# THE CHILD & ADOLESCENT LABOUR (PROHIBITION & REGULATION) ACT, 1986

bachpan bachao andolan

# THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986

International Labour Organisation (I.L.O.) defines child labour as :

work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their schooling by:
    - depriving them of the opportunity to attend school;
    - obliging them to leave school prematurely; or
    - requiring them to attempt to combine school attendance with excessively long and heavy work."

**PROVISIONS UNDER LAW**

Under the Child and Adolescent labour (Prohibition & Regulation) Act, 1986, a child is defined as one who has not completed the age of 14 years and adolescent as a person who has completed 14 years of age but not 18 years of age.

Sec 3 : Prohibition of employment of children in any occupation and process

(I) No child shall be employed or permitted to work in any occupation

(2) Nothing in sub-section (1) shall apply where the child,-

(a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed: Provided that no such work under this clause shall effect the school education of the child.

Explanation.-For the purposes of this section, the expression

(a) "family" in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;

(b) "family enterprise " means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons

(c) "artist" means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports or in such other activity as may be prescribed relating to the entertainment or sports activities falling under Clause (b) of sub – section (2)

3A. Prohibition of employment of adolescents in certain hazardous occupations and process-No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule: Provided that the Central Government may, by notification specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this Act

i. Employment of children in all occupations: No child below the age of 14 years can be permitted to work as a labourer in any establishment.

ii. Employing the adolescents i.e. the children in the age group of 14 to 18 years, in the following hazardous occupations and processes is a crime

- Hazardous processes and occupation

iii. According to this law, a child is one whose age is less than 14 years and an adolescent is one whose age is more than 14 years but less than 18 years.

iv. A child can work in an occupation run by his/her family which does not fall under the category of a hazardous work. He/she can do this only after coming from the school and during the holidays.

v. Family of a child includes-

- Mother-father
- Siblings
- Siblings who were adopted by the parents of the child as per the law
- Siblings of the parents of the child

- Provisions for adolescents regarding to working in non-hazardous areas
  i. An adolescent cannot be permitted to work between 7 P.M. and 8 A.M.

  ii. Working hours for an adolescent – An adolescent cannot be permitted to work for more than 6 hours. This includes a break of an hour and the time period when he/she is made to wait for doing the work.

  iii. An adolescent cannot be made to work continuously for more than 3 hours on any day. It is necessary to give a break of at least one hour to him/her either before or after working for 3 hours.

  iv. No adolescent shall be required or permitted to work overtime. It is necessary to give an adolescent a holiday of one whole day in a week.

  v. No adolescent can be permitted to work in any other establishment, if he/she has already worked in an establishment on that day.

## CRIME AND PUNISHMENT

| The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 | | |
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| **Section** | **Provision** | **Punishment** |
| **14 (1)** | Giving employment to the child in any occupation or process and violating Section 3 and the rules The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 | ▪ Imprisonment ranging from six months to two years or fine ranging from Rs.20,000 to Rs.50,000 or both<br>▪ Cognizable offence |
| **14 (1A)** | Employing the adolescent in the enlisted hazardous occupations and processes | ▪ Imprisonment ranging from six months to two years or fine ranging from Rs.20,000 to Rs.50,000 or both<br>▪ Cognizable offence |
| **14 (2)** | If the above-mentioned crimes are repeated | Imprisonment for not less than one year which can extend to three years. |
| **14 (2A)** | If this crime is committed by the parents/guardians again | Fine, which can extend to Rs.10,000 |
| **14 (3)** | Remaining unsuccessful in abiding by the provisions and rules of this Act, which includes the violation of the rule regarding the employment of adolescents | Simple imprisonment which can be extended to 1 month or fine which can be extended to Rs.10,000, or both |

## NOTICE

- Issuing of a notice to every railway station, port authority and employer regarding non-employment of any child below the age of 14 years and non-employment of any child between 14 to 18 years of age in hazardous occupations and processes
- The notice shall be issued in english or in regional languages
- Notice should be clearly visible so that it can attract the attention of the people

## AGE CERTIFICATE

- In absence of birth certificate, age can be determined through an ossification test or any other test through which age can be identified, conducted by a medical officer. This test should be conducted on the orders of the appropriate officer authorised by the central government. Test should be conducted within 15 days of issuance of order

- **CHILD AND ADOLESCENT LABOUR REHABILITATION FUND**

  (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.

  (2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

  (3) The amount credited to the Fund under sub-sections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide. (4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

Explanation. —For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239A of the Constitution.

## ROLE OF LABOUR OFFICER

i. To achieve the objectives of the provisions of The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 an inspector would be appointed and any appointed inspector would be considered as a public-servant under Indian Penal Code, 1860

ii. The government will have to conduct inspections of those places from time to time where the employment of children is prohibited and where the hazardous occupations and processes are carried out where the adolescents are not permitted to work. Labour inspectors will have to make sure that whether the law is being abided at such places or not.

iii. It should be ensured that under the supervision of the inspector or nodal officer, under whosoever's jurisdiction this fund comes, that an account of rescued child or adolescent has been opened in a nationalised bank and that bank should have been informed, where the amount of the fund is deposited.

iv. The government would also deposit Rs.15,000 in the bank accounts of those children or adolescents for whom this amount has been deposited.

v. The amount deposited by the government would be deposited in such banks or through such appropriate means which the government deems fit.

vi. The deposited amount or investment and the interest earned over it would be handed to the child or the adolescent, once he/she attains the age of eighteen years.

vii. The inspector would prepare a report regarding the details of the concerned child or adolescent along with the amount of money

transferred which would be sufficient for his/her identification. One copy of the report would be sent annually to the central government for information.

## ROLE OF DISTRICT MAGISTRATE

i. District Magistrate would enforce the provisions and would ensure that the provisions of this Act are being followed properly. District Magistrate can authorise an officer who can exercise all those powers, by which he/she would follow his/her duties.

ii. District Magistrate would ensure that a written notice regarding the details of the work-place is sent to the inspectors by all the employers of the district, where the adolescents are permitted to work.

## RULES REGARDING EMPLOYERS

i. Each employer who has employed any adolescent should provide a written notice to the inspector under whose jurisdiction his establishment is situated, within 30 days of employing the adolescent, the following information:

- Name and situation of the establishment
- Name of the person in actual management of the establishment
- Address of the place where the communication related to the establishment can be addressed
- Nature of the occupation and process carried on in the establishment

ii. Each employer would maintain a register in respect to adolescents employed or permitted to work at his/her establishment, which during the entire working hours or during the time when work is going on at such establishment, would be available for inspection of the inspector .It should contain the following information:

- Name and date of birth of each adolescent who is employed or permitted to work
- Working hours and time duration of the work of any such adolescent along with the intervals of rest to which he/she is entitled
- Nature of work of any such adolescent, and
- Such other particulars as may be prescribed

iii. A notice, in which the holidays of the working adolescents would be stated, must be displayed in the establishment permanently at a place from where it is clearly visible which lays down the days of holidays of the working adolescents. This cannot be changed more than once by the employer within three months.

If, in absence of the age-certificate, a question arises in front of the inspector or occupier regarding the age of the working adolescent, then to determine his/her age the inspector would appoint a medical officer and then would release the age-certificate.

## WHERE AND WHOM TO COMPLAIN

i. To a member of special juvenile police unit who is deputed at each police station

ii. Various child welfare organisations (governmental and non-governmental/children's home)

iii. In the court of a metropolitan magistrate or a magistrate of first-class

iv Pencil portal: Any person can complain regarding child labour in the Govt. pencil portal (www.pencil.gov.in)

## CHILD-LABOUR CASE

Following guidelines were issued by the Hon'ble Supreme Court in *M.C. Mehta v. State of Tamil Nadu* in relation to the civil writ petition filed for abolition of child-labour-

1. Survey should be conducted for the identification of the working children
2. Children working in hazardous occupations should be rescued and repatriated. They should be educated in proper educational institutions.
3. Child Welfare Committee should be established to monitor, the compensation paid by employer for the rescued child.
4. Employment should be given to an adult family-member of the child
5. State government should contribute to the welfare-fund
6. Financial assistance should be given to the child's family
7. Children should not be permitted to work in non-hazardous occupations

In the case of civil petition of *Bachpan Bachao Andolan v. Union of India,* the employment of children below 14 years of age in circuses was banned by the Hon'ble Supreme Court of India .

In this case, the girls were rescued from a circus in Uttar Pradesh in 2004. Horrifying stories were being told when the statements were taken from the girls who used to work there.

Various guidelines were issued by the Hon'ble Supreme Court in this case-

1. Child-artists under the age of 14 years will not working in circuses
2. Minors working in circuses would not be forced to perform for 5 times a day.

# NOTES

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**TO COMPLAINT ABOUT CHILD ABUSE, PLEASE CALL 1098
OR BACHPAN BACHAO ANDOLAN HELPLINE NUMBER 18001027222**