

Child Labor (Prohibition and Regulation) Act, 2056 (2000)

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Act No. 1 of the year 2057 B.S.

An Act to provide for Child Labor (Prohibition and Regulation)

Preamble: Whereas, it is expedient to prohibit engaging children in factories, mines or similar risky activities and to make necessary provisions with regard to their health, security, services and facilities while engaging them in other activities;

Be enacted by Parliament in the 29th year of reign of His Majesty's the King Birendra Bir Bikram Shahdev.

Chapter - 1

Preliminary

1. **Short Title and Commencement:** (1) This Act shall be called "The Child Labor (Prohibition and Regulation) Act, 2056."

(2) This Act shall come into force on such date as Government of Nepal may appoint by a notification published in the Nepal Gazette.
2. **Definition:** Unless the subject or context otherwise requires, in this Act, –
 - (a) "Child" means a minor not having completed the age of sixteen years.
 - (b) "Enterprise" means any factory, organization, association, firm, company or their groups established as per prevailing law with objectives of operating any industry, business or service.
 - (c) "Entrepreneur" means the person taking final decision with regard to an activity of an enterprise and the word also includes the person appointed as chief of any part or unit of any enterprise having powers to exercise final authority or having final responsibility thereof.

- (d) "Day" means a period of twenty-four hours beginning from midnight.
- (e) "Week" means a period of seven days beginning from the midnight of Saturday or the midnight of any other day prescribed by the Department of Labor.
- (f) "Medical Practitioner" means a medical practitioner prescribed by the Department of Labor.
- (g) "Certificate of Qualification" means the certificate given pursuant to Sub-section (4) of section 7.
- (h) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter - 2

Prohibition on Engaging a Child in works

3. **Child not to be Engaged in work:**(1) No child having not attained the age of 14 years shall be engaged in works as a laborer.

(2) No child shall be engaged in any risky business or work referred to in the schedule.
4. **No Child to be Engaged in Works Against Will:** No child shall be engaged in works as a laborer against his/her will by way of persuasion, misrepresentation or by subjecting him/her to any influence or fear or threat or coercion or by any other means.

Chapter - 3

Provisions Relating to Engaging a Child in Works

5. **Information to be Given:** (1) Entrepreneur who has been operating risky business or activities referred to in the schedule at the commencement of this Act shall, within thirty days of the date of commencement of this Act, furnish written information to the labor office having mentioned the following particulars;–
 - (a) Name and Address of the Enterprise;

- (b) Name and Address of the Entrepreneur;
- (c) Nature of the business or activities conducted by the Enterprise, and
- (d) Other particulars as prescribed.

(2) After the commencement of this Act, the Entrepreneur who operates risky business or activities referred to in the schedule shall, within fifteen days of the date of operation of such business or activities, furnish the information referred to in Sub-section (1) to the labor office.

6. **Approval to be obtained:** (1) In case any Enterprise has to engage a child in works, an approval has to be obtained from the concerned labor office or any authority or official prescribed by that office and from the father, mother or guardian of the child.

Provided that no approval pursuant to this Section shall be required to engage a child in cultural programs or any activity for greater protection of interest of children to be organized by an academic institution approved by Government of Nepal or by an organization established according to the prevailing law for protection of rights or interests of children.

(2) While giving approval to engage a child in work pursuant to Sub-section (1), the labor office may impose appropriate conditions with the objective of developing skills and qualifications of the child or providing education to the child, and the Enterprise shall have to follow it.

7. **Qualification Certificate to be Obtained:** (1) Prior to engage a child as a labor in an enterprise, certificate of qualification has to be obtained that the child is able to work as a labor.

(2) In order to obtain the certificate pursuant to Sub-section (1) the enterprise shall submit an application at the labor office stating the nature of the work that the child has to carry out and his/her age.

(3) Upon receipt of the application pursuant to Sub-section (2), the labor office shall cause to conduct medical test of the child by a medical practitioner.

(4) The medical practitioner shall upon conducting medical test by the medical practitioner pursuant to Sub-section (3), give qualification certificate in the prescribed format if such child seems fit for the work.

(5) The qualification certificate given pursuant to Sub-section (4) shall be valid for one year.

(6) The enterprise shall cause to renew the qualification certificate given pursuant to Sub-section (5) by the medical practitioner.

(7) The enterprise shall borne the fees to be paid for obtaining and renewing the qualification certificate .

(8) The enterprise engaging the children attaining the age of fourteen years at the commencement of this Act shall, within thirty days from the date of commencement of this Act, have to obtain the qualification certificate.

8. **Particulars to be Given:** (1) The Enterprise engaging a child in work after commencement of the Act shall, within fifteen days from the date of engaging in the work, submit the following particulars along with photograph of such a child to the labor office: –

- (a) Name and address of the enterprise,
- (b) Name and address of the entrepreneur,
- (c) Date of operation of the enterprise,
- (d) Business or work conducted by enterprise,
- (e) Name, address and age of the child,
- (f) Name and address of the father, mother or guardian of the child,
- (g) Date of engaging the child in work,
- (h) Nature of the work the child has to do,
- (i) Amount of remuneration and other benefits the child is entitled to,
- (j) Qualification Certificate of the child, and

(k) Other Particulars as Prescribed.

(2) The enterprise engaging a child having attained the age of fourteen years at the commencement of this Act shall submit the particulars pursuant to Sub-section (1) to the labor office within thirty days from the date of commencement of this Act.

9. **Time to Engage in works:** (1) No child shall be engaged in work for a period after six o'clock at the evening to six o'clock at the morning.

(2) No child shall be engaged in work for more than six hours in a day and more than thirty-six hours in a week either giving or not giving additional remuneration.

(3) A child is entitled to a leisure of half an hour after engaging in the work for a consecutive period of three hours and one-day leave given in every week.

(4) The half an hour leisure time for each day and one day leave in every week shall be deemed to be the duration of work.

(5) A child already engaged in one enterprise shall not be caused to engage in the work of another enterprise on the same day.

10. **Remuneration and Benefits:** (1) An enterprise engaging children as workers shall not discriminate on the grounds of sex, race, religion, caste or tribe and shall provide equal remuneration and benefits for the same works.

(2) Remuneration, allowances, leaves and other benefits to be entitled to a child engaged in an enterprise shall be as prescribed.

(3) No entrepreneur shall engage a child in his/her enterprise providing less remuneration and benefits than the remuneration or benefits prescribed pursuant to Sub-section 2.

11. **Provision Relating to Health and Safety of Child:** The provisions to be made by an entrepreneur with regard to health and safety of the child engaged in an enterprise shall be as prescribed.

12. **Disputes Relating to Age:** (1) In case of dispute relating to age of a child engaged in an enterprise, his/her age as per the date of birth referred to in the birth registration certificate shall be deemed to be his real age.

(2) If any child is not having the birth registration certificate, the date determined upon examination by a medical practitioner shall be deemed to be his/her actual age.

13. **Registration Book to be Maintained:** (1) With regard to a child engaged in an enterprise, the entrepreneur shall maintain a registration book having stated the following matters: –

- (a) Name and Address of the child,
- (b) Name and Address of the father, mother or guardian,
- (c) Date of birth or age,
- (d) Date of engaging in work,
- (e) Nature of work
- (f) Time for engaging in work,
- (g) Time for rest
- (h) Remuneration and other benefits
- (i) Other matters as prescribed

(2) The registration book referred to in Sub-section (1) shall be given to the employees deputed from labor office as and when required.

14. **Notice to be:** The entrepreneur shall compulsorily affix notices in notice board about the matters relating to works in which a child should not be engaged, the remuneration and benefits which a child is entitled to, facilities and weekly holiday and punishment to be imposed if child is engaged in works against this Act.

Chapter - 4

Provisions Relating to Inspection

15. **Inspection and Action:** (1) The labor office may depute an employee from time to time to inspect an enterprise engaging children.
- (2) The entrepreneur shall have to allow the employee deputed pursuant to Sub-section (1) to enter and to inspect in the enterprise at any time. The entrepreneur shall make available the matters required to examine and to know by the employee deputed for inspection in such a way.
16. **Removing from Works:** (1) While inspecting an enterprise pursuant to section 15, if a child is found to have been engaged against sections 3 or 4, the employee inspecting the enterprise shall immediately handover such child to his/her father, mother or guardian and order the entrepreneur to remove the child from works.
- (2) If a child does not have father, mother or guardian or if none of them are traced, the entrepreneur shall have to keep such child in any child welfare home or any organization providing care for children.
- (3) The enterprise shall have to bear costs to be incurred while handing over the child to his/her father, mother or guardian or the costs to be incurred while keeping the child in a child welfare home or organization as per rules of such home or organization.
17. **Inspection Report:** (1) The employee inspecting an enterprise pursuant to section 15 shall, within fifteen days from the date of completion of the inspection, submit report to the labor office having stated in detail as to whether any enterprise is engaging children against the provisions of this Act or not whether or not the provisions to be made pursuant to this Act or Rules framed thereunder including provisions of health and safety of the child engaged in works are made the labor office may conduct inquiry as to whether or not the employee deputed in such a way has carried out works according to this section and whether the report submitted is realistic or not and may take action according to law if it is found otherwise.

(2) In case it is found, according to the report submitted pursuant to Sub-section (1), that any enterprise has not made the provisions to be made as per this Act or Rules made there under, the labor office may order the entrepreneur to make such provisions as soon as possible within the appropriate time-frame.

(3) The entrepreneur shall have to make provisions as per the order within the time-frame prescribed by the labor pursuant to Sub-section (2).

18. **Suspension of Facilities:** In case the concerned enterprise does not make necessary provisions as per the order given by the labor office pursuant to section 17, the labor office shall refer to in writing to the concerned agency to suspend the facilities to be given as per prevailing laws to the enterprise for the prescribed time.

(2) If it is referred to from the labor with regard to any enterprise pursuant to Sub-section (1), the concerned body shall suspend the facilities to such enterprise and given information thereof to the labor office.

Chapter - 5

Provision Relating to Punishment and Appeals

19. **Punishment:** (1) Whoever commits any act in contravention of Sub-section (1) of section 3 shall be liable to a punishment of imprisonment of three months in maximum or a fine of Rs. 10,000/- in maximum or the both.

(2) Whoever commits any act in contravention of Sub-section (2) of section 3 and section 4 shall be liable to a punishment of an imprisonment of one year in maximum or a fine of fifty thousand rupees in maximum or the both.

(3) In case any entrepreneur commits any act in contravention to sections 6, 7, 9, 10 or 11, he/she shall be liable to the punishment of an imprisonment up to two months or a fine of five thousand rupees in maximum or the both.

(4) In case any entrepreneur commits any act in contravention of sections 5, 13 or 14, he/she shall be liable to a punishment of one month in maximum or a fine of three thousand rupees in maximum or the both.

(5) Whoever commits any act in contravention of this Act, except as referred to in Sub-sections (1), (2), (3) and (4) this section or the Rules framed under this Act, he/she shall be liable to a punishment of imprisonment of 15 days in maximum or a fine of one thousand rupees in maximum or the both.

(6) Whoever commits the same act again after having been punished pursuant to Sub-sections (1), (2), (3), (4) or (5), he/she shall be liable to double of the punishment referred to in the same Sub-sections.

20. **Complaints and limitation:** (1) With regard to an offence punishable under this Act, the following person or organization may file complaint at the concerned labor office: –

- (a) Employees inspecting an enterprise pursuant to section 15,
- (b) Police of the concerned area,
- (c) The concerned child or his/her father, mother or guardian,
- (d) The concerned Village Development Committee /Municipality,
- (e) Trade union of enterprise level, or
- (f) Any agency or non-governmental organization established pursuant to prevailing law and engaged in protection of rights and interests of the child.

(2) With regard to an offence punishable under this Act, complaint shall be filed within one year from the date of commission of the act.

21. **Power to Impose Punishment:** (1) The labor office shall have powers to impose punishment pursuant to section 19 on persons violating this Act and Rules framed there under.

(2) While imposing punishment pursuant to Sub-section (1), if the labor office has to impose punishment of imprisonment, it shall refer the matter to the labor court and do according to the decision of the court.

22. **Appeal:** The person not satisfied with the punishment imposed by the labor office pursuant to section 21 may file appeal at the labor court within thirty five days from the date of order of the punishment.

Provided that in case of punishment of imprisonment, appeal shall be filed at the Appellate court.

Chapter - 6

Miscellaneous

23. **Child Labor Prohibition Committee:** (1) Government of Nepal shall form Child Labor Prohibition Committee in order to provide for health, safety, education, vocational training to children engaged in an enterprise; in order to provide for appropriate employment for children; to discourage to have children involved in works and to get necessary suggestions and opinions for prohibiting child labor.

(2) In such a committee, provision of appropriate representation of governmental and non-governmental organizations and experts engaged in child labor sector shall be made.

(3) The formation procedures, functions, duties and powers and procedures of the Child Labor Prohibition Committee shall be as prescribed.

24. **Child Labor Prohibition Fund:** (1) Government of Nepal shall form a Child Labor Prohibition Fund for child working in an enterprise for their health, security, education, vocational training and for suitable employment of child to discourage to have children involved in works and to eliminate child labour.

(2) The following amounts shall be deposited in the Child Labor Prohibition Fund: -

- (a) Grants amount received from Government of Nepal,
- (b) Grants, donation, fee and amount of assistance to be received from various national and international organizations and associations,
- (c) Amounts to be received from other sources.

(3) Amounts to be deposited in the Child Labor Prohibition Fund and operation of the fund shall be as prescribed.

25. **Directives May be Issued:** (1) Government of Nepal may, in order to execute objectives of this Act, issue necessary directives to the Entrepreneur, trade unions, child welfare homes and child care organizations for protection of rights and interests of the children.

(2) It shall be the duty of the all concerned parties to abide by the directives issued by Government of Nepal.

26. **Alteration in Schedule:** (1) Government of Nepal may add more risky jobs in the schedule having published notice in the Nepal Gazette.

(2) While adding and risky job in the schedule, Government of Nepal may, if it deems fit, seek opinion of the Child Labor Prohibition Committee.

(3) After 30 days from the date of publication of the notice pursuant to Sub-section (1), the amendment shall be deemed to have been changed.

27. **Power to Frame Rules:** In order to enforce objectives of this Act, Government of Nepal may frame necessary rules.

28. **Repeal and Amendment:** In the Labor Act, 2048, the following amendments have been made.

(a) Clause (i) of section 2 is repealed.

(b) The words "of sixteen years" are substituted by removing the earlier words "of fourteen years of age"

(c) Sub-section (1) of section 5 has been repealed.

(d) After section 32, the following sections of section 32A and 32B are inserted: –

32A. **Minor not to be engaged in Works without Adequate Guidelines or of Vocational Training:** (1) No minor shall be engaged in works without adequate directives about the concerned working areas or vocational training.

(2) Provisions with regard to adequate directives about the concerned working areas or vocational training to be given to minors pursuant to Sub-section (1) shall be as prescribed.

(3) The entrepreneur engaging a minor in work against Sub-section (1) shall be liable to a punishment of imprisonment up to three months in maximum or a fine of ten thousand rupees in maximum or the both.

32B. **Disputes Relating to Age:** (1) In case a dispute arises with regard to age of a minor engaged in an enterprise, the age as per the date of birth certificate of the minor shall be deemed to be his/her actual age.

(2) In case a minor does not have birth registration certificate after having carried out medical tests the age determined by a medical practitioner prescribed by the Department of Labor shall be deemed to be his/her actual age: –

(3) In the Children's Act, 2048 (1991)

- (a) Sections 17 and 18 have been repealed.
- (b) Chapter 5 has been repealed.
- (c) Words '17' and '18' appearing in Sub-section (1) and (6) of section 53 have been deleted.
- (d) Sub-section (10) of section 53 has been repealed.

Schedule -1

(Relating to Sub-section (2) of Section 3)

Risky Business or Works

- (a) Business relating to tourism including tourism, residence, motel, hotel, casino, restaurant, bar, pub, resort, skiing, guiding, water rafting, cable car complex, Pony trekking, mountaineering, hot air ballooning, parasailing, gulf course, polo, horse-riding and so on;
- (b) Service-oriented business such as workshop, laboratory, animal slaughterhouse, cold storage and so on;
- (c) Public transport and construction business;
- (d) Works relating to manufacture of cigarette, *biri*; carpet, weaving, dying; wool cleaning; fabrics weaving, dying, washing and printing strips; leather tanning; cement manufacturing and packing; production, sale and distribution of matches, explosives and other flammable materials; production of beer, liquor and other drink items; production of soap; production of bitumen; production of pulp and paper; production of slate, pencil, insecticides, lubricating oils; collection of garbage; processing and electroplating; photo processing and works relating to rubber, synthetic, plastic, lid and mercury;
- (e) Works relating to water resources, air, solar power, coal, natural oil or gas, bio-gas or the like works relating to producing energy and its transmission and distribution;
- (f) Works relating to mines, mineral substances, exploration, processing and distribution of natural oil or gas.
- (g) Works relating to rickshaw and carts pulled by human beings.
- (h) Works relating to cutting machine.
- (i) Works to be done in underground, under water or in excessive height.
- (j) Works to be done having contact with chemical substances and
- (k) Other risky works or business prescribed by the prevailing laws.