

A PPT

on

The Child Labour (Prohibition & Regulation)
Act, 1986

And

Child Rights

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Child Rights under Indian constitution

- Right to free and compulsory elementary education for all children in the age group of 6-14 years (Emanates from `right to life' Article 21 A)
- Right to be protected from any hazardous employment till the age of 14 years (Article 24)
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength [Article 39(e)]
- Right to equal opportunities & facilities to develop in a healthy manner and in conditions of freedom & dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment [Article 39 (f)]
- Right to early childhood care and education to all children until they complete the age of six years (Article 45)

Besides, children also being citizens of India, have equal rights on par with any other adult male or female

- Right to equality (Article 14)
- Right against discrimination (Article 15)
- Right to Life & personal liberty (Article 21)
- Right to being protected from being trafficked and forced into bonded labour (Article 23)
- Right of minorities for protection of their interests (Article 29)
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46)
- Right to nutrition and standard of living and improved public health (Article 47)

The Child Labour (Prohibition & Regulation) Act. 1986

The Scope of Study :

Sections

Part I : General Sections

(1 & 2)

Part II : Prohibitory Section Etc.

(3 to 5)

Part III : Regulatory Conditions

(6 to 13)

Part IV : Miscellaneous

(14 to 26)

Part I (General Sections 1 & 2)

Section 1 :

Short Title: The Child Labour (P & R) Act, 1986

Extent : It extends to whole of India

Commencement : w.e.f. 23 -12-1986-Except Part – III
w.e.f. 18 -10 -1995-Part – III & Child Labour(P&R)AP Rules, 1995

Section – 2 :

Definitions :

- iii. 'Child' means a person who has not completed his fourteenth year of age.
- v. 'Family' in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother & sister of such individual.
- vi. 'Occupier', in relation to an establishment or a workshop, means the person who has ultimate control over the affairs of the establishment or workshop.

Part – II(Prohibitory Section etc., Sec. 3 to 5)

Section – 3 :

Prohibition of employment of children in certain occupations and processes:

No child shall be employed or permitted to work in any of the occupations set forth in part-A of the Schedule or in any workshop wherein any of the processes set forth in part-B of the Schedule is carried on;

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from govt.

The Schedule :

Part-A : Occupations - 1 to 15

Part-B : Processes - 1 to 57

The Schedule

Part A- Occupations

Any occupation connected with

1. Transport of passengers, goods or mails by railway;
2. Cinder picking, clearing of an ash pit or building operation in the railway premises;
3. Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
5. A port authority within the limits of any port;
6. Work relating to selling of crackers and fireworks in shops with temporary licences;
7. Abattoirs/Slaughter Houses;
8. Automobile workshops and garages;
9. Foundaries;
10. Handling of toxic or inflammable substances or explosives;
11. Handloom and power loom industry;
12. Mines(underground and under water)and collieries;
13. Plastic units and fiberglass workshops.
14. Employment of child as domestic workers or servants;
15. Employment of children in dhabas (road – side eateries), restaurants, hotels, motels, tea- shops, resorts, spas or other recreational centers.

Part – B

Processes

1. Beedi – making.
2. Carpet – weaving including preparatory and incidental process thereof.
3. Cement manufacture, including bagging of cement.
4. Cloth printing, dyeing and weaving including processes preparatory and incidental thereto.
5. Manufacture of matches, explosives, and fireworks.
6. Mica – cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool – cleaning.
11. Building and construction industry including processing and polishing of granite stones.
12. Manufacture of slate pencils (including packing).
13. Manufacturing of products from agate.
14. Manufacturing process using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.
15. “Hazardous processes” as defined in Section 2 (cb) and ‘dangerous operations’ as notified in rules made under Section 87 of the Factories Act, 1948 (63 of 1948).
16. Printing as defined in Section 2 (k)(iv) of the Factories Act. 1948 (63 of 1948).
17. Cashew and Cashew-nut descaling processing.
18. Soldering process in electronic industries.
19. ‘Aggarbatti manufacturing.
20. Automobile repairs and maintenance including processes incidental thereto namely welding, lathe work, dent beating and painting

21. Brick Kilns and Roof tiles units.
22. Cotton ginning and processing and production of hosiery goods.
23. Detergent manufacturing.
24. Fabrication workshops(ferrous and non ferrous).
25. Gem cutting and polishing.
26. Handling of chromite and manganese ores.
27. Jute textile manufacture and coir making.
28. Lime Kilns and manufacture of Lime.
29. Lock making
30. Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead – painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scrapping of lead paint, burning lead in enameling workshops, lead mining, plumbing, cable making, wire patenting, lead casting, type founding in printing shops. Store type setting, assembling of cars, shot making and lead glass blowing.
31. Manufacture of cement pipes, cement products and other related work.
32. Manufacturing of glass, glass ware including bangles, florescent tubes, bulbs and other similar glass product.
33. Manufacturing of dyes and dye stuff.
34. Manufacturing or handling of pesticides and insecticides.
35. Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering process in electronic industry.
36. Manufacturing of burning coal and coal briquettes.

37. Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather.
38. Moulding and processing of fiberglass and plastic.
39. Oil expelling and refinery.
40. Paper making.
41. Potteries and ceramic industry.
42. Polishing, moulding, cutting, welding and manufacture of brass goods in all forms.
43. Processes in agriculture where tractors, threshing and harvesting machines are used and chaff cutting.
44. Saw mill – all processes.
45. Sericulture processing.
46. Skinning, dyeing and processes for manufacturing of leather and leather products.
47. Stone breaking and stone crushing.
48. Tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form.
49. Tyre making repairing, re- treading and graphite beneficiation.
50. Utensils making, polishing and metal buffing.
51. “Zari” making (all processes).
52. Electroplating ;
53. Graphite powdering and incidental processing ;
54. Grinding or glazing of metals ;
55. Diamond cutting and polishing ;
56. Extraction of slate from mines ;
57. Rag picking and scavenging.

Power to amend the Schedule

Section:4

The Central Govt. may add any occupation or process to the Schedule through notification in the Official Gazette

(Such notification shall be laid before the parliament)

Part – III(Regulation of conditions of work of children, Sec.6 to 13)

(Provisions of this part are enforceable with the strength of A.P. Rules 1995)

Section – 6:

Application of Part :

The provisions of this part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

Section – 7 :

Hours and Period of work:

Sub-sec.(1) : As prescribed for such establishment.

Sub-sec.(2) : 1 hr. rest period after 3 hrs of work.

Sub-sec.(3) : Spread over of work limited to 6 hrs including rest interval, waiting.

Sub-sec.(4) : No child is permitted to work between 7 pm & 8 am.

Sub-sec.(5) : No child is permitted to work overtime .

Sub-sec.(6) : No double employment.

Weekly Holiday

- Section-8 :

Shall be provided with 1 weekly holiday.

Section – 9 :

Notice to Inspector:

Containing the name & address of the establishment,
nature of work carried on and name of the occupier.

Section – 10 :

Disputes as to age :

In the absence of certificate issued by Prescribed medical authority, be referred by the inspector for decision to the prescribed medical authority

Maintenance of Register

- Section – 11:

The Register containing the following details shall be maintained

- a. Name & DOB of every employed child
- b. Hours & periods of work, rest hours
- c. Nature of work
- d. Other particulars as may be described.

Display of abstract of section 3 & 14

Sec.12:

- Every occupier shall display the abstract of section 3 & 14 in local language and in English, at work place.

Health and Safety

- Section -13 :

The appropriate government may make rules on the following matters

- a. Cleanliness & freedom from nuisance
- b. Disposal of wastes & effluents
- c. Ventilation & temperature
- d. Dust & fume
- e. Artificial humidification
- f. Lighting
- g. Drinking water
- h. Latrine & Urinals
- i. Spittoons
- j. fencing of machinery
- k. Work at or near machinery in motion
- l. Employment of children on dangerous machines

Health and Safety (contd..)

- m. Instructions, training & supervision in relation to employment of children on dangerous machines.
- n. Device for cutting off power
- o. Self acting machines
- p. Easing of new machinery
- q. Floor, stairs & means of access
- r. Pits, Sumps, opening in floors etc..
- s. Excessive Weights
- t. Protection of eyes
- u. Explosive or inflammable dust, gas etc..
- v. Precautions in case of fire
- w. Maintenance of buildings
- x. Safety of buildings & machinery

Part – IV(Miscellaneous – Penalties, Procedures, Sec.14 to 26)

Section – 14 :

Sub-Sec.(1) For Violation of Sec.3

Imprisonment - 3 months to 1 year

or

Fine Rs. 10,000 to 20,000/-

or with both

Sub-Sec.(2) Repeated Violation of Sec.3

Imprisonment - 6 months to 2 years

Sub-Sec.(3) for violation of Provisions of Act and Rules
other than sec.3

Imprisonment may extend upto 1 month

or

Fine may extend upto Rs. 10,000/-

or with both

Section – 15 :

Modified application of certain laws in relation to penalties :

Penal provisions of child Labour Act 1986 will prevail over the penal provisions of other Acts in respect of offence of child employment as shown below:

- a. Section 67 of the Factories Act,1948
- b. Section 40 of the Mines Act,1952
- c. Section 109 of the Merchant Shipping Act,1958
- d. Section 21 of the Motor Transport Workers Act,1961

Section – 16 :

Procedure relating to offences:

- Sub-Sec.(1) : Any person can file a complaint
- Sub-Sec.(2) : Conclusive evidence as to the age of child is age certificate issued by prescribed Medical Authority.
- Sub-Sec.(3) : No court inferior to that of a MM or a Magistrate of the First Class try offence.

Appointment of Inspectors

- Section-17 :

Appropriate government may appoint Inspectors for the purpose of compliance with the provisions of this act.

Power to make rules

- Section – 18:

The appropriate government is empowered to make rules for the purpose of compliance of this act

Rules & Notifications to be laid before legislatures

- Section – 19:

Every rule made, every notification issued under section 4 shall be laid before the appropriate legislature

Uniformity to the definition 'Child'

- Through sections 23 to 26, uniform age i.e. completion of 14 years is shown, so as to define a person as child in the following acts :
 - a. MW Act, 1948
 - b. Plantations labour act, 1951
 - c. Merchant Shipping Act, 1958
 - d. MTW Act, 1961

CONSEQUENCES OF CHILD LABOUR

- Stunted growth of future generation
- Malnourished citizens
- Sick citizens
- Early morbidity of citizens
- Mental deformity of citizens
- Perpetuation of ill treatment

CONSEQUENCES OF CHILD LABOUR(Contd.)

- Adult unemployment
- Depreciation in wages
- Perpetuation of poverty
- Persistence of child labour
- Perpetuation of economic inequality

CONSEQUENCES OF CHILD LABOUR(Contd.)

- Increased abuse of children
- Increased illiteracy Inability to harness human resources/ Wasted human resources/ Wasted human talents and skills

CONSEQUENCES OF CHILD LABOUR(Contd.)

- Inability to contribute to development
- Inability to benefit from development
- Citizens with accumulated frustration
- Citizens with inferiority complex

Elimination of Child Labour – Practical Problems

Holistic outlook towards this end.

- I. Root causes for the Employment of children
- II. Uprooting of root causes
- III. Practical problems in the enforcement of Child Labour

Root causes of Child Labour

On the Part of :

Victim

- Poverty of the parents of the Child
- illiteracy & ignorance of the parents of the Child
- Physical deformity of the members of the family
- An Act of God.

Employer

- Exploitative motive as the Child employment is cheaper.
- Notion of Easy mgt. of Children
- Ignorance of law/obligation due to pressure of Child's Parents.

Environment

- Defective education. (defective curriculum, defective teaching Etc.)
- Non congenial atmosphere for education

Practical Problems in the Enforcement

- Documents Collection
(Establishing Employer – Employee Relationship, Establishing age- proof)
- Lack of Proper information (Defective/Misleading information) on the employment of children
- Lack of infrastructure (ultra – modern) in booking cases against the erring employers.
- Non-co-operation /Feigning ignorance by the neighbors.
- Mob – mentality of the neighbors
- Burden of proof of child employment, beyond doubt.
- Exaggerated figures/statistics by media.

Be optimistic

- Despite all the aforesaid problems , problem shall be solved tactfully with multi-faceted approach.
- This being a social- evil it will vanish away, if not suddenly, but gradually.



Thank You