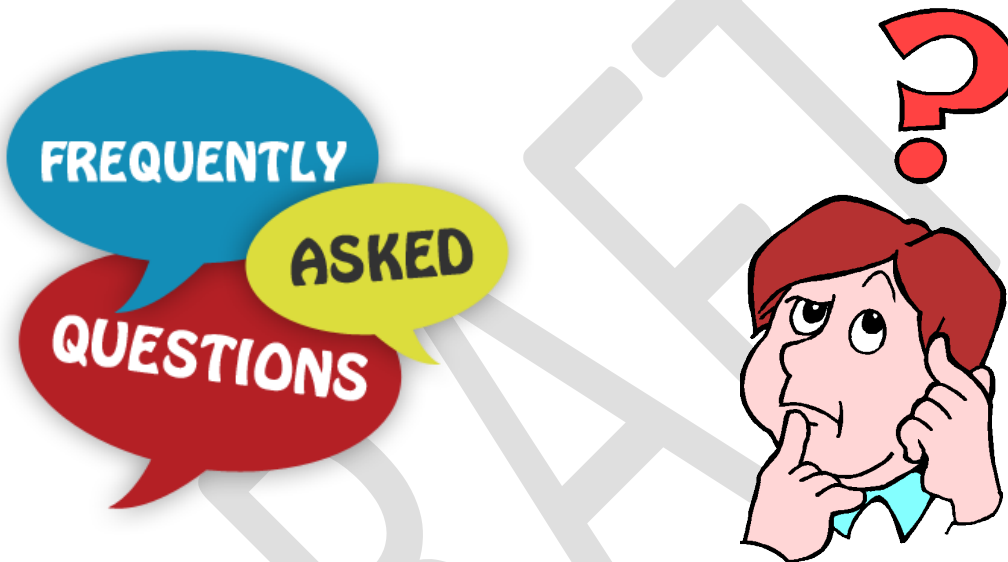


## FREQUENTLY ASK QUESTIONS (FAQ)

ON

### THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986.

Original Act called the Child Labour (Prohibition and Regulation) Act 1986 was amended by the Child Labour (Prohibition and Regulation) Amendment Act 2016.



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# Contents

**Preface**

**Acronyms**

**The Child Labour Act in India**

**Question Index**

**Questions with Answers**

DRAFT

## Preface

Child Labour is a key violation of children's right to protection and has multifaceted impacts. According to the International Labour Organization ("ILO") "child labour" includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development sometimes separated from their families, frequently deprived of meaningful educational and training opportunities that could open up for them a better future.

Child labour has a direct impact on the economic development of the country. At the micro level, child labour might increase the household income in the short run. However, in the long run it might perpetuate household poverty as children sent to work do not acquire sufficient human capital – education, skills etc. - thus missing the opportunity for enhancing productivity and compromising on future earning capacity. Furthermore, child labour competes with the wages of the adults creating an environment of low wages and unemployment among adults and affecting the growth of the economy.

Census of India, 2011 reports on 8.22 million child labour inclusive of 4.35 million (main workers) and 3.87 million (marginal workers) in the age group of 5-14. Whereas the official records are indicative of reduced child labour over the past decades, child labour is still one of the major issues that obstruct the development of children and our nation. Several reasons impede the progress that could have been made to effectively eliminate and reduce child labour. One primary reason being the capacity of people involved in this. Inadequate awareness, understanding, skill and sensitivity to deal with the issue results in poorly benefitting for the cause of Child Labour elimination and reduction.

Centre for Child Protection (CCP) of Sardar Patel University of Police, has been endeavoring to strengthen capacity of the various child protection actors and functionaries and also coordinate linkages between different departments working to create and promote 'a just, protective and enabling environment for children.' The development of FAQ on the Child and Adolescent Labour((Prohibition and Regulation)Amendment Act, 1986 is a key milestone aimed at providing clarity on the Law to all related stakeholders.

The document has been developed to give readers a holistic understanding related to the CAL (PR)A Act, 1986 and the FAQ covers aspects of queries that can facilitate understanding Cal(PR)A. 1986 in details .

## Acronyms

CL	Child Labour
CCP	Centre for Child Protection
CAL(PR)A	Child and Adolescent Labour (Prohibition and Regulation) Act
CLPRA	Child Labour (Prohibition and Regulation) Act
DM	District Magistrate.
JJ	Juvenile Justice
FAQ	Frequently Asked Questions
ILO	International Labour Organization
ICPS	Integrated Child Protection Scheme
NCPCR	National Commission on Protection of Child Rights
UNCRC	United Nations Convention on the rights of the child

## Question Index

### General question on Child Labour

1. *Why we need a law to prohibit child labour?*
2. *Why it is not safe for a child to work?*
3. *What are the key factors of child labour?*
4. *Departmental authorities are responsible for identifying and reporting on child labour.*
5. *Responsible authorities for rescuing the cases of child labour*
6. *Which are the responsible authorities for providing compensation to children rescued from child labour situations?*
7. *Which are the responsible authorities for social rehabilitation?*
8. *In case child is willing to stay back with his/her employer and do not wish to go back to her/his family, what can be the legal solution in this situation?*
9. *Do Child Labour category falls under Child in Need of Care and Protection*
10. *Is District Child Protection Unit (DCPU) responsible for the rehabilitation of children rescued from child labour?*
11. *What is the role of DCPU in context of child labour?*
12. *Which are the authorities to review the implementation of child labour laws and policies?*
13. *Is there any online complaint platform to file cases of child labour?*
14. *Children involved as domestic help can be considered as child labour?*
15. *If I get to know about a child who is below the age of 14 years and working at a tea shop or as domestic help, what actions can I take immediately?*
16. *What is the mechanism of grievance redressal system in cases of child labour?*
17. *If a child is continuing his/her formal education but involved with the parents in their business which is hazardous in nature, will it be considered as child labour?*

### Questions related to Child and Adolescent Labour (Prohibition and Regulation) Act amended by the Child Labour (Prohibition & Regulation) Amendment Act 2016.

18. *What is Child Labour (Prohibition & Regulation) Amendment Act 2016?*
19. *When did the Child Labour (Prohibition and Regulation) Amendment Act 2016 come in to force?*
20. *Which is the key Act related to Child Labour in India?*
21. *Is Child and Adolescent Labour(Prohibition and Regulation) Act, 1986 and Child Labour (Prohibition and Regulation)Act 1986 the same Act?*
22. *Why was CL(PR)A, 1986 amended?*
23. *What aids detailed implementation of CAL(PR)A?*
24. *Do we have State rules of CAL(PR)A 1986 in Rajasthan?*
25. *What are the key amendments to the principal Act CL(PR)A 1986 by the CL(PR) Amendment Act of 2016?*

26. How many Parts and Section does the Child and Adolescent Labour (Prohibition and Regulation) Act 1986 have?
27. What is the definition of 'child' as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
28. What is the definition of 'adolescent' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
29. What is definition of 'establishment' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
30. What is definition of 'family' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
31. What is definition of 'family enterprise' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
32. What is definition of artist as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
33. What is definition of 'workshop' as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?
34. Does the CLAPRA permits children working in family occupations?
35. Which are two area which is flexible on children below 14 years working?
36. What is the key amendment with regards to employment of children in the CAL(PR) A, 1986?
37. What is the key amendment with regards to employment of adolescent in the CAL(PR) A, 1986?
38. What is the Schedule in the CAL(PR) A , 1986?
39. As per schedule how many occupations and processes are prohibited
40. Can the Schedule of the Act be amended? If yes, who has power to amend the listed schedule under Act?
41. What is the Technical Advisor Committee and how can it be constituted?
42. Who convenes meeting and proceedings of the Technical Advisor Committee(TAC)?
43. What is the hours and period of work prescribed for adolescent as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986.
44. Can the adolescents have weekly holidays while employed?
45. What kind of process need to follow to determine the age of a child or adolescent in case of disputes as to age of adolescent?
46. Who is responsible for securing compliance of the provisions of this Act?
47. What is necessary information to be sent to inspectors by establishment employing adolescents?
48. How and what are the information related to adolescent employed in an establishment to be maintained?
49. What are the provisions made in the Act with regards to ensuring health and safety of adolescents?
50. Are the offences cognizable under this Act?
51. What are the penalties for employing a child Labour
52. What are the penalties for employing an adolescent in contravention with the Act?
53. Can parents /guardians be penalized for offence under the Act ?

54. *What is Child and Adolescent Labour Rehabilitation Fund?*
55. *.What does compounding of offence mean? Is the offence compoundable under the Act?*
56. *Who can file a complaint of engagement of child labour/ engagement of adolescent in hazardous occupation?*
57. *How does the CAL(PR) A ,1986 relate to other Acts which have sections related to child labour prohibition?*
58. *Who has the power to make rules of this Act?*

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# The Child and Adolescent Labour (Prohibition and Regulation) Act 1986

**Original Act called the Child Labour (Prohibition and Regulation) Act 1986 was amended by the Child & Adolescent Labour (Prohibition and Regulation) Amendment Act 2016.**

The Child and Adolescent Labour (Prohibition and Regulation Act) 1986 is the Principal Act related to Prohibition and Regulation of Child Labour in India, which was enacted in the year 1986. Prior to the enforcement of this Act there were other Acts like the Employment of Children Act 1938; Factory Act 1948; Plantation Act 1951, Mines Act 1952 which categorically laid down to prohibit engagement of children of specified age in particular occupation .However it was only after the Gurpadswamy Committee on Child Labour 1979 and Santa Mehta Committee that the need to have an uniformity in age with regards to employing children was emphasized upon .Thus came into force the Child Labour (Prohibition and Regulation ) Act in 1986 .

The CLPRA for the first time prescribed age of 14 as the uniform age for children not to be employed in Child labour. The Act prohibited the engagement of children in a Scheduled list of occupation and in a Scheduled list of process. Also it laid down regulatory work conditions for children working above the age of 14. The CLPRA was amended in the year 2016 to prohibit the engagement of children below 14 in any occupation and also prohibit the employment of adolescent up to the age of 18 in specified hazardous occupation and process.

## A snapshot of the Act is presented below

The CLPRA Act 1986 now to be called CALPRA has 26 Sections and a Schedules

Sections	Issue	Explanation
1	Short Title, extent and commencement	The Act is now called Child and Adolescent Labour (Prohibition and Regulation) Act and applies to India and has been brought into force by Gazette notification of the Central Government dated September 1, 2016.
2	Definition	The 2 key definition important are <ul style="list-style-type: none"><li>• Child – means a person who has not completed 14 years of age.</li><li>• Adolescents- means a person who has completed 14 years but not completed 18 years.</li></ul>
<b>PART II –Prohibition of Employment of Children in Certain Occupation and Process</b>		
3	Prohibition of employment of children in any occupation and process	<ul style="list-style-type: none"><li>• No child will be employed or engaged in any occupation and process.</li><li>• A child can help his family (child father, mother, brother, sister and fathers' brother</li></ul>



		<p>and sister and mothers' brother and sister) in occupation and process after school hours or during vacation provided it is not listed in the Schedule</p> <ul style="list-style-type: none"> <li>• A child permitted to work as a child artist in audio-visual entertainment excluding circus, provided it does not hinder with the Childs education.</li> </ul>
3A	Prohibition of employment of adolescent in certain hazardous occupation and process	<ul style="list-style-type: none"> <li>• No adolescent will be permitted to work in hazardous occupation and process laid down in the Schedule.</li> </ul>
4	Power to Amend the Schedule	<ul style="list-style-type: none"> <li>• The Central government has the power to do this. Must notify intent to amend in the Central Gazette. Following a period of 3 months of the notification and amend the schedule.</li> </ul>
5	Technical Advisory Committee	<ul style="list-style-type: none"> <li>• A 10-member advisory committee will be appointed by notification in Central Gazette by the central government to amend/modify the Schedule annexed in the Act.</li> </ul>
<b>PART III- Regulation of Conditions of work of Adolescents</b>		
6	Application of the Part	<ul style="list-style-type: none"> <li>• Applies to establishment where an adolescent might be working and the occupation or process is not listed in the Schedule</li> </ul>
7	Hours and Periods of work	<ul style="list-style-type: none"> <li>• The adolescent will work a maximum of 6 hours a day with one-hour rest in the interval, subjected that this does not exceed the maximum number of hours prescribed in the establishment.</li> <li>• No overtime</li> <li>• Cannot work between 7pm and 8 am</li> <li>• Cannot work in 2 establishment on same day</li> </ul>
8	Weekly Holidays	<ul style="list-style-type: none"> <li>• 1 holiday per week a must as per pre decided and exhibited notice declaring the holiday. Revisions to the decided holiday can be made not more than one in 3 months.</li> </ul>
9	Notice to Inspector	The occupier of the establishment where an adolescents worked/works must send a written

		<p>notice to inspector having the area jurisdiction within 30 days of the commencement of employment detailing:</p> <ul style="list-style-type: none"> <li>• the name and situation of the establishment.</li> <li>• the name of the person in actual management</li> <li>• of the establishment</li> <li>• the address to which communications relating to the establishment should be sent</li> <li>• the nature of the occupation or process carried on in the establishment.</li> </ul>
10.	Disputes as to a age	In case of dispute the case be referred to medical authority of ascertaining of age
11.	Maintenance of register	<p>A register shall be maintained ready for inspection at every establishment where an adolescent is employed .The details essentially to be maintained in the register would be</p> <ul style="list-style-type: none"> <li>• Name and date of birth of adolescent working.</li> <li>• Hours and period of work and the recess interval</li> <li>• Nature of work in which the adolescent is engaged</li> <li>• Other particular as prescribed from time to time</li> </ul>
12	Display of Notice containing abstract of Section 3 A and Section 14	Notice regarding non engagement of adolescent in hazardous occupation (elaborated in Sec 3A ) and the penalties(Sec 14 ) if offending the law must be displayed in an accessible place to all and in local language within the limits of place of work, railway stations, ports .
13	Health and Safety	Government may by notification in the gazette make rules for health and safety of the adolescent in the working place on issues related to cleanliness , dust, disposal of waste, lighting, fire, spittoons, protection of eyes
<b>PART IV – Miscellaneous</b>		
14	Penalties	<ul style="list-style-type: none"> <li>• Employing a child – imprisonment from 6 months up to 2 years and /or fine of minimum INR 20, 000 up-to INR 50,000. Parents can be penalized on second offence</li> </ul>

		<p>only if they use the child for commercial gains against the law.</p> <ul style="list-style-type: none"> <li>• Employing an adolescent in hazardous occupation – imprisonment from 6 months up to 2 years and /or fine of minimum INR 20,000 up-to INR 50,000. Parents can be penalized on second offence only if they use the child for commercial gains against the law.</li> <li>• A second time offender under the law would be penalized with imprisonment of not less than one year and up to 3 years.</li> <li>• Parents /guardians convicted as second time offender to be fined with INR 10, 000 as punishment.</li> <li>• Anyone in contravention with the Act or the Rule to be penalized with up-to 1 month imprisonment and /or INR 10,000 fine.</li> </ul>
14A	Cognizable offence	<ul style="list-style-type: none"> <li>• Any offence committed by employer and punishable for employing Child labour (Sec 3) employing adolescent in hazardous work(Sec 3 A) is a cognizable offence .</li> </ul>
14B	Child and Adolescent Labour Rehabilitation Fund	<ul style="list-style-type: none"> <li>• The government will create a district level Child and Adolescent Labour Rehabilitation Fund .The fund would comprise of the fine money realized from the employer to which the state government shall contribute INR 15,000 for every child /adolescent for whom the fine has been realized.</li> <li>• The money collected herein and the interest accrued on it shall be invested in the benefit of child /adolescent(from whom the fine amount has been credited) as per the rules /government orders</li> </ul>
14C	Rehabilitation of Rescued Child or Adolescent	<ul style="list-style-type: none"> <li>• Children /Adolescent rescued must be properly rehabilitated as per the law/rules</li> </ul>
14D	Compounding of offence (Compounding implies settlement or agreement not to prosecute)	<ul style="list-style-type: none"> <li>• The District Magistrate has the power to compound the offence on request of the accused (employer/parents) who is a first-</li> </ul>

		<p>time offender; and on payment of fine as decided.</p> <ul style="list-style-type: none"> <li>• If the accused fails to pay the fine, normal proceedings under the Act shall be carried on.</li> <li>• No prosecution against the accused if the offence is compoundable.</li> <li>• In case of prosecution already been instituted, written application for compounding the offence has to be made to the court where the case has been put up , on the courts approval of the composition the accused can be discharged .</li> </ul>
15	Modified application of certain laws in relation to penalties	<ul style="list-style-type: none"> <li>• A person if found in contravention to Sec 67 of the Factory Act 1948; Sec 40 of the Mines Act 1952; Sec 109 of the merchant Shipping Act 1958; Sec 21 of the Motor Transport workers Act 1961. be penalized as per Section 14 of the CLAPRA 1986.</li> </ul> <p><b>-Sec 67 of Factory Act-</b> states that ‘no child below 14 to be engaged in factory work.’</p> <p><b>-Sec 40 of Mines Act</b> states that ‘nobody below age of 18 to be employed in mines and ni body below the age of 16 to be employed as trainee or apprentice in mines. In case of trainees’ prior approval of inspector /chief inspector essential.’</p> <p><b>-Sec 109- Merchant Shipping Act</b> states that ‘no body below the age of 15 to be taken to sea to be employed in any ship with exception to school ship , training ship , all family members employed in the same ship, family ship or in a ship under the supervision of parent or guardian.</p> <p><b>- Sec 21 of the Motor Transport workers Act-</b> No child will be allowed to work in any motor undertaking</p>
16	Procedure relating to Offence	<ul style="list-style-type: none"> <li>• Complaint related to offences under the Act can be filed by any individual inclusive of police officer /inspector.</li> <li>• Age certificate by medical authority conclusive in case of doubt.</li> </ul>

		<ul style="list-style-type: none"> <li>Cases related to offences to be tried in no court below the rank of first class magistrate or metropolitan magistrate.</li> </ul>
17	Appointment of Inspectors	<ul style="list-style-type: none"> <li>An inspector who is a public servant shall be appointed by the government.</li> </ul>
17A	District Magistrate to implement the provisions	<ul style="list-style-type: none"> <li>The government may as required confer the power to the DM to ensure that the provisions of the Act are complied with</li> </ul>
17B	Inspection and Monitoring	<ul style="list-style-type: none"> <li>Regular inspections and monitoring of occupation and process where employment of adolescent is prohibited</li> </ul>
18	Power to make rule	<ul style="list-style-type: none"> <li>Government can by official notification in the gazette make rules to implement the Act</li> </ul>
19	Rules and Notification to be laid before Parliament or State Legislature	<ul style="list-style-type: none"> <li>The rule made and all notification made in the gazette must be presented in the Parliament /state legislature for their agreement . In case of modification recommended this to be brought in effect</li> </ul>
20	Certain other provisions of law not barred.	<ul style="list-style-type: none"> <li>The provisions made in this Act and the rules are in addition and not in derogation to Acts mentioned in Section 25</li> </ul>
21	Power to remove difficulties	<ul style="list-style-type: none"> <li>The Central government has the power to make order by notification in official gazette (within 3 years of the assent of the President to the Act) that is important to remove difficulties and make the law consistent and effective.</li> </ul>
22	Repeal and Saving	<ul style="list-style-type: none"> <li>The employment of children act 1938 is repealed .</li> </ul>
23	Amendment of Act 11 of 1948	<ul style="list-style-type: none"> <li>Elaborates amendments to be made to sec 2 of the Minimum wage Act of 1948 defining child as anyone who has not completed 14 years; adolescent as someone having completed 14 years but not 18 years and adult as someone having completed 18 years.</li> </ul>
24	Amendment of Act 69 of 1951	<ul style="list-style-type: none"> <li>Elaborates amendment and omission the the Plantation Labour Act 1951.</li> </ul>

		<p>-the age of child and adolescent to be amended to someone not completed 14 years and having completed 14 years respectively.</p> <p>And that the clause of employing children not less than 12 as elaborated in sec 24 and sec 26 has been omitted .</p> <p>-</p>
25	Amendment of Act 44 of 1958	<ul style="list-style-type: none"> <li>• The age of child amended to 14 instead of 15(Sec 109) in the Merchant Shipping Act 1958</li> </ul>
26	Amendment of Act 27 of 1961	<ul style="list-style-type: none"> <li>• Age of child revised to 14 instead of 15(Sec 2) in the Motor Transport Workers Act 1961. Adolescent means a person who has completed 14 but not 18</li> </ul>

**Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**

# Questions and Answers

## General questions related to Child Labour

### 1. Why we need law to prohibit Child Labour?

India is also signatory country of United Nations Convention of Rights of The Child (UNCRC) 1989. As per articles 19 of the UNCRC children have rights to be protected from all forms of violence, abuse and exploitation. Education is fundamental rights of every child. As per Article 21 of the Constitution of India, provides that, "No person shall be deprived of his life or personal liberty except according to procedure established by law." 'Life' in Article 21 of the Constitution is not merely the physical act of breathing but leaving a life with respect and dignity. Denial of education and engagement of child in work is violation of fundamental rights as per our constitution. So, to enforce the constitutional rights and UNCRC we have law against Child Labour in India.

*Source: The Indian Constitution and UNCRC*

### 2. Why it is not safe for a child to work?

There are many reason because of which it is not safe for a child to work

- a. Childhood is critical age for mental, physical and psychological development by working in childhood, child is depriving from developmental opportunities resulted into poor mental, physical and psychological development
- b. Some of work is hazardous in nature which impact proper development of a child
- c. Chances of physical injury by working in childhood is higher and it may cause physical disabilities or death
- d. it is not safe for a child to work because it is against the law also

*Source: Research and Reports on Child Labour*

### 3. What are the key factors of child labour?

There are many factors for child labour

- a. Poverty – for family income or self-survival
- b. Child labour is cheap and easily manageable – so employ prefer to have child labour
- c. Poor education quality resulted into poor learning and dropout from school after some time
- d. Poor parental care or no parental care- Orphan, Singal Parental child
- e. Violence and abuse in family – resulted into run way from home and started working as child labour
- f. Peer pressure, addiction of bad habit, drugs and other resulted into they need money to maintain the habit

*Source: Research and Reports on Child Labour*

**4. Departmental authorities are responsible for identifying and reporting on child labour.**

As per Child labour and Juvenile Justice Law major responsibilities of identification of child labour lies with Labour Dept, Department of Child Rights, District Child Protection Unit, Police and Education department. Whereas reporting on child labour is everybody business.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; The Juvenile Justice (Care and Protection) Act 2015*

**5. Responsible authorities for rescuing the cases of child labour**

Rescue is process in which children working as labour are taken out. For this there is a provision of District Level Task forces which constitute rescue team and rescue team is empowered to conduct rescue. Concerned law enforcement agencies are empowered to form a rescue team and conduct rescue which includes Labour Dept, Dept for Child rights, Anti Human Tracking Unit, DCPU and District Collector.

*Source: The Juvenile Justice (Care and Protection) Act 2015 & JJ Rules 2016, NCPCR guidelines on Abolition of Child Labour (April 2008), Revised ICPS*

**6. Which are the responsible authorities for providing compensation to children rescued from child labour situations?**

Sub Divisional Magistrate (SDM) is responsible to release the bonded labour certificate. As per bonded labour certification state is responsible for release of Rs 5000/- and employer has to pay Rs 20000 for the child rescued-. In some of the state government has announced a fund and interim support money for rescued child labourer.

*Source: Central Sector Scheme for rehabilitation of Bonded Labour, 2016*

**7. Which are the responsible authorities for social rehabilitation?**

Juvenile Justice(JJ) Act and Immoral Human Trafficking Act has well defined measures for rehabilitation of child labour and trafficked Children. Time to time central and state government/ department has developed Standards Operating Procedure for prevention, rescue, and rehabilitation. As per JJ Act Child Welfare Committee (CWC) is responsible for laying down the process of rehabilitation. Social worker and outreach worker employed at DCPU level are crucial for social rehabilitation.



*Source: The Juvenile Justice (Care and Protection) Act 2015 & JJ Rules 2016; Revised ICPS*

**8. In case child is willing to stay back with his/her employer and do not wish to go back to her/his family, what can be the legal solution in this situation?**

This is against the provision of law. No child is allowed to work below 14 Years of age and between 14-18 can be regulated as per Child labour Act.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**9. Do Child Labour category falls under Child in Need of Care and Protection**

Yes, as per Juvenile Justice Act, child labour comes under Child in Need of Care and Protection

*Source: The Juvenile Justice (Care and Protection) Act 2015*

**10. Is District Child Protection Unit (DCPU) responsible for the rehabilitation of children rescued from child labour?**

Yes, District Child Protection Unit (DCPU) is nodal agency for rehabilitation of children rescued from child labour

*Source: Revised ICPS*

**11. What is the role of DCPU in context of child labour?**

**As per ICPS and JJ Act key responsibilities of DCPU are:**

- Overall implementation of the child protection policies and programmes in the district level
- Monitoring and supervision of all institutions/agencies/NGOS/projects, ensuring implementation of minimum standards of care and reporting to SCPS
- Ensuring effective institutional care / services at district level for all children in need of care and protection.
- To identify families and children at risk to prevent destitution of children and arrange necessary support services like counselling, health care, education, vocational guidance etc.
- Carry out a situational analysis of children in difficult circumstances, collect and compile data on different dimensions of the child protection problems.

- Carry out a resource mapping exercise and develop a District Child Protection Plan and a Resource directory
- Setting up and managing of child tracking system.
- Support CWC in the process of inquiry and restoration of children.
- Ensure registration of all organizations/ institutions under the Juvenile Justice Act 2000 and its Amendment Act, 2006.
- Regular training and capacity building.
- Provide secretarial support to the DCPC.
- Maintain a database of all children in institutional care and non-institutional care at the district level. This Data Management System will ultimately be uploaded onto a comprehensive, integrated, live database for children in care and in need of care in the country- the 'TrackChild'

**Revised ICPS**

**12. Which are the authorities to review the implementation of child labour laws and policies?**

Currently Implementation of Child Labour Act comes under Labour Department. State and district labour dept officials are responsible for implementation of Child Labour Act. The key players are.

- a. State and District Child labour Task Force
- b. DCPU
- c. State Commission for Protection of Child Rights
- d. State Legal Services Authorities
- e. Education dept – specially for out of school children
- f. High Court Juvenile Justice Committee

**Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; The Juvenile Justice (Care and Protection) Act 2015; Revised ICPS.**

**13. Is there any online complaint platform to file cases of child labour?**

Yes, there is provision for call and register at Child Help Line 1098. Along with that Govt of India has platform for effective enforcement for No Child Labour: [www.pencil.gov.in](http://www.pencil.gov.in) where we can register the case of child Labour online.

**Source: Revised ICPS**

**14. Children involved as domestic help can be considered as child labour?**

Yes, any kind of work below 14 years is considered as Child labour; whereas after 14 years of age they are allowed to work in non-hazards family occupations/processes.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**15. If I get to know about a child who is below the age of 14 years and working at a tea shop or as domestic help, what actions can I take immediately?**

Need to inform Child help line 1098 or register the case on Platform for effective enforcement for No Child Labour: [www.pencil.gov.in](http://www.pencil.gov.in)

*Source: Revised ICPS*

**16. What is the mechanism of grievance redressal system in cases of child labour?**

State Commission for Protection of Child Rights or national Commission for Protection of Child Rights is authorized agency for overall grievance redressal. Along with the State Child Protection Society, DCPU, State Legal Services Authorities or High Court Committee for Juvenile Justice.

*Source: The Juvenile Justice (Care and Protection) Act 2015; Revised ICPS.*

**17. If a child is continuing his/her formal education but involved with the parents in their business which is hazardous in nature, will it be considered as child labour?**

A child can help his family (child father, mother, brother, sister and fathers brother and sister and mothers brother and sister) in occupation and process after school hours or during vacation provided it is not listed in the Schedule of hazardous occupation and process defined

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**Two area which is flexible on children below 14 years working**

- (i) A child can help his family (child father, mother, brother, sister and fathers brother and sister and mothers brother and sister) in occupation and process after school hours or during vacation provided it is not listed in the Schedule .
- (ii) A child is permitted to work as a child artist in audio-visual entertainment excluding circus, provided it does not hinder with the child's education and comprise on child's safety.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

## **Questions related to Child Labour (Prohibition & Regulation) Amendment Act 2016.**

### **1. What is Child Labour (Prohibition & Regulation) Amendment Act 2016?**

The Child Labour (Prohibition & Regulation) Amendment Act 2016 was brought in to amend Child Labour (Prohibition and Regulation) Act 1986, which is India's primary Act related to prohibition and regulation of Child Labour.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

### **2. When did the Child Labour (Prohibition and Regulation) Amendment Act 2016 come in to force?**

The Child Labour (Prohibition and Regulation) Amendment Act 2016 came into force on 29<sup>th</sup> July 2016.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

### **3. Which is the key Act related to Child Labour in India?**

The CAL(PR)A: Child and Adolescent Labour (Prohibition and Regulation) Act 1986 is the primary Act for Child Labour issues in India. The Act was originally called CL(PR)A: Child Labour (Prohibition and Regulation) Act 1986. The Act was amended in the year 2016 and hence forth the principal Act was amended to be Child and Adolescent Labour (Prohibition and Regulation) Act 1986.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

### **4. Is Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and Child Labour (Prohibition and Regulation) Act 1986 the same Act?**

CL(PR)A 1986 was amended in the year 2016, by the Child Labour (Prohibition and Regulation) Amendment Act 2016. The term 'adolescent' was inserted in the name of Principal Act CL(PR)A 1986 as elaborated in Section 3 of the Child Labour (Prohibition and Regulation) Amendment Act, 2016.

Thus, the Act is now called The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 instead of Child Labour (Prohibition and Regulation) Act 1986.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

#### **5. Why was CL(PR)A, 1986 amended?**

CLPRA, 1986 was primarily amended to align India's commitment to free and compulsory education for all children in the age group of 6 –14 years and also meet conditions to ratify two of the most fundamental ILO convention 138 (on minimum age of admission for employment) and 182 (penalizes and prohibits worst form of Child Labour).

India ratified the two most fundamental ILO convention 138 and 182 on 13<sup>th</sup> June 2017.

*Source: Fortieth Report of Standing Committee on Labour (2012-13) presented in the 15<sup>th</sup> Lok Sabha.*

#### **6. What aids detailed implementation of CAL(PR)A?**

The Child and Adolescent Labour (Prohibition and Regulation) Rules, 2017 were formulated by the central government as the model rule for state government to adapt the rules to their state context and formulate state rules and guidelines for the implementation of the Act.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

#### **7. Do we have State rules of CAL(PR)A 1986 in Rajasthan?**

The state rule of CAL(PR)A has yet not been notified as on date 8<sup>th</sup> May 2019. It is work under progress and is hoped to be notified soon in the coming months.

*Source: The Rajasthan Child Labour (Prohibition And Regulation) (Amendment) Rules, 2019*

#### **8. What are the key amendments to the principal Act CL(PR)A 1986 by the CL(PR) Amendment Act of 2016?**

The key amendments are

- i. **Long title:** The long title of the Act has been amended to make it stronger and more specific. CL(PR)A 1986 originally stated that it was an 'Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments. 'The amendment now states that this is an 'Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes.'

- ii. **Short Title:**

The Act will now be called "Child and Adolescent Labour (Prohibition and Regulation) Act, 1986" instead of Child Labour (Prohibition and Regulation) Act 1986.

- iii. **Newer definitions added:**

- Adolescent is a person who has completed his 14<sup>th</sup> year of age but has not completed his 18<sup>th</sup> years.
- Definition of child elaborated: “child” means a person who has not completed his 14<sup>th</sup> year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more.

**iv. Prohibition of Children’s employment:**

The original CL(PR) A 1986 specified on prohibition of employment of children in certain occupation and processes , whereas the amendment lays down for prohibition of employment of children in any occupation and processes (with certain condition of engagement of children in family occupation and AV industry ) and prohibits employment of adolescent in certain hazardous occupation and processes.

**v. Penalties increased:**

The penalties of the offence have been increased

First Time offenders of employing Child Labour

- Imprisonment increased from 3 months -1year to 6 months- 2 years
- Fine increased from INR 10,000-20,000 to INR 20,000- 50,000

Second time offenders of employing Child Labour

- Imprisonment increased from 1 year 3 year to 6 months- 2 years

Offence of employing adolescent

- Imprisonment of 6 months- 2 years
- Fine of INR 20,000- 50,000

**vi. Parents also made accountable**

The Act lays down for imposing penalties on second time offending parents with a fine of INR 10, 000.

**vii. Offence made Cognizable**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

**viii. Child and Adolescent Labour Rehabilitation Fund**

The government to constitute a Child and Adolescent Labour Rehabilitation Fund at every district in which the penalty amount recovered from employer will be credited. The government will match this with INR 15000 per rescued child. The fund will be invested for the rescued child Labour.

**ix. Rehabilitation of Child Labour**

The rescued child or adolescent shall be rehabilitated in accordance with the laws for the time being in force.

**x. Offence made compoundable**

The district Magistrate has been given the power to compound the offence for first time offenders of the Act.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, CAL(P&R) Rules , Rajasthan ,2019*

**9. How many Parts and Section does the Child and Adolescent Labour (Prohibition and Regulation) Act 1986 have?**

There are 26 sections in CAL(PR)A 1986. These sections are divided in 4 parts primarily.

- Part 1- Preliminary(Section 1 & 2) : detailing the title and definitions used in the Act
- Part II- Prohibition of employment of children in certain occupation and process(Section 3-5)
- Part III- Regulation of Conditions of work of Adolescents (Section 6- 13)
- Part IV- Miscellaneous (Section 14- 26), dealing with penalties; and nature of offence , procedures relating to offence , rehabilitation of Child Labour, inspection and monitoring, power to make and amend rules and several related Acts repealed and amended to align to CLAPRA 1986
- The Schedule –List of occupation and process in which children and adolescent cannot be employed.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**10. What is the definition of 'child' as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Child is a person who has not completed 14<sup>th</sup> year of age, or such an age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**11. What is the definition of 'adolescent' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Adolescent has been defined as a person who has completed his 14<sup>th</sup> year of age but has not completed his 18<sup>th</sup> year.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**12. What is definition of 'establishment' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

As per the definition establishment can include shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**13. What is definition of 'family' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Family in relation to a child/adolescent means father, mother, siblings (brothers and sisters), father's brother and sister and mother's brother and sister.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**14. What is definition of 'family enterprise' as per Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Family enterprise refers to work, profession, manufacture and businesses which is performed by the members of the family with the engagement of the other persons.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**15. What is definition of artist as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Artist refers to a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, and sports person or in such other activity as may be prescribed relating to the entertainment or sports activities.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**16. What is definition of 'workshop' as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986?**

Workshop means any premises, wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply



*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**17. Does the CLAPRA permits children working in family occupations?**

A child can help his family (child father, mother, brother, sister and fathers brother and sister and mothers brother and sister) in occupation and process after school hours or during vacation provided it is not listed in the Schedule of hazardous occupation and process defined.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**18. Which are two area which is flexible on children below 14 years working?**

The 2 areas where children can work are

- (iii) A child can help his family (child father, mother, brother, sister and fathers brother and sister and mothers brother and sister) in occupation and process after school hours or during vacation provided it is not listed in the Schedule.
- (iv) A child is permitted to work as a child artist in audio-visual entertainment excluding circus, provided it does not hinder with the child's education and comprise on child's safety.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**19. What is the key amendment with regards to employment of children in the CAL(PR) A, 1986?**

The Act has been amended to ensure a blanket prohibition of children's employment or work in any process or occupation with exception to the engagement of child as a help in family enterprise and also work as an artist in the AV industry with exception to circus.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**20. What is the key amendment with regards to employment of adolescent in the CAL(PR) A, 1986?**

The Act lays down that adolescents will not be allowed to work in any hazardous process or occupation set forward in the Schedule. The CAL(PR)A 1986 has 2 Schedules : Schedule A and Schedule B annexure to the Act, which details out the on the process and occupation in which children cannot help and adolescent cannot work.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**21. What is the Schedule in the CAL(PR) A, 1986?**

The Schedule to the CAL(PR)A ,1986 is a list of hazardous process and occupation in which children cannot help and adolescent cannot work .

- **Part A** –List of hazardous process and occupation in which adolescents are prohibited to work and children prohibited to help
- **Part B**-List of processes and occupations in which children are prohibited to help in family or family enterprises. These are in addition to occupation and processes listed in Part A of the Schedule.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; Gazette Notification of Ministry of Labor and Employment dated 30<sup>th</sup> August to 2017 on the Schedule*

## **22. As per schedule how many occupations and processes are prohibited**

Part A of the Schedule, which is a list of hazardous process and occupation in which adolescents are prohibited to work and children prohibited to help contains broadly 9 occupation and process which are further sub divided into 34 occupation and process.

Part B which is a list of processes and occupations in which children are prohibited to help in family or family enterprises There are 16 occupation and 59 processes elaborated in

*Source: Gazette Notification of Ministry of Labor and Employment dated 30<sup>th</sup> August to 2017 on the Schedule*

## **23. Can the Schedule of the Act be amended? If yes, who has power to amend the listed schedule under Act?**

Yes the Schedule of the Act can be amended .The Central Government can amend the Schedule, to add or omit from the Schedule any hazardous occupation or processes, provided that a notification of its intention to amend it has been published 3 months in advance in the Official Gazette .

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

## **24. What is the Technical Advisor Committee and how can it be constituted?**

The Technical Advisory Committee (TAC) is up to 10 members, chairman lead advisory committee, constituted by the Central Government for the purpose of advising the Central government on addition of hazardous process and occupation in the Schedule.

The Central government by notification in the Official gazette may constitute TAC.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; Child Labour (Prohibition and Regulation) Amendment Rules, 2017.*

**25. Who convenes meeting and proceedings of the Technical Advisor Committee(TAC)?**

Meetings of TAC are convened by the committee itself and TAC may meet any number of times it deems necessary to decide on a matter. TAC has the power to regulate its own procedures. It can also constitute one or more sub committees (as prescribed) involving people from outside the committee on specific matters.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; Child Labour (Prohibition and Regulation) Amendment Rules, 2017.*

**26. What is the hours and period of work prescribed for adolescent as per the Child and Adolescent Labour (Prohibition and Regulation) Act 1986.**

The period of work has to be fixed and adolescent can work over a period of 6 hours , which includes rest of at least an hour to be given after 3 hours of work in maximum. Adolescents cannot be working between 7 pm and 8 am; or doing an overtime; nor permitted to work on the same day in 2 establishments.

The Act also lays down that the work hours for adolescents cannot be in excess of such number of hours as may be prescribed for such establishment or class of establishments

*Note: this does not apply to family enterprise or to a school established by government recognition and assistance*

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**27. Can the adolescents have weekly holidays while employed?**

Every adolescent employed in an establishment is entitled to 1 full day weekly off or holiday. The day of the weekly off will be fixed and cannot be changed more than once in 3 months by the employer. The information regarding the weekly off must be displayed permanently in a conspicuous place in the establishment. *(Section 8 of CAL (PR)A 1986)*

*Note: this does not apply to family enterprise or to a school established by government recognition and assistance*

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; CLPRA Rules, Rajasthan 2019.*

**28. What kind of process need to follow to determine the age of a child or adolescent in case of disputes as to age of adolescent?**

In case of dispute over the age of an adolescent in the absence of certificate of age, the Labour Inspector can refer the case to Medical Authority for decision on this.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, CAL(PR)A Rules, Rajasthan 2019.*

**29. Who is responsible for securing compliance of the provisions of this Act?**

The government may as required confer the power to the DM to ensure that the provisions of the Act are complied with. The government may appoint inspectors, who are public servants to ensure the compliances of the provisions made under this Act.

The act lays down for instituting mechanisms for regular inspections and monitoring of occupation and process where employment of children and adolescent is prohibited.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**30. What is necessary information to be sent to inspectors by establishment employing adolescents?**

The owner of an establishment in which an adolescent was (in the case of adolescent working immediately before the commencement of this Act) /is employed , must within a period of 30 days send written notice to the inspector in whose local limits the establishment falls , detailing the name of the establishment, name of the person in charge of management of the establishment , address for communication with the establishment and about the nature of process and occupation carried out in the establishment .

*Note: this does not apply to family enterprise or to a school established by government recognition and assistance*

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**31. How and what are the information related to adolescent employed in an establishment to be maintained?**

Every establishment in which an adolescent is employed must maintain a register, which is readily available for any inspection by the inspector at all times during working hours. The essential information to be recorded in this register for all adolescents employed are: name, date of birth, hours and periods of work, rest period, nature of work engaged in.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, CAL(PR)A Rules ,Rajasthan 2019.*

**32. What are the provisions made in the Act with regards to ensuring health and safety of adolescents?**

The central/state government has the power to make rules related to Health and Safety by notification in the Official Gazette. The issues under the rule must relate to cleanliness, toilets, drinking water, proper ventilation, dust , fume , disposal of waste and effluents, safety while working with machines , excessive weights etc.

*(For more details refer Section 13 of CAL (PR)A 1986)*

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; CAL(PR) A Rules, Rajasthan 2019*

**33. Are the offences cognizable under this Act?**

Employing children in any occupation and process as laid down in Section 3 of CAL(PR)A, 1986 and employing adolescent in hazardous process and occupation as laid down in Section 3A has been deemed as a cognizable offence in the Act.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**34. What are the penalties for employing a child Labour**

The penalties in case of first time offence amount to imprisonment from 6 months up to 2 years and /or fine of minimum INR 20, 000 up-to INR 50,000 or both. In case it is a second time offence the penalty would amount to imprisonment from 1 - 3 years. Parents can be penalized on second offence only if they use the child for commercial gains against the law.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**35. What are the penalties for employing an adolescent in contravention with the Act?**

The penalty of employing an adolescent in hazardous occupation amount to imprisonment from 6 months up to 2 years and /or fine of minimum INR 20,000 up-to INR 50,000 or both. In case it is a second time offence the penalty would amount to imprisonment from 1 - 3 years Parents if offending can be penalized on second offence only

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**36. Can parents /guardians be penalized for offence under the Act ?**

The Act lays down that parents /guardians convicted as second time offender will be fined with INR 10, 000 as punishment.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**37. What is Child and Adolescent Labour Rehabilitation Fund?**

Child and Adolescent Labour Rehabilitation Fund will be created by the government in each district and the fund would comprise of the fine money realized from the booked employers. To this the state government shall contribute INR 15,000 for every child /adolescent for whom the fine has been realized. The money collected herein and the interest accrued on it shall be invested in the benefit of child /adolescent (from whom the fine amount has been credited) as per the rules /government orders.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**38. .What does compounding of offence mean? Is the offence compoundable under the Act?**

Compounding of offence has reference to a settlement or agreement, dropping the charges against the accused and the compromise must be genuine and not in lieu of any favour.

The CAL (PR)A lays down provisions to make the offence compoundable for first time offenders. The power of this has been given to the district magistrate. The District Magistrate has the power to compound the offence on request of the accused (employer/parents) who is a first time offender; and on payment of fine as decided.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**39. Who can file a complaint of engagement of child labour/ engagement of adolescent in hazardous occupation?**

Complaint related to offences under the Act can be filed by any individual inclusive of police officer /inspector.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**40. How does the CAL(PR) A ,1986 relate to other Acts which have sections related to child labour prohibition?**

The CAL(PR)A , 1986 in Section 23 to Section 26 lays down for amendment in Minimum wage Act 1948; Plantations Labour Act; 1951, Merchant Shipping Act, 1958; Motor Transport Workers Act, 1961 to uniformly adopt the age of child as being one who has not completed 14<sup>th</sup> year.

The Act in Sect 22 also repeals the The Employment of Children Act, 1938.

The Act also lays down for application of penalties as per the Act if a person is found in contravention to Sec 67 of the Factory Act 1948; Sec 40 of the Mines Act 1952; Sec 109 of the merchant Shipping Act 1958; Sec 21 of the Motor Transport workers Act 1961. All these contraventions relate to employment of children in occupation in relation to the Acts.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

**41. Who has the power to make rules of this Act?**

Government can by official notification in the gazette make rules to implement the Act. However, the rule made and all notification made in the gazette must be presented in the Parliament /state legislature for their agreement. In case of modification recommended this to be brought in effect.

*Source: Child and Adolescent Labour (Prohibition and Regulation) Act, 1986*

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