



**REVIEW DOCUMENT**

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

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# **THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986<sup>1</sup>**

## **ACT NO. 61 OF 1986**

**Short Title:** The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

**Long Title:** An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.

**Ministry:** Ministry of Labour and Employment

**Enforcement Date:** 26-05-1993

### **Objective –**

This Act was enacted with the purpose to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto. It aims to protect children and adolescents and provide them with a better future. The Act further provides for strict penal liabilities on the person who breaks the provision of this Act and Employees children in any activity and adolescent in hazardous activities. It lays down working conditions, maximum hours of work, safety measures to be taken by employer etc.

### **Important provisions-**

The act is divided into **4 parts-**

#### **1) PRELIMINARY –**

It contains **Section 1 and section 2**. Section two provides certain definitions which are necessary for understanding the Act further. It defines who is an adolescent, child and family; what does

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<sup>1</sup>[https://labour.gov.in/sites/default/files/The\\_Child\\_and\\_Adolescent.pdf](https://labour.gov.in/sites/default/files/The_Child_and_Adolescent.pdf)

appropriate government, work and week mean. The most important of these are Adolescent and Child. Both these definitions were recently amended in the year 2016 and now stand as follows-

- “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year.
- “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), whichever is more.

## **2) PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES-**

It contains **Section 3- Section 5**. The Most important Section in this Part is **Section 3A** which mentions that- No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes mentioned in the Schedule. For this the Central Government has been provided with huge responsibility to specify the nature of hazardous as well as non-hazardous work to which an adolescent may or may not be permitted to work under this Act. The provision 3A was added in the year 2017. For the purpose of adding or deleting anything from the list an advisory committee, known as the Technical Advisory Committee can be formed. The Act in total prohibits approximately 3 occupation for the employment of children, which are

- Mines.
- Inflammable substances or explosives.
- Hazardous process.

Article 24 of the Indian Constitution includes the provision for the prohibition of employment of children in factories.

## **3) REGULATION OF CONDITIONS OF WORK OF CHILDREN-**

**Section 6- Section 13** talk about conditions in which the children can be employed. The most important of these is **Section 7**, which mentions that no adolescent can be permitted to work overtime. His working hours cannot be between 8 pm and 7 am. The employer also should make adequate resting facilities. After 3 hours of continuous work, one hour of rest is necessary. **Section 8** requires each week a day to be given as a holiday to the employee. **Section 9** lays down another important condition, it is mandatory for the employer to provide certain details to the area inspector under whose jurisdiction the establishment is situated. If the establishment came into existence prior to the commencement of this Act, then details need to be provided within 30 days of this enactment. If the establishment came into existence after the commencement of this act, details need to be provided after 30 days of establishment. The details are-

- the name and situation of the establishment;
- the name of the person in actual management of the establishment;
- the address to which communications relating to the establishment should be sent; and

- the nature of the occupation or process carried on in the establishment.

**Section 13** is another important section, it gives a broad outline regarding health and safety conditions at the workplace. Some of the mentioned conditions are- cleanliness in the place of work and its freedom from nuisance; disposal of wastes and effluents; ventilation and temperature; artificial humidification; lighting; drinking water; latrine and urinals; spittoons; fencing of machinery; protection to eyes and much more.

#### 4) MISCELLANEOUS-

This part contains **Section 14- Section 26**. **Section 14** lays down the penalty for anyone who employs a child or adolescent in contravention to the provisions of this act (section 3 / section 3A). The person shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both. **Section 14 A** provides that any offence committed in contravention with Section 3/ Section 3A shall be cognizable. **Section 14B** provides for creation of Child and Adolescent Labor Rehabilitation Fund which shall be constituted for each district and the fines collected from the employer are added in it and provided to the adolescent. **Section 14 C** provides for the rehabilitation of the child or adolescent rescued. **Section 14 D** provides for situations in which the offences can be compounded. Section 18 gives powers to the central government to make rules from time to time in respect of this act. Section 23-26 were repealed lately.

#### Amendments-

**THE CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016 (NO. 35 OF 2016)** was passed on 29th July, 2016 by the parliament of India. This act brought certain amendments in the main Act which are listed as follows-

- 1) The short title of the main act was amended from “the Child Labour (Prohibition and Regulation) Act, 1986”, to “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986”.
- 2) **Section 2** was also amended and a new definition of adolescent was provided i.e. “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year
- 3) **Section 3A** was laid down, which mentions- “3A. 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.”.
- 4) In **Sections 6-13** where ever the word “child” is to be substituted with the word “adolescent” where ever it occurs in these sections.

- 5) Under **Section 14, section 14A- section 14 D** were added. Offences under Section 3/ Section 3A were made cognizable. Provision made for establishment of Child and Adolescent Labour Rehabilitation Fund and for the adequate rehabilitation of the adolescent. Provision is also made for compounding of the offence under this act.
- 6) Under **Section 17, Section 17A and Section 17B** were added. Through this power was given to the District Magistrate to ensure that the provisions of this act are adequately protected.
- 7) Schedule of the Act was also amended. Only 3 processes are mentioned under the schedule now, that are – Mines, inflammable substances or explosives and Hazardous process.

## **Criticism-**

According to the UNICEF India, permitting children to work in their family enterprises would lead to more children working in unregulated conditions. The Section 3 which has this provision does not even specify the hours of work. It simply states that children can help after school hours or during vacations. It may restrict the children especially the poor children belonging to low caste to traditional caste-based occupations for generations. Also, it may be difficult to determine whether an enterprise is owned by a family or some person has employed the whole family to run the enterprise.

It has reduced the number of hazardous occupation from 83 to just 3 (mining, explosives and occupations mentioned in the Factory Act). This paves way for children to be employed in hazardous chemical mixing units, battery recycling units, among others. In addition, the present list of hazardous occupation is liable to be removed by the government authorities on their own discretion. According to Section 4 of the act, they need not approach parliament for doing so. According to an estimate, nearly 10% of adolescents working in hazardous conditions are working in family enterprises.

The bill has also expanded the definition of family to include not only parents and siblings but also the siblings of either parent.

## **Conclusion-**

The act was enacted with the aim to provide protection to the young generation. The provisions of the Act have been framed in such a way that it has actually helped in reducing the rate of child employment in India. It has helped in reducing various hazardous risks to which children were exposed at the workplace since long. Their exploitation has also been considerably reduced by laying down the provisions for maximum number of hours or period of work and various other related issues. The Act has proved instrumental in changing child labor laws to a great extent. If an employer is found employing a child in contravention of the provisions of the Act then, such employer stands liable for punishment which includes imprisonment or fine or both. Although the Act has reduced the number of child labors, this evil is still lingering in our society due to the socio-economic issues i.e. poverty and illiteracy and for overcoming the evil of child labor,

collective responsibility has to be taken up by the society at large as Justice Subba Rao, the former Chief Justice of India rightly said that<sup>2</sup>; “Social justice must start with the child. Until and unless a tender plant is properly tended and nourished, it has a small chance of growing into a strong and useful tree. So, the first preference in the plate of justice should be stated to the well-being of children.”



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<sup>2</sup><https://blog.ipleaders.in/child-labour-prohibition-regulation-act-1986/> accessed on August 22 2020 at 10:50 pm

## **ABOUT THE AUTHOR**



I'm Shivika Goyal from University Institute of Legal Studies Panjab University Chandigarh. I'm a keen observer, a quick learner and an ardent reader. I am glad to have worked under legaleagle law forum. The Bare Act Review Internship program helped me in doing a lot of research, I studied the bare acts carefully, observed its drafting, learnt the merits and launces in each bare act. The experience was quite an enriching and the journey learning experience with this will be cherished forever.

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