

SINDH ACT NO.III OF 2017

THE SINDH PROHIBITION OF EMPLOYMENT OF CHILDREN ACT, 2017.

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[22nd March, 2017]

to prohibit the employment of children and to regulate employment of adolescents in certain occupations and work.

WHEREAS it is expedient to prohibit the employment of children and to regulate employment of adolescents in certain occupations and work and to provide for matters connected therewith.

Preamble.

It is hereby enacted as follows:-

**PART-I
PRELIMINARY**

1. (1) This Act may be called the Sindh Prohibition of Employment of Children Act, 2017.

Short title, extent and commencement.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

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

Definitions.

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

(ii) "child" means a person who has not completed his fourteenth years of age;

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

(iv) "establishment" means any industrial, commercial or agricultural establishment, mine, business, trade, undertaking, manufacture, and work 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 work place notified by the government in official gazette from time to time;

(v) "factory" means a factory as defined under the Factories Act, 2015 (Act No.XIII of 2016), but does not include a mine, subject to the operation of the Mines Act, 1923 (No. IV of 1923);

(vi) "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;

(vii) "Government" means the Government of Sindh;

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- (viii) "hazardous work" means the work which, by its nature or the circumstances in which it is carried out, is likely to harm or jeopardize the health, safety or morals of children and adolescents and includes occupations and processes mentioned in the Schedule;
- (ix) "Inspector" means an official duly appointed and notified, as an inspector for the purpose of this Act by the Government;
- (x) "light work" means work which is not likely to harm the health or impede the physical or mental development of a child engaged in the work and includes activities mentioned in the Schedule;
- (xi) "mine" means any establishment defined as such in the Mines Act, 1923 (No. IV of 1923);
- (xii) "occupier " in relation to an establishment, means the person who employs workers either directly or indirectly and includes;
 - (a) in case of an individual, an heir, successor, administrator or assign; and
 - (b) a person who has the ultimate control over the affairs of the establishment (by whatever name he is called);
- (xiii) "port authority" means any authority administering a port;
- (xiv) "prescribed" means prescribed by rules made under this Act;
- (xv) "Schedule" means Schedule attached to this Act;
- (xvi) "week" means a period of seven days beginning at midnight on Thursday night or such other night as may be approved in writing for a particular area by the Government;
- (xvii) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include a factory;

PART-II PROHIBITION OF EMPLOYMENT OF CHILDREN AND PROHIBITION OF EMPLOYMENT OF ADOLESCENT IN HAZARDOUS WORK

3. (1) No child shall be employed or permitted to work in any establishment.

**Prohibition of
Employment.**

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

4. Government, may by notification in the official Gazette, amend the Schedule from time to time and thereupon the Schedule shall be deemed

**Amendment of
Schedule.**

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to have been amended accordingly three months after the date of the notification.

5. (1) Government shall, by notification in the official Gazette, constitute a Committee to be called the Sindh Coordination Committee on Child Labour, to advise Government for appropriate legislative, administrative and other measures for eradication of child labour as per international instruments and to set the minimum age, for the purpose of employment in the Province.

**Provincial
coordination
Committee on Child
Labour.**

(2) The Committee shall consist of a Chairperson and not less than **nine** other members representing government, employers, workers, civil society **and two Members of the Provincial Assembly of Sindh nominated by the Speaker, Provincial Assembly of Sindh.**

PART-III REGULATION OF CONDITIONS OF WORK OF ADOLESCENT

6. The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in sub-section (2) of section 3 is carried on.

Application of Part-III

7. (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.

**Hours and period of
work.**

(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 sub-section (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.

(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 been working in another establishment.

8. 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 permanently displayed in a conspicuous place in

Weekly Holidays.

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the establishment and the day so specified shall not be altered by the occupier more than once in three months.

9. (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 written notice containing the following particulars, namely:-

Notice to Inspector.

- (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; and
- (d) the nature of the occupation or process carried on in the establishment.

(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 written notice 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 with the aid of his family, or to any school established, assisted or recognized by Government for learning skills.

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

Disputes as to age.

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

Maintenance of register.

- (a) the name and date of birth of every adolescent so 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;

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(c) the nature of work of any such adolescent ; and

(d) such other particulars as may be prescribed.

12. Every occupier shall cause to be displayed in a conspicuous and accessible place a notice in Sindhi, Urdu and in the English languages containing an abstract of sections 3 and 14.

**Display of notice
containing abstract of
Section 3 and 14.**

PART-IV MISCELLANEOUS

13. (1) Provisions of the Payment of Wages Act, 1936, Sindh Minimum Wages Act, 2015, the Sindh Employees' Social Security Act 2016, the Sindh Workers Compensation Act, 2015, the Sindh Employees' Old-Age Benefits Act, 2014 and the Sindh Terms of Employment (Standing Orders) Act, 2015 shall be applicable to the adolescent workers to the extent as prescribed;

**Application of certain
Laws.**

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

14. (1) Whoever employs any child in contravention of the provisions of sub-section 3 (1) 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:

Penalties.

Provided that if the child is employed in any hazardous work the fine may extend to one hundred thousand rupees but not less than ten thousand rupees and imprisonment which may extend to three years:

Provided further that if the child or the adolescent is employed in –

- (a) any form of slavery or practice 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;
- (c) the use, procuring or offering of a child or adolescent for illicit activities, in particular for the production and trafficking of drugs;

the fine may extend to ten hundred thousand rupees but not less than two

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hundred thousand rupees and the imprisonment may extend to ten years but not less than five years.

(2) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of sub-section 3 (2) 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 like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to fifteen years.

(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 makes any false entry in any such register,
- (c) fails to produce record for inspection;
- (d) fails to display a notice; or
- (e) fails to comply with or contravenes any provisions of this Act or the rules made there under; shall be punishable with simple imprisonment which may extend to one month or with a fine which may extend to ten thousand rupees or with both.

15. Whoever abets any 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 which has been abetted.

Abetment to an offence.

Explanation.- For the purpose of this section, “abetment” has the same meaning as is assigned to it in the Pakistan Penal Code (XLV of 1860).

16. (1) Where any person is found guilty and convicted of contravention of any of the provisions regarding children and adolescents mentioned in sub-section (2), he shall be liable to penalties as provided in sub-sections (1), (2) and (3) of section 15 of this Act and not under other relevant laws.

Modified Application of Certain Laws in Relation to Penalties.

(2) The provisions mentioned in sub-section (1) are the provisions regarding children and adolescents in the following laws:-

- (a) The Mines Act 1923;
- (b) The Sindh Factories Act, 2015;
- (c) The Sindh Shops and Establishments Act, 2015.

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17. (1) Any person, police officer or Labour Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction. **Procedure relating to offences.**
- (2) Every certificate as to the age of an adolescent 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 to whom it relates.
- (3) No court other than Labour Court established under the Sindh Industrial Relations Act, 2013 shall try any offence under this Act.
18. Government may appoint and notify Inspectors for the purpose of securing compliance with any or all provisions of this Act within specified areas and any Inspector so appointed and notified shall be deemed to be a public servant within the meaning of the Pakistan Penal Code. **Appointment of Inspectors.**
19. Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act. **Power to make Rules.**
20. (1) Subject to the provisions contained in sections 14 and 16 above, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Mines Act, 1923, the Sindh Factories Act, 2015, the Sindh Children Act, 1955 and the Sindh Shops and Establishments Act, 2015. **Certain other provisions of law not barred.**
- (2) The definitions of 'child' and 'adolescent' in all other laws shall be deemed to have been amended in accordance with the definitions in section 2 of this Act for the purpose of employment and other matters related thereto.
21. (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: **Power to remove difficulties.**
- Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the Governor.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before the Provincial Assembly.
22. (1) The occupier of the establishment in which an adolescent (under 16 years of age) is working, or a child is acquiring skills, shall ensure that the adolescent or the child, as the case may be, is undergoing compulsory schooling as required under Article 25A of the Constitution of Islamic Republic of Pakistan. **Responsibility of the occupier towards education of child or adolescent.**

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(2) The occupier shall keep documentary proof of the adolescent or child's education ready for inspection by the competent inspecting authority.

23. No discrimination shall be made on the basis of gender, religion, political affiliation, sect, colour, caste, creed, ethnic background in considering and disposing of issues relating to the enforcement of this Act.

**Protection against
discrimination.**

24. (1) The Employment of Children Act, 1991 is hereby repealed to the extent of its applicability to the Province of Sindh.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed 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.

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SCHEDULE (see section 2(viii))

HAZARDOUS WORKS

Any 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) a port authority within the limits of any port;
- (5) underground mines and on ground quarries including blasting;
- (6) power driven cutting machinery like saws, shears, guillotines, agricultural machines, thrashers, fodder cutting machines;
- (7) live electrical wires over 50 volts;
- (8) all operations related to leather tanning processes such as soaking, dehairing, liming, chrome tanning, deliming, pickling, defleshing, ink application;
- (9) mixing and manufacture of pesticides and insecticides and fumigation;
- (10) sandblasting and other such work involving exposure to free silica;
- (11) exposure to all toxic, explosive and carcinogenic chemicals e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, sulphur dioxide, phosphorus, benzenedyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury chromium, lead arsenic, beryllium, fiber glass;
- (12) exposure to cement dust in cement industry;
- (13) exposure to coal dust;
- (14) manufacturing and sale of fireworks and explosives;
- (15) the sites where liquid petroleum gas (LPG) or compressed natural gas (CNG) is filled in cylinders;
- (16) glass and metal furnaces and glass bangles manufacturing;
- (17) cloth weaving, printing, dyeing and fishing sections;
- (18) sewer pipelines, pits and storage tanks;
- (19) stone crushing;
- (20) lifting and carrying of heavy weight (15kg and above) specially in transport industry;
- (21) carpet weaving;
- (22) the height of two meters or more above the floor;
- (23) all scavenging including hospital waste;
- (24) tobacco processing and manufacturing including niswar and biri making;
- (25) deep-sea fishing, commercial fishing and processing of fish and sea-food;
- (26) sheep casing and wool industry;
- (27) ship breaking;
- (28) surgical instruments and manufacturing specially in vendors' workshops;
- (29) spice grinding;
- (30) boiler house;
- (31) cinemas, mini cinemas and cyber clubs;
- (32) mica-cutting and splitting;
- (33) shells manufacturing;
- (34) soap manufacturing;
- (35) wool cleaning;
- (36) building and construction industry;
- (37) manufacturing of slate pencils including packing; and
- (38) manufacture of products from agate.