

THE KHYBER PAKHTUNKHWA PROHIBITION OF
EMPLOYMENT OF CHILDREN ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. XIX OF 2015)

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THE KHYBER PAKHTUNKHWA PROHIBITION OF
EMPLOYMENT OF CHILDREN ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. XIX OF 2015)

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AN

ACT

to prohibit the employment of children and to regulate

employment of adolescents in certain occupations and processes
in the Province of Khyber Pakhtunkhwa

Preamble.---WHEREAS Article 11 of the Constitution of the Islamic Republic of Pakistan provides that no child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

AND WHEREAS clause (e) of Article 37 of the Constitution of the Islamic Republic of Pakistan further provides that the State shall make provisions for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex.

AND WHEREAS it is expedient to repeal and re-enact the law relating to the employment of children and adolescents in the Province of Khyber Pakhtunkhwa and for matters connected herewith or ancillary thereto.

It is hereby enacted as follows:-

CHAPTER- I

PRELIMINARY

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.--- (1) In this Act, unless there is anything repugnant to the subject or context,-

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

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"child" means a person who has not completed his fourteenth year of age;

"day" means a period of twenty-four hours beginning at midnight;

"establishment" means any industrial, commercial or agricultural establishment, mine, business, trade, undertaking, manufacture, and place where any economic activity is being 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, to be an establishment for the purpose of this Act:

Provided that establishment shall not include small scale agricultural landholdings producing mainly for self consumption and not employing hired workers;

"factory" means a factory as defined under the Khyber Pakhtunkhwa Factories Act, 2013 (Act No. XVI of 2013); but does not include a mine;

"family" in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual;

"Government" means the Government of the Province of the Khyber Pakhtunkhwa;

"hazardous work" means the work which, by its nature or the circumstances in which it is carried out, is likely to cause harm to health, safety or morals of children and adolescents and includes occupations and processes mentioned in Part-I & II of the Schedule;

"Inspector" means an official duly notified, as an inspector for the purpose of this Act by the Government under Section-17 of this Act;

"light work" means work, which is not likely to cause harm to health or impede the physical or mental development of a child engaged in such work;

"mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all work, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:

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Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

“occupier” in relation to an establishment, means the person who employs workers either directly or indirectly and includes--

(i) In case of an individual, any heir, successor, administrator or assignee; and

(ii) — A person who has the overall control over the affairs of the establishment by whatever name he is called;

"port authority" means any authority administering a port including dry port;

"prescribed" means prescribed by rules made under this Act;

“Province” means the Province of the Khyber Pakhtunkhwa;

“Schedule” means the schedule appended to this Act;

"week" means a period of seven days beginning at midnight on Sunday or such other night as may be approved in writing for a particular area by the Government; and

"Workshop" means any premises (including the precincts thereof) wherein any manufacturing process, as defined under the Khyber

Pakhtunkhwa Factories Act, 2013 (Act No. XVI of 2013), is carried on, but does not include a factory.

(2) Expressions used in this Act but not defined herein shall have the same meanings as assigned to them in the relevant labour laws.

CHAPTR-II

PROHIBITION OF EMPLOYMENT OF CHILDREN

AND ADOLESCENTS IN HAZARDOUS WORK

3. Prohibition of employment.--- (1) No child shall be employed or permitted to work

in any establishment:

Provided that a child not below the age of 12 years may be engaged in the light work, alongside his family member, for a maximum of two hours per day mainly for the purpose of acquiring skills, in a private undertaking, or in any school established, assisted or recognized by Government for such purpose.

(2) No adolescent shall be employed or permitted to work in any hazardous work included in the Schedule.

4. Amendment in the Schedule.--- Government may, by notification, add or delete any occupation or process in the Schedule, from time to time and thereupon the Schedule shall be deemed to have been amended accordingly, one month after the date of such notification.

5. Constitution of committee on child labour.--- (1) Government shall by notification constitute a Committee, consisting of a Chairman and seven other members, representing Government, employers, workers and civil society, to be called the Khyber Pakhtunkhwa Coordination Committee on Child Labour, to advise Government for appropriate legislative, administrative and other measures for eradication of the child labour as per national and international instruments.

(2) The committee constituted under sub-section (1) shall act in such a manner and perform such functions as may be prescribed.

CHAPTER-HI REGULATION OF CONDITIONS OF WORK OF ADOLESCENTS AND CHILDREN

6. Application of the chapter.--- The provisions of this chapter shall apply to an establishment or a class of establishments in which none of the occupations or processes contained in Schedule is carried out.

7. Hours and period of work.--- (1) No adolescent 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 adolescent shall work for more than three hours before he has an interval of at least one hour for rest.

(3) The period of work of an adolescent shall be so arranged that inclusive of the interval for rest, under subsection (2), it shall not exceed seven hours, including the time

spent in waiting for work on any day.

(4) No adolescent shall be permitted or required to work between 7.00 p.m. to 8.00 a.m. of the following day.

(5) No adolescent shall be required or permitted to work over-time.

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

8. Weekly _holidays.--- Every 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 prominently displayed 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 an 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 notice in writing, containing the following particulars, namely:

- (a) The name, location and address 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;
- (d) The nature of the occupation or process carried on in the establishment; and
- (e) The particulars of the adolescents employed in the establishment including name, parentage, date of birth and address of the adolescent.

(2) Every occupier, in relation to an establishment, which employs, or permits to work any 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 notice in writing, containing the particulars mentioned in sub-section (1).

(3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier exclusively with the aid of his family or to any school established, assisted or recognized by the Government for such purpose.

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

11. Maintenance of register.--- There shall be maintained by every occupier in respect of adolescents or children employed or permitted to work in such establishment, a register to be available for inspection by an Inspector at all times during working hours, showing:

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

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

(c) the nature of work of such adolescent or child; and

(d) such other particulars as may be prescribed.

12. Display of notice containing abstract of sections 3 and 15.--- Every occupier shall cause to be displayed in a conspicuous and accessible place a notice in Urdu or in English

language containing an abstract of sections 3 and 15 of this Act.

13. Health and safety.--- Government shall, by notification, make Rules for the health and safety of adolescents or children employed or permitted to work in any establishment or class of establishments.

CHAPTER-IV MISCELLANEOUS

14. Application of certain laws.--- (1) Provisions of, the Khyber Pakhtunkhwa Payment of Wages Act, 2013 (Khyber Pakhtunkhwa Act No. IX of 2013), the Khyber Pakhtunkhwa Minimum Wages Act, 2013 (Act No.XII of 2013), the Provincial Employees' Social Security Ordinance 1965 (Ordinance No.X of 1965), the Khyber Pakhtunkhwa Workers' Compensation Act, 2013 (Act No.XIX fo 2013), the Employees' Old-Age Benefits Act, 1976 (Act No.XIV of 1976) and the Khyber Pakhtunkhwa Industrial and Commercial Employment (Standing Orders) Act, 2013 (Act No.XI of 2013) shall be applicable to the adolescent workers to the extent as prescribed.

(2) Government may, by notification, extend provisions of any other law for the time being in force to the adolescent workers under this Act.

15. Penalties.--- (1) Whoever employs any child in contravention of the provisions of section 3 of this Act shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees or with both:

Provided that if the child is employed in any hazardous occupation or process, as listed in the Schedule, the fine may extend to one hundred thousand rupees, but shall not be less than ten thousand rupees and imprisonment, which may extend to three years.

(2) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to seventy five thousand rupees or with both.

(3) Whoever, having been convicted of an offence under section 3, commits a similar offence subsequently, shall be liable to punishment with imprisonment for a term which may extend to five years but shall not be less than six months and with a fine which

may extend to two hundred thousand rupees but shall not be less than twenty-five thousand rupees or with both.

(4) Whoever;

(a) Fails to give notice as required by section 9; or

(b) Fails to maintain a register as required by section 11 or make any false entry in any such register; or

(c) Fails to display a notice; or

(d) Fails to comply with or contravenes any provisions of this Act or the rules made there under, for which penalty has not been prescribed.

shall be punishable with simple imprisonment, which may extend to one month or with a fine, which may extend to twenty thousand rupees or with both.

(5) Whenever, a person is found guilty and convicted of contravention of any of the provisions regarding children and adolescents, in the Mines Act, 1923 (Act No.IV of 1923), the Khyber Pakhtunkhwa Factories Act, 2013 (Act No.XVI of 2013) and the West Pakistan Shops and Establishments Ordinance, 1969 (Ordinance No. VIII of 1969), shall be liable to such penalty as provided in Section-15 of this Act.

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 and the rules made hereunder, in any court of competent jurisdiction.

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

(3) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(4) The complaint shall be tried summarily in accordance with Chapter-XII of the Code of Criminal Procedure, 1898.

17. Inspectors.--- Government may notify any official of the Directorate of Labour, as an Inspector for the purposes of this Act and any Inspector so notified shall be deemed to be a public servant within the meaning of Section-21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

18. Production of record.--- (1) The employer shall produce all the records required by the inspector for inspection.

(2) Whoever, willfully obstructs an inspector in the exercise of any power under this Act or conceals or fails to produce, on demand by an inspector any register or other document in his custody required by him under the provisions of this Act and rules made hereunder, or prevents any person in an establishment from inspection, shall be punishable with imprisonment which may extend to one month or with fine which may extend to one hundred thousand rupees but shall not be less than ten thousand rupees or with both. On subsequent commission of the same offense, the offender shall be punishable with imprisonment which may extend to six months but shall not be less than one week and with fine which may extend to one hundred thousand rupees but shall not be less than twenty thousand rupees or with both.

19. Power _to make rules.--- Government may, by notification, and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

20. Application of other laws.--- Subject to the provisions contained in section 15 and 16 above, the provisions of this Act and the rules made there under shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

21. Power to remove difficulties.--- If any difficulty arises in giving effect to the provisions of this Act, Government may issue such order as not inconsistent with the provisions of this Act as it may deem necessary for the purpose of removing of the difficulty.

22. Protection against discrimination.--- No discrimination shall be made on the basis of gender, religion, sect, colour, caste, creed, ethnic back ground and political affiliation with regard to the observance of this Act.

23. Repeal and _savings.--- (1) The Employment of Children Act, 1991 (Act No. V of 1991) is hereby repealed to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the repealed Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

THE SCHEDULE

(see section 3 and 4)

PART-I

OCCUPATIONS

Any occupation connected with--

(1) transport of passengers, goods or mails by railway;

(2) work in 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;

(3) work relating to the construction of railway station or any other work where such work is done in close proximity to or between the railway lines; and

(4) a port authority within the limits of any port.

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PART II PROCESSES

Work inside underground mines and above ground quarries including blasting and assisting in blasting.

Work with power driven cutting machinery like saws, shears, guillotines and agricultural machines, thrashers, fodder cutting machines.

Work with live electrical wires over 50 volts.

All operations related to leather tanning process e.g., soaking, de-hairing, liming, chrome tanning, de-liming, pickling, de-fleshing, ink application.

Mixing and manufacture of pesticides and insecticides; and fumigation.
Sandblasting and other work involving exposure to free silica.

Work with exposure to all toxic, explosive and carcinogenic chemicals e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, sulphur dioxide, hydrogen sulphide, sulphuric acid, hydrochloric acid, nitric acid, caustic soda, phosphorus, benzidine dyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury, chromium, lead, arsenic, beryllium, fiber glass.

Work with exposure to cement dust in cement industry.

Work with exposure to coal dust.

Manufacture and sale of fireworks and explosives.

Work at oil & gas fields including rigs.

Work at the sites where liquid petroleum gas (LPG) and compressed natural gas (CNG) is filled in cylinders.

Work on glass and metal furnaces; and glass bangles manufacturing.

Work in the cloth weaving, printing, dyeing and finishing sections.

Work inside sewer pipelines, pits and storage tanks.

Stone crushing.

Lifting and carrying of heavy weight (15kg and above) specially in transport industry.

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Carpet weaving.

Working two meters or more above the floor.

All scavenging including hospital waste.

Tobacco processing and manufacturing including niswar and bidi making.

Deep-sea fishing, commercial fishing and processing of fish and seafood.

Sheep casing and wool industry.

Ship breaking.

Surgical instruments manufacturing specially in vendors' workshops.

Spice grinding.

Work in boiler house.

Work in cinemas, mini cinemas and cyber clubs.

Mica-cutting and splitting.

Shellac manufacturing.

Soap manufacture.

Wool cleaning.

Building and construction industry.

Manufacture of pencils including packing.

Manufacture of products from agate.