

REPRINT

TO BE INTRODUCED IN THE RAJYA SABHA
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Bill No. LXIII of 2012

THE CHILD LABOUR (PROHIBITION AND REGULATION)
AMENDMENT BILL, 2012

A

BILL

further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2012.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

61 of 1986.

2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as
the principal Act), for the long title, the following shall be substituted, namely:—

Amendment
of 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
10 matters connected therewith or incidental thereto.”

Amendment of short title.	3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986”, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986” shall be substituted.	61 of 1986.
Amendment of section 2.	4. In section 2 of the principal Act,— (a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:— ‘(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;’; (b) for clause (ii), the following clause shall be substituted, namely:— ‘(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, whichever is more;’.	5 10 35 of 2009.
Substitution of new section for section 3.	5. For section 3 of the principal Act, the following section shall be substituted, namely:—	
Prohibition of employment of children in any occupation and process.	“3. No child shall be employed or permitted to work in any occupation or process: Provided that nothing in this section shall apply where the child helps his family after his school hours or helps his family in fields, home-based work, forest gathering or attends 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.”.	15 20
Insertion of new section 3A.	6. After section 3 of the principal Act, the following section shall be inserted, namely:—	
Prohibition of employment of adolescents in certain hazardous occupations and processes.	“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.”.	
Amendment of section 4.	7. In section 4 of the principal Act, for the words “add any occupation or process to the Schedule”, the words “add to, or, omit from, the Schedule any hazardous occupation or process” shall be substituted.	25
Omission of Part III.	8. Part III of the principal Act shall be omitted.	
Amendment of section 14.	9. In section 14 of the principal Act,— (a) for sub-section (1), the following sub-sections shall be substituted, namely:— “(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. (1A) 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:	30 35 40

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 3A.”;

(b) in sub-section (2),—

5 (i) for the word and figure “section 3”, the words, figures and letter “section 3 or section 3A” shall be substituted;

(ii) for the words “six months but which may extend to two years”, the words “one year but which may extend to three years” shall be substituted;

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

10 **10.** After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 14A.

2 of 1974. “14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.”.

Offences to be cognizable.

11. After section 17, the following sections shall be inserted, namely:—

Insertion of new sections 17A and 17B.

15 “17A. 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.

20

District Magistrate to implement the provisions.

25 17B. 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.”.

Inspection and monitoring.

12. In section 18 of the principal Act, in sub-section (2), for clauses (b), (c) and (d), the following clause shall be substituted, namely:—

Amendment of section 18.

30 “(b) 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 17A.”.

13. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the Schedule.

‘THE SCHEDULE

(See section 3A)

35 (1) Mines.

(2) Inflammable substances or explosives.

(3) Hazardous process.

63 of 1948. *Explanation.*—For the purposes of this Schedule, “hazardous process” has the meaning assigned to it in clause (cb) of the Factories Act, 1948.’.

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 provides that the provisions of Part III of the Act (which relates with the regulation of conditions of work of children) shall apply to an establishment or a class of establishments in which none of the occupations referred to in section 3 is 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 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 fourteenth 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 fourteenth 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 hours or helps his family in fields, home-based work, forest gathering or attends 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 3A 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 view of 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 be 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 or 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 (1A) 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 employment or permitting to work any adolescent in any hazardous occupations 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 3A;

(xi) the amendment of sub-section (2) of section 14, which provides 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 14A 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 17A 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 17B which empowers the appropriate Government to make periodic inspection or cause such inspection 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 processes and regulation of employment of adolescents in hazardous occupations and processes.

5. The Bill seeks to achieve the above objectives.

ANNEXURE

EXTRACTS FROM THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 (61 OF 1986)

* * * * *

An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

* * * * *

PART I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

* * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

* * * * *

(ii) “child” means a person who has not completed his fourteenth year of age;

* * * * *

PART II

PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

Prohibition
of employ-
ment of
children in
certain
occupations
and processes.

3. 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.

Power to
amend the
Schedule.

4. 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, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

* * * * *

PART III

REGULATION OF CONDITIONS OF WORK OF CHILDREN

Application
of Part.

6. 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.

Hours and
period of
work.

7. (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such 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 child 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 child 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.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

8. Every child 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.

Weekly holidays.

9. (1) Every occupier in relation to an establishment in which a child 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:—

Notice to Inspector.

(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 child 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-sections (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 sections 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. If any question arises between an Inspector and an occupier as to the age of any child 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 child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

Disputes as to age.

11. There shall be maintained by every occupier in respect of children 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—

Maintenance of register.

(a) the name and date of birth of every child so employed or permitted to work;

(b) hours and periods of work of any such child and the intervals of rest to which he is entitled;

(c) the nature of work of any such child; and

(d) such other particulars as may be prescribed.

12. 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 sections 3 and 14.

Display of notice containing abstract of sections 3 and 14.

13. (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

Health and safety.

(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 children on dangerous machines;
- (m) instructions, training and 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 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.

PART IV

MISCELLANEOUS

Penalties.

14. (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.

(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.

(3) Whoever—

- (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

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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.

* * * *

18. (1) * * * *

Power to
make rules.

(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:—

* * * *

(b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;

(c) 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;

(d) the other particulars which a register maintained under section 11 should contain.

* * * *

THE SCHEDULE

(See section 3)

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 workshop 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.

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 fire-works.
- (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 process' as defined in section 2(cb) and 'dangerous operation' as notified 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 processes in electronics 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 of lead in enamelling 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, glassware including bangles, fluorescent 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 leather.
- (38) Moulding and processing of fibreglass 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 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 of 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.

RAJYA SABHA

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further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

(Shri Mallikarjun Kharge, Minister of Labour and Employment.)