

F.No. S-27012/1/2014-CL
Government of India
Ministry of Labour & Employment
(Child Labour Section)

Shram Shakti Bhawan, New Delhi
Dated August, 2014

OFFICE MEMORANDUM

**Subject: Inviting comments/suggestions on the proposal to repeal
The Children (Pledging of Labour) Act, 1933.**

The Ministry of Labour & Employment proposes to repeal The Children (Pledging of Labour) Act, 1933. In this regard, a Concept Note alongwith the copy of the Act is being uploaded on the website to invite comments/suggestions on the proposal.

It is requested that the comments on the repealing of the Act may be sent to Under Secretary (CL), Ministry of Labour & Employment, Room No. 604-B, Shram Shakti Bhawan, Rafi Marg, New Delhi - 110001 within 3 weeks from the date of issue of this letter. The comments can also be emailed at irene.cherian@nic.in or child.labour-mol@nic.in.


(Irene Cherian)

Under Secretary to the Government of India
Tele No. 23473349.

CONCEPT NOTE ON THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933

A practice of pledging children by their parents or guardians for the sake of getting advance money was prevalent in the country. The children were pledged on agreement, written or oral, whereby the parents or guardians, in return for payment or any benefit, undertook to allow the services of their children to be utilized in any employment. To prohibit the making of agreements to pledge the labour of children this law was enacted by imposing penalties on parents and on persons knowingly employing children whose labour has been pledged. The Penalty for parent or guardian making agreement to pledge the labour of a child is fine upto Rs.50/- and penalty for making with a parent or guardian an agreement to pledge the labour of child is fine upto Rs.200/-.

2. Evidence was found, by the Royal Commission of Labour, in the areas such as Amritsar, Ahmedabad and Madras of a practice of pledging child labour, i.e., taking of advances by parents or guardians on agreements, written or oral, pledging the labour of their children. In some cases, the children so pledged were subjected to particularly unsatisfactory working conditions.

3. However, the Second National Commission on Labour in its report expressed shock over the proviso to an agreement of 'pledge of labour of children' in The Children (Pledging of Labour) Act, 1933. The Commission commented that this provision vitiates the entire purpose of the law. The Commission had recommended the repealing of this Act.

4. The safety provisions of this Act are covered by the Child Labour (Regulation & Prevention) Act, 1986. The Ministry is already in the process of amending the Child Labour (Prohibition & Regulation) Act, 1986. As per the proposed amendments, there will be complete prohibition of employing of children upto the age of 14 years and prohibition of employing children in hazardous occupations and processes upto the age of 18 years. The new Act is in harmony with the Right of Children to Free and Compulsory Education Act, 2009 which lays emphasis on the fact that every children upto the age of 14 years should be in school and not in work place. The Bonded Labour System (Abolition) Act, 1976 is another law which also bars all kind of forced labour. In light of the above, there appears to be no relevance of this Act and it is proposed to repeal this Act.

THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933*

(2 of 1933)

[24th February, 1933]

An Act to prohibit the pledging of the labour of children.

WHEREAS it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Children (Pledging of Labour) Act, 1933.

¹[(2) It extends to the whole of India ²[***].]

(3) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

COMMENTS

The application of the Act has been extended to the State of Jammu and Kashmir since 1st September, 1971.

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

“an agreement to pledge the labour of a child” means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment:

Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child’s services, and terminable at not more than a week’s notice, is not an agreement within the meaning of this definition;

“child” means a person who is under the age of fifteen years; and

“guardian” includes any person having legal custody of or control over a child.

COMMENTS

Any agreement which is not detrimental to the child and has been made in consideration of any benefit, though other than the means of reasonable wages, in lieu of the services rendered by the child, and is terminable at not more than a week’s notice, shall not be deemed to be illegal under the Act.

3. Agreements contrary to the Act to be void.—An agreement to pledge the labour of a child shall be void.

* This Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, sec. 2 and Sch. I; Pondicherry by Reg. 7 of 1963, sec. 3 and Sch. I and Laccadive, Minicoy and Amindivi (Now Lakshadweep) by Reg. 2 of 1970, sec. 2 and Sch. I.

1. Subs. by the A.O. 1950, for sub-section (2).

2. The words “except the State of Jammu and Kashmir” omitted by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971). Earlier the words “except the State of Jammu and Kashmir” were substituted by Act 3 of 1951, sec. 3 and Sch., for the words “except Part B States”.

COMMENTS

Any agreement by which a parent or guardian of a child pledges his labour and services against consideration or the benefits to be received in lieu thereof, shall be null and void.

4. Penalty for parent or guardian making agreement to pledge the labour of a child.—Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

COMMENTS

Penalty for parent or guardian making agreement to pledge the labour of a child is a fine upto Rs. 50.

5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child.—Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

COMMENTS

Penalty for making with a parent or guardian an agreement to pledge the labour of a child is a fine upto Rs. 200.

6. Penalty for employing a child whose labour has been pledged.—Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

COMMENTS

Penalty for employing a child whose labour has been pledged is a fine upto Rs. 200.

• • •
