

## CONTENTS

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

Section

#### PART I

##### PRELIMINARY

1. Short title, extent and commencement
2. Definitions

#### PART I

##### PROHIBITION OFN EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

3. Prohibition of employment of children in any occupation and process
- 3-A. Prohibition of employment of adolescents in certain hazardous
4. Power to amend the Schedule
5. Technical Advisory Committee

#### PART III

##### REGULATION OF CONDITIONS OF WORK OF ADOLESCENTS

6. Application of Part
7. Hours and period of work
8. Weekly holidays
9. Notice to Inspector
10. Disputes as to age
11. Maintenance
12. Display of notice containing abstract of sections 3-A and 14
13. Health and safety

#### PART IV

##### MISCELLANEOUS

14. Penalties
- 14-A. Offences to be cognizable
- 14-B. Child and Adolescent Labour Rehabilitation Fund
- 14-C. Rehabilitation of rescued child or adolescent

14-D. Compounding of offences

- 15. Modified application of certain laws in relation to penalties
- 16. Procedure relating to offences
- 17. Appointment of inspectors

17-A. District Magistrate to implement the provisions

17-B. Inspection and monitoring

- 18. Power to make rules
- 19. Rules and notifications to be laid before Parliament or State Legislature
- 20. Certain other Provisions of laws not barred
- 21. Power to remove difficulties
- 22. Repeal and savings
  
- 23. Amendment of Act 11 of 1948
- 24. Amendment of Act 69 of 1951
- 25. Amendment of Act 44 of 1958
- 26. Amendment of Act 27 of 1961

THE SCHEDULE

-----

(iv)

CONTENTS

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

Rule  
Page

- 1. Short title and commencement
- 2. Definitions
- 3. Term of office of the members of the Committee
- 4. Secretary to the Committee
- 5. Allowances to non-official members
- 6. Resignation
- 7. Removal of Chairman or member of the Committee

8. Cessation of membership
9. Filling up of Casual Vacancies
10. Time and place of meetings
11. Notice of meetings
12. Presiding at meeting
13. Quorum
14. Decision by majority
15. Sub- Committees
16. Register to be maintained under section 11 of the Act
17. Certificate of age  
FORM A  
FORM B – Certificate of Age

-----

### THE CHILDREN (PLEDGING OF LABOUR) ACT,1933

#### Section

1. short title, extent and commencement
2. Definitions
3. Agreements contrary to the Act to be void
4. Penalty for parent or guardian making agreement to pledge the labour of a child
5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child
6. Penalty for employing a child whose labour has been pledged

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#### **List of Amending Acts**

1. Child Labour (Prohibition and Regulation) Amendment Act,2016

(35 Of 2016)

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

[23<sup>rd</sup> December, 1986]

[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.]

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:-

**Statements of Objects and Reason** – There are a number of Acts which prohibit the employment of children below 14 years and 15 years in certain specified employments. However, there is no procedure laid down in any law for deciding in which employments, occupations or processes the employment of children should be banned. There is also no law to regulate the working and are working under exploitative conditions.

2. This Bill intends to-

- (i) ban the employment of children, i.e., those who have not completed their fourteenth year, in specified occupations and processes;
- (ii) lay down procedure to decide modifications to the Schedule of banned occupations or processes;
- (iii) regulate the conditions of work of children in employments where they are not prohibited from working;
- (iv) lay down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children;
- (v) to obtain uniformity in the definition of “child” in the related laws.

3. The Bill seeks to achieve the above objects.

**Amendment Act 35 of 2016 – Statement of Objects and Reasons.** – The Child Labour (Prohibition and Regulation) Act, 1986 provides for prohibition of the engagement of children in certain employments and for regulating the conditions of work of children in certain other employments.

2. Section 3 of the said Act, inter alia, provides that employment of children below the age of fourteen years is prohibited in any of the occupations or processes specified in the Schedule to the said Act. Section 6 of the said Act provided that the provision of Part II of the Act ( which related with the regulation of conditions of work of children) shall apply to and establishment or a class of establishments in which none of the occupations referred to in section 3 I carried on.

3. It is proposed to prohibit employment of children in all occupations and processes to facilitate their enrolment in schools in view of the Right of Children to Free and Compulsory Education Act, 2009 and to prohibit employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes and to regulate the conditions of service of adolescents in line with the ILO Convention138 and Convention 182,respectively.

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1. Received the assent of the President on 23-12-1986 and published in the Gazette of India, Ext., Pt.II, S.1, dated 23-12-1986.
  2. Substituted by Act 35 of2016, S.2, for the long title (w.e.f. 1-9-2016). Prior to its substitution, the long title read as under:-“An Act to prohibit the engagement of children in certain employments and to regulate the condition of work of children in certain other employments”.
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hazardous occupations and processes and to regulate the conditions of service of adolescents in line with the ILO Convention 138 and Convention 182, respectively.

4. The provisions of the Bill, inter alia, provide for--

(i) the amendment of the long title of the said Act in view of the proposed provision to prohibit employment of children below fourteen years in all occupations and processes and the proposed provision to prohibit employment of adolescents (persons who have completed fourteen year of age but have not completed eighteenth year) in hazardous occupations and processes set forth in the proposed Schedule;

(ii) the amendment of the short title of the said Act in view of the insertion of the proposed new definition of “adolescent” whose employment in hazardous occupations and processes is also proposed to be prohibited;

(iii) the insertion of a new definition of “adolescent” that means a person who has completed his fourteen year of age but not completed his eighteenth year in section 2 of the said Act;

(iv) the amendment of the definition of “child” to provide that 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,whichever is more;

(v) the amendment of section 3 of the said Act to prohibit employment of children in all occupations and processes except where the child helps his family after his school technical institutions during vacations for the purpose of learning, but does not include any help or attending technical institutions where there is subordinate relationship of labour or work which are outsourced and carried out in home;

(vi) the insertion of a new section 3-A to prohibit employment of adolescents in any hazardous occupations and processes specified in the proposed Schedule;

(vii) the amendment of section 4 of the said Act to empower the Central Government to add or omit any hazardous occupations and processes from the Schedule to the proposed legislation;

(viii) the omission of Part III of the said Act in the view if the prohibition of employment of children below fourteen years of age in all occupations and processes;

(ix) the amendment of sub-section (1) of section 14 to enhance the punishment from imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not less than ten thousand rupees but which may extend to twenty thousand rupees, to 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, for employment and permitting any children to work in any occupations or processes in contravention of section 3. However, the parents or guardians of such children shall not be liable for such punishment unless they permit such children for commercial purposes;

(x) the insertion of new sub-section (1-A) in section 14 to provide punishment of 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 for employ mentor permitting to work any adolescent in any hazardous occupation or processes. However, the parents or guardians of such adolescents shall not be liable for punishment unless they permit such adolescents to work in contravention of the provisions of section 3-A;

(xi) the amendment of sub-section (2) of section 13, which provics punishment for the convicted offender who commits a like offence afterwards, to enhance the minimum punishment existing therein from six months to one year and maximum punishment from two years to three years;

(xii) the insertion of a new section 14-A to provide that the offences under the proposed legislation shall be cognizable notwithstanding anything contained in the Code of Criminal Procedure, 1973;

(xiii) the omission of the provisions of clauses (a) and (b)of sub-section (3) of section 14 of the Act in view of the prohibition of the employment of children below fourteen years in all occupations and processes;

(xiv) the insertion of new section 17-A to empower the appropriate Government to confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of the proposed legislation are properly carried

out and to empower the District Magistrate to specify the officer subordinate to him who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer in accordance with the rules made by the appropriate Government;

(xv) the insertion of new section 17-B which empowers the appropriate Government to make periodic inspection of cause such inspections to be made, of the places at which the employment of the children is prohibited and the hazardous occupation or process are carried out, at such intervals as it thinks fit and monitor the issues relating to the provisions of the Act; and

(xvi) the substitution of the existing Schedule to the Act by new Schedule in view of the prohibition of children in all occupations and process and regulation of employment of adolescents in hazardous occupations and processes.

5. The Bill seeks to achieve the above objectives.

## **Part I**

### **PRELIMINARY**

**1. Short title, extent and commencement.**-(1) This Act may be called <sup>1</sup>[THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986].

(2) It extends to the whole of India

(3) The provisions of his Act, other than Part II, shall come into force at once, and Part III shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different State and for different classes of establishments.

### **COMMENTS**

Without giving any opportunity of hearing to the employee, he cannot be asked make payment of the amount on the purported ground that he had employed two child labourers under the provisions of the Child Labour (Prohibition and Regulation) Act, 1986:Panch Ram Barat v. state of M.P.(2001) 2 Lab.L.J.842 (Madh.Pra.).

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1. Substituted by Act 35 of 2016,S. 3, for “the Child Labour (Prohibition and Regulation) Act,1986”(w.e.f. 1-9-2016).

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**2. Definitions.** - In this Act, unless the context otherwise requires,-

<sup>1</sup>[(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;]

<sup>2</sup>[(ia)] “appropriate Government” means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

<sup>3</sup>[(ii) “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;]

(iii) “day” means a period of twenty-four hours beginning at mid-night;

(iv) “establishment” includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(v) “family”, in relation to an occupier, means the individual, the wife or husband, as the cases may be, of such individual, and their children, brother or sister of such individual;

(vi) “occupier”, in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop;

(vii) “port authority” means any authority administering a port;

(viii) “Prescribed” means prescribed by rules made under section 18;

(ix) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector;

(x) “workshop” means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.

## COMMENTS

There was no reference that there was any certificate as to the age of child granted by prescribed medical authority. There was also no other document showing his age. The applicant had not admitted the age of the child alleged by the Enforcement Officer. Therefore, in these circumstances, the Inspector ought to have obtained a certificate of prescribed medical authority. But it was not done and the Trial Court as well as Appellate Court blindly accepted the age stated by the Enforcement Officer, which was not on the basis of any document or medical certificate. As such, there was no proper ascertainment of the age of the alleged child and in the absence of age, it cannot be said that he was a child as defined in S. 2(ii) of the Child Labour (Prohibition and Regulation) Act. In the absence of such evidence, the applicant could not be convicted: *Subhash Chandra Jaiswal v. State of U.P.* (2002)4 Lab.L.J. (Supp.)59(All.).

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1. Inserted by Act 35 of 2016, S. 4(a) (w.e.f. 1-9-2016).
  2. Cl. (i) renumbered as Cl. (ia) thereof by Act 35 of 2016, S. 4(a) (w.e.f. 1-9-2016).
  3. Substituted by Act 35 of 2016, S.4(b), for Cl.(ii) (w.e.f. 1-9-2016). Prior to its substitution, Cl. (ii) read as under:-(ii) "child" means a person who has not completed his fourteenth year of age;".
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**CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT,  
1986**

**PART II**

**PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND  
PROCESSES**

**<sup>1</sup>[3. Prohibition of employment of children in any occupation and process. –**

(1) No child shall be employed or permitted to work in any occupation or process.

(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 person or in such other activity as a may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).]

### **<sup>2</sup>[3-A. Prohibition of employment of adolescents in certain hazardous occupations and processes.-**

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.]

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1. Substituted by Act 35 of 2016, S.5, for S.3 (w.e.f. 1-9-2016). Prior to its substitution, S.3 read as under:- “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, Government.”

2. Inserted by Act 35 of 2016,S.6 (w.e.f. 1-9-2016).

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**4. Power to amend the Schedule.-** the Central Government, after giving by notification in the Official Gazette, not less than three months’ notice of its intention so to do, may, by like notification, 1[add to, or, omit from, the Schedule any hazardous occupation or process] and thereupon the Schedule shall be deemed to have been amended accordingly.

**5. <sup>2</sup>[Technical Advisory Committee].** - (1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the <sup>3</sup>[Technical Advisory Committee] (hereafter in this section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub – committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.

(5) The term of office of, the manner of filling casual vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.

### **PART III**

#### **REGULATION OF CONDITIONS OF WORK OF <sup>4</sup>[ADOLESCENTS]**

**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 <sup>5</sup>[section 3-A] is carried on.

**7. Hours and period of work. - (1) No <sup>6</sup> [adolescent] shall be required or permitted to work in any establishment or class of establishments.**

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no <sup>6</sup>[adolescent] shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a <sup>6</sup>[adolescent] shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

- 
1. Substituted by Act 35 of 2016, S.7, for “add any occupation or process to the Schedule” (w.e.f. 1-9-2016).
  2. Substituted by Act 35 of 2016, S.8 (i), for “child Labour Technical Advisory Committee” (w.e.f. 1-9-2016).
  3. Substituted by Act 35 of 2016, S.8 (i), for “child Labour Technical Advisory Committee” (w.e.f. 1-9-2016).
  4. Substituted by Act 35 of 2016, S.9, for “CHILDREN” (w.e.f. 1-9-2016).
  5. Substituted by Act 35 of 2016, S.10, for “section 3” (w.e.f. 1-9-2016).
  6. Substituted by Act 35 of 2016, S.11, for “child” (w.e.f. 1-9-2016).
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(4) No <sup>1</sup>[adolescent] shall be permitted or required to work between 7 p.m and 8 a.m.

(5) No <sup>1</sup>[adolescent] shall be required or permitted to work overtime.

(6) No <sup>1</sup>[adolescent] shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

**8. Weekly holidays.-** Every <sup>2</sup>[adolescent] employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

**9. Notice to Inspector.-** (1) Every occupier in relation to an establishment in which a <sup>3</sup>[adolescent] was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:-

(a) the name and situation of the establishment;

(b) the name of the person in actual management of the establishment;

(c) the address to which communications relating to the establishment should be sent; and

(d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any <sup>3</sup>[adolescent] after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

Explanation.- For the purposes of sub-section (1) and (2), “date of commencement of this Act, in relation to an establishment” means the date of bringing into force of this Act in relation to such establishment.

(3) Nothing in section 7, 8 and 9 shall apply to any establishment 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, Government.

**10. Disputes as to age.-** If any question arises between an Inspector and an occupier as to the age of any <sup>4</sup>[adolescent] who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such <sup>1</sup>[adolescent] granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

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1. Substituted by Act 35 of 2016, S.11, for “Child” (w.e.f. 1-9-2016).

2. Substituted by Act 35 of 2016, S.12, for “Child” (w.e.f. 1-9-2016).

3. Substituted by Act 35 of 2016, S.13, for “Child” (w.e.f. 1-9-2016).

4. Substituted by Act 35 of 2016, S.14, for “Child” (w.e.f. 1-9-2016).

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**11. Maintenance of register.-** There shall be maintained by every occupier in respect of <sup>2</sup>[adolescent] employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing-

(a) the name and date of birth of every <sup>3</sup>[adolescent] so employed or permitted to work;

- (b) hours and periods of work of any such <sup>3</sup>[adolescent] and the intervals of rest to which he is entitled;
- (c) the nature of work of any such <sup>3</sup>[adolescent]; and
- (d) such other particulars as may be prescribed.

**12. Display of notice containing abstract of <sup>4</sup>[section 3-A and 14].-** Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of <sup>5</sup>[section 3-A and 14].

**13. Health and safety.-** (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the <sup>6</sup>[adolescent] employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:-

- (a) cleanliness in the place of work and its freedom from nuisance;
- (b) disposal of wastes and effluents;
- (c) ventilation and temperature;
- (d) dust and fume;
- (e) artificial humidification;
- (f) lighting;
- (g) drinking water;
- (h) latrine and urinals;
- (i) spittoons;
- (j) fencing of machinery;
- (k) work at or near machinery in motion;
- (l) employment of <sup>1</sup>[adolescent] on dangerous machines;
- (m) instructions, training and supervision in relation to employment of <sup>1</sup> [adolescent] on dangerous machines;
- (n) device for cutting off power;
- (o) self-acting machine;



- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings 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; and
- (x) safety of buildings and machinery.

- 
1. Substituted by Act 35 of 2016, S.14, for "Child" (w.e.f. 1-9-2016).
  2. Substituted by Act 35 of 2016, S.15(a), for "Children" (w.e.f. 1-9-2016).
  3. Substituted by Act 35 of 2016, S.15(b), for "Child" (w.e.f. 1-9-2016).
  4. Substituted by Act 35 of 2016, S.16(a), for "sections 3 and 14" (w.e.f. 1-9-2016).
  5. Substituted by Act 35 of 2016, S.16(b), for "sections 3 and 14" (w.e.f. 1-9-2016).
  6. Substituted by Act 35 of 2016, S.17, for "Children" (w.e.f. 1-9-2016).
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## **PART IV**

### **MISCELLANEOUS**

**10. Penalties.**- <sup>2</sup>[(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 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:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(1-A) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A 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:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3-A.

(1-B) Notwithstanding anything contained in sub-sections (1) and (1-A) the parents or guardians of any child or adolescent referred to in section 3 or section 3-A, shall not be liable for punishment, in case of the first offence.]

- 
1. Substituted by Act 35 of 2016, S.17, for “Children” (w.e.f. 1-9-2016).
  2. Substituted by Act 35 of 2016, S.18(a), for sub-S. (1) (w.e.f. 1-9-2016). Prior to its substitution, sub-S.(1) read as under:- “(1) whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.”
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<sup>1</sup>[(2) Whoever, having been convicted of an offence under section 3 or section 3-A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2-A) Notwithstanding anything, contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3-A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees.]

(3)Whoever-

<sup>2</sup>[\*\*\*]

(d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

<sup>3</sup>[**14-A. Offences to be cognizable.** - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence committed by an employer and punishable under section 3 or section 3-A shall be cognizable.

**14-B. 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.

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1. Substituted by Act 35 of 2016, S.18(b), for sub-S. (2) (w.e.f. 1-9-2016). Prior to its substitution, sub-S.(2) read as under:- “(2) whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.”
  2. Cls. (a), (b) and (c) omitted by Act 35 of 2016, S.18(c) (w.e.f. 1-9-2016). Prior to their omission, Cls.(a), (b) and (c) read as under:- “(a) fails to give notice as required by section 9; or  
(b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or  
(c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or”.
  3. Inserted by Act 35 of 2016, S.19 (w.e.f. 1-9-2016).
- 

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

**14-C. Rehabilitation of rescued child or adolescent.**-The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

**14-D. Compounding of offences.**- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.]

(2) If the accused fails to pay such amount for composition of the offence, then, the proceedings shall be continued against such person in accordance with the provisions of this Act.

(3) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(4) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought in writing, to the notice of the Court in which the prosecution is pending and on the approval of the composition of the offence being given, the person against whom the offence is so compounded, shall be discharged.]

#### **15. Modified application of certain laws in relation to penalties.-**

(1) Where any person is found guilty and convicted of contravention of any of the provisions mentioned in sub-section (2), he shall be liable to penalties as provided in sub-sections (1) and (2) of section 14 of this Act and not under Acts in which those provisions are contained.

(2) The provisions referred to in sub-section (1) are the provisions mentioned below:-

(a) section 67 of the Factories Act, 1948 (63 of 1948); 1952);

b) section 40 of the Mines Act, 1952 (35 of 1952);

(c) section 109 of the Merchant Shipping Act, 1958 (44 of 1958); and

(d) section 21 of the Motor Transport Workers Act, 1961 (27 of 1961).

## COMMENTS

Provisions referred to in S. 15(2) are as follows:-

(a) S. 67 of the Factories Act, 1948 (63 of 1948):-

"67. Prohibition of employment of young children.- No child who has not completed his fourteenth year shall be required or allowed to work in any factory."

(b) S. 40 of the Mines Act, 1952 (35 of 1952):-

"40. Employment of persons below eighteen years of age.- (1) After the commencement of the Mines (Amendment) Act, 1983, no person below eighteen years of age shall be allowed to work in any mine or part thereof.

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

Explanation.-In this section and in section 43, "apprentice" means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961 (52 of 1961)."

(c) S. 109 of the Merchant Shipping Act, 1958 (44 of 1958):-

"109. Employment of children.-No person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except-

(a) in a school ship, or training ship, in accordance with the prescribed conditions; or

(b) in a ship in which all persons employed are members of one family; or

(c) in a home-trade ship of less than two hundred tons gross, or

(d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative."

(d) S. 21 of the Motor Transport Workers Act, 1961 (27 of 1961):-

"21. Prohibition of employment of children.-No child shall be required or allowed to work in any capacity in any motor transport undertaking."

S. 15(2)(a) deals with a situation wherein there is contravention of S. 67 of the Factories Act, 1948; once offence under the said section of the Factories Act stands established the penalty has to follow as a natural corollary as prescribed under S. 14(1) of the Child Labour (Prohibition and Regulation) Act, 1986: State of Gujarat v. Bhupendra Kumar Jagjivandas Patel (2001) 2 Lab.L.J. 1517 (Guj.).

**16. Procedure relating to offences.**-(1) Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any Court of competent jurisdiction.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

**17. Appointment of Inspectors.**-The appropriate Government may appoint Inspectors for the purposes of securing compliance with the provisions of this Act and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

<sup>1</sup>**[17-A. District Magistrate to implement the provisions.**-The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

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1. Inserted by Act 35 of 2016, S.20 (w.e.f. 1-9-2016).

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**17-B. Inspection and monitoring.**-The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.]

**18. Power to make rules.**-(1) The appropriate Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

<sup>1</sup>[ (a) the conditions and the safety measures under clause (b) of sub section (2) and other activities under clause (b) to Explanation of sub-section (2) of section 3;]

<sup>2</sup>[(b)] the term of office of, the manner of filling casual vacancies of, and the allowances payable to, the Chairman and members of the <sup>3</sup>[Technical Advisory Committee] and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of section 5;

<sup>2</sup>[(c)] number of hours for which a <sup>4</sup>[adolescent] may be required or permitted to work under sub-section (1) of section 7;

<sup>2</sup>[(d)] grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned;



<sup>2</sup>[(e)] the other particulars which a register maintained under section 11 should contain;

<sup>5</sup>[(f)] the manner of payment of amount to the child or adolescent under sub-section (4) of section 14-B;

(g) the manner of composition of the offence and payment of amount to the appropriate Government under sub-section (1) of section 14-D;

(h) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17-A.]

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1. Inserted by Act 35 of 2016, S. 21(i) (w.e.f. 1-9-2016).
  2. Cls. (b), (c) and (d) relettered as Cls. (c), (d) and (e) thereof by Act 35 of 2016, S. 21(iii) (w.e.f. 1-9-2016).
  3. Substituted by Act 35 of 2016, S. 21(ii), for "Child Labour Technical Advisory Committee" (w.e.f. 1-9-2016).
  4. Substituted by Act 35 of 2016, S. 21(iii), for "child" (w.e.f. 1-9-2016).
  5. Inserted by Act 35 of 2016, S. 21(iv) (w.e.f. 1-9-2016).
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**19. Rules and notifications to be laid before Parliament or State Legislature.-(1)**

Every rule made under this Act by the Central Government and every notification issued under section 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the Legislature of that State.

**20. Certain other provisions of law not barred.**-Subject to the provisions contained in section 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948 (63 of 1948), the Plantations Labour Act, 1951 (69 of 1951) and the Mines Act, 1952 (35 of 1952).

**21. Power to remove difficulties.**-(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

**22. Repeal and savings.**-(1) The Employment of Children Act, 1938 (26 of 1938), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

**23. Amendment of Act 11 of 1948.**-In section 2 of the Minimum Wages Act, 1948,-

(i) for clause (a), the following clauses shall be substituted, namely:-

"(a) 'adolescent' means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

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1. Section 23 have been repealed by section 2 and First Schedule of the Repealing and Amending Act, 2001 (30 of 2001) (w.e.f. 3-9-2001). The repeal by this Act shall not

affect any other enactment in which the repealed enactment has been applied, incorporated or referred to.

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(aa) 'adult' means a person who has completed his eighteenth year of age"

(ii) after clause (b), the following clause shall be inserted, namely:-

"(bb) 'child' means a person who has not completed his fourteenth year of age;"

**<sup>1</sup>24. Amendment of Act 69 of 1951.**-In the Plantations Labour Act, 1951,-

(a) in section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted;

(b) section 24 shall be omitted;

(c) in section 26, in the opening portion, the words "who has completed his twelfth year" shall be omitted.

**<sup>1</sup>25. Amendment of Act 44 of 1958.**-In the Merchant Shipping Act, 1958, in section 109, for the word "fifteen", the word "fourteen shall be substituted.

**<sup>1</sup>26. Amendment of Act 27 of 1961.**-In the Motor Transport Workers Act, 1961, in section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted.

**<sup>2</sup>[THE SCHEDULE  
(See section 3-A)**

- (1) Mines.
  - (2) Inflammable substances or explosives.
  - (3) Hazardous process.
- 

1. Sections 24 to 26 have been repealed by section 2 and First Schedule of the Repealing and Amending Act, 2001 (30 of 2001) (w.e.f. 3-9-2001). The repeal by this Act shall not effect any other enactment in which the repealed enactment has been applied, incorporated or referred to.

2. Substituted by Act 35 of 2016, S. 22, for Sch. (w.e.f. 1-9-2016). Prior to its substitution, the Sch. read as under:-

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**"THE SCHEDULE  
(See section 3-A)  
PART A  
OCCUPATIONS**

An 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) Foundries;

(10) Handling of toxic or inflammable substances or explosives;

(11) Handloom and powerloom industry;

(12) Mines (underground and underwater) and collieries:

(13) Plastic units and fibreglass workshops.]

(14) Employment of children as domestic workers or servants;

(15) Employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centres:]

[(16) Diving.]

[(17) Circus;

(18) Caring of Elephants.]

## PART B

### PROCESSES

(1) Bidi-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) Manufacture of products from agate;
- (14) Manufacturing processes 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 noticed in rules 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 Cashewnut descaling and processing;
- (18) Soldering process in electronic industries;
- (19) "Aggarbatti" manufacturing;
- (20) Automobile repairs and maintenance including processes incidental there to, 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 of 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;

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Explanation- For the purposes of this Schedule, "hazardous process" has the meaning assigned to it in clause (cb) of the Factories Act, 1948 (63 of 1948).

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- (31) Manufacture of cement pipes, cement products and other related work;
- (32) Manufacturing of glass, glassware including bangles, florescent tubes, bulbs and other similar glass products;
- (33) Manufacture 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 processes in electronic industry
- (36) Manufacturing of burning coal and coal briquettes
- (37) Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leathers
- (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) Process 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 o tabacco, tobacco paste and handling of tabacco in any form;
- (49) Tyre making, repairing, retreading an graphite benefiction.
- (50) Utensils making, polishing and mental 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;]
- (58) Processes involving exposure to excessive heat (e.g. Working near furnace and cold;
- (59) Mechanised fishing;
- (60) Food Processing;
- (61) Beverage industry;
- (62) Timber handling and loading;
- (63) Mechanical lumbering;
- (64) Warehousing;
- (65) Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, agate industry.]”.

### **THE CHILD LABOUR (PROHIBITION AND REGULATION) RULES, 1988<sup>1</sup>**

In exercise of the powers conferred by subsection (1) of section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the centra Government hereby makes the following rules, namely;-



- 1. Short title and commencement.** – (1) These rules may be called The Child Labour (Prohibition And Regulation ) Rules, 1988.

They shall come into force on the date of their publication in the Official Gazette.
- 2. Definition** - In these rules, unless the context otherwise requires, --

  - (a)** “Act” Means the child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986);
  - (b)** “Committee” means the Child Labour Technical Advisory Committee constituted under sub-section(1) of section 5 of the Act;
  - (c)** “Chairman” means the Chairman of the Committee appointed under sub-section (2) of section 5 of the Act;
  - (d)** “Form” means a form appended to these rules;
  - (e)** “Register” means the register required to be maintained under section 11 of the Act;
  - (f)** “Schedule” means the Schedule appended to the Act;
  - (g)** “Section” means a section of the Act.
- 3. Term of office of the members of the Committee.** – **(1)** The term of office of the members of the Committee shall be one year from the date on which their appointment is notified in the Official Gazette;

Provided that the central Government may extend the term of office of the member of the Committee for a maximum period of two years;

Provided further that the member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

**(2)** The Members appointed under sub-rule (1) shall be eligible for re-appointment.
- 4. Secretary to the Committee.** - The Central Government may appoint an officer not below the rank of an Under Secretary to Government of India as Secretary of the Committee.
- 5. Allowances of non-official members.** – The non-official members and Chairman of the Committee shall be paid such fees and allowances as may be admissible to the officers of the Central Government drawing a pay of rupees four thousand and five hundred or above.

**6. Resignation. (1)** A member may resign his office by writing under his hand addressed to the Chairman.

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1. Vide G.S.R.847€, Dated 10-08.1988, published in the Gazette of India, Ext., Pt.II, S.3(i) date 10-08-1988.

(2) The Chairman may resign his office by writing under his hand addressed to the Central Government.

(3) The resignation referred to in sub- rule(1) and sub-rule (2) shall take effect from the date of its acceptance or on the expiry of thirty days from the date of receipt of such resignation, whichever is earlier, by the Chairman or the Central Government, as the case may be.

**7. Removal of Chairman or member of the Committee.** – The Central Government may remove the Chairman or any member of the Committee at any time before the expiry of the term of office after giving him a reasonable opportunity of showing cause against the proposed removal.

**8. Cessation of membership.** – If a member –

(a). is absent without leave of the Chairman for three or more consecutive meeting of the Committee; or

(b) is declared to be of unsound mind by a competent Court; or

(c) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) is, or at any time, has been adjudicated insolvent or has suspended his debts or has compounded with his creditors, shall cease to be a member of the Committee.

**9. Filling up of casual vacancies.** In case a member resigns his office under rule 6 or ceases to be a member under rule 8, the casual vacancy thus caused shall be filled up by the Central Government and the member so appointed shall hold office for the unexpired portion of the term of his predecessor.

**10. Time and place of meetings.** – The Committee shall meet at such times and places as the Chairman may fix in this behalf.

**11. Notice of meeting.** - The Secretary to the Committee shall give at least seven days notice to every member of the Committee of the time and place fixed for each meeting alongwith the list of business to be transacted at the said meeting.

**12. Presiding at meetings.** – The Chairman Shall preside at every meeting of the Committee at which he is present; if, however, the Chairman is unable to attend a meeting, any member elected by the members present among themselves shall preside at the meeting.

**13. Quorum.** – No business shall be transacted at a meeting of the Committee unless at least three members of the Committee other than the Chairman and the Secretary are present.

Provided that at any meeting in which less than three of the total members are present . the Chairmen may adjourn the meeting to a date as he deems fit and inform the members present and notify other members that the business of the scheduled meeting shall be disposed of at the adjourned meeting irrespective of the quorum and it shall be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending the meeting.

**14. Decision by majority.** – All question considered at a meeting of the Committee shall be decided by a majority of vote of the members present and voting and in the event of equality of votes, the Chairman, or in the absence of Chairman, the member presiding at the meeting, as the case may be, shall have a second or casting vote.

**15. Sub-Committees.** – The Committee may constitute one or more Sub-Committees, Whether consisting only of members of hit Committee or partly of members of the Committee and partly of other persons as it thinks fit. for such purposes, as it may decid and any sub-Committee so constituted shall discharge such function as may be delegated to it by the Committee.

**16. Register to be maintained under section 11 of the Act.** - (1) Every occupier of an establishment shall maintain a register in respect of children Employed of permitted ot work, in form A.

(2) The register shall be maintained on a yearly basis but shall be retained by the employer for a period of three years after the date of the last entry made therein.

**17. Certificate of age. – (1)** all young persons in employment in any of the occupation 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 shall produce a certificate of age from the appropriate medical authority, whenever required to do so by an Inspector.

(2) The Certificate of age referred to in sub-rule (1) shall be issued in Form B.

(3) The charges payable to the medical authority for the issue of such certificate shall be the same as prescribed by the State Government or the Central Government, as the case may be, for their respective Medical Boards.

(4) The Charges payable to the medical authority shall be borne by the employer of the young person whose age is under question.

Explanation.-For the purposes of sub-rule (1), the appropriate “ Medical Authority” shall be Government medical doctor not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in employees’ State Insurance dispensaries or hospitals.

FORM A

[See rule 16(1)]

Year.....

Name and address of employer.....Place of work .....

Nature of work being done by the establishment.....

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Sl.No	Name of child	Father's name	Date of birth	Permanent address	Data of joining the establishment
1	2	3	4	5	6

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Name of the work on which employed	Daily hours of work	Intervals of rest	Wages Paid	Remarks
7	8	9	10	11

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FORM B

(Certificate of Age)

[See rule 17(2)]

Certificate No.....

I hereby certify that I have personally examined (name).....son/ daughter of .....residing at.....and that he/she has completed his/her fourteenth year and his/her age, as nearly as can be ascertained from my examination, is..... years (completed). His/her descriptive marks are.....

Thumb – impression/signature of child.....

Place.....

Medical Authority

Date.....

Designation

\_\_\_\_\_

