

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 13th February, 2019

No. LD/Legis-Act/39-51/2019. The following Act of Assembly received the assent of the President on the 7th day of February 2019, is hereby published for general information.

(ACT III OF 2019)

An

Act

to prohibit the employment of Children and to restrict the employment of adolescents in certain occupations and processes

WHEREAS, it is necessary to prohibit the employment of Children and to restrict the employment of adolescents in certain occupations and to deal with ancillary matters

It is hereby enacted as follows:-

1. Short title and Commencement— (1) This Act may be called the Azad Jammu and Kashmir Restriction on Employment of Children Act, 2019.

(2) It shall extend to the whole of Azad Jammu and

Kashmir.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

(a) "Adolescent" means a person who has attained the age of fifteen years but has not attained the age of eighteen years;

(b) "Appellate authority" means an authority appointed under the Act;

(c) "Child" means a person who has not attained the age of fifteen years;

(d) "Committee" means the Committee on Child Labour constituted under the Act;

(e) "Day" means a period of twenty-four hours beginning at midnight;

(f) "Establishment" means any industrial, commercial or

agricultural Establishment, factory, mine, workshop,

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business, trade, undertaking, and place where any economic activity including moulding and manufacturing process is carried on and _ includes charitable and welfare organizations, whether run for profit or otherwise and any other Establishment, class of Establishments or workplace notified by the Government in the official Gazette;

“Family” in relation to an Occupier means the spouse, son, daughter or sibling;

“Government” means the Azad Government of the State of Jammu and Kashmir;

“Hazardous work” means the work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or moral of Adolescents and is mentioned in the Schedule;

“Inspector” means an official appointed as an Inspector under the Act;

“Occupier” means the person who, directly or indirectly, employs a worker in an Establishment and includes,-

(i) in case of an individual, his heir, successor, administrator or assignee; and

(ii) a person who has the ultimate control over the affairs of the Establishment;

“Prescribed” means Prescribed by rules made under the Act;

“Schedule” means the Schedule appended to this Act; and

“Week” means a period of seven Days beginning at the midnight on Saturday or such other midnight as the

Government may, by notification, specify for a particular area.

Prohibition on employment.— (1) An Occupier shall not employ or permit a Child to work in the Establishment.

(2)

An Occupier shall not employ or permit an Adolescent to perform any Hazardous work in the Establishment.

Committee on Child Labour—(1) The Government shall, by notification, constitute a Committee on child labour to advise the Government for appropriate legislative, administrative and other

measures for the eradication of child labour and to propose the minimum age for purposes of employment in the Azad Jammu and Kashmir.

(2) The Committee shall consist of a chairperson and not more than eight members representing the Government, employers, workers and civil society.

Duration of work, etc.- (1) Subject to sub-section (2) and sub-section (3), the Occupier shall fix the period of work not exceeding three hours in a Day and if the Adolescent is required to work for more than three hours in a Day, the Occupier shall, after the initial period of three hours, provide a mandatory interval of at least one hour to the Adolescent.

(2) The total period of work of an Adolescent in a Day, including the mandatory interval for rest, shall, in no case, exceed seven hours.

(3) The Occupier shall,-

(a) arrange the hours of work of an Adolescent in such manner that the working hours are not in conflict with the timings of the educational or vocational institution where the Adolescent is enrolled;

(b) not require or permit an Adolescent to work between

7.00 pm and 8.00 am;

(c) not require or permit an Adolescent to work in the

Establishment on any Day on which the Adolescent has worked in any other Establishment.

Weekly holidays.— (1) An Occupier shall allow an Adolescent employed in the Establishment a holiday of at least one whole Day in a Week.

(2) The Occupier shall specify the holiday through a notice permanently displayed at a conspicuous place in the Establishment and the Occupier shall not alter the Day of holiday more than once in three months.

Notice to Inspector.— (1) Every Occupier of an Establishment in which an Adolescent is employed or permitted to work shall, within a period of thirty Days from the commencement of this Act or employment of the Adolescent, send to the Inspector within whose local limits the Establishment is situated, a written notice containing the following particulars,-

(a) the name, location and address of the Establishment;

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- (b) the name of the person who is actually responsible for the management of the Establishment;
- (c) complete address of the Establishment for purposes of communication;
- (d) the name, address, wages and other Prescribed particulars of the Adolescent; and
- (e) the nature of the occupation or process carried on in the Establishment.

(2) Nothing in Sections 6, 7 and 8 shall apply to an Establishment wherein any process is carried on by the Occupier with the aid of the members of his Family or to any educational or training institution established, assisted or recognized by the Government or any agency, body or authority established, owned or controlled by Government.

Dispute_as to age— Any dispute about the age of the Child or Adolescent employed or is permitted to work in an Establishment shall be decided on the basis of the registration certificate (Form-B) issued by the National Database and Registration Authority government of Pakistan, or the birth certificate issued by the competent authority, but, in the absence of such a document, the Inspector shall refer the matter to the Prescribed medical authority for determination of the age and the decision of such authority shall be conclusive proof of the age of the Child or Adolescent.

Maintenance of register — An Occupier shall maintain a register in respect of Adolescents employed or permitted to work in the Establishment and shall make the register available for inspection of an Inspector at all times during working hours of the Establishment showing,-

- (a) the name and date of birth of every Adolescent employed or permitted to work;
- (b) hours and periods of work of any such Adolescent and the intervals of rest to which he is entitled;
- (c) the nature of work of the Adolescent; and
- (d) such other particulars as may be Prescribed.

Display _of notice Every Occupier shall display at a conspicuous place in the Establishment a notice in Urdu and in English containing an abstract of Section 3 and Section 11.

Penalties— (1) An Occupier, who employs or permits a Child to work in an Establishment, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with a fine which may extend to fifty thousand rupees, but shall not be less than ten thousand rupees.

(2) An Occupier, who employs or permits any Adolescent to work in contravention of the provisions of Section 3, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with a fine which may extend to fifty thousand rupees, but which shall not be less than ten thousand rupees.

(3) A person, who employs a Child or an Adolescent in, -

(a) any form of slavery or practices similar to slavery, such as the sale and trafficking of Children or Adolescents, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of Children or Adolescents for use in armed conflicts;

(b) the use, procuring or offering of a Child or Adolescent for prostitution, for the production of pornography or for pornographic performances; and

(c) the use, procuring or offering of a Child or Adolescent for illicit activities, in particular for the production and trafficking of drugs shall be liable to punishment with imprisonment for a term which may extend to seven years but which shall not be less than three years and with fine which may extend to one million rupees but which shall not be less than two hundred thousand rupees.

(4) An Occupier, who has been convicted of an offence under subsection (1) and sub-section (2), again commits the same offence or an offence of similar nature, shall be punishable with imprisonment which may extend to five years but shall not be less than three months in addition to the fine Prescribed for the offence.

(5) If an Occupier fails to,-

(a) give notice as required by Section 7; or

(b) maintain a register as required by Section 9 or makes any false entry in such register;

(c) produce record for inspection;

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(d) display any notice under this Act; or

(e) comply with or contravenes any provision of this Act or the rules shall be liable to punishment with simple imprisonment which may extend to one month or with a fine which may extend to ten thousand rupees or with both.

Abetment to an offence. (1) A person, who abets an offence punishable under this Act, shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence he abetted.

(2) An Occupier, who employs or permits to work a Child or an Adolescent to work in contravention of the provisions of Section 3, and the Child or an Adolescent is found working in the Establishment in the immediate presence of a parent or guardian, the parent or guardian shall be equally liable for the offence along with the employer.

(3) For purposes of this Section, “abetment” has the same meaning as is assigned to it in the Azad Penal Code, 1860 (Act XLV of 1860).

Sealing of Establishment.— (1) If it appears to an Inspector that a Child or an Adolescent has been employed or permitted to work in an Establishment in contravention of Section 3, the Inspector may, in the Prescribed manner, seal the Establishment for a period not exceeding seven days.

(2) The Occupier aggrieved by an order under subsection (1), may, within three days of the sealing of the Establishment, prefer an appeal before the Appellate authority.

(3) The Appellate authority may confirm, modify or reverse the order made under sub-section (1).

Appellate authority — The Government shall, by notification in the official Gazette, appoint an Appellate authority in each District to hear and decide the appeals preferred under sub-section (2) of Section 14.

Trial of offences.— (1) An offence under subsections (1) and (2) of Section 11 shall be tried summarily in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) No court inferior to that of the Magistrate having powers under Section 30 of the Code of Criminal Procedure, 1898 (Act

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V of 1898) shall try an offence under sub-sections (3) and (4) of Section 11 of this Act.

Cognizance of offences— An offence under this Act shall be cognizable by the police on the complaint in writing made by the Inspector and shall be non-bailable.

Penalties under some other laws. Any person, who is found guilty of the contravention of any provisions of the Mines Act, 1923 (IV of 1923), the Factories Act, 1934 (XXV of 1934), as adopted in Azad Jammu and Kashmir and the Azad Jammu and Kashmir Shops and Establishment Act, 1975, regarding Children or Adolescents, shall be liable to the penalties provided in Section 11 of this Act and not under the said laws.

Appointment of Inspectors.— (1) The Government may appoint Inspectors for purposes of securing compliance with the provisions of this Act.

(2) The Inspector shall be deemed to be a public servant within the meaning of the Azad Penal Code, 1860 (Act XLV of 1860).

Amendment of Schedule (1) The Government may, by notification in the official Gazette, amend the Schedule.

(2) An amendment in the Schedule under subsection (1) shall come into force on the expiry of thirty days from the date of publication of the notification in the official Gazette.

Rules.— The Government may, by notification, make rules for carrying into effect the provisions of this Act, including the rules for health and safety of Adolescents employed or permitted to work in an Establishment.

Application of other laws— Subject to the provisions of Sections 11 and 18, the provisions of this Act and the rules shall be in addition to, and not in derogation of, the provisions of any

other law.

Power to remove difficulties— (1) If any difficulty arises in giving effect to the provisions of this Act, the 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 the removal of such difficulty.

(2) An order under subsection (1) shall not be made after the expiry of a period of two years from the date of commencement of this Act.

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Repeal_and_savings— (1) The Employment of Children (Adaptation) Act, 1986 (XXXIII of 1986) is hereby repealed.

(2) Notwithstanding the repeal of the Employment of Children (Adaptation) Act, 1986 (XXXII of 1986), anything done or any action taken or purported to have been done or taken under that Act shall, if 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.

Sd/-
(Ch. Muhammad Nawaz)
Section Officer (Legislation)

SCHEDULE

[see section 2(i)]

HAZARDOUS WORKS

Any occupation or work connected with,-

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transport of passengers, goods or mail;

underground mines and on ground quarries including
blasting;

power driven cutting machinery like saws, shears,
guillotines, agricultural machines, thrashers, fodder
cutting machines;

live electrical wires over 50 volts;

all operations related to leather tanning processes such as
soaking, dehauling, liming, chrome tanning, deliming,
pickling, defleshing, ink application;

mixing and manufacture of pesticides and insecticides
and fumigation;

sandblasting and other such work involving exposure to
free silica;

exposure to all toxic, explosive and carcinogenic chemicals e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, Sulphur dioxide, phosphorus, benzidine dyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury chromium, lead arsenic, beryllium, fiber glass;

exposure to cement dust in cement industry;
exposure to coal dust;
manufacturing and sale of fireworks and explosives;

the sites where liquid petroleum gas (LPG) or compressed natural gas (CNG) is filled in cylinders;

glass and metal furnaces and glass bangles manufacturing;

cloth weaving, printing, dyeing and fishing sections;
sewer pipelines, pits and storage tanks;

stone crushing;

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lifting and carrying of heavy weight (15kg and above)
specially in transport industry;

carpet weaving;
the height of two meters or more above the floor;
all scavenging including hospital waste;

tobacco processing and manufacturing including niswar
and biri making;

deep-sea fishing, commercial fishing and processing of
fish and seafood;

sheep casing and wool industry;
ship breaking;

surgical instruments and manufacturing specially in
vendors' workshops;

spice grinding;

boiler house;

cinemas, mini cinemas and cyber clubs;

mica-cutting and splitting;

shells manufacturing;

soap manufacturing;

wool cleaning;

building and construction industry;

manufacturing of slate pencils including packing; and
manufacture of products from agate.

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