

AS INTRODUCED IN THE RAJYA SABHA  
ON THE 7TH DECEMBER, 2012

**Bill No. XLIV of 2012**

THE WORKING CHILDREN (RESCUE, REHABILITATION AND  
WELFARE) BILL, 2012

A

BILL

*to provide for the identification of children employed in industries, occupations, households and establishments, eateries etc., for rescuing them from such employment and for their proper rehabilitation and for welfare measures to be undertaken by the State through education, training and such other measures for the rescued working children and for matters connected therewith and incidental thereto.*

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 Working Children (Rescue, Rehabilitation and Welfare) Act, 2012.

(2) It extends to the whole of India.

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

Short title,  
extent and  
commencement.

Definitions.

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

(a) "appropriate Government" mean in the case of a State, the Government of that State and in other cases the Central Government;

(b) "child" means any boy or girl who is below the age of fifteen years;

(c) "competent authority" mean such authority which has been so authorized by the appropriate Government by notification in the Official Gazette to perform all or any of the functions of competent authority under this Act and also for such area or areas as may be specified therein; 5

(d) "employer" means,—

(i) in relation to an establishment the person who has the ultimate control over the affairs of such establishment; 10

(ii) in relation to a house, the head of the family;

(iii) in relation to a shop, *dhaba* stall, restaurant, hotel, kiosk, *rehri* or similar places the owner thereof; and

(iv) in relation to agricultural operation, the person for whom the agricultural operation or work is done, undertaken or accomplished. 15

(e) "establishment" includes a household, factory, mine, plantation site, agricultural field, shop, Kiosk, stall, *dhaba*, *rehri*, tea stall Hotel, restaurant, circus, exhibition, vending place or vehicle, garage or auto repair shop, or any place or premises in which children are employed for working; 20

(f) "prescribed" means prescribed by rules made under this Act.

Abolition of Child labour.

3. (1) On the commencement of this Act, child labour in any form whatsoever shall stand abolished and every working child on such commencement shall stand freed and discharged from any obligation to render any work, be it forced or bonded labour for any employer or establishment. 25

(2) After the commencement of this Act,—

(a) no person shall for himself or for any establishment either employ a child or compel any child to render any forced or bonded labour;

(b) no parent or guardian of a child shall pledge his child to anybody for any work; and 30

(c) any custom or tradition or any contract, agreement or other instrument by virtue of which any child is required to do any work or render any service as a worker shall be void and inoperative.

Survey, enumeration and rescue of working Children.

4. (1) The appropriate Government shall, from time to time as per the need, make surveys to identify and enumerate children working in various establishments and prepare a record thereof in such manner and with such details, as may be prescribed. 35

(2) The appropriate Government shall rescue all the working children identified and enumerated under sub-section (1) in such manner as may be prescribed.

(3) The working children rescued under sub-section (2) shall be lodged in shelters established by the appropriate Government for rehabilitation of such working children where such children shall be provided the following facilities, namely:— 40

(a) free food, clothing, boarding, lodging and other necessities of daily life;

(b) free medical care; and

(c) such other facilities as may be prescribed.

**5. The working children covered under this Act shall be provided the following educational facilities by the appropriate Government, namely:—**

Educational Facilities.

(a) free education as per his caliber for such level and period as may be prescribed;

5 (b) free vocational education and training;

(c) free medical and engineering education and computer training wherever necessary; and

(d) provision of employment after the completion of education.

10 **6.** The appropriate Government shall establish and run such number of shelters as the Competent Authority may deem necessary for the rehabilitation of rescued working children under this Act.

Establishment of Shelters.

15 **7. (1)** With effect from such date, as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act, a fund to be called the 'National Child Labour Rehabilitation cum Welfare Fund' to be operated by the Competent Authority in such manner as may be prescribed.

Establishment of National Child Labour Rehabilitation cum Welfare Fund.

(2) The fund established under sub-section (1) shall consist of all receipts from,—

(a) the central and State Governments and institutions and organizations;

(b) body corporates, both of public and private sectors; and

(c) individuals, associations and others in the form of contributions or donations.

20 **8. The Central Government shall, after due appropriate made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.**

Central Government to provide requisite funds.

25 **9.** Whoever, after the commencement of this Act, employs or compels and child to render labour shall be punishable with imprisonment for a term which shall not be less than four years but may extend to seven years and also with fine which may extend to one lakh rupees.

Penalty.

2 of 1974.

**10.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable, non-bailable and shall be tried summarily by a magistrate.

Offences to be cognizable, non-bailable and summarily triable.

30 **11.** Where an offence under this Act has been committed by a Company, every person who, at the time, offences were committed, was incharge of and was responsible to the Company for the conduct of the business of the Company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Companies.

35 **12.** No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

Jurisdiction of Civil Courts barred.

40 **13.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to have overriding effect.

**14.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

According to 2001 Census, in the age group of 5-14 years there are nearly 1.26 crore working children in our country. Most of them work in hazardous conditions and are consistently exploited. Quite a large number of them work in carpet factories, brick kilns, stone and limestone mines etc., as a bonded labourer. Children also work in Beedi rolling factories, bangle manufacturing units, cracker factories, hotels, tea stalls, *dhabas*, garages, cycle and other vehicle repairing shops agricultural fields, *ferriwallas*, domestic servants and various other kinds of working places. At the school going age and when it's time to enjoy the childhood the hapless children are forced to work from the very tender age either for their own survival or to support their poor families. Many a time alcoholic or drug addict, or gambler parents also force their wards to work. These unfortunate children remain illiterate and exploited. They generally get meager salary and many a time only two square meals and a pair of clothes. They do not get proper medical care at the time of need and are left to their destiny.

Though child labour is prohibited by law but laws are flouted without any fear because the laws are not credible deterrent. Such Law breakers must get stringent punishment. In a Welfare State like ours the State has to come forward to rehabilitate the child workers through education, training and other means. A National Child Labour Rehabilitation-cum-Welfare Fund should be established for them so that their childhood is save from exploitation and they grow as responsible citizens.

Hence this Bill.

DR. E.M. SUDARSANA NATCHIAPPAN

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for rehabilitation of the rescued children by giving them free food, medical care etc. Clause 5 provides for educational facilities for working children. Clause 6 provides for the establishment of shelters for such children. Clause 8 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of two thousand crore rupees may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two thousand crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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*(Dr. E.M. Sudarsana Natchiappan, M.P.)*