the apprenticeship contract, the covenant or the collective agreement of the sector may ensure the apprentice a higher salary than the minimum (article 428, § 2 of the CLT and article 17, sole paragraph of Decree No. 5.598/05). In addition to the hours allocated to practical activities, the hours allocated to theoretical activities, weekly paid rest and holidays should also be included in the salary.

40) How is the apprentice's salary calculated?

In calculating the apprentice's salary, the total number of hours worked should be considered, added to the hours of the corresponding theoretical activities, as well as weekly paid rest and holidays not included in the unit value of the hourly wage, based on the following formula:

Monthly Wage = Hourly wage x weekly hours worked x weeks in the month x 7

Note: The number of weeks varies according to the number of days in the month

Number of days in the month	Number of weeks in the month
31	4.4285
30	4.2857
29	4.1428
28	4

41) What deductions can be made from the apprentice's salary?

Apprentices are subjected to the rule of article 462 of the CLT, that is, no deduction can be made from the salary, except when related to advances, legal provisions or collective agreement or covenant applicable to them.

42) What is the apprentice's FGTS rate?

The FGTS rate is 2 percent and must be collected under Code No. 7 of the Federal Savings Bank (article 24, sole paragraph of Decree No. 5,598/05).

43) Should the union contribution relating to apprentices provided for in article 579 of the CLT be paid?

The apprentices also belong to the category in which they are being trained but are only entitled to the rights of the respective collective agreement where these are expressly provided for. Thus, the company must pay the union contribution relating to all apprentices, as the so-called "union tax" is due by all employees in the category.

44) Can absences from the theoretical apprenticeship course be deducted from the apprentice's pay?

Yes, because the hours allocated to theoretical activities are also part of the apprentice's working day, and absences that are not legally justified (article 131 of the CLT) or authorized by the employer may be deducted from the apprentice's pay, including with impacts on weekly paid rest and any holidays in the week.

45) What is the permitted work load for apprentices?

The legally permitted work load is:

- 6 hours per day, maximum, for those who have not yet completed fundamental education, taking into account the hours allocated to theoretical and practical activities, the proportion of which must be provided for in the contract (article 432, heading, of the CLT);
- 8 hours per day, maximum, for those who have completed fundamental education, taking into account the hours allocated to theoretical and practical activities (article 432, § 1 of the CLT), the proportion of which must be provided for in the contract. Therefore, it is not possible to have an 8-hour working day with practical activities alone (article 12 of IN - SIT No. 97 of July 30, 2012);

In order to determine the work load of the adolescent apprentice between the ages of 14 and 18, the entity qualified to provide methodical vocational training must also observe all other rights guaranteed by ECA (article 21, § 1 of Decree 5,598/05).

46) Are apprentices allowed to work on Sundays and holidays?

Yes, as long as the company is authorized to work on these days and the apprentice is guaranteed rest, which must cover practical and theoretical activities on another day of the week. It should be pointed out that article 432 of the CLT prohibits the extension and compensation of working hours in the case of apprentices.

47) Are apprentices under 18 years of age allowed to work at night?

No, since the legislation prohibits minors under the age of 18 from working at night, i.e., work performed in the period between the hours of 10 pm of one day and 5 am of the following day (article 404 of the CLT), for urban work . On the other hand, rural work is night work performed between the hours of 9 pm of one day a day and 5 am of the following day, in agriculture, and between the hours of 8 pm of one day and 4 am of the following day, in cattle breeding (article 7 of Law No. 5.889 of June 8, 1973).

As for apprentices over the age of 18, there is no legal prohibition on night work, and they are ensured the respective additional pay.

48) Are apprentices entitled to the transportation voucher?

Yes, the transportation voucher is guaranteed for home-work commuting and vice versa or home-training institution and vice versa (article 27 of Decree No. 5,598/05). If, on the same day, the apprentice needs to commute to both the company and the training institution, enough transportation vouchers must be provided to cover the entire trip.

49) Are apprentices ensured the same advantages and/or benefits granted to other employees of the company provided for in collective agreements or covenants?

Only when expressly provided for in collective agreements or covenants (article 26 of Decree 5,598/05). Another possibility is the granting of benefits and advantages at the employer's discretion.

50) Are apprentices entitled to unemployment insurance?

Apprentices are ensured labor and social security rights (article 65 of ECA). Thus, in case of early termination of the contract due to cessation of the company's activities, death of the employer who is the sole owner of a business incorporated as an individual company and bankruptcy of the company, apprentices will be entitled to unemployment insurance, provided that the following legal requirements are also met:

I – Have received salaries from a legal entity or from an individual entrepreneur for each of the six (6) months immediately preceding the date of dismissal;

II – Have been an employee of a legal entity or of an individual entrepreneur or have engaged in activities legally recognized as autonomous for at least fifteen (15) months in the last twenty-four (24) months;

III – Not be receiving any continuous cash benefit provided for in the Regulation of Social Security Benefits, except for accident pay and supplementary assistance pay provided for in Law 6,367 of October 19, 1976, as well as the bonus for continuous activity provided for in Law No. 5,890 of June 8, 1973;

IV – Not be receiving unemployment insurance; and

V – Not have own income of any nature that is sufficient for maintaining themselves and their families.

51) Are apprentices allowed to work full time in the company during their time away from theoretical activities?

Yes, provided that this situation is expressly provided for in the apprenticeship program and that the work load is strictly respected and does not exceed the working hours set forth in article 432, heading, and § 1 of the CLT, which is 6 or 8 hours, as the case may be (see question 44).

52) Should the vacation period of apprentices under the age of 18 be scheduled to always coincide with school vacations?

Yes (article 136, § 2 of the CLT).

53) Does article 130 of the CLT apply to apprentices?

Yes. After each 12-month period of enforcement of the contract the apprentice is entitled to vacations in accordance with the provisions of article 130 of the CLT. The provisions of article 130a, which provides for vacations for part-time employees do not apply to apprentices.

54) What should be done in case of collective vacations?

Including in this case apprentices under the age of 18 do not lose the right to have their work vacations coincide with regular school vacations, and should enjoy the collective vacations as paid leave.

55) Should termination of the apprenticeship contract be assisted (homologated)?

Yes, provided that the contracts last longer than one year (article 477, §1º of the CLT). In the case of minors under 18, when receiving the severance pay apprentices must be assisted by their legal representative (article 439 of the CLT). If legally emancipated under the terms of the Civil Code, apprentices may give discharge themselves for the amounts paid.

56) Who provides assistance to apprentices as regards termination of contracts?

Assistance (homologation) can be provided by trade unions or MTE units. In their absence or impediment, the Public Prosecutor, the Public Defender or the Justice of the Peace are subsidiarily competent to do so (Article 5, items I and II, and § 2 of SRT Normative Instruction No. 03 of June 21, 2002) .

57) What are the causes for terminating the apprenticeship contract?

The following are causes for termination of an apprenticeship contract:

I – Expiration of the contract;

II – When the apprentice reaches the age limit of 24 years, except in cases of apprentices with disabilities;

III – Or early termination in the following cases:

A) Apprentice's poor performance or failure to adapt;

B) Serious disciplinary offense (article 482 of the CLT);

C) Unjustified absence from school that leads to grade retention;

D) At the request of the apprentice.

58) Who can attest to the apprentice's poor performance or failure to adapt?

The apprentice's poor performance or failure to adapt as regards the activities of the apprenticeship program will be characterized in an evaluation report prepared by the apprenticeship institution (article 29, I, Decree No. 5,598/05).

59) In addition to those provided in article 433 of the CLT, are there any other causes for early termination of the apprenticeship contract?

Yes, the apprentice's employment contract may be terminated early due to cessation of the company's activities, death of the employer who is the sole owner of a business incorporated as an individual company and bankruptcy, in which cases the apprentice will be entitled, in addition to the severance pay due, to the compensation specified in article 479 of the CLT.

60) What rights and severance pay is the apprentice entitled to at the end of the contract?

SEVERANCE PAY											
Cause for Termination		Salary Balance	Prior Notice	Christmas Bonus		Vacation Pay +1/3		FGTS		Redundancy Payment - Art. 479CLT	Redundancy Payment - Art. 480CLT
				Full	Proportional	Full	Proportional	Withdrawal	Fine		
Termination on expiry date	End of contract	YES	NÃO	YES	YES	YES	YES	YES	NO	NO	NO
Early termination	Coming of age	YES	NO	YES	YES	YES	YES	YES	NO	NO	NO
	Apprentice's poor performance or failure to adapt	YES	NO	YES	YES	YES	YES	NO	NO	NO	NO
	Serious disciplinary offense (Art. 482 CLT)	YES	NO	YES	NO	YES	NO	NO	NO	NO	NO
	Unjustified absence from school that leads to grade retention	YES	NO	YES	YES	YES	YES	NO	NO	NO	NO
	At the request of the apprentice	YES	NO	YES	YES	YES	YES	NO	NO	NO	NO
	Dissolution of the company (bankruptcy, end of activities or death of employer)	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO

61) What is the legal deadline for terminating the contract?

The employer must make the severance pay to which the apprentice is entitled until the first working day immediately after the end of the contract or until the tenth day from the date of notification of dismissal, in the absence of notice of termination, compensation in lieu of notice of termination or waiver of notice of termination (article 11, items I and II of NI No. 03/02 SRT/MTE).

62) What are the implications of the apprentice remaining in the company after the end of the contract?

The contract becomes effective as a contract for an indefinite term, with all rights arising therefrom. In this case, the formalization of a TRCT - Term of Adjustment of Employment Contract is prohibited, and amendments to the contract alone shall suffice (TN No. 70/2012).

63) By hiring an apprentice with disabilities, is the company meeting both quotas?

No, because there are two legal requirements aimed at protecting different, non-overlapping rights: the right to vocational apprenticeship in relation to apprentices and the right to an indefinite employment relationship for persons with disabilities.

64) Should the positions filled by hired apprentices be included in the calculation of the quota of persons with disabilities?

No, because the apprenticeship contract is of a special nature, with a fixed term, whose objective is the vocational training of the adolescent or young person, which is why it should not be included in the calculation of the quota of persons with disabilities.

65) Do the possibilities of temporary tenure related to occupational accidents and pregnancy apply to apprenticeship contract?

The possibilities of temporary tenure related to occupational accidents and pregnancy do not apply to apprenticeship contracts, since these are fixed-term contracts. However, it is the employer's responsibility to pay the apprentice's FGTS during the leave of absence (article 28 of Decree 99,684 of November 8, 1990), considering this period for the purpose of entitlement to annual vacation, provided that it does not exceed six months (article 133, IV of the CLT).

66) What happens to the contract of the apprentice called for mandatory military service?

The apprentice's leave of absence due to mandatory military service is not a cause for termination of the contract, and the parties may agree whether the respective leave of absence period will be included in the time remaining for termination of the apprenticeship contract (article 472, heading, and § 2 of the CLT), and the company is responsible for paying the FGTS during the leave of absence (article 15, § 5 of Law 8,036/90).

Where the leave of absence period ends before termination of the contract and the apprentice is unable to complete the training provided for in the apprenticeship program, the contract should be terminated without just cause and the apprentice may be awarded a certificate of participation or, if applicable, a certificate of completion of the course block of module attended.

If the contract ends during the leave of absence and the possibility provided for in article 472, § 2 of the CLT has not been chosen, the contract shall be normally terminated on the date previously set for that purpose.

67) What happens to the apprenticeship contract in cases of maternity leave, absence due to occupational accidents or sick pay?

These leaves of absence are not, in themselves, grounds for termination of the contract and produce the same effects as fixed-term contracts.

In addition, during maternity leaves and absences due to occupational accidents, the apprentice's FGTS must be paid.

During the leave of absence, the apprentice will not be able to attend the theoretical training sessions, since this training is also part of the apprenticeship contract, and the theoretical hours actually worked will be considered.

Where the leave of absence ends before termination of the contract and the apprentice is unable to complete the training provided for in the apprenticeship program, the contract should be terminated without just cause and the apprentice may be awarded a certificate of participation or, if applicable, a certificate of completion of the course block of module attended.

If the contract ends during the leave of absence and the possibility provided for in article 472, § 2 of the CLT has not been chosen, the contract shall be normally terminated on the date previously set for that purpose.

68) Does the waiver or termination of the apprenticeship contract need to be informed in the General Register of Employed and Unemployed Persons (CAGED)?

Yes, as an employee hired under the CLT regime, any movement regarding the apprentice must be informed through CAGED (article 1, §1 of Law 4,923 of December 23, 1965). It is important to use the same position indicated in the contract in the apprenticeship program, which is the one entered in the Employment Record Book and the statement of enrolment, with due observance of the CBO. If it is not possible to find in the CBO the same position as that described in the above mentioned documents, the nomenclature of the most similar position should be used.

69) Should the apprentice be included in the Annual List of Social Information (RAIS)?

Yes, and code No. 55 should be informed in the field related to employment relationship, as per the instructions contained in the RAIS Information available at the email address of the MTE (article 3, X, of MTE Administrative Rule No. 500 of 22 Of December 2005).

70) Is it possible to have distance apprenticeship courses?

Yes, article 14 of MTE Administrative Rule No. 723 of April 23, 2012 (amended by Administrative Rule 1005 of July 1, 2013), allows for distance education "*in places where the number of apprentices does not*

justify the creation of a physical class or where e its immediate implementation is unfeasible due to lack of an educational structure suitable for apprenticeship." The courses must be in line with the references described in Annex II of the aforementioned Administrative Rule.

Annexes

Consolidation of Labor Laws (*Consolidação das Leis do Trabalho – CLT*)

CHAPTER IV

PROTECTION OF THE MINOR'S WORK

Section I

General Provisions

Art. 402. For the purposes of this Law, workers 14 to 18 years of age shall be considered minors.

Sole paragraph. The work of minors shall be governed by the provisions of this Chapter, except as regards work in family-run workshops where the minor is under the guidance of the father, mother or guardian, subject, however, to the provisions of articles 404, 405 and Section II.

Art. 403. Minors under the age of 16 shall be prohibited from performing any type of work, except as apprentices and only then at a minimum age of 14 years.

Sole paragraph. Minors shall not work in places that are detrimental to their education and to their physical, psychological, moral and social development and at times and locations that prevent them from attending at school.

a) Revoked;

b) Revoked.

Art. 404. Minors under 18 years are prohibited from engaging in night work, which is understood as work performed in the period between the hours of 10 pm and 5 am.

Art. 405. Minors shall not be allowed to work:

I – In dangerous or unhealthy places or occupations specified in a table approved for this purpose by the Secretariat of Occupational Health and Safety;

II – In places or occupations that may be harmful to their morality.

§ 1 (Revoked by Law No. 10097 of 12.19.2000)

§ 2 - The work carried out in streets, squares and other places shall be subject to prior authorization of the Childhood and Youth Court, which shall verify whether the occupation is indispensable to the minors' livelihood or that of their parents, grandparents or siblings and whether this occupation may be harmful to their moral development.

§ 3- Occupations deemed harmful to the minor's morality are those:

a) Carried out in any way in vaudeville theaters, movie theaters, nightclubs, casinos, cabarets, discos and the like;

b) Carried out in circus companies as acrobats, jugglers, gymnasts and the like;

c) Involving the production, drafting, delivery or sale of writings, printed matter, posters, drawings, engravings, paintings, emblems, images and any other objects which may, at the discretion of the competent authority, be harmful to their moral development;

d) Involving the retail sale of alcoholic beverages.

§ 4 - In places where there are institutions officially recognized for the protection of child workers, only those who are under the patronage of these entities will be granted the authorization referred to in § 2.

§ 5 - The provisions of article 390 and its sole paragraph shall apply to minors.

Art. 406 - The Judge of Childhood and Youth may authorize the minor to perform the work referred to in letters "a" and "b", § 3 of article 405:

I – Provided that the performance has an educational purpose or the play in which they are participating is not harmful to their moral development;

II – Provided that it is established that the minor's work is indispensable for their own livelihood or that of their parents, grandparents or siblings and is not harmful to their moral development.

Art. 407 - Once the competent authority has verified that the work performed by the minor is detrimental to his or her health, physical development or morality, the said authority may order the minor to leave the job, and the company, where appropriate, shall provide the minor with all that is required for changing positions.

Sole paragraph. When the company does not take the appropriate measures recommended by the competent authority for transferring the minor to a different position, the contract shall be terminated as provided for in article 483.

Art. 408. The minor's legal guardian is entitled to request the termination of the employment contract, provided that the job may entail physical or moral damages to the minor.

Art. 409. For the sake of safety at work and to guarantee the minors' health, the inspection authority may prohibit the enjoyment of rest periods in the workplace.

Art. 410. The Minister of Labor may waive any prohibition arising from the table referred to in item I of article 405 when it is ascertained that the dangerous or unhealthy nature that led to the prohibition has disappeared, in whole or in part.

Section II

Duration of the Work

Art. 411. The duration of the minor's work shall be governed by the legal provisions relating to the duration of work in general, subject to the restrictions set out in this Chapter.

Art. 412. After each period of actual work, whether continuous or split in 2 (two) shifts, there shall be a rest period of not less than 11 (eleven) hours.

Art. 413. Extension of the minor's regular daily working hours is hereby prohibited except:

I – Up to two (2) additional hours, regardless of salary increase, by collective agreement or covenant under Title VI of this Consolidation of Labor Laws, provided that the additional hours worked in one day are offset by the reduction of working hours in another day, so as to comply with the maximum limit of 48 (forty-eight) hours per week or another legally established lower limit;

Note: Maximum limit of the workday: 44 hours per week (Federal Constitution, article 7, XIII).

II – Exceptionally, for reasons of force majeure, up to a maximum of twelve (12) hours, with a salary increase of at least 25 percent (twenty-five percent) over regular hours and provided that the minor's work is essential to the operation of the establishment.

Note: The payment rate for overtime must be at least 50 percent higher than that of regular hours (Federal Constitution, article 7, XVI).

Sole paragraph. The provisions of article 384 of this Consolidation of Labor Laws shall apply to the extension of the minor's workday.

Art. 414. When minors under 18 (eighteen) years are employed in more than one establishment, the working hours in each establishment shall be added together.

Section III

Admission to Employment and Employment Record Book

Art. 415 to 423 - Revoked.

Section IV

Duties of Minors' Legal Guardians and of Apprenticeship Employers

Art. 424. It is the duty of the minors' legal guardians, fathers, mothers, or care givers to prevent them from engaging in work that considerably reduces their study time and the rest time necessary for their health and physical development or impair their moral education.

Art. 425. The employers of minors under the age of 18 are under the obligation to ensure that their establishments or businesses comply with good moral values and public decency, as well as with the rules of occupational safety and health.

Art. 426. It is the duty of the employer, in the case of article 407, to provide the minor with all that is required for changing positions.

Art. 427. The employer whose business or establishment employs minors shall allow them the necessary time for attending classes.

Sole paragraph. Establishments located more than 2 kilometers away from the school and that employ, on a permanent basis, more than 30 illiterate minors in age group 14 - 18 years shall have an adequate venue for these minors to receive primary education.

Art. 428. Apprenticeship contract is the special work agreement established in writing and for a fixed term not exceeding two years, in which the employer undertakes to provide the apprentice enrolled in an apprenticeship program with methodical technical and vocational training compatible with his/her physical, moral and psychological development. In turn, the apprentice undertakes to act with care and diligence in carrying out the tasks necessary for this training.

§ 1 - For the apprenticeship contract to be valid and enforceable the employer must enter in the apprentice's Employment Record Book all information on school enrolment and attendance in case he/she has not completed Fundamental Education. In addition, the apprentice must be enrolled in an apprenticeship program developed under the guidance of an entity qualified to provide methodical technical and vocational training.

§ 2 - Minor apprentices shall be ensured the minimum hourly wage, except in cases of more favorable conditions.

§ 3 - The term of the apprenticeship contract shall not exceed two years, except in the case of apprentices with disabilities.

§ 4 - The technical and vocational training referred to in the heading of this article is characterized by theoretical and practical activities, which are methodically organized in tasks of progressive complexity developed in the work environment.

§ 5 - The maximum age provided for in the heading of this article does not apply to apprentices with disabilities.

§ 6 – For the purposes of the apprenticeship contract, proof of the educational level of mentally disabled apprentices must consider, first and foremost, the skills and competences related to the vocational training.

§ 7 – In places where there is no offer of Secondary Education for the purpose of compliance with the provisions of § 1 of this article, apprentices may be hired without the obligation of attending school, provided that they have already completed Fundamental Education.

Art. 429. Establishments of any nature have the obligation to employ and enroll in the courses of the National Apprenticeship Services, a number of apprentices equivalent to a minimum of five percent and a maximum of fifteen percent of the workers in each establishment, whose duties require professional training.

a) Revoked (Wording provided by Law 10,097 of December 19, 2000);

b) Revoked (Wording provided by Law 10,097 of December 19, 2000).

§ 1 – A. The limit set forth in this article shall not apply where the employer is a non-profit organization whose objective is vocational education.

§ 1 – When calculating the percentage referred to in the heading, unit fractions shall allow for the admission of one apprentice.

Art. 430. In the event that the National Apprenticeship Services fail to offer sufficient courses or places to meet the establishments' demand, this demand may be met by other entities qualified to provide methodical technical and vocational training, namely:

I – Technical Education Schools;

II – Non-profit organizations whose objective is to assist adolescents and promote vocational education, which are registered with the Municipal Council for the Rights of Children and Adolescents.

§ 1 – The entities mentioned in this article shall have the structure required for developing the apprenticeship programs, in order to maintain the quality of the teaching process and monitor and evaluate results.

§ 2- Apprentices who successfully complete the apprenticeship courses shall be awarded a professional training certificate.

§ 3 – The Ministry of Labor and Employment shall establish rules to evaluate the competence of the entities mentioned in item II of this article.

Art. 431. The apprentice may be hired directly by the company where the apprenticeship will take place or by the entities mentioned in item II of article 430, in which case there shall be no employment relationship with the company in which the work will be performed.

Art. 432. The number of hours worked by the apprentice shall not exceed six hours per day, and the extension and offsetting of working hours is hereby prohibited.

§ 1. The limit provided for in this article may be increased to eight hours a day for apprentices who have already completed fundamental education, where these hours include the times allocated to theoretical apprenticeship.

§ 2. Revoked.

Art. 433. The apprenticeship contract shall be terminated on its expiry date or when the apprentice turns 24, except for the case provided in § 5, article 428 of this Consolidation of Labor Laws, or subject to early termination in the following cases:

a) Revoked;

b) Revoked.

- I – Apprentice’s poor performance or failure to adapt;
- II – Serious disciplinary offense;
- III – Unjustified absence from school that leads to grade retention; or
- IV – At the request of the apprentice.

Sole paragraph (Revoked).

§ 2 – The provisions of articles 479 and 480 of this Law shall not apply to the causes for contract termination mentioned in this article.

Section V

Penalties

Art. 434. Violators of the provisions of this Chapter shall be subject to a fine of one regional minimum wage, to be applied as many times as the number of minors employed in disagreement with the law. However, the sum of fines may not exceed five times the minimum wage, except in the event of a repeat offense, in which case this total may be doubled.

Art. 435. The company that enters in the Employment Record Book information not provided for by law shall be subject to a fine of one (1) regional minimum wage and to the payment for the issuance of a new Employment Record Book.

Art. 436. Revoked.

Art. 437. Revoked.

Art. 438. The Regional Labor Delegates or the officials designated by them for this purpose shall be competent to impose the penalties provided for in this Chapter.

Sole paragraph. The process regarding verification of violations and the application and collection of fines shall be the one provided in the title "Process of Administrative Fines", pursuant to the provisions of this article.

Section VI

Final Provisions

Art. 439. It is lawful for minors to sign a receipt for the payment of wages. However, in the case of termination of the employment contract, minors under 18 (eighteen) years are prohibited from signing any receipts relating to severance pay due to them, without the assistance of their legal guardians.

Art. 440. There is no statute of limitations against minors under the age of eighteen (18).

Art. 441. The table referred to in item I of art. 405 shall be reviewed every two years.

Statute of the Child and Adolescent – ECA
(Law No. 8069 of July 13, 1990)

CHAPTER V

THE RIGHT TO VOCATIONAL TRAINING AND PROTECTION AT WORK

Art. 60. Work is prohibited for minors under fourteen years of age, except as apprentices.

Art. 61. Without prejudice to the provision in this Law, protection to the work of adolescents is regulated by special legislation.

Art. 62. Apprenticeship is considered to be the technical and vocational training delivered according to the guidelines and bases of the educational legislation in effect.

Art. 63. Technical and vocational training shall abide by the following principles:

- I – guarantee of access and mandatory attendance to regular education;
- II – activity compatible with the development of the adolescent;
- III – special schedule for carrying out the activities;

Art. 64. Apprentice scholarships are ensured to adolescents up to fourteen years of age.

Art. 65. Labor and social security rights are ensured to the adolescent-apprentice fourteen years and older;

Art. 66. Adolescents with disabilities are ensured protected work.

Art. 67. The following types of work are prohibited for employed adolescents, apprentices, those working in a family labor system, students of technical schools, those assisted by governmental and nongovernmental entities:

- I – night work, between the hours of 10 pm of one day and 05 am of the following day;
- II – dangerous, unhealthy or strenuous work;
- III – work in locations harmful to their education and physical, psychic, moral and social development;
- IV – work at times and places that prevent them from attending school.

Art. 68. The social program based on educational work that is under the responsibility of a governmental entity or non-profit non-governmental entity should ensure the participating adolescent the training required for carrying out regular paid activities.

§ 1. Educational work is understood as the labor activity in which the pedagogical demands related to the personal and social development of the student prevail over the productive aspect.

§ 2. The pay received by the adolescent for the work performed or the share in the sale of the products of their work does not mar the educational character.

Art. 69. The adolescent has the right to vocational training and protection at work, with due observance of the following aspects, among others:

- I – respect for the specific condition as a person in development;
- II – vocational training suitable for the labor market.

CHAPTER II
ASSISTANCE ENTITIES

Section I
General Provisions

Art. 90. The assistance entities are responsible for maintaining their own units, as well as for planning and implementing protection and socio-educational programs intended for children and adolescents, in the following systems:

- I – Social and family guidance and support;
- II – Socio-educational support in an open environment;
- III - Family placement;
- IV - Shelter;
- V - Assisted freedom;
- VI – Semi-liberty;
- VII - Internment.

Sole paragraph. Governmental and non-governmental entities should register their programs, specifying the assistance system adopted as defined in this article, with the Municipal Council for the Rights of Children and Adolescents, which will maintain a record of such registration and changes thereto, of which it will notify the Guardianship Council and the judicial authority.

Art. 91. Non-governmental entities may only operate after registered with the Municipal Council for the Rights of Children and Adolescents, which will notify the Guardianship Council and the local judicial of the registration.

Sole paragraph. Registration will be denied to the entity that:

- a) Fails to provide physical facilities in adequate conditions of habitability, hygiene, health and safety;
- b) Fails to submit a work plan compatible with the principles of this Law;
- c) Is irregularly incorporated;
- d) Has persons of ill repute on its staff.

Section II
Inspection of the Entities

Art. 95. The government and nongovernment entities referred to in article 90 will be inspected by the Judiciary, the Public Prosecutor's Office and Guardianship Councils.

Art. 96. The investment plans and rendering of accounts shall be submitted to the state or the municipality, depending on the origin of the budgetary allocations.

Art. 97. The following measures apply to the assistance entities that fail to fulfill the duty stated in article 94, without prejudice to the civil and criminal liability of their directors or representatives:

- I – Governmental entities:
 - a) Admonition;

- b) Temporary removal of their directors;
- c) Definitive removal of their directors;
- d) Closing of units or suspension of the program.

II – Nongovernmental entities:

- a) Admonition;
- b) Total or partial suspension of transfers of public funds;
- c) Interdiction of units or suspension of the program;
- d) Cancellation of registration.

Sole paragraph. In case of repeated infraction committed by the assistance entity in such a way as to jeopardize the rights ensured in this Law, the Public Prosecutor's Office or the proper judicial authority should be notified for the purpose of taking suitable measures, including suspension of the activities or dissolution of the entity.

Presidential Decree No. 5598 of December 1st, 2005

Regulates the hiring of apprentices among other provisions

THE PRESIDENT OF THE REPUBLIC, in exercise of the powers conferred by art. 84, item IV of the Constitution, and in view of the provisions of Title IV, Chapter IV, Section IV of Decree-Law No. 5,452 of May 1, 1943 - Consolidation of Labor Laws, and in Book I, Title II, Chapter V of Law No. 8,069 of July 13, 1990 - Statute of the Child and Adolescent,

HEREBY DECREES:

Art. 1. The provisions of this Decree shall apply to the legal relations concerning the hiring of apprentices.

CHAPTER I

THE APPRENTICE

Art. 2. Apprentice is the person over fourteen and under twenty-four years old who signs an apprenticeship contract under the terms of article 428 of the Consolidation of Labor Laws (CLT).

Sole paragraph. The maximum age specified in the heading of this article does not apply to apprentices with disabilities.

CHAPTER II

APPRENTICESHIP CONTRACT

Art. 3. Apprenticeship contract is the special work contract agreed in writing and for a fixed term, in which the employer undertakes to ensure the apprentice enrolled in an apprenticeship program methodical technical and vocational training compatible with his/her physical, moral and psychological development, and the apprentice undertakes to perform, with care and diligence, the tasks necessary for this training.

Sole paragraph. For the purposes of the Apprenticeship contract, the proof of educational level of the apprentice with a mental disability should consider, above all, the skills and competences related to the vocational training.

Art. 4. For the apprenticeship contract to be valid and enforceable the employer must enter in the apprentice's Employment Record Book all information on school enrolment and attendance in case he/she has not completed Secondary Education (CLT Art. 428,§ 1). In addition, the apprentice must be enrolled in an apprenticeship program developed under the guidance of an entity qualified to provide methodical technical and vocational training.

Art. 5. Failure to comply with legal and regulatory provisions will invalidate the Apprenticeship contract pursuant to article 9 of the CLT, and the employment relationship will be established directly with the employer responsible for meeting the Apprenticeship quota.

Sole paragraph. As regards employment relationship, the provisions in the caput do not apply to public legal entities.

CHAPTER III

TECHNICAL AND VOCATIONAL TRAINING AND ENTITIES QUALIFIED TO PROVIDE METHODOICAL TECHNICAL AND VOCATIONAL TRAINING

Section I

Technical and Vocational Training

Art. 6. For the purposes of the apprenticeship contract, methodical technical and vocational training shall be understood as the theoretical and practical activities methodically organized in tasks of progressive complexity, carried out in the work environment.

Sole paragraph. The methodical technical and vocational training mentioned in the heading of this article is carried out through apprenticeship programs organized and developed under the guidance and responsibility of entities qualified to provide methodical technical and vocational training listed in article 8 of this Decree.

Art. 7. The apprentice's technical and vocational training shall comply with the following principles:

I – Guarantee of access and compulsory attendance to Fundamental Education where he/she has not completed Secondary Education;

II – Special schedule for carrying out activities; and

III – Vocational training appropriate to the labor market.

Sole paragraph. The apprentice under the age of eighteen is guaranteed respect for his/her particular condition as a person in development.

Section II

Entities qualified to provide Methodical Technical and Vocational Training

Art. 8. Entities qualified to provide methodical technical and vocational training include:

I – The following National Apprenticeship Services:

- a) National Industrial Apprenticeship Service (SENAI);
- b) National Commercial Apprenticeship Service (SENAC);
- c) National Rural Apprenticeship Service (SENAR);
- d) National Transportation Apprenticeship Service (SENAT);
- e) National Service for Cooperative Apprenticeship (SESCOOP).

II – Technical Education Schools, including agro-technical schools; and

III – Non-profit Organizations whose objective is to provide assistance to adolescents and promote vocational education, which are registered with the Municipal Council for the Rights of Children and Adolescents.

§ 1. The entities mentioned in the subsections of this article must have a structure suitable for the development of apprenticeship programs, in order to maintain the quality of the teaching process as well as to monitor and evaluate results.

§ 2. The Ministry of Labor and Employment will publish, after consultation with the Ministry of Education, the rules for evaluating the competence of the entities mentioned in item III.

CHAPTER IV

Section I

Compulsory Hiring of Apprentices

Art. 9. Establishments of any nature have the obligation to employ and enroll in the courses of the National Apprenticeship Services, a number of apprentices equivalent to a minimum of five percent and a maximum of fifteen percent of the workers in each establishment, whose duties require professional training.

§ 1. In calculating the percentage referred to in the heading of this article, unit fractions shall allow for the admission of one apprentice.

§ 2. Establishment means any complex of goods organized for carrying out the employer's economic or social activity under the CLT regime.

Art. 10. For the definition of the positions requiring professional training, the Brazilian Classification of Occupations (CBO) developed by the Ministry of Labor and Employment shall be considered.

§ 1. The definition in the heading of this article excludes those positions requiring professional qualification of a technical or university level, or positions characterized as directorship and management or trust positions, according to item II and sole paragraph of article 62 and of §2, article 224 of the CLT.

§ 2. All positions requiring professional training should be included in the calculation basis, regardless of whether they are prohibited for persons under the age of eighteen.

Art. 11. The hiring of apprentices should cater, as a matter of priority, to adolescents between the ages of fourteen and eighteen, except when:

I – Practical apprenticeship activities take place within the establishment, subjecting apprentices to unhealthy or dangerous work, without the possibility of avoiding the risk or carrying out the activities entirely in a simulated environment;

II – The law requires, for the performance of practical activities, a license or authorization that is not granted to a person under the age of eighteen; and

III – The nature of the practical activities is incompatible with the physical, psychological and moral development of the adolescent apprentice.

Sole paragraph. Apprenticeship for the activities listed in the subsections of this article should be provided to young people between the ages of eighteen and twenty-four.

Art. 12. The calculation basis referred to in the heading of article 9 of this Decree shall exclude all employees engaged in services provided under the temporary work regime established by Law No. 6,019 of January 3, 1973, as well as apprentices that have already been hired.

Sole paragraph. In the case of companies providing specialized services to third parties, regardless of where they are performed, all employees shall be included exclusively in the company's calculation basis.

Art. 13. In the event that the National Apprenticeship Services do not offer sufficient courses or places to meet the establishments' demands, these may be met by other entities qualified to provide methodical technical and vocational training mentioned in article 8.

Sole paragraph. The labor inspection office shall be responsible for verifying the lack of courses or places.

Art. 14. Hiring apprentices is optional for:

I – Micro and small enterprises; and

II – Non-profit organizations whose objective is to provide vocational education.

Section II

Types of Apprenticeship Contracts

Art. 15. The apprentice should be hired directly by the establishment that is under the obligation to meet the apprenticeship quota or, in a supplementary manner, by the nonprofit organizations mentioned in item III, article 8 of this Decree.

§ 1. Where the apprentice is hired directly by the establishment that is under the obligation to meet the apprenticeship quota, this establishment shall assume the status of employer and should enroll the apprentice in an apprenticeship program to be delivered by the entities indicated in article 8 of this Decree.

§ 2. The hiring of apprentices through a nonprofit organization for the purpose of fulfilling the obligation established in the heading of article 9 shall only be formalized after the conclusion of a contract between the establishment and the non-profit. Among other reciprocal obligations, the contract shall state that:

I – The non-profit, simultaneously with the development of the apprenticeship program, shall have the status of employer with all the burdens arising therefrom, entering all employment related information in the apprentice's Employment Record Book and informing in the field "general notes" that the specific employment results from a contract entered into with a particular establishment for the purpose of meeting its apprenticeship quota; and

II – The establishment assumes the obligation to provide the apprentice with the practical experience of the methodical technical and vocational training to which he or she will be submitted.

Art. 16. In the case of public companies and joint-stock companies the apprentices shall be hired directly, according to §1 of article 15, and the selective process will be carried out through public notice, or pursuant to §2 of that article.

Sole paragraph. The hiring of apprentices by agencies and entities of the direct, autarchic and foundational federal administration is not subject to the provisions of this Decree and shall comply with specific regulation.

CHAPTER V

LABOR RIGHTS AND ANCILLARY OBLIGATIONS

Section I

Remuneration

Art. 17. Except under a more favorable condition, the apprentice shall be ensured the minimum hourly wage.

Sole paragraph. A more favorable condition shall be understood as that established in the apprenticeship contract or provided for in a collective agreement or covenant specifying the salary most favorable to the apprentice, as well as the regional floor referred to in Complementary Law No. 103 of July 14, 2000.

Section II

WORKING HOURS

Art. 18. The number of hours worked by the apprentice shall not exceed six hours per day.

§ 1. The limit provided for in the heading of this article may be increased to eight hours per day for apprentices who have already completed fundamental education, where these hours include the hours allocated to theoretical apprenticeship

§ 2. The apprentice's weekly workload of less than twenty-five hours does not characterize part-time work as provided for in article 58-A of the CLT.

Art. 19. The extension and compensation of working hours is hereby prohibited.

Art. 20. The apprentice's workload includes the hours allocated to theoretical and practical activities, whether simultaneous or not, and the entity qualified to provide methodical technical and vocational training is responsible for defining them in the course plan.

Art. 21. When a minor under 18 is employed in more than one establishment, the working hours in each one shall be added together.

Sole paragraph. In the determining the working hours of apprentices under the age of eighteen, the entity qualified to provide methodical technical and vocational training shall take into account the rights guaranteed by Law No. 8,069 of July 13, 1990.

Section III

Theoretical and Practical Activities

Art. 22. The theoretical classes of the apprenticeship program should take place in a physical environment suitable for teaching and with the appropriate didactic means.

§ 1. Theoretical classes can take the form of demonstrative classes in the workplace, in which case the apprentice shall not perform any work-related activity, except handling materials, tools, instruments and the like.

§ 2. The entity responsible for meeting the apprenticeship quota is prohibited from assigning to the apprentice activities other than those provided for in the apprenticeship program.

Art. 23. The practical classes can take place in the entity qualified to provide methodical technical and vocational training itself or in the establishment contracting the apprentice or delivering the apprenticeship.

§ 1. In the event that practical apprenticeship takes place in the establishment, the company, in consultation with the entity qualified to provide methodical technical and vocational training, shall formally designate an employee to act as supervisor, who shall be responsible for coordinating practical exercises and monitoring the apprentice's activities in the establishment, in accordance with the apprenticeship program.

§ 2. The entity responsible for the apprenticeship program shall provide the employers and the Ministry of Labor and Employment, upon request, with a copy of the program's pedagogical project.

§ 3. For the purposes of practical experience, according to the curricular organization of the apprenticeship program, an employer with more than one establishment in the same municipality may centralize the corresponding practical activities in a single establishment.

§ 4. No practical activity may be developed in the establishment in disagreement with the provisions of the apprenticeship program.

Section IV

Government Severance Indemnity Fund for Employees

Art. 24. The provisions of Law No. 8,036 of May 11, 1990 shall apply to all apprenticeship contracts.

Sole paragraph. The Contribution to the Government Severance Indemnity Fund for Employees shall correspond to two percent of the remuneration paid or due to the apprentice in the previous month.

Section V

Vacations

Art. 25. The apprentice's vacations should coincide with regular school vacations, and the employer is prohibited from determining a vacation period different from that specified in the apprenticeship program.

Section VI

Effects of Collective Bargaining Instruments

Art. 26. The social clauses of collective agreements and covenants shall only apply to apprentices when expressly established and provided that they do not exclude or reduce the scope of the guardianship provisions applicable to them.

Section VII

Transportation Vouchers

Art. 27. The apprentice is assured the right to the benefit of Law No. 7,418 of December 16, 1985, establishing the transportation voucher.

Section VIII

Causes for Extinction and Termination of the Apprenticeship Contract

Art. 28. The Apprenticeship contract shall be terminated on its expiry date or when the apprentice turns twenty-four, except in the case of apprentices with disabilities, or subject to early termination in the following cases:

- I – Apprentice's poor performance or failure to adapt;
- II – Serious disciplinary offense;
- III – Unjustified absence from school that leads to grade retention; or
- IV – At the request of the apprentice.

Sole paragraph. In cases of extinction or termination of the apprenticeship contract, the employer should hire a new apprentice pursuant to this Decree, under penalty of violation of the provisions of article 429 of the CLT.

Art. 29. For the purpose of the cases described in the subsections of article 28 of this Decree, the following provisions shall apply:

- I – The apprentice's poor performance or failure to adapt as regards the activities of the apprenticeship program shall be characterized by an evaluation report issued by the entity qualified to provide methodical technical and vocational training;
- II – Serious disciplinary offense is characterized by any of the cases described in article 482 of the CLT; and
- III – Unjustified absence from school that leads to grade retention shall be characterized by a statement issued by the educational institution.

Art. 30. The provisions of articles 479 and 480 of the CLT shall not apply to the causes for contract termination mentioned in the subsections of article 28 of this Decree.

CHAPTER VI

CERTIFICATE OF APPRENTICESHIP PROFESSIONAL QUALIFICATION

Art. 31. Apprentices who successfully complete the apprenticeship courses shall be awarded a professional training certificate by the entity qualified to provide methodical technical and vocational training.

Sole paragraph. The professional training certificate should state the title and the professional profile for the occupation in which the apprentice has been trained.

CHAPTER VII

FINAL PROVISIONS

Art. 32. It is the responsibility of the Ministry of Labor and Employment to organize the national register of entities qualified to provide methodical technical and vocational training and regulate the compatibility between the content and duration of the apprenticeship program, in order to guarantee technical and professional quality. Art. 3 of Administrative Rule 723 of April 23, 2012.

Art. 33. This Decree shall enter into force on the date of its publication.

Art. 34. Decree No. 31,546 of October 6, 1952 is hereby repealed.

Brasília, December 1st, 2005; 184th of Independence and 117th of the Republic.

LUIZ INÁCIO LULA DA SILVA

Luiz Marinho

National Council for the Rights of Children and Adolescents (CONANDA)
Resolution No. 74 of September 13, 2001

Provides for the registration and inspection of non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education, among other measures.

THE PRESIDENT OF THE NATIONAL COUNCIL FOR THE RIGHTS OF CHILDREN AND ADOLESCENTS (CONANDA), in exercise of the powers conferred by Law No. 8,242 of October 12, 1991, and considering that article 430 of the Consolidation of Labor Laws (CLT), amended by Law 10,097 of December 19, 2000, establishes that in the event that the National Apprenticeship Services fail to offer sufficient courses or places to meet the establishments' demand, this may be satisfied by Technical Education Schools and non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education.

Considering the provisions of articles 90 and 91 of the Statute of the Child and Adolescent, which determine, respectively, that governmental and non-governmental organizations should register their protection and socio-educational programs for children and adolescents with the Municipal Councils for the Rights of Children and Adolescents, and that non-governmental organizations should, as a condition for operating, be registered with the Municipal Councils for the Rights of Children and Adolescents;

RESOLVES:

Art. 1. That the Municipal Councils for the Rights of Children and Adolescents are under the obligation to:

I – Provide for the specific registration of non-governmental organizations as non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education, pursuant to article 91, heading, of the Statute of the Child and Adolescent;

II – Communicate the registration of the organization to the Guardianship Council, to the judicial authority and to the decentralized unit of the Ministry of Labor and Employment with jurisdiction in the respective location;

III – Map the non-profits that mediate the work of adolescents, promote educational work and offer vocational and apprenticeship courses, containing:

a) The identification of the entity, which must include the following information: name, address, National Register of Legal Entities (CNPJ) or Individual Taxpayer Registration Number (CPF), legal nature and by-laws and record of investiture of the current board of directors;

b) The list of adolescents enrolled in the program or in the organization, which must include the following information: name, date of birth, name of parents, schooling, address, time in the program or organization, address of the company or public entity in which they are included;

c) The list of courses offered, which should include the following information: program, course load, duration, date of enrolment, number of places offered, age of participants.

Sole paragraph. A copy of the mapping should be sent to the respective decentralized unit of the Ministry of Labor and Employment.

Art. 2. The organizations referred to in item II, article 430 of the Consolidation of Labor Laws are required to register with the Municipal Council for the Rights of Children and Adolescents and to register their apprenticeship programs with the Council and the respective decentralized unit of the Ministry of Labor and Employment.

Sole paragraph. State-based entities must register with the Municipal Council for the Rights of Children and Adolescents of the Municipality where the program is being implemented and send a copy of the registration to the respective State Council for the Rights of Children and Adolescents.

Art. 3. The Guardianship Councils should promote the inspection of the programs developed by the entities, checking:

I – Suitability of the physical facilities and the general conditions of the environment in which the apprenticeship is delivered;

II – Compatibility of the activities developed by the adolescents with those specified in the apprenticeship program in the theoretical and practical phases, as well as compliance with the principles established by the Statute of the Child and Adolescent;

III – Regularity as to the incorporation of the organization;

IV – Suitability of the vocational training for the labor market, based on the assessment made by the organization;

V – Respect for the adolescent's particular condition as a person in development;

VI – Fulfillment of the obligation under which the adolescents must have completed or be enrolled in compulsory education, and compatibility of the apprenticeship working hours with school hours;

VII – Threats to or violation of the rights of the adolescent, in particular inhuman, violent, terrorizing, humiliating or destructive treatment, as well as exploitation, cruelty or oppression committed by persons related to the organization or establishments where the practical phase of the apprenticeship takes place;

VIII – Compliance with the prohibitions provided for in article 67 of the Statute of the Child and Adolescent.

Sole paragraph. All violations found must be reported to the Municipal Council for the Rights of Children and Adolescents and to the respective decentralized unit of the Ministry of Labor and Employment.

Art. 4. This resolution enters into force on the date of its publication.

CLÁUDIO AUGUSTO VIEIRA DA SILVA

President

ADMINISTRATIVE RULE OF THE MINISTRY OF LABOR AND EMPLOYMENT - MTE No. 723 of April 23, 2012

THE ACTING MINISTER OF LABOR AND EMPLOYMENT, in exercise of the powers conferred by subsection II, sole paragraph, article 87 of the Constitution, and in view of the provisions of § 2, article 8 and article 32 of Decree No. 5,598 of December 1, 2005, resolves:

Art. 1. To create the National Registry of Vocational Apprenticeship (CNAP), for the registration of entities qualified to provide methodical technical and vocational training specified in article 8 of Decree No. 5,598 of December 1, 2005.

§ 1. For inclusion in the CNAP, the entities referred to in item III, article 8 of Decree 5,598 of 2005 shall be subject to the competence assessment rules set forth in this Administrative Rule, regarding verification of the entity's ability to deliver technical and vocational training programs that allow the inclusion of apprentices in the labor market.

§ 2. The entities referred to in items I and II, article 8 of Decree 5,598 of 2005 must register with the CNAP, pursuant to article 3, and provide the information described in item IV, article 5, inform the classes created and the apprentices enrolled in each of them, and are not subject to the competence assessment rules provided in this Administrative Rule in relation to the apprenticeship program in question.

Art. 2. It is incumbent upon the Secretariat of Public Employment Policies (SPPE) of the Ministry of Labor and Employment (MTE):

I – To authorize the inclusion of the organizations in the CNAP, following the competence assessment and verification of compliance with the rules and requirements set forth in this Administrative Rule;

II – To implement, systematize, monitor and improve the CNAP and the National Catalog of Vocational Apprenticeship Programs (CONAP);

III – To guide and standardize the offer of professional apprenticeship programs, in accordance with the Brazilian Classification of Occupations (CBO);

IV – To conduct the competence assessment of the entities qualified to provide methodical technical and vocational training mentioned in item III, article 8 of Decree 5,598 of 2005, of the Apprenticeship programs and authorize their inclusion in the CNAP; and

V – Disseminate the apprenticeship programs included in the CNAP on the webpage of the MTE, for the purpose of providing the inspection agencies with the necessary instruments and promoting information to young people, adolescents, employers and civil society, with the following description:

- a) Professional profile of the training;
- b) Theoretical and practical course load; and
- c) Daily and weekly course load;

VI – Develop procedures for the systematic monitoring and evaluation of apprenticeship, with emphasis on pedagogical quality and social effectiveness.

Art. 3. The registration of the entities referred to in article 1 of this Administrative Rule in the CNAP, as well as of the respective programs, the classes and apprentices enrolled in them must be made using the form available on the MTE website at www.juventudeweb.mte.gov.br, which must be completed according to the rules provided therein, and submitted electronically. (Amended by Administrative Rule 1005 of July 1, 2013)

§ 1. The apprenticeship programs designed in accordance with the rules of the National Catalog of Vocational Apprenticeship Programs (CONAP) provided in article 8 of this Administrative Rule must be included in the CNAP for the purpose of assessing the organization's competence.

§ 2. The apprenticeship program included in the CNAP is valid for two years from the date of its publication on the MTE webpage on the internet.

§ 3. The term of the professional apprenticeship program may be extended for an equal period, except in case of change to the guidelines.

Art. 4. Once the organization has been registered, the National Register of Vocational Apprenticeship (CNAP) will generate the Term of Commitment of the Organization and the Term of Commitment of the Apprenticeship Program, which must be signed by the entity's legal representative and delivered to the decentralized unit of the Ministry of Labor And Employment closer to it.

§1. The Term of Commitment of the Entity must be delivered with a copy and the original (for verification) of its registration with the Municipal Council for the Rights of Children and Adolescents (CMDCA) of the municipality in which it will operate. (Amended by Administrative Rule 1005 of July 1, 2013)

§2. The Term of Commitment of the Apprenticeship Program must be delivered accompanied by proof of: (Amended by Administrative Rule 1005 of July 1, 2013)

I – Adjustment of the pedagogical proposal to the principles and guidelines of this Administrative Rule;

II – Existence of a properly qualified technical-teaching staff; and

III – Structure suitable for the development of the apprenticeship programs, in accordance with the provisions of §1, article 430 of the CLT.

§3. It is the responsibility of the apprenticeship inspection coordination unit of each Regional Labor and Employment Office (SRTE) to check the documentation submitted by the entity, to certify and register receipt at CNAP and to file it. (Amended by Administrative Rule 1005 of July 1, 2013)

Art. 5. The registration of the apprenticeship program must be made according to article 3 of this Administrative Rule and the entity must provide at least the following information:

I – Participants in the apprenticeship program, with the maximum number of apprentices per class, socioeconomic profile and justification for assisting them;

II – Objectives of the apprenticeship program, specifying the purpose of the actions to be carried out and their relevance to participants, society and the world of work;

III – Contents to be developed, including knowledge, skills and competences, their relevance in relation to the objectives of the program, the participating group to be assisted and the potential for application in the labor market;

IV – Structure of the apprenticeship program and its total duration in hours, according to the content to be developed and the profile of participants, containing:

a) Definition and abstract of programs;

b) Curricular organization in modules, blocks or stages with indication of the propaedeutic or vocational character of each of them;

c) Respective theoretical and practical hours, determined pursuant to §§ 2 and 3, article 10 of this Administrative Rule, or in the specific exception contained in CONAP regarding the occupation that is the object of the apprenticeship program; and

d) Practical activities of the apprenticeship developed at the place where the services are provided, specified in the table of activities of the CBO that is the object of the program;

V – Physical infrastructure, such as equipment, instruments and facilities necessary for the actions of the program, suitable for the contents, duration and number and profile of participants;

VI – Human resources: number and qualification of the technical, teaching and support staff involved in the implementation of the apprenticeship program, suitable for the pedagogical content, duration, quantity and profile of participants, and identification of the mechanisms for hiring and retaining educators in the professional staff, with specification of the professional in the organization responsible for monitoring the apprentices' practical activities in the company;

VII – Mechanisms for monitoring and evaluation of the apprenticeship program through documentary recording of theoretical and practical activities by the training organization, with the participation of the apprentice and the company; and

VIII – Mechanisms to facilitate the inclusion of apprentices in the labor market after termination of the apprenticeship contract.

Art. 6. After registration by the SRTE of receipt of the documentation referred to in article 4 at the CNAP, the SPPE will analyze the registration for the purpose of authorizing or denying the organization's inclusion in the CNAP.

§ 1. Any incompatibility of the apprenticeship programs with the rules established in this Administrative Rule shall be informed by the SPPE to the organization by email, and inclusion in the CNAP will be halted until such time as the problem is corrected.

§ 2. During the analysis of the apprenticeship program for inclusion in the CNAP, the SPPE may request the collaboration of other agencies, councils and entities involved with the occupation that is the object of the apprenticeship program, or with its target audience.

§ 3. After verifying the regularity of the organization's data and of at least one apprenticeship program, the SPPE shall authorize, through the computerized system, the inclusion of the organization in the CNAP, which shall be authorized to carry out the activity as a training organization, and shall inform in the CNAP the classes created and the apprentices enrolled in them as regards the apprenticeship program in question.

§ 4. The other apprenticeship programs should be developed and implemented by the organization in accordance with this Administrative Rule and be listed in the CNAP for authorization of its inclusion by the SPPE.

Art. 7. Where the inspectors find that the apprenticeship programs are in disagreement with the legislation, or that their implementation is not in accordance with the information contained in the CNAP, the head of the labor inspection office may request the SPPE to suspend the inclusion of the organization or to exclude the program from that Register.

§ 1. The reasons that justify the suspension of organizations or the exclusion of apprenticeship programs must be based on an inspection report, a copy of which must be sent to the SPPE together with the request provided for in the heading of this article.

§ 2. The suspension of the training organization motivated by the assumption described in the heading of this article covers only the organizations included in that report. (Amended by Administrative Rule 1005 of July 1, 2013)

§ 3. It is the responsibility of the SPPE to communicate the report to the heads of the inspection offices in the locations where branches of the respective organizations are located. (Amended by Administrative Rule 1005 of July 1, 2013)

Art. 8. The apprenticeship programs should be developed in accordance with the National Catalog of Professional Apprenticeship Programs (CONAP) published on the MTE website.

Sole paragraph. It is the responsibility of the SPPE to revise the CONAP and promote the publication of changes on the MTE website on the Internet, as often as necessary to consider the technical and technological evolution of the productive sector and to promote opportunities for the social and economic inclusion of adolescents and young people in a sustainable manner and through decent work.

Art. 9. The vocational training in initial and technical level courses contained in CONAP is related to the occupation codified in the Brazilian Classification of Occupations (CBO).

§ 1. The CBO code referred to in the heading of this article must be included in the apprentice's employment contract and be entered in his/her Employment Record Book (CTPS).

§2. When the course is classified in CONAP as developed using the Occupational Groups methodology, the CBO code with the best salary condition must be entered in the apprentice's CTPS and the name of the said Group must be informed in the field "General Notes".

Art. 10. In addition to complying with articles 2 and 3 of Decree 5,154 of July 23, 2004 and other federal regulations regarding the initial and continuous training of workers, the organizations offering apprenticeship programs at the initial training level must conform to CONAP and follow the guidelines below:

I – General guidelines:

- a) Social and vocational training suitable for the demands and diversities of adolescents, in accordance with the provisions of article 7, sole paragraph of Decree 5,598 of 2005;
- b) Beginning of a training path, using as reference the corresponding technical course;
- c) Promotion of mobility in the world of work by acquiring general technical training and specific knowledge and skills as part of the progression pathway to be developed throughout the apprentice's life;
- d) Contribution to raising the apprentice's educational level;
- e) Guarantee of adaptations regarding apprenticeship for persons with disabilities as established in articles 2 and 24 of the United Nations Convention on the Rights of Persons with Disabilities promulgated by Decree 6,949 of August 25, 2009, and articles 28 and 29 of Decree No. 3,298 of December 20, 1999;
- f) Satisfaction of the needs of adolescents and young people in rural and urban areas that require differential treatment in the labor market due to their specificities or exposure to situations of greater social vulnerability, particularly with regard to the dimensions of gender, race, ethnicity, sexual orientation, and disability; and
- g) Coordination of efforts in the areas of education, work and employment, sports and leisure, culture, science and technology, and social assistance. (Amended by Administrative Rule 1005 of July 1, 2013)

II – Curricular Guidelines:

- a) Social and professional development of adolescents and young people as workers and citizens;
- b) Professional profile, knowledge and skills required for the occupation that is the object of the apprenticeship and described in the CBO;
- c) National Curricular References approved by the National Education Council, where appropriate;
- d) Local and regional labor market potential and the needs of employers in the economic sectors for which the vocational training is intended;
- e) Admission of persons with disabilities and adolescents and young people in situations of social vulnerability in the apprenticeship programs, conditional on their performance capacity rather than to their educational level; and
- f) Other demands from the world of work linked to entrepreneurship and solidarity economy;

III – Contents of human development and scientific training properly contextualized:

- a) Oral and written communication, reading and comprehension of texts and digital inclusion;
- b) Logical and mathematical reasoning, notions of interpretation and analysis of statistical data;
- c) Brazilian cultural diversity;
- d) Organization, planning and control of the work process and teamwork;
- e) Notions of labor and social security rights as well as of occupational safety and health rights and of the Statute of the Child and Adolescent (ECA);
- f) Human rights, with a focus on respect for sexual orientation, race, ethnicity, age, religious creed or political opinion;
- g) Fiscal education for the exercise of citizenship;
- h) Alternative forms of work and income generation with a focus on youth;
- i) Financial and consumer education and information on the market and the world of work;
- j) Prevention of alcohol, tobacco and drug abuse;
- k) Education for reproductive sexual health, focusing on sexual rights and on reproductive rights and gender relations;
- l) Public safety policies aimed at adolescents and young people; and
- m) Incentive to individual and collective, permanent and responsible participation in environmental preservation and balance, focusing on the defense of environmental quality as a value inseparable from the exercise of citizenship.

§ 1. The theoretical and practical dimensions of the apprentice's training must be pedagogically coordinated, in the form of progression pathways that enable the apprentice to develop his or her citizenship, understand the characteristics of the world of work, of the technical and scientific foundations and of the technical activities specific to the occupation.

§ 2. To define the theoretical hours of the apprenticeship program, the institution should use as a parameter the hours of technical courses approved by the Ministry of Education (MEC), applying at least forty percent of the corresponding course load or four hundred hours, whichever is greater.

§ 3. The theoretical hours should represent at least thirty percent and at most fifty percent of the total hours of the apprenticeship program.

Art. 11. The theoretical part of the apprenticeship program must be developed by the training organization by distributing the hours throughout the contract period in order to guarantee the alternation and the progressive complexity of the practical activities to be experienced in the corporate environment. (Amended by Administrative Rule 1005 of July 1, 2013)

§ 1. The practical hours of the course may be developed, totally or partially, in laboratory conditions, when essential to the specificity of the occupation that is the object of the course, or when the workplace does not offer the apprentice proper safety and health conditions.

§ 2. In preparing the specific part of the apprenticeship programs, the organizations must consider the contents and skills required for the occupations described in the CBO that are the object of the apprenticeship.

Art. 12. Technical level courses will be recognized as professional apprenticeship programs for the purpose of complying with article 428 et seq. of the Consolidation of Labor Laws (CLT), approved by Decree-Law No. 5,452 of May 1, 1943 when offered by educational institutions duly regularized at the respective competent body of the education system and validated according to the criteria established in this Administrative Rule. (Amended by Administrative Rule 1005 of July 1, 2013)

§ 1. At the discretion of the federal educational institutions or of the competent agencies in the state systems, the practical activities carried out during the term of the apprenticeship contract may be recognized for the purpose of counting the hours of a mandatory internship, provided that these hours are explained in the pedagogical project of the course and that the terms of this equivalence are specified in the Term of Commitment signed between the trainee, the educational institution and the party offering the internship;

§ 2. The vocational and technological education institution interested in offering programs in the form of vocational apprenticeship must provide for its electronic inclusion in the National Register of Apprenticeship of the Ministry of Labor and Employment.

§ 3. The duration of the apprenticeship program should coincide with the term of the apprenticeship work contract; and

§ 4. Exceptionally, when the technical course is longer than the apprenticeship program, the contract may be concluded after the start of the course, subject to the following conditions:

I – The start and end of the apprenticeship contract and the apprenticeship program must coincide with the beginning and end of the respective modules;

II – The contract must include the minimum number of module(s) that ensure the complete methodical technical and vocational training necessary for certification of the apprenticeship course corresponding to an occupation set forth in the Brazilian Classification of Occupations (CBO);

III – The theoretical hours may not be less than four hundred hours.

Art. 13. In the use of the Occupational Groups provided for in Annex I of this Administrative Rule, the training organizations and companies responsible for hiring the apprentices should observe the work prohibitions applicable to minors under the age of eighteen regarding the activities described in the List of the Worst Forms of Child Labor approved by Decree 6,481 of June 12, 2008.

Art. 14. The authorization to use the distance education methodology for apprenticeship and its inclusion in the CNAP is restricted to courses and programs in places where: (Amended by Administrative Rule 1005 of July 1, 2013)

I – The number of apprentices does not justify the creation of an in-class course;

II – Its immediate implementation is not possible due to lack of adequate educational structure for the apprenticeship.

Single paragraph. The proposals for distance apprenticeship programs will be evaluated by the MTE, and its inclusion in the CNAP shall be authorized when in accordance with the provisions of this Administrative Rule and the terms of Annex II.

Art. 15. For inclusion of apprenticeship programs developed in partnership in the CNAP, participation is limited to two organizations which, together, shall include the program in the CNAP, using the email address indicated in article 3, justifying the need for the partnership, detailing the participation and responsibility of each organization and specifying the respective duties in implementing the program.

§ 1. The analysis by the SPPE to authorize the inclusion of the partnership in the CNAP shall be based on the information about the registration of the apprenticeship program and the information contained in the Register about the partner organizations.

§ 2. The partner organization that assumes the status of employer shall bear the burden arising from hiring the apprentice, without prejudice to the subsidiary responsibility of the other partner organization and of the establishment responsible for meeting the apprenticeship quota.

§ 3. The partnership shall not be authorized if the participation and responsibility of an organization is limited to entering information in the apprentice's Employment Record Book.

§ 4. In the event the inspectors find a deviation of the partnership to the situation described in § 3 of this article, the apprenticeship shall be rendered ineffective, and a report must be sent to the SPPE pursuant to article 7 of this Administrative Rule, for the purpose of suspending both the apprenticeship program made in partnership and the authorization for inclusion of the organizations in the CNAP.

Art. 16. The entity qualified to provide technical and vocational training included in the CNAP may develop an apprenticeship program in a municipality other than that of its headquarters, provided that it presents the respective CMDCA of the entity and registers the program with the CMDCA of the municipality where it will be delivered. (Amended by Administrative Rule 1005 of July 1, 2013)

Art. 17. Apprenticeship contracts based on a program validated until the publication of this Administrative Rule must be executed in full, and do not need to be adjusted to this Administrative Rule (Amended by Administrative Rule 1005 of July 1, 2013)

Art. 18. This Administrative Rule enters into force on the date of its publication. (Amended by Administrative Rule 1005 of July 1, 2013)

Art. 19. Administrative Rules MTE No. 615 of December 13, 2007; No. 2,755 of November 23, 2010; No. 1681 of August 16, 2011; and No. 2185 of November 05, 2009 are hereby repealed. (Amended by Administrative Rule 1005 of July 1, 2013)

MANOEL DIAS

NATIONAL APPRENTICESHIP CATALOG

The **National Catalog of Apprenticeship Programs (CONAP)** has been developed based on the legal guidelines of professional and technological education and in line with the Brazilian Classification of Occupations (CBO). It's main objective to guide the entities qualified to provide methodical technical and vocational training defined in article 8 of Decree 5,598 of December 1, 2005 as well as the design of vocational apprenticeship programs.

Organized by occupational groups according to the aggregation used in the CBO, CONAP lists the activities carried out by the professional, specifies special age and educational requirements for the occupation, where appropriate, and indicates the total hours of the program, considering the level of technical complexity of the occupation.

Due to the diversity found among those benefiting from the Law, the total workload established in this CONAP for a particular CBO can be developed in different work days. Although this impacts on the duration of the program, it does not mean that the entity needs to register a new course or that the program should be subject to a new validation process.

CONAP is a quarterly publication, which allows the inclusion of new programs by training entities, following the analysis of the consistency of the pedagogical proposal.

We emphasize that the hours refer to the total hours of the program and do not include the vacation period(s).

The Catalog will be available on the website of the Ministry of Labor and Employment:
http://portal.mte.gov.br/politicas_juventude/2013.htm

NORMATIVE INSTRUCTION FROM THE LABOR INSPECTION SECRETARIAT - SIT No. 97 OF 7.30.2012

OFFICIAL GAZETTE: 07.31.2012

Provides for the inspection of working conditions under apprenticeship programs.

The Secretary of Labor Inspection, in exercise of the powers conferred by item XIII, article 14, Annex I of Decree No. 5,063 of May 3, 2004, which approved the organizational structure of the Ministry of Labor and Employment,

Hereby resolves:

Art. 1. To establish guidelines and regulate the inspection of apprenticeship programs as provided for in Chapter IV, Title III of the Consolidation of Labor Laws (CLT) approved by Decree-Law No. 5,452 of May 1st, 1943, in accordance with the provisions of Decree No. 5,598 of December 1st, 2005 and Administrative Rule No. 723 of April 23, 2012.

Section I - Obligation to Hire Apprentices

Art. 2. As determined by article 429 of the CLT, establishments of any nature are under the obligation to hire and enroll in apprenticeship courses a number of apprentices equivalent to a minimum of five percent and a maximum of fifteen percent of the number of positions requiring professional training.

§1. In the numerical determination of the percentage, establishments that have at least seven employees in positions that require professional training are under the obligation to hire apprentices, as provided for in article 10 of Decree No. 5,598 of 2005, with due respect for the maximum limit of fifteen percent established in article 429 of the CLT.

§ 2. Establishment means any complex of goods organized for carrying out the employer's economic or social activity under the CLT regime.

§ 3. The calculation of the number of apprentices to be hired should include the total number of workers in each establishment, whose positions require professional training, regardless of whether they are prohibited for persons under eighteen years of age, excluding:

I – Positions for which professional training at a technical or university level is required by law;

II – Positions characterized as directorship and management or trust positions, according to item II and sole paragraph of article 62 and of §2, article 224 of the CLT;

III – Workers hired under the temporary work regime established by Law No. 6,019 of January 3, 1973; and

IV – Apprentices that have already been hired.

§ 4. The duties and activities performed by third parties within the legal parameters shall be considered for calculating the quota applicable to the service providing company.

Art. 3. The following are legally exempted from meeting the apprenticeship quota:

I – Micro and small enterprises, whether or not entitled to the Integrated Tax and Contribution Payment System (Simple National Tax).

II – Non-profit organizations whose objective is to provide vocational training, which hire apprentices under article 431 of the CLT.

Sole paragraph. Micro and small enterprises that hire apprentices must comply with the maximum limit of fifteen percent set forth in article 429 of the CLT.

Section II - Apprenticeship Agreement

Art. 4. The Apprenticeship work contract is of a special nature and its main characteristic, according to article 428 of the CLT, is the employer's commitment to provide persons above fourteen and under twenty-four years of age enrolled in an apprenticeship program, with methodical technical and vocational training compatible with their physical, moral and psychological development, and the apprentice's commitment to perform with care and diligence the tasks necessary for this training.

The apprenticeship contract must be agreed in writing and for a fixed term and the requirements for its validity and enforceability include:

I – Entering all contract information in the apprentice's Employment Record Book (CTPS);

II – The apprentice's school enrollment and attendance if he/she has not completed Secondary Education;

III – The apprentice's enrollment in an apprenticeship program developed under the guidance of an entity qualified to provide methodical technical and vocational training, namely:

a) Entities of the National Apprenticeship System;

b) Technical education schools; and

c) Non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education, duly included in the National Apprenticeship Register and registered with the Municipal Council for the Rights of Children and Adolescents (CMDCA), when assisting minors under eighteen years;

IV – Apprenticeship program developed in accordance with the guidelines of Administrative Rule No. 723 of 2012;

Sole paragraph. Failure to comply with items I to IV and other rules regulating apprenticeship shall render the apprenticeship contract null and void and establish an employment relationship with the establishment that must meet the quota, as provided in article 18.

Art. 6. The apprenticeship contract may be valid for up to two years, with compulsory correspondence with the program included in the National Apprenticeship Register and must indicate expressly:

I – The start and end of the contract period, which must coincide with the duration of the apprenticeship program, except when the hiring occurs after the beginning of the theoretical activities, in which case the employer may register the program retroactively;

II – The program to which the trainee is linked and in which he/she is enrolled, with an indication of theoretical and practical hours, and compliance with the criteria established in Administrative Rule No. 723 of 2012;

III – The position, daily and weekly hours, according to the workload established in the apprenticeship program, working hours; and

IV – The agreed wage.

Sole paragraph. The maximum term of two years for the apprenticeship contract does not apply to persons with disabilities, provided that in these cases the additional time is based on aspects related to the disability and, in any case, persons with disabilities are prohibited from being hired as apprentices for an undetermined period.

Art. 7. The hiring of apprentices by non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education, as provided for in article 431 of the CLT, requires the prior formalization of a contract or agreement between the establishment that must meet the quota and the organization.

§1. In the event of indirect contracting as provided for in the heading, the non-profit assumes the status of employer simultaneously with the development of the apprenticeship program, and shall:

I – Complying with the labor legislation in its entirety and with respect to the apprenticeship;

II – Enter all contract information in the apprentice’s Employment Record Book and inform in the field “general notes” that the hiring results from of a contract signed with an establishment for the purposes of meeting its quota;

III – Promote the development of the apprenticeship program contained in the National Apprenticeship Register;

§2. In case of indirect hiring the establishment undertakes to provide the practical experience required for the apprentice’s technical and vocational training and in an appropriate environment, pursuant to the provisions of article 9.

§3. The contract or agreement mentioned in the heading may contain a specific clause indicating the party responsible for developing and implementing the occupational safety and health programs provided for in Regulatory Standards 7 and 9 approved by Administrative Rule No. 3,214 of December 8, 1978, for apprentices belonging to the establishment’s quota and hired through the non-profit organization.

Art. 8. The maximum age of twenty-four is cause for automatic termination of the apprenticeship contract; however, this criterion does not apply to persons with disabilities, who can be hired regardless of their age.

Art. 9. In establishments where activities are carried out in environments or positions prohibited to minors under eighteen years, the following rules must be complied with:

I – Apprentices between the ages of eighteen and twenty-four or apprentices with disabilities over the age of eighteen should be hired for apprenticeship in the positions forbidden for minors under the age of eighteen.

II – Exceptionally, apprentices between the ages of fourteen and eighteen may be hired to hold these positions or perform their duties on the premises, provided that the employer:

a) Presents previously at the decentralized unit of the MTE in the district where these activities are carried out, a detailed technical opinion signed by a professional legally qualified in occupational safety and health, attesting the non-exposure to risks that could compromise the health, safety and morality of the adolescents. This technical opinion should be renewed whenever there are changes in the workplace or in the services provided; or

b) Chooses to carry out the practical activities of adolescents in the premises of the entity in charge of providing the technical and vocational training, in a protected environment.

Art. 10. The apprenticeship contract shall be terminated:

I – On its expiry date;

II – When the apprentice turns twenty-four years of age, pursuant to the provisions of article 8;

III – In advance, in the following cases:

a) Apprentice’s poor performance or failure to adapt, to be confirmed by an evaluation report prepared by the entity providing the apprenticeship, which is responsible for supervising and evaluating the apprentice, after consultation with the establishment where the apprenticeship takes place;

b) Severe disciplinary offense provided for in article 482 of the CLT;

c) Unjustified absence from school that leads to grade retention, confirmed by a statement issued by the school;

(d) At the request of the apprentice;

e) Dissolution of the company due to bankruptcy, cessation of the company's activities and death of the employer who is the sole owner of a business incorporated as an individual company.

§1. The provisions of articles 479 and 480 of the CLT do not apply to the causes for contract termination provided for in subsections III, except as provided for in item "e", in which case the apprentice shall be entitled, in addition to severance pay, to the redundancy payment provided for in article 479 of the CLT.

§ 2. Downsizing, including when due to financial difficulties or unfavorable economic conditions, does not authorize the early termination of current apprenticeship contracts in force, which shall remain valid until their expiry date.

§3. The hiring of apprentices as regular employees of the company after termination of the apprenticeship contract implies the termination of the said contract pursuant to item I of the heading, with the consequent payment of the severance pay due and conclusion of a new employment contract.

Section III - Labor Rights

Art. 11. The apprentice is ensured, with due respect for the principle of the most beneficial condition:

I – The minimum hourly wage, which for this purpose should be the amount of the national minimum wage or regional minimum wage determined by law;

II – The floor of the category provided for by law, when applicable to the apprentice; and

III – The amount paid at the employer's discretion that is higher than the amounts provided for in items I and II.

Sole paragraph. Apprentices over the age of eighteen working in an unhealthy or dangerous environment or working a night shift are entitled to receiving the corresponding additional pay.

Art. 12. The number of hours worked by the apprentice shall not exceed six hours per day, during which theoretical and practical activities - or only one of them - may be developed, within the parameters established in the apprenticeship program.

§ 1. The workload of up to eight hours per day is allowed for apprentices who have completed Fundamental Education, provided that these hours include theoretical activities in the proportion established in the apprenticeship contract and program.

§ 2. The extension and compensation of working hours is prohibited for apprentices, to whom the cases foreseen in items I and II of article 413 of the Consolidation of Labor Laws do not apply.

§ 3. The apprentice's working hours should be set by the company together with the training entity, in compliance with the workload established in the apprenticeship program.

§ 4. The activities should be carried out according to a schedule that does not affect the school attendance of apprentices under the age of eighteen, according to article 427 of the CLT and subsection III, article 63 of Law No. 8,069 of 1990 - Statute of the Child and Adolescent, and in this case, the time necessary for commuting should be considered.

§ 5. The provisions of articles 66 to 72 of the CLT shall apply to the apprentice's hours allocated to practical or theoretical activities.

Art. 13. The apprentice's vacation period should be defined in the apprenticeship program, as established in Administrative Rule No. 723 of 2012, as follows:

I – The vacation period of apprentices under the age of eighteen must necessarily coincide with one of the school vacation periods, which cannot be divided into two or more periods, in accordance with the provisions of § 2, article 136 and § 2, article 134 of the CLT.

II – The vacation period of apprentices 18 years or older should preferably coincide with school vacations, in accordance with article 25 of Decree 5,598 of 2005.

Art. 14. The contribution to the Government Severance Indemnity Fund for Employees (FGTS) in apprenticeship contracts is set at two percent of the remuneration paid or due to the apprentice pursuant to article 15 of Law No. 8,036 of May 11, 1990.

Section IV - Apprenticeship Programs

Art. 15. For the purposes of technical and vocational training, and in accordance with articles 429 and 430 of the CLT, apprenticeship courses and programs should be offered preferably by entities of the National Apprenticeship Services.

Sole paragraph. Where the entities referred to in the heading fail to offer either a sufficient number of courses or places or an apprenticeship program that meets the needs of the establishments, the demand can be met by the following entities qualified to provide methodical vocational training:

I – Technical education schools;

II – Non-profit organizations whose objective is to provide assistance to adolescents and promote vocational education, duly included in the National Apprenticeship Register of the MTE and registered with the Municipal Council for the Rights of Children and Adolescents (CMDCA), when assisting minors under eighteen years.

Art. 16. The labor inspection office shall be responsible for verifying the shortage of courses or places at the National Apprenticeship Services, pursuant to the sole paragraph of article 13 of Decree No. 5,598 of 2005.

§1. Once the shortage of places or the non-existence of courses has been confirmed, the company may enroll the apprentices in technical education schools and in non-profit organizations.

§2. The labor inspector may use the evidence that he/she deems sufficient to prove the non-existence of shortage of places referred to in §1.

Art. 17. The theoretical and practical activities of the apprenticeship course should be carried out in environments suitable for the development of the respective programs, and it is incumbent upon the companies and entities responsible for the apprenticeship courses to offer apprentices safety and health and accessibility conditions in the apprenticeship environments, according to the provisions of articles 157 and 405 of the CLT, article 29 of Decree No. 3,298 of December 20, 1999, article 2 of Decree No. 6,481 of June 12, 2008, and the Occupational Safety and Health Regulations approved by Administrative Rule No. 3,214 of 1978.

Section V - Labor Inspection

Art. 18. The failure to comply with the provisions of the apprenticeship contract shall render the contract null and void and occurs:

I – When there is a breach of legal and regulatory provisions regarding the apprenticeship;

II – In the absence of correlation between the practical activities carried out by the apprentice and those foreseen in the apprenticeship program;

III – By contracting non-profit organizations that are not included in the National Apprenticeship Register or whose apprenticeship program parameter is not included in the Register; and

IV – In case of non-compliance with the labor legislation in execution of the apprenticeship contract.

§1. Once the apprenticeship has been rendered ineffective, the appropriate infraction notices shall be issued, and the employment contract shall be considered as of an indefinite period, with the legal and financial consequences arising therefrom, which shall cover the entire contractual period.

§ 2. When hiring occurs through a non-profit organization, the responsibility lies with the establishment charged with meeting the apprenticeship quota, with whom the employment relationship shall be directly established.

§ 3. The annulment of the apprenticeship contract entered into with minors under sixteen years implies the immediate termination of the contract, without prejudice to the application of the relevant sanctions and payment of the severance pay due.

§ 4. The provisions of § 1 do not apply, as regards the relationship, to Public Administration entities.

Art. 19. In the inspection of apprenticeship programs, the labor inspector should verify:

I – Fulfillment, by the establishments, of the quota provided for in article 429 of the CLT for hiring apprentices;

II – The adequacy of the apprenticeship contract to the current legislation;

III – The correspondence between the apprenticeship program and the activities developed by the apprentice in the establishment, in compliance, among other aspects, with:

- a) The compatibility of the course program with the apprentice's duties;
- b) The supervision of the non-profit organization;
- c) The specific training of instructors; and
- d) The compatibility of the duration of the course with the position held.

IV – Existence of places or courses in the entities of the National Apprenticeship System;

V – Regularity of the non-profit organization in the National Apprenticeship Register and the Municipal Council for the Rights of Children and Adolescents;

VI – Environmental conditions under which the apprenticeship is delivered, in both the entity responsible for the program and the employer's establishment;

VII – Regularity of contracts signed between the establishment and the non-profit organization;

VIII – Compliance with labor legislation, especially with respect to the apprenticeship, by the employing establishment or the non-profit that assumed the status of employer;

IX – Suitability of the apprenticeship environment to the standards of work protection and vocational training provided in the apprenticeship program.

§1. In establishments with seasonal activities or with high labor turnover, the labor inspector must demand compliance with the quota based on the number of employees existing at the time of the inspection.

§2. Failure of non-profit organizations to comply with the items in the heading and the legislation on apprenticeship, as well as the inadequacy of their programs to the context of the activity developed by the apprentices regarding their technical and vocational training and irregularities in hiring must be reported in a detailed manner by the labor inspector, in the report referred to in article 7 of Administrative Rule No. 723 of 2012.

Art. 20. In non-profit organizations hiring apprentices, as provided in article 7, the labor inspector should verify, in addition to the provisions of article 19:

I – Inclusion and regularity of the non-profit employer in the National Apprenticeship Register, pursuant to Administrative Rule No. 723 of 2012;

II – Existence of an apprenticeship program compatible with the position and activities of the apprentices hired and their adequacy to the requirements established in Administrative Rule No. 723 of 2012;

III – Existence of a certificate of registration of the non-profit with the CMDCA as an organization whose objective is to provide assistance to adolescents and promote vocational education, when any of its courses are intended for apprentices under eighteen years of age, as well as proof of deposit of the apprenticeship program with that Council;

IV – Existence of a statement of the apprentice's school attendance when this is mandatory;

V – Contract or agreement signed between the entity responsible for delivering the apprenticeship course and the institution contracting the services; and

VI – Apprenticeship contracts signed between the entity and the apprentices.

§1. Apprenticeship records and contracts signed by non-profit organizations must include the corporate name, address and registration number in the National Register of Legal Entities (CNPJ) of the establishment responsible for meeting the quota.

§2. Where the inadequacy of the non-profit organization is verified pursuant article 20, the labor inspector, without prejudice to appropriate notices of infraction, should take the measures provided for in article 7 of Administrative Rule No. 723 of 2012.

Art. 21. Indications of irregularities related to occupational safety and health must be reported by the labor inspector to the immediate management for communication to the competent sector for the purpose of carrying out the relevant inspection.

Sole paragraph. Where the apprenticeship environments are found to be unsuitable for the conditions necessary for protecting the adolescent's work and for the accessibility condition for apprentices with disabilities, or in cases of discrepancies between the actual conditions of the training entity's facilities and those informed in the National Apprenticeship Register, the labor inspector shall promote actions aimed at correcting the situation, without prejudice to the issuing of the appropriate notices of infraction, and take, if the irregularities are not rectified, the measures indicated in article 7 of Administrative Rule No. 723 of 2012.

Section VI - Apprenticeship Inspection Plan

Art. 22. In preparing the inspection plan for the hiring of apprentices, the Regional Labor and Employment Office must follow the guidelines issued by the Labor Inspection Secretariat.

Art. 23. The planning of apprenticeship inspections must comprise the actions foreseen in articles 19, 20 and 21 as well as the inspection, if necessary, of non-profit organizations that request inclusion in the National Apprenticeship Register, according to articles 3 and 4 of Administrative Rule No. 723 of 2012.

§1. The inspection of apprenticeship programs and of the execution and regularity of apprenticeship contracts signed by establishments and non-profit organizations must be preceded by the issuance of a specific service order.

§2. In order to inspect fulfillment of the obligation to hire apprentices, the Regional Labor and Employment Office, through employees designated by the inspection authority, shall be responsible for identifying the offer of courses and places by apprenticeship institutions and the employers' demand for apprentices.

§3. The offer of courses and places may be verified through apprenticeship programs validated and included in the National Apprenticeship Register or by contacting the entities of the National Apprenticeship System, technical schools and entities qualified to provide vocational training, including during events and lectures promoted by the Regional Labor and Employment Office.

§4. The potential demand for apprentices shall be identified by economic activity in each municipality, based on the information available in official databases such as the Annual List of Social Information (RAIS) and the General Register of Employed and Unemployed Persons (CAGED), or other systems available to labor inspectors, in compliance with the provisions of article 3 of this normative instruction.

Art. 24. Access to the National Apprenticeship Register requires a password, which should be requested directly by the Regional Labor and Employment Office to the General Coordination of Preparation of Youth Labor, Department of Youth Labor and Employment Policies of the Secretariat of Public Employment Policies (SPPE).

Art. 25. Without prejudice to the on-site inspection, the notification for the submission of documents – postal NAD - indirect inspection modality - may be adopted to individually or collectively summon employers to present documents, at a date and time previously set, in order to demonstrate regularity of the hiring of apprentices as provided for in article 429 of the CLT.

§1. In the postal notification procedure, a computerized data system may be used as instrumental support to facilitate the identification of establishments required to hire apprentices.

§2. In the case of a collective summons, the Regional Labor and Employment Office may, at its discretion, provide an explanation on the topic of apprenticeship, in order to raise awareness, guide and clarify doubts regarding apprenticeship.

§3. If the labor inspector, when planning the inspection or in the course thereof finds a serious or relevant reason that prevents or hinders the immediate hiring of apprentices, he or she may establish, with the consent of his or her immediate superior and provided that the establishment is being inspected for the first time, special inspection procedures, pursuant to articles 27-30 of the Labor Inspection Regulations (RIT) approved by Decree No. 4,552 of December 27, 2002, explaining the reasons for taking the measure.

§4. The special inspection procedures may result in the drafting of a term of commitment stipulating the obligations assumed by the party undertaking the commitment and the deadlines for compliance.

§5. During the period established in the term, the committed establishment may be inspected for compliance with its commitments, without prejudice to the inspection regarding attributes not provided for in said term.

Art. 26. The inspection supervisor should appoint labor inspectors to carry out the indirect inspection foreseen in article 25 and, as the case may be, verify compliance with the technical cooperation agreements signed by the Ministry of Labor and Employment.

Sole paragraph. In the case of a collective summons, sufficient labor inspectors should be appointed to assist all notified companies.

Art. 27. Once the labor inspection has been completed and the irregularities related to the apprenticeship program have not been corrected, the labor inspector, without prejudice to the drafting of the appropriate infraction notices, should prepare a detailed report to be submitted to his or her immediate supervisor, who will take the measures deemed appropriate according to each situation.

Art. 28. Normative Instruction No. 75 of May 8, 2009 is hereby repealed.

Art. 29. This Normative Instruction enters into force on the date of its publication.

VERA LUCIA RIBEIRO DE ALBUQUERQUE

ADMINISTRATIVE RULE No. 1,715 OF SEPTEMBER 21, 2009

THE MINISTER OF LABOR AND EMPLOYMENT, in exercise of the powers conferred upon him and in view of the provisions of item IV, sole paragraph, article 87 of the Federal Constitution, and article 1 of Decree No. 3,334 of January 11, 2000 and Decree 5,598 of December 1, 2005, hereby resolves:

Art. 1. To create the Information Matrix of Enrollments in Vocational Apprenticeship Programs offered by entities qualified to provide methodical technical and vocational training defined in article 8 of Decree 5,598 of December 1, 2005.

§ 1. The information regarding the number of new enrollments in the previous month shall be sent to the Ministry of Labor and Employment by the 5th of each month, in the form of Annex I.

§ 2. Enrollments made in the period from December 1st, 2008 to September 30, 2009 must be consolidated and informed by October 5, 2009.

Art. 2. The information may only be sent using the electronic form available at www.mte.gov.br.

Art. 3. The MTE will publish the information entered by the training entities through the Strategic Information System SISAPRENDiz at <http://www.mte.gov.br/sistemas/atlas/sislearning.html>, by the tenth working day of the month.

Art. 4. This Administrative Rule shall enter into force on the date of its publication.

CARLOS ROBERTO LUPI

ANNEX I (Administrative Rule No. 1,715 of September 21, 2009)

VOCATIONAL APPRENTICESHIP INFORMATION MATRIX

Federal Tax ID:

Corporate name:

Enrollments from December 1 st , 2008 through September 30, 2009	New enrollments			
	October 2009	November 2009	December 2009	January 2010

FOR FURTHER INFORMATION:

Ministry of Labor and Employment, Labor Inspection Secretariat (SIT)

Department of Labor Inspection (DEFIT) - Esplanada dos Ministérios, Bloco F, Anexo B, Sala 160

Telephone: (61) 3317-6172

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Ministry of Labor and Employment

Secretariat for Public Employment Policies (SPPE), Department of Youth Labor and Employment Policies (DPJ)

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