

2015 Amendments to the Child Labour (Prohibition and Regulation) Amendment Bill, 2012

The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 was introduced in Rajya Sabha on December 4, 2012. The Bill seeks to amend the Child Labour (Prohibition and Regulation) Act, 1986. It seeks to prohibit the employment of children (i.e. those below 14 years of age) in all occupations and adolescents (i.e. those between 14 and 18 years of age) in hazardous occupations and processes.

The Standing Committee on Labour submitted its report on the Bill on December 13, 2013. Subsequently, on November 27, 2015 the government circulated amendments to the Bill pending in Parliament. This note compares the 2015 proposed amendments, with the provisions of the Bill and the Standing Committee recommendations.

Table 1: Comparison of the Bill, Standing Committee Recommendations and 2015 amendments

Child Labour (Amendment) Bill, 2012	Standing Committee Recommendations	2015 proposed amendments
Amendment to Clause 5: Prohibition against employment of children		
Prohibits employment of children in any occupation, except where a child: <ul style="list-style-type: none"> ▪ helps his family after school hours or in fields or home-based work, ▪ attends technical institution during vacation for learning. 	<ul style="list-style-type: none"> ▪ The provision creates a loophole, as it is difficult to keep a check on children working in their homes, and finding out whether they are helping their parents or working to supplement the family income. ▪ Exceptions should be removed, and employment should be prohibited in all occupations where there is a subordinate relationship of work and labour. ▪ Rules should be made for prohibition/ regulation of children/ adolescents working in the audio-visual entertainment industry. 	<ul style="list-style-type: none"> ▪ Not addressed. Exceptions expanded to include: (i) helping family and a family enterprise which are not hazardous occupations, after school hours or during vacations, and (ii) working in the audiovisual entertainment industry (films, TV, etc.) or sports activities. ▪ Addressed. Appropriate government may regulate working conditions and safety standards for <i>children</i> in the audio-visual entertainment industry. No specific provision regulating adolescents in the audio-visual entertainment industry.
Amendment to Clause 6: Prohibition against employing adolescents in hazardous occupations and processes		
Prohibits employment of adolescents in: <ul style="list-style-type: none"> ▪ hazardous occupations (i.e., mines, inflammable substances or explosives), or ▪ hazardous processes (as defined in the Factories Act, 1948 to cover industries related to iron-ore, lead, coal, cement, leather, paints, glass, etc.). 	Meaning of hazardous occupations and processes should be widened to include all those occupations/processes that may jeopardise health, safety and morals of adolescents, in line with the International Labour Organisation Convention 138.	Not addressed. However, central government may specify kinds of non-hazardous occupations and processes in which adolescents may be employed.
Amendment to Clause 8 and New Clauses 8A-8H: Regulating conditions of work		
Removed provisions regulating working conditions of <i>children</i> (including hours of work, weekly holidays, health and safety) under the Child Labour Act, 1986.	Act must provide for regulation of the working conditions of <i>adolescents</i> in non-hazardous occupations and processes.	Addressed. Provisions regulating working conditions of <i>adolescents</i> added. Appropriate government may make rules in this regard (eg. number of hours for which adolescents may work, how establishments employing adolescents must maintain registers, etc.)

Amendment to Clause 9: Penalties

<ul style="list-style-type: none"> ▪ Employers and parents/ guardians of children in employment, or of adolescents working in hazardous occupations and processes, will be punished with imprisonment between six months and two years and/ or fine between Rs. 20,000 to Rs. 50,000. ▪ For subsequent offence, the penalty will be imprisonment between one and three years. ▪ Every offence under the Act will be cognizable. 	<ul style="list-style-type: none"> ▪ All offences by parents require a lenient view as reasons for entry into child labour include poverty, neglect, trafficking, lack of schools, etc. Parents may not know which occupations are hazardous. Making employers liable is sufficient in case of adolescents working in hazardous occupations/ processes. ▪ Parents who are repeat offenders may be punished for allowing children to work. 	<ul style="list-style-type: none"> ▪ Addressed. Parents or guardians of children/ adolescents will not be liable for punishment in case of first offence. ▪ Parents or guardians of children/ adolescents will punishable with a fine up to Rs. 10,000 for subsequent offence. ▪ Only certain offences by employers will be cognizable: (i) employing children, and (ii) employing adolescents in hazardous occupations/ processes. ▪ Certain additional provisions have been added for: (i) compounding of certain first time offences by employers (like violating health and safety standards), (ii) compounding of any offence by parents/ guardians, (iii) empowering appropriate government to make rules for compounding of offences, etc.
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Amendment to Clause 10: Rehabilitation of rescued children and adolescents

<p>No provision</p>	<ul style="list-style-type: none"> ▪ Act should provide for rehabilitation of children/ adolescents rescued from work. ▪ A child welfare fund should be constituted for rehabilitation from the fines collected from the errant employers. 	<ul style="list-style-type: none"> ▪ Addressed. Rescued children and adolescents will be rehabilitated according to the laws in force. ▪ Addressed. Child and Adolescent Labour Rehabilitation Fund will be constituted at the district level. Fines from employers and Rs. 15,000 from the appropriate government for each child/ adolescent rescued will be credited into the Fund. Appropriate government may frame rules regulating manner of paying rescued children/ adolescents from the Fund.
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Other Standing Committee Recommendations:

Some recommendations of the Standing Committee that have not been incorporated in the amendments include:

- *Inspections of places of employment:* The Bill empowers the appropriate government to make periodic inspections of places of employment where employment of children is prohibited and hazardous occupations/ processes are carried out. The Committee noted that as the Bill prohibits employment of children in all occupations and processes, the power to inspect should cover all places of work. In case of adolescents, this power may be limited to those places where hazardous occupations/ processes are carried out.
- *Vigilance and monitoring committees:* The Bill imposes duties on the District Magistrate to ensure provisions of the Act are implemented. The Committee observed that as District Magistrates are overburdened, they may not have adequate time to deal with issues of child labour. It recommended that Vigilance and Monitoring Committees headed by local Members of Parliament may be constituted to review implementation of the Act.
- *New Child Labour Policy:* Rescuing and rehabilitating children and adolescents require coordination among various Ministries, such as Labour, Human Resource Development, Women and Child Development, Home and Rural Development. The Committee recommended that instead of having a fragmented approach with

little coordination among the Ministries, a new Child Labour Policy must be brought out which specifies how the law should be implemented.

- *Definition of child and adolescent:* The Bill provides that a child is someone who is below 14 years, while an adolescent is one who is between 14 and 18 years. The Committee observed that this is not aligned with the Right to Education Act, 2009 because the focus under the 2009 Act is to provide elementary education to all irrespective of age. The Bill could modify the definitions to provide that those who have not completed elementary education (even if they are above 14 years) will not be employed in any occupation.
- The Committee also noted that various laws and policies have varying definitions for a child (eg. National Policy for Children, 2013 prescribes the age as 18 years and the Child Labour Act, 1986 as 14 years). This should be reviewed.

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