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NEPAL

CHILD LABOUR (PROHIBITION AND REGULATION) ACT (NO. 14 OF 2000)

PREAMBLE

WHEREAS it is expedient to prohibit the employment of children in mills and factories, mines or similar other risky jobs, and make necessary arrangements concerning children's health, security, services and facilities while employing them in other jobs, now therefore, the Parliament has enacted this law in the 29th year of the reign of His Majesty King Birendra Bikram Shah Dev.

CHAPTER I. PRELIMINARY

Section 1. Short Title and Commencement. (1) This law shall be known as the Child Labour (Prohibition and Regulation) Act (No. 14 of 2000).

(2) It shall come into force on the date prescribed by His Majesty's Government by notification in the *Nepal Rajapatra*.

Section 2. Definitions. Unless otherwise meant with reference to the subject or context, in this Act:

- (a) "Children" means children who have not completed 16 years of age.
- (b) "Establishment" means any mill, factory, organisation, institution, firm or company or groups thereof established under current law with the objective of operating any industry, enterprise or service.
- (c) "General Manager" ("Vvavasthapak") means a person who takes the final decision on matters concerning the activities of an establishment; the term includes a person who has been appointed as head of any branch or unit of an establishment with authority to exercise the final power or responsibility.
 - (d) "Day" means a period of 24 hours beginning at midnight.
- (e) "Week" means a period of seven days beginning at midnight on Saturday, or any other day prescribed by the Labour Department.
 - (f) "Physician" means a physician prescribed by the Labour Department.
- (g) "Eligibility-certificate" means a certificate issued under Subsection 7 (4).
 - (h) "Prescribed or as prescribed" means prescribed or in the manner prescribed in the rules framed under of this Act.

CHAPTER II. PROHIBITION TO EMPLOY CHILDREN

Section 3. *Prohibition to Employ Children.* (1) No one shall employ as labourers children who have not completed 14 years of age.

(2) No one shall employ children in any risky Job or enterprise mentioned in the Schedule.

Section 4. *Prohibition to Employ Children Against Their Will.* No one shall employ children as labourers against their will by luring or misleading them or by subjecting them to any allurements or fear, threat or pressure, or through any other means.

CHAPTER III. PROVISIONS CONCERNING EMPLOYMENT OF CHILDREN

Section 5. *Information to be Furnished.* (1) Every General Manager operating a risky job or enterprise mentioned in the Schedule at the time of the commencement of this Act must furnish a written notice to the Labour Office explicitly mentioning the following particulars within 30 days from the date of commencement of the Act:

- (a) Name and address of the establishment,
- (b) Name and address of the General Manager,
- (c) Nature of the job or enterprise operated by the establishment, and
- (d) Other particulars as prescribed.

(2) Every General Manager operating any of the risky jobs or enterprises mentioned in the Schedule after the commencement of this Act must furnish a notice under subsection (1) to the Labour Office within 15 days from the date of commencement of such job or enterprise.

Section 6. *Approval to be Obtained.* (1) In case any establishment is required to employ a child, it must obtain the approval of the concerned Labour Office or any other agency or authority specified by that Office, and the father, mother or the guardian of the child.

Provided that it shall not be necessary for an educational institution or any institution established according to current law for the protection of the rights and interests of children to obtain approval for engaging children in activities or cultural programs to be organised for the larger interests of children.

(2) While granting approval for engaging children in work under subsection (1), the Labour Office may impose conditions on the concerned establishment so as to develop the skills and qualifications of and provide education to children, and it shall be the duty of the establishment to comply with such conditions.

Section 7. *Certificates of Eligibility to be Obtained.* (1) Before employing a child as a labourer, the establishment must obtain a certificate of eligibility of the child to work as a labourer.

- (2) For the purpose of obtaining a certificate of eligibility under subsection (1), the establishment must submit an application to the Labour Office mentioning the nature of the job to be done by the child, and his age.
- (3) On receipt of an application under subsection (2), the Labour Office shall have the child's health examined by a physician.
- (4) In case the medical examination of the child carried out by the physician under subsection (3) shows that the child is capable of working, the physician shall issue a certificate of eligibility in the prescribed form.
- (5) The certificate of eligibility issued under subsection (4) shall remain valid for one year.
- (6) The concerned establishment shall have the certificate of eligibility issued under subsection (5) renewed by the physician.
- (7) The concerned establishment must itself bear the fees payable for obtaining and renewing the certificate of eligibility.
- (8) Every establishment which has employed children who have completed 14 years of age at the time of the commencement of this Act must obtain their certificates of eligibility within 30 days from the date of commencement of this Act.

Section 8. Particulars to be Submitted. (1) Every establishment employing children after the commencement of this Act must submit to the Labour Office particulars explicitly mentioning the following matters along with photographs of the children within 15 days from the date of employment:

- (a) Name and address of the establishment,
- (b) Name and address of the General Manager,
- (c) Date of operation of the establishment,
- (d) Work or enterprise operated by the establishment,
 - (e) Name, address and age of the child,
- (f) Name and address of the father, mother or guardian of the child,
 - (g) Date of employment of the child,
 - (h) Nature of the job to be done by the child,
- (i) Remuneration and other facilities to be provided to the child,
 - (j) Certificate of eligibility of the child, and
 - (k) Other particulars as prescribed.

(2) Every establishment employing children who have completed 14 years of age at the time of the commencement of this Act must submit to the Labour Office the particulars mentioned in subsection (1) within 30 days from the date of commencement of this Act.

Section 9. Hours of Employment. (1) Children must not be employed during the

period between 6 pm and 6 am.

- (2) Children must not be employed for a period exceeding six hours a day and 36 hours a week, by paying extra remuneration or otherwise.
- (3) Children must be provided with a recess of half an hour after working for three hours continuously every day, and one day's holiday every week.
- (4) The recess of half an hour given every day and one day's holiday given every week under subsection (3) shall be taken as the period of work.
- (5) A child who has worked in an establishment must not be employed again in another establishment the same day.

Section 10. *Remuneration and Facilities.* (1) The establishment shall pay equal remuneration and facilities to children working as labourers and performing similar work without any discrimination based on sex, class, religion or community.

(2) The remunerations, allowances, leave and other facilities to which children working in an establishment are entitled shall be as prescribed.

(3) No General Manager shall employ any child in any establishment in such a manner as to pay remuneration and facilities lower than the remuneration and facilities prescribed under subsection (2).

Section 11. *Arrangements Concerning Health and Safety of Children.*

Arrangements to be made by the General Manager in connection with the health and safety of children working in the establishment shall be as prescribed.

Section 12. *Dispute Concerning Age.* (1) In the event of a dispute regarding the age of a child working in an establishment, the date of birth mentioned in the birth registration certificate of the child shall be recognized as his actual age.

(2) In case any child has no birth registration certificate, the age determined by a physician through his medical examination shall be taken as his actual age.

Section 13. *Register to be Maintained.* (1) The General Manager must maintain a register explicitly mentioning the following matters concerning each child employed by the establishment:

- (a) Name and address of the child,
- (b) Name and address of the father, mother or guardian,
 - (c) Date of birth or age,
 - (d) Date of employment,
 - (e) Nature of work,
 - (f) Working hours,
 - (g) Recess hours,
- (h) Remuneration and other facilities, and

- (i) Other matters as prescribed.

(2) The establishment must allow the employee deputed, by the Labour Office to inspect the register mentioned in subsection (1) when demanded.

Section 14. Notices to be Affixed. A notice containing information relating to the jobs in which children may not be employed, the remunerations, facilities and weekly holiday to which children are entitled, and the penalties to be inflicted for having employed children in jobs contrary to this Act, must be affixed at the notice-board of the establishment by the General Manager on a mandatory basis.

CHAPTER IV. PROVISIONS CONCERNING INSPECTION

Section 15. Inspection and Action. (1) The Labour Office may depute any employee from time to time to inspect establishments employing children.

(2) The General Manager must allow the employee deputed under subsection (1) to enter into the establishment and conduct necessary inspection at any time. The General Manager must also make available to the employee so deputed for inspection anything sought to be seen by him or allow him to inquire about anything sought to be inquired about by him.

Section 16. Removal From Employment. (1) In case it is found in the course of inspection of an establishment under section 15 that any child has been employed in a manner opposed to section 3 or section 4, the employee who is conducting inspection shall order the General Manager to hand over the child to his father, mother or guardian and to remove him from employment as soon as possible.

(2) In case the child mentioned in subsection (1) has no father, mother or guardian, or the whereabouts of his father, mother or guardian is not known, the General Manager must keep him in a Child Welfare Home or in any organisation looking after children.

(3) The establishment itself must bear the expenses to be incurred for handing over the child to his father, mother or guardian, or the expenses payable according to the rules of the concerned Child Welfare Home or organisation looking after children for keeping the Child in the Child Welfare Home or the organisation, under subsections (1) and (2).

Section 17. Inspection Report. (1) The employee conducting inspection under Section 15 must submit a report to the Labour Office within 15 days from the date of completion of inspection mentioning factual details as to whether or not the establishment has employed any child in contravention of this Act, or whether or not it has made arrangements, including those relating to the health and safety of the children engaged in work, according to this Act and the rules framed under this Act. The Labour Office may conduct inquiries as prescribed into whether or not the employee deputed in this manner has performed functions according to the order issued under this Act, and whether or not the report submitted by him is

factual, and may also take action according to law if found otherwise.

(2) In case the report submitted under subsection (1) shows that any establishment has not made any arrangement to be made under this Act and the rules framed hereunder, the Labour Office shall give an order to the General Manager to make the concerned arrangement by prescribing an appropriate time-limit to so.

(3) The General Manager must make arrangements according to the order within the time-limit prescribed by the Labour Office under subsection (2).

Section 18. *Facilities to be Withheld.* (1) In case the concerned establishment does not take necessary arrangements according to the order issued by the Labour Office under section 17, the Labour Office shall write to the concerned agency to withhold for the prescribed period the facilities to be provided to the establishment under current law.

(2) In case any written request is received from the Labour Office in relation to any establishment under subsection (1), the concerned agency shall withhold the facilities to which the establishment is entitled and furnish an information thereof to the Labour Office.

CHAPTER V. PROVISIONS CONCERNING PENALTIES APPEALS

Section 19. *Penalties.* (1) In case anyone acts in contravention of subsection 3 (1), he shall be punished with imprisonment for a term not exceeding three months, or with a fine not exceeding Rs 10,000, or with both.

(2) In case anyone acts in contravention of subsection 3 (2) and section 4, he shall be punished with imprisonment for a term not exceeding one year, or with a fine not exceeding Rs 50,000, or with both.

(3) In case any General Manager takes any action in contravention of section 6,7,8,9,10 or 11, he shall be punished with imprisonment for a term not exceeding two months, or with a fine not exceeding Rs 5,000 or with both.

(4) In case any General Manager takes any action in contravention of section 5, 13, or 14, he shall be punished with imprisonment for a term not exceeding two months, or with a fine not exceeding Rs 3,000, or with both.

(5) In case anyone takes any action, other than those mentioned in subsection (1), (2), (3) and (4) in contravention of this Act and the rules framed hereunder, he shall be punished with imprisonment for a term not exceeding 15 days, or with a fine not exceeding Rs 1,000, or with both.

(6) In case anyone repeats any offense, even after being punished once under subsection (1), (2), (3), (4) or (5), the punishment mentioned in those subsections shall be doubled for each subsequent offense.

Section 20. Complaints and Time-Limits. (1) The following persons or institutions may lodge complaints with the appropriate Labour Office in connection with the offenses punishable under this Act:

- (a) The employee conducting inspection of the establishment under section 15.
 - (b) The police of the concerned area.
 - (c) The concerned child or his father, mother, or guardian.
- (d) The concerned Village Development Committee or Municipality.
 - (e) The establishment level Trade Union, or
- (f) Any agency or non-governmental organisation established under current law and working for the protection of the rights and interests of children.

(2) Complaints regarding any offense punishable under this Act must be lodged within a year from the date of the offense.

Section 21. Power to Inflict Punishment. (1) The power to inflict punishment under section 19 on persons violating this Act and the rules framed hereunder shall vest in the Labour Office.

(2) In case the Labour Office is required to punish anyone with imprisonment under subsection (1), it shall report the matter to the Labour Court and take action as sanctioned by that Court.

Section 22. Appeals. Any person who is not satisfied with the punishment inflicted by the Labour Office under section 21 may appeal to the Labour Court within 35 days from the date of receipt of the order of punishment.

Provided that in case the punishment of imprisonment has been prescribed, appeals thereagainst shall be filed with the Appellate Court.

CHAPTER VI. MISCELLANEOUS

Section 23. Child Labour Eradication Committee. (1) HMG shall form a Child Labour Eradication Committee so as to obtain necessary opinions and suggestions in regard to arranging for health, security, education and vocational training of children working in establishments, and for providing appropriate employment to children, discouraging the employment of children and eradicating child labour.

(2) Arrangements shall be made in the committee for an appropriate representation of governmental and non-governmental organisations and experts working in the field of child labour as prescribed.

(3) The composition, functions, duties, powers and working procedure of the Child Labour Eradication Committee shall be as prescribed.

Section 24. Child Labour Eradication Fund. (1) HMG shall establish a Child Labour Eradication Fund so as to arrange for health, security, education and

vocational training of children working in establishments and for providing appropriate employment to children, discouraging the employment of children and eradicating child labour.

(2) The following amounts shall be credited to the Child Labour Eradication Fund

- (a) Grants received from HMG.
- (b) Donations, fees, grants and assistance received from national and international organisations and associations.
- (c) Amounts received from other sources.

(3) The Child Labour Eradication Fund and the amounts credited to it shall be operated in the prescribed manner.

Section 25. Power to Issue Directives. (1) For the purpose of implementing the objectives of this Act, HMG may issue necessary directives to General Managers, Trade Unions, Child Welfare Homes and organisations looking after children for the protection of the rights and interests of children.

(2) It shall be the duty of all the concerned to comply with the directives issued by HMG under subsection (1).

Section 26. Amendment in Schedules. (1) HMG may include other risky jobs in the Schedule by notification in the *Nepal Rajapatra*.

(2) While including any risky job in the Schedule under subsection (1), HMG may, if it so deems necessary, seek the opinion of the Child Labour Eradication Committee.

(3) The Schedule shall be deemed to have been amended 30 days after the publication of a notice under subsection (1).

Section 27. Power to Frame Rules. HMG may frame necessary rules in order to implement the objectives of this Act.

Section 28. Repeal and Amendment. (1) In the 1992 Labour Act,

- (a) Subsection 2 (h) has been deleted.
- (b) The words "14 years" occurring in subsection 2 (i), have been replaced by the words "16 years".
- (c) Subsection 5 (1) has been deleted.
- (d) The following sections 32A and 32B have been added after section 32:

Section 32A. Prohibition to Employ Minors Without Providing Them With Adequate Instructions or Vocational Training. (1) Minors must not be employed without providing them with adequate instructions for vocational training in the concerned field.

(2) Arrangements concerning the adequate instructions or vocational training in the concerned field to be provided to minors under subsection (1) shall be as prescribed.

(3) A General Manager who employs minors in contravention of subsection (1) shall be punished with imprisonment for a term not exceeding three months, or with a fine not exceeding Rs. 10,000, or with both.

Section 32B. Dispute, Concerning Age. (1) In case any dispute arises in connection with the age of any minor working in an establishment, the date of birth mentioned in the minor's birth registration certificate shall be recognised as his actual age.

(2) In case any minor has no birth registration certificate, the age determined by having the minor medically examined by a physician designated by the Labour Department shall be recognized as his actual age.

(2) In the Child Act, 1992,

- (a) Sections 17 and 18 have been repealed.
- (b) Chapter 5 has been repealed.
- (c) The figures "17 or 18", occurring in subsections 53 (1) and (6), have been deleted.
- (d) Subsection 53 (10) has been deleted.

Schedule

(Pertaining to Subsection 3 (2))

Risky Jobs or Enterprises

(a) Tourism, housing, motel, hotel, casino, restaurant, bar, pub, resort, skiing, gliding, water rafting, cable car complex, pony trekking, trekking, mountaineering, hot air ballooning, para-sailing, gulf course, polo, horse-riding and other enterprises connected with tourism.

(b) Workshop, laboratory, abattoir, cold storage and other service-oriented enterprises.

(c) Public transport and construction enterprises.

(d) Cigarette and bidi manufacturing, carpet weaving and dyeing, wool cleaning, textile weaving, washing, dyeing and printing, leather processing, cement production and packing, production, sale and supply of matches, explosives and other inflammable products, production of beer, liquor and other beverages, production of soaps, bitumen, pulp and paper, slates, pencils, insecticides arid, lubricating oils, collection and processing of garbage, electroplating, photo processing, and functions relating to rubber, synthetic, plastic, lead and mercury,

- (e) Activities relating to the generation, transmission or distribution of energy from water resources, air, solar power, coal, natural oil or gas, bio-gas, and similar other sources.
- (f) Activities relating to the excavation, processing and distribution of mines, minerals, natural oil or gas.
- (g) Rickshaws or pushcarts.
- (h) Functions such as those relating to cutting machines.
- (i) Functions which are to be undertaken underground or under-water or at high altitudes,
- (j) Functions requiring contact with chemical materials, and
- (k) Other risky jobs prescribed under current law.

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