

[AS INTRODUCED IN THE SENATE]

A

BILL

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

1. Short title, extent and commencement.—(1) This Act may be called the Islamabad Restriction on Employment of Children Act, 2016.

(2) It shall extend to the Islamabad Capital Territory.

(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, 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;

(g) "family" in relation to an occupier means the spouse, son, daughter or sibling;

(h) "Government" means the Federal Government;

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- (i) "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 morals of adolescents and is mentioned in the Schedule;
- (j) "Inspector" means an official appointed as an Inspector under the Act;
- (k) "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 assign; and
 - (ii) a person who has the ultimate control over the affairs of the establishment;
- (l) "prescribed" means prescribed by rules made under the Act;
- (m) "Schedule" means the Schedule appended to this Act; and
- (n) "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.

3. 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.

4. Committee on Child Labour.—(1) The Government shall by notification, constitute a Committee to be called the Committee on Child Labour to advise the Government for appropriate legislative, administrative and other measures for eradication of child labour, and subject to Article 11 of the Constitution, to propose the minimum age for the purposes of employment in the Islamabad Capital Territory.

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

5. 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.

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(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; and

(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.

6. 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.

7. Notice to Inspector.—(1) Every occupier of the 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;

(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 the Government.

8. 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 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.

9. 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 to 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.

10. 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.

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 which 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.

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- (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 sub-section (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 which 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 any such register;
 - (c) produce record for inspection;
 - (d) display any notice under the 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.

12. 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 Pakistan Penal Code, 1860 (XLV of 1860).

13. Presumption of work.—(1) Subject to sub-section (2), if a child or an adolescent is found present within the working premises of an establishment, it shall be presumed that the child or the adolescent is employed or is permitted to work in the establishment.

(2) Nothing in this section shall apply to the students visiting an establishment for educational purposes under the direction or supervision of an educational institution.

14. 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 sub-section (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).

15. Appellate authority.—The Government shall appoint an appellate authority to hear and decide the appeals preferred under sub-section (2) of section 14.

16. Trial of offences.—(1) An offence under sub-sections (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 (V of 1898).

(2) No court inferior to that of the Magistrate having powers under section 30 of the Code of Criminal Procedure, 1898 (V of 1898) shall try an offence under sub-sections (3) and (4) of section 11 of this Act.

17. 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.

18. 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) and the Shops and Establishments Ordinance, 1969 (VIII of 1969) regarding children or adolescents, shall be liable to the penalties provided in section 11 of this Act and not under the said laws.

19. 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 Pakistan Penal Code, 1860 (XLV of 1860).

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

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

21. Rules.—The Government may, by notification, and subject to the condition of previous publication, 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.

22. Application of other laws.—Subject to the provisions contained in 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.

23. 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 removal of the difficulty.

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

(3) Every order made under this section shall, as soon as may be after it is made, be laid before both Houses of Majlis-e-Shoora (Parliament).

24. Repeal and savings.—(1) The Employment of Children Act, 1991 (V of 1991) is hereby repealed.

(2) Notwithstanding the repeal of the Employment of Children Act, 1991 (V of 1991), anything done or any action taken or purported to have been done or taken under that Act shall, in 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.

SCHEDULE
[see section 2(i)]
HAZARDOUS WORKS

An occupation or work connected with-

- (1) transport of passengers, goods or mail;
- (2) 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) construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
- (4) underground mines and on ground quarries including blasting;
- (5) power driven cutting machinery like saws, shears, guillotines, agricultural machines, thrashers, fodder cutting machines;
- (6) live electrical wires over 50 volts;
- (7) all operations related to leather tanning processes such as soaking, dehairing, liming, chrome tanning, deliming, pickling, defleshing, ink application;
- (8) mixing and manufacture of pesticides and insecticides and fumigation;
- (9) sandblasting and other such work involving exposure to free silica;
- (10) exposure to all toxic, explosive and carcinogenic chemicals e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, Sulphur dioxide, phosphorus, benzidenedyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury chromium, lead arsenic, beryllium, fiber glass;

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- (11) exposure to cement dust in cement industry;
- (12) exposure to coal dust;
- (13) manufacturing and sale of fireworks and explosives;
- (14) the sites where liquid petroleum gas (LPG) or compressed natural gas (CNG) is filled in cylinders;
- (15) glass and metal furnaces and glass bangles manufacturing;
- (16) cloth weaving, printing, dyeing and fishing sections;
- (17) sewer pipelines, pits and storage tanks;
- (18) stone crushing;
- (19) lifting and carrying of heavy weight (15kg and above) specially in transport industry;
- (20) carpet weaving;
- (21) the height of two meters or more above the floor
- (22) all scavenging including hospital waste;
- (23) tobacco processing and manufacturing including *niswar* and *biri* making;
- (24) sheep casing and wool industry;
- (25) surgical instruments and manufacturing specially in vendors' workshops;
- (26) spice grinding
- (27) boiler house;
- (28) cinemas, mini cinemas and cyber clubs;
- (29) mica-cutting and splitting;
- (30) shells manufacturing;
- (31) soap manufacturing;
- (32) wool cleaning;
- (33) building and construction industry;

- (34) manufacturing of slate pencils including packing; and
- (35) manufacture of products from agate.

STATEMENT OF OBJECTS AND REASONS

Child labour is rampant in Islamabad Capital Territory. The children engaged in child labour are deprived of the pleasures of life. Most of these children are unaware of their basic rights as citizens of Pakistan and their access to education is also very limited. Due to economic pressures and hardships many adolescents are engaged in laborious jobs in the capital. It is necessary to prohibit the employment of children and to restrict the employment of adolescents in certain occupations. Hence this Bill.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-in-Charge