

## **Child Labour (Prohibition and Regulation) Act, 2000**

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### **Preamble:**

Whereas it is expedient to prohibit engagement of child in factory, mining and similar other riskful work and to make necessary provision for health, child's safety and services and facilities while engaging them in other work.

Parliament has made this Act in the twenty -ninth year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

### **Chapter -1**

#### **Preliminary**

##### **1. Short Title and Commencement:**

- (1) The name of this Act is Child Labour (Prohibition and Regulation) Act. 2000.
- (2) This Act shall commence from the date appointed by His Majesty's Government by publication of a notice in Nepal Gazette.

##### **2. Definition:**

Unless the subject or context otherwise requires in this Act -

- (a) "Child" means a child who has not completed sixteen years of age.
- (b) "Establishment" means any factory, organization, association, firm, company or their group established under prevailing law with the objective of carrying on any industry, occupation or service.
- (c) "Manager" means a person who takes final decision in the affairs of an Establishment and the word includes a person who is so appointed in the post of chief of any part or unit of the Establishment as to bear or exercise final responsibility or power.
- (d) "Day" means a period of twenty-four hours beginning at mid-night.
- (e) "Week" means a period of seven days beginning at the midnight on Saturday night or at midnight on any other day prescribed by the Department of Labour.
- (f) "Medical Practitioner" means a medical practitioner prescribed by the Department of Labour.
- (g) "Certificate of fitness" means a certificate issued pursuant to sub-section (4) of Section 7.
- (h) "Prescribed" or "As prescribed" means prescribed or as prescribed in the Rule made under this Act.

## **Chapter- 2**

### **Prohibition to Engage Child in Work**

#### **3. Child not to be engaged in Work:**

(1) Nobody shall engage in work a child who has not completed fourteen years of age as a labourer.

(2) Nobody shall engage a child in a riskful occupation or work set forth in the Schedule.

#### **4. Child not to be Engaged in Work Against his Will:**

Nobody shall engage in work a child as a labourer by pleasing, gratifying or misrepresenting him or under greediness or fear or thereat or coercion or any other way against his will.

## **Chapter -3**

### **Provision Regarding Engagement of Child in Work**

#### **5. Notice to be Given:**

(1) A manager who has been carrying on riskful occupation or work setforth in the Schedule at the time of the commencement of this Act, shall have to give a notice in writing recording the following particulars to the Labour Office within thirty days from the date of commencement of this Act:--

(a) Name and address of the Establishment,

(b) Name and address of the Manager,

(c) Nature of the occupation or work carried on by the Establishment; and

(d) Other particulars as prescribed.

(2) A Manager who carries on a riskful occupation or work setforth in Schedule after the commencement of this Act, shall have to give a notice pursuant to subsection (1) to the labour office within fifteen days of having started such occupation or work.

#### **6. Approval to be Taken:**

(1) If an Establishment has to engage a child in a work it has to obtain approval of concerned Labour Office or any other body or officer specified by that office and that of father mother or guardian of the child.

Provided that no approval requires to be obtained pursuant to this Section to engage a child in a work or cultural programme to be organized for the greater interests of child by a teaching institute having obtained approval of His Majesty's Government or an association established under prevailing law which is working for the rights and interest of child.

(2) While granting approval pursuant to subsection (1) to engage child in work the Labour Office may set forth appropriate terms and conditions for development of skill and qualification of child by the Establishment and the Establishment must comply with such terms and conditions.

### **7. Certificate of Fitness to be Taken:**

(1) An Establishment, before it employs child as a labourer must take certificate of fitness of a child's being capable of working as a labourer.

(2) In order to obtain certificate of fitness pursuant to sub section (1) the Establishment shall have to make an application to the Labour Office stating therein the nature of the work to be done by the child and his age.

(3) On receipt of an application pursuant to subsection (2), the Labour Office shall have to cause such child's health examined by a medical practitioner.

(4) If a child is found on examination of his health by a medical practitioner pursuant to subsection (3), to be fit for performance of work, the medical practitioner shall issue certificate of fitness as prescribed.

(5) The certificate of fitness issued pursuant to subsection (4) shall remain valid for one year.

(6) The concerned Establishment shall be required to have the certificate of fitness issued pursuant to subsection (5) renewed by a medical practitioner.

(7) The concerned Establishment itself shall bear the charges applicable on obtaining and renewing the certificate of fitness.

(8) An Establishment which has employed at the commencement of this Act a child who has completed fourteen years of age shall have already obtained certificate of fitness within thirty days of the commencement of this Act.

### **8. Particulars to be Given:**

(1) An Establishment which employs a child in work after the commencement of this Act shall have to submit a statement consisting of following matters along with a photograph of such a child to the Labour Office within fifteen days from the date of employment of child: -

(a) Name and address of Establishment,

(b) Name and address of the Manager,

(c) Date of operation of Establishment,

(d) Occupation or work carried on by the Establishment,

(e) Name, address and age of the child.

- (t) Name and address of the father, mother or guardian of the child,
- (g) Date on which the child is employed.
- (h) The nature of the work to be done by the child,
- (i) Amount of remuneration and other facilities the child is entitled to,
- (j) Certificate of the fitness of child, and
- (k) Other particulars as prescribed.

(2) An Establishment which has been employing, at the time of the commencement of this Act, a child who has completed fourteen years of age shall have to submit statement under sub-section (1) within thirty days from the date of the commencement of the Act.

### **9. Hour and Period of Work:**

- (1) No child shall be engaged in work during a period from 6 p.m. to 6 a.m.
- (2) No child shall be engaged in work exceeding six hours a day and thirty-six hours a week by giving or not giving extra remuneration.
- (3) A child must be given half an hour's rest time everyday after he has worked for three hour consecutively and one day's leave in each week.
- (4) The half an hour's rest time for every day and one day's leave for each week given pursuant to subsection (3) shall be deemed to be a worked period.
- (5) A child who has already worked in an Establishment on a day shall not be engaged in work in another Establishment on the same day.

### **10. Remuneration and facilities:**

- (1) An Establishment shall be required to give a child who has worked as a labourer equal remuneration and facilities without discrimination on grounds of sex, colour, religion or tribes.
- (2) Remuneration, allowance, leave and other facilities, a child working in an Establishment is entitled to, shall be as prescribed.
- (3) No Manager shall so employ a child in work in an Establishment as to give remuneration and facilities less than the one prescribed pursuant to subsection (2).

### **11. Provision Relating to Health and Safety of Child:**

Measures to be taken by a Manager for health and safety of a child working in an Establishment shall be as prescribed.

## **12. Dispute as to Age:**

(1) In case there arises a dispute as to the age of a child employed in an Establishment, the age according to birth date mentioned in the birth registration certificate of such a child shall be deemed to be his real age.

(2) In cases where a child does not have birth-registration certificate, the age ascertained by having his health examined by a medical practitioner shall be deemed to be his real age.

## **13. Register Book to be Maintained:**

The Manager has to maintain a register book by stating following matters as to a child to be employed in an Establishment:-

- (a) Name and address of the child,
- (b) Name and address of father, mother or guardian.
- (c) Date of birth or age,
- (d) Date of employment,
- (e) Nature of work,
- (t) Hour of work,
- (g) Rest time,
- (h) Remuneration and other facilities,
- (i) Other matters as prescribed,

(2) An Establishment shall be required to produce the register book under subsection (1) for inspection on demand by the employees deputed by Labour Office.

## **14. Display of Notice:**

The Manager shall have to compulsorily display on the notice board of his Establishment matters relating to the work in which the child is not to be engaged the remuneration a child is entitled to, facilities and weekly holidays and punishment for employment of in child contravention of this Act.

## **Chapter -4**

### **Provision Relating to Inspection**

## **15. Inspection and Action:**

(1) Labour Office may depute from time to time any employee to inspect an Establishment employing child.

(2) The Manager shall have to allow the employee deputed pursuant to sub-section (1) to enter the Establishment at any time and to make necessary inspection and shall have to make available the employee so deputed the matters wanted by him to inspect and inquire.

**16. To Remove from Employment:**

(1) If it is found on inspection of an Establishment pursuant to Section 15 that a child has been employed in a work in contravention of Section 3 or 4, the inspecting employee shall as soon as possible place such child to his father, mother or guardian's custody and order the Manager to remove such child from employment.

(2) In cases where such a child does not have father, mother or guardian or they are not discovered the Manager shall be required to place such a child in any child welfare house or any institute which takes care of child.

(3) The Establishment has to bear the expense to be incurred pursuant to subsection (1) and (2) while placing such child into his father, mother or guardian's custody or the charges applicable as per its rule to place such a child in a child welfare home or an institution which takes care of child.

**17. Inspection Report:**

(1) The employee who carries on an inspection pursuant to Section 15 shall have to submit a report to Labour Office within fifteen days of completion of inspection stating therein an exact statement of whether an Establishment has employed a child in contravention of this Act or has taken measures to be taken for health and safety of employed child as well as whether it has made all arrangement to be made under this Act and rules made there-under or not. Labour Office may make an inquiry as prescribed on whether the employee so deputed has carried out the work as per the mandate of this Section or not or whether the report given is true or not and if found otherwise, an action shall be taken as per law.

(2) If it is found from the report submitted pursuant to sub section (1) that an Establishment has failed to take any measures to be taken under this Act or rule made thereunder, the Labour Office shall order the manager to take such measures as soon as possible specifying therein a reasonable time.

(3) The Manager shall have to make arrangements as per the order within the time given by the Labour Office pursuant to sub section (2).

**18. To Withhold Concessions:**

(1) If the concerned Establishment fails to make necessary arrangements as per the order given under Section 17, the Labour Office shall be required to request the concerned body to withhold for a specified period the concession to be given as per prevailing law to such Establishment.

(2) If a request is made by the Labour Office pursuant to sub section (I) in relation to an Establishment the concerned body shall withhold the concession to be given to such Establishment and shall give notice thereof to the Labour Office.

## **Chapter -5**

### **Provision Relating to Punishment and Appeal**

#### **19. Punishment:**

(1) Whosoever commits an act in contravention of sub section (1) of Section 3 shall be punished with imprisonment up to three months or with a fine up to rupees ten thousand or with both.

(2) Whosoever commits an act in contravention of sub section (2) of Section 3 or Section 4 shall be punished with imprisonment up to one year or a fine up to rupees fifty thousand or with both.

(3) A manager who commits an act in contravention of Section 6, 7, 8, 9, 10 or 11 shall be punished with imprisonment up to two months or a fine up to rupees five thousand or with both

(4) A Manager who commits an act in contravention of Section, 5, 13 or 14 shall be punished with imprisonment up to one month or fine up to rupees three thousand or with both.

(5) Whosoever Commits an act, except as provided for in sub section (1), (2), (3) and (4), in contravention of this Act or Rule made thereunder shall be punished with imprisonment up to fifteen days or fine up to one thousand rupees or with both.

(6) Whosoever having once been punished pursuant to sub section (1), (2), (3) and (4) or (5) again commits the same act shall be punished every time with twice the punishment mentioned in the same Sections.

#### **20. Complain and Time Limit:**

(1) In respect of the offences punishable under this Act the following person or association may make a complain before the Labour Office: -

(a) Employee inspecting an Establishment pursuant to Section 15,

(b) Policeman of the concerned area,

(c) Concerned child or his lather, mother or guardian.

(d) Concerned Village Development Committee or Municipality.

(e) A Trade Union of Establishment level, or

(f) An organization or non-governmental organization established under prevailing law which is working for the rights and interest of child.

(2) In respect of the offences punishable under this Act, complain shall be required to be made within one year of the act committed or done.

**21. Power to Punish:**

(1) The Labour Office shall have the power to punish pursuant to Section 19 the person who violates this Act and Rule made thereunder.

(2) If, while awarding punishment pursuant to subsection (1), the Labour Office has to award sentence of punishment, reference shall be made to Labour Court and should be done as ordered by that court.

**22. Appeal:**

Anybody who does not satisfy with the punishment awarded by Labour Office pursuant to Section 21 may make appeal before Labour Court within thirty five days of award of punishment.

Provided that appeal shall be made against the sentence of punishment, if awarded, to Appellate Court.

**Chapter -6****Miscellaneous****23. Child Labour Prevention Committee:**

(1) His Majesty's Government shall form a child labour prevention committee in order to provide for health, safety education, vocational and training for child working in an Establishment; to make provision of appropriate employment for child; to discourage employment of child and to solicit necessary opinion, suggestion for prevention of child labour.

(2) Such committee shall have a proper representation of governmental and non-governmental organization working in the field of child labour and of experts.

(3) The formation procedure, function, duty and power and procedure of the child labour prevention committee shall be as prescribed.

**24. Child Labour Prevention Fund:**

(1) His Majesty's Government shall create a fund by the name of child labour prevention fund in order to provide for health, safety, education, vocational and training for a child working in an Establishment, - to make provision of appropriate employment for child; to discourage employment of child; and to prevent child labour.

(2) The following amount shall be credited to the child labour prevention committee:-

(a) Amount granted by His Majesty's Government,

(b) Donation, fee, grant and assistance amount given by national and international union and association,

(c) Amount received from other sources.



(3) The amount to be credited to child labour prevention fund and the fund shall be operated as prescribed.

**25. Direction may be Given:**

(1) For implementation of the objective of this Act, His Majesty's Government may give necessary directions to Manager, trade union and child welfare home and association which takes care of child for the protection of rights and interest of child.

(2) It shall be the duty of all concerned to comply with the direction given His Majesty's Government pursuant to sub-section (1).

**26. Changes in Schedule:**

(1) His Majesty's Government may add other riskful works in Schedule by publication of a notice in Nepal Gazette.

(2) His Majesty's Government may if it deems necessary, take the opinion of child labour prevention committee while adding any riskful work in the schedule.

(3) The Schedule shall be deemed to have been amended after thirty days of the publication of notice pursuant to sub-section (1).

**27. Power to Make Rules:**

His Majesty's Government may make necessary Rule for implementation of the objective of this Act.

**28. Repeal and Amendment:**

(1) In Labour Act, 1991-

(a) Paragraph (h) of Section 2 is repealed,

(b) The words "of fourteen years of age" lying in paragraph (i) of Section 2 are substituted by the words "of sixteen years of age".

(c) Subsection (1) of Section 5 is repealed.

(d) Following Section 32A and Section 32B are added after Section 32:-

"(32A Minor not to be Engaged in Work Without Giving Sufficient Direction or Vocational Training:

(1) Minors are not to be engaged in work without giving sufficient direction or vocational training in the subject of concerned work field.

(2) Measures relating to sufficient to direction or vocational training to be given pursuant to subsection (1) in the subject of concerned field while engaging child in work shall be as prescribed

(3) A Manager who employs a minor in contravention of subsection (1) shall be punished with imprisonment up to three months or fine up to rupees ten thousand or with both.

**32B. Dispute as to Age:**

(1) In case there arises a dispute as to the age of a child working in an Establishment - the age according birth date mentioned in the birth registration certificate of such minor shall be deemed to be the real age.

(2) In cases where a minor does not have a birth registration certificate the age ascertained by having such a child health examined by a medical practitioner prescribed by labour office shall be deemed to be the real age.

(2) Of the Children's Act, 1992,-

(a) Section 17 and 18 are repealed.

(b) Chapter 5 is repealed.

(c) The words 17 or 18 lying in sub-sections (1) and (6) of Section 53 are dropped.

(d) Subsection (10) of Section 53 is dropped.

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**Schedule**

(Related to subsection (2) of Section 3)

(a) Riskful Occupation or Works

(a) Tourism related occupation: tourism, housing, motel, hotel, casino, restaurant, bar, pub, resort, skiing, gliding, water rafting, cable car complex, pony trekking, trekking, mountaineering, hot air ballooning, parasailing, golf course. polo, horse riding etc.

(b) Service oriented occupation: Workshop, laboratory, slaughtering house, cold storage etc.

(c) Public transportation and construction occupations,

(d) Work relating to manufacturing cigarette, bidi, weaving and dyeing carpet, clearing wool, weaving, washing, coloring and imprinting cloth, processing leather, manufacturing and packing of cement, manufacturing and sale, distribution, of match, explosives and other fire ness goods, manufacturing of beer, wine and other drinking goods, manufacture of soap, bitumen production, pulp and paper production, slate, pencil manufacturing, manufacturing of pesticide, production of lubricating oil, collection of waste procession and electroplating, photo processing, rubber, synthetic, plastic, lead, mercury.

(e) Work relating to production of energy from water resources, air, sunlight, coal, natural oil or gas, bio gas and other similar source and transmission and distribution there of.