

Ready Reference

Child Labour (Prohibition and Regulation) Amendment Act 2016



The Child Labour (Prohibition and Regulation) Amendment Act, 2016, is an amendment of the Child Labour (Prohibition and Regulation) Act, 1986.

1. Scope & Definitions

Child (below 14 years): Total ban on employment in all occupations and processes—no more limited to hazardous work as before. Children are permitted to assist in family enterprises or work as a child artist after school hours or during vacations, if their education isn't hampered.

Adolescent (14–18 years): Newly created category. Employment allowed in non-hazardous work; total prohibition in hazardous occupations/processes.

Exceptions related to the employment of children in this Act:

While the Act prohibits the employment of children in any occupation or process, they are allowed to work in two cases.

- They can help their families or family enterprises if the work is not hazardous and only after school hours or during vacations.
- They can also work as artists in an audio-visual entertainment industry (including in advertisements, films and television serials, or in sports activities other than circuses) if such work follows appropriate safety measures.

Children can only do this kind of work if it does not affect their education.

Hazardous Occupations

The 1986 Act originally banned child labour in 83 hazardous occupations/processes.

2016 Amendment reduces that list to only three:

- (a) mining,
- (b) inflammable substances, and
- (c) hazardous processes under the Factories Act.

Central Government can add to or omit from the Schedule of hazardous occupations without a new Act of Parliament.

"Hazardous process" in Factories Act

Any process or an activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would cause material impairment to the health...

Regulation of Conditions of Work of Adolescent

Maximum Hours of Work: Spread over – □ 6 hours □ Rest – 1 Hour

- No employment between 7pm and 8am
- No overtime □ Weekly holiday
- Age certificate by prescribed medical authority
- Notice to Inspector
- Maintenance of register of adolescent □ Health and safety provision

Offences & Penalties

Employment of any child/adolescent in violation is a cognizable offence (police can arrest without warrant)

Employer

First offence (child or adolescent):

- Imprisonment: 6 months to 2 years
- Fine: ₹20,000–₹50,000

Repeat offence:

- Imprisonment: 1–3 years
- Fine: Same or higher

Cognizable Offence

- F.I.R. can be filed
- Police Officer can investigate without Magistrate permission
- Police Officer can arrest without arrest warrant
- Person against whom an FIR is lodged will face criminal trial (without any exception)

Punishment to Parents and Guardians

Parents and guardian shall be punishable under this Act if they permit child for commercial purposes in contravention of section 3 or 3A of the Act.

First offence: Not punishable

Repeat offence: Fine ₹10,000; no jail term for parents

Definition of Child Labour

Under Article 2(3) of the International Labour Organization (ILO), the minimum age for entry into employment or work in any profession "shall not necessarily be below the age of completion of compulsory Schooling and, in any case, shall not be less than 15 years of age" under the ILO's definition of "Child."

According to the 1989 UN Convention on the Rights of the Child, which includes the right to refrain from economic exploitation, "A child is a person under the age of 18."

UNICEF's definition of child labor states that it is defined as "Child labor traditionally referred to children working before they reached the legal minimum age for employment in their country of origin."

Juvenile Justice Act of 2015, in India defines child as "a person who has not yet completed eighteen (18) years of age".

The Child Labour (Prohibition & Regulation)

Act, 1986 in India mentions "A person who has not finished his education and not completed 14 Years of Age is considered as a child.

According to the **Factories Act of 1948**, "A person below 15 years old is considered to be a child.

The **Indian Constitution** provides provisions for the advancement, growth, and safety of children;

Article 15(3): Nothing in Article prevents the State from putting specific measures in place for women and children. Thus, this article gives the State the authority to provide for children in a particular manner.[7]

Article 21(A): All children between the ages of 6 and 14 are entitled to free and compulsory education, as determined by state law, under Article 21A.[8]

Article 23: Article 23 prohibits forced labor, beggar work, and another related human trafficking.

Article 24: States that no child under the age of 14 may be hired to work in a factory, mine, or any other dangerous occupation. This is an essential constitutional clause that forbids underage labor in dangerous jobs.

Article 39(f): Requires the State to take steps to guarantee that children have access to opportunities and resources that will allow them to grow up in a healthy way, with freedom and dignity, and that they are safeguarded from exploitation and from being abandoned morally and materially.

Article 39(e) and (f): Require the State to protect children from abuse while they are still young and ensure they are not coerced into careers that are not healthy for their physical development out of financial necessity. The children are safeguarded, and they are provided with the facilities and chances to grow in a healthy way.

Article 45: States that the State shall make every effort to provide all children with early childhood care and education up until the age of six.

Article 51A(k): Makes it the parent's or guardian's fundamental responsibility to give their child or ward, who is between the ages of six and fourteen, the opportunity to pursue an education.

CACL's Position

CACL's position aligns with the UN Convention on the Rights of the Child (UNCRC), the Indian National Policy for Children, 2013, and the Juvenile Justice (Care and Protection of Children) Act, 2015, all of which define a child as a person who has not yet completed the age of 18 years.

CACL advocates for :

- **Uniform definition of 'child' in all laws, schemes, and programs** — every person **below 18 years of age should be considered a "child"**.
- **Effective implementation of Child Labour Prohibition and Regulation Act (CLPRA), Right to Education Act (RTE), and Juvenile Justice Act (JJ Act)** and all such policies, schemes, and programs.
- **Adequate and equal wages must be provided to all adults above 18 years** so that **no child is sent to work to earn for the family**.
- Build a **discrimination-free society**, where every child can live their childhood joyfully and with dignity.
- Ensure **honest compliance with India's international commitments, such as UNCRC, ILO Conventions 138 and 182, and Sustainable Development Goal (SDG) 8.7**, which calls for the **elimination of all forms of child labour**.
- Create a **space and environment for children** where they can **enjoy their childhood**. Instead of **criminalizing child labourers**, they should be **reintegrated into mainstream society with dignity**.

