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THE PUNJAB PROHIBITION OF CHILD LABOUR AT BRICK KILNS ACT 2016

(XXXVII of 2016)

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TEXT

[1]THE PUNJAB PROHIBITION OF CHILD LABOUR AT BRICK KILNS ACT 2016

(XXXVII of 2016)

[2nd September 2016]

An
Act

to provide for the prohibition of child labour and regulation of labour at the brick kilns in the Punjab.

Since the environment at a brick kiln is hazardous for children, adversely affecting their growth, health and education, it is necessary to provide for the prohibition of the child labour and regulation of labour at the brick kilns in the Punjab; and to deal with other matters.

Be it enacted by Provincial Assembly of the Punjab as follows:–

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Prohibition of Child Labour at Brick Kilns Act 2016.

(2) It extends to whole of the Punjab.

(3) It shall come into force at once.

2. Definitions.– In this Act:

(a) “advance (peshgi)" means an advance (peshgi) in cash made by the occupier to a worker engaged on work at the brick kiln other than the wages already earned by the worker;

(b) "appellate authority” means an appellate authority appointed under the Act;

(c) "bonded labourer” means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt as defined under section 2 of the Bonded Labour System (Abolition) Act, 1992 *(III of 1992)*;

(d) "brick kiln” means a kiln in which bricks are baked or burnt underneath the fuel, including kneading, moulding, piling, baking, releasing, stacking and any other work ancillary to or connected with the manufacturing processes, irrespective of the workplace connection;

(e) “child” means a person who has not completed the fourteenth year of age;

(f) “Committee” means a District Labour Committee constituted under the Act;

(g) “Government" means Government of the Punjab;

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[1]This Act was passed by the Provincial Assembly of the Punjab on 29 August 2016; assented to by the Governor of the Punjab on 01 September 2016; and, was published in the Punjab Gazette (Extraordinary), dated: 02 September 2016, pp. 1499-1502.

(h) "inspector" means any person appointed by the Government as an inspector for purposes of the Act;

(i) “occupier” means the owner of a brick-kiln and includes his heir, successor, administrator, agent or assign and the manager;

(j) “prescribed” means prescribed by the rules;

(k) “rules” means the rules made under the Act;

(l) "wage" means the rates of wage notified under the Minimum Wages Ordinance, 1961 *(XXXIX of 1961)*; and

(m) "worker" means a person engaged or employed, directly or indirectly by the occupier whether for wages or not, at a brick kiln, or in any other kind of work which is incidental to or connected with the manufacturing process of bricks.

3. Contract of engagement on work.– (1) Every engagement or appointment of a worker shall be subject to a written contract in the prescribed Form between the worker and the occupier showing the terms and conditions of his employment or engagement including:

(a) the amount of advance (peshgi), if any;

(b) the amount of wage; and

(c) the payback schedule of the advance (peshgi).

(2) The occupier shall send a copy of the contract made under subsection (1) to the inspector having jurisdiction in the area.

(3) An occupier shall, within sixty days of the commencement of this Act, arrange for the execution of the contract of engagement under subsection (1) with each of the workers engaged on work at a brick kiln immediately before the commencement of the Act.

(4) If a worker is engaged in work in contravention of subsection (1), he shall be deemed to be a bonded labourer and the occupier shall be liable under the provisions of the Bonded Labour System (Abolition) Act, 1992 *(III of 1992)*.

(5) The contract of engagement made under subsection (1) may be terminated either by the worker or by the occupier subject to thirty days prior notice in writing.

4. Limit of Advance (peshgi).– (1) Notwithstanding the provisions of any other law, the occupier may give advance (peshgi) to a worker engaged by him on work at a brick kiln.

(2) The amount of advance (peshgi) given under subsection (1) shall not exceed fifty thousand rupees.

(3) The amount of advance (peshgi) given to a worker under subsection (1) and its payback schedule shall be entered in the prescribed Register and a copy thereof shall be endorsed to the inspector of the area.

(4) In case the contract of engagement is terminated by either party, the occupier may recover the outstanding amount of advance in accordance with law.

5. Prohibition of employment.– Notwithstanding the provisions of any other law, an occupier shall not employ, engage or permit a child to work at the brick kiln.

6. Presumption as to employment.– (1) If a child over the age of five years is found at the brick kiln during school timings, he shall, until the contrary is proved, be deemed to have been employed, engaged or permitted to work at the brick kiln.

(2) If any question arises as to the age of any person who is employed, permitted to work or found at a brick kiln, the person shall be presumed to be a child unless the contrary is proved through the computerized national identity card or registration certificate (Form-B) with the National Database and Registration Authority or the birth certificate issued by the competent authority.

(3) The burden shall lie jointly on the occupier and parent or guardian to prove that a person found or working at the brick kiln is not a child.

7. Liability.– If a child is employed, engaged or permitted to work at the brick kiln contrary to this Act, the occupier and a parent or guardian of the child shall be responsible for such contravention.

8. Sealing of brick kiln.– If it appears to an inspector that a child has been engaged on work or found at a brick kiln in contravention of sections 5 and 6 of this Act, or if the occupier fails to comply with any direction under section 18, the Inspector may, in the prescribed manner, seal the brick kiln for a period not exceeding seven days.

9. Committees.– (1) The Government may, by notification in the official Gazette, constitute a Committee in each district to be called the District Labour Committee for the effective enforcement of this Act.

(2) The Committee may issue such directions to the inspectors, occupiers and workers at a brick kiln as may be necessary to achieve the purposes of the Act.

10. Appellate authority.– (1) The Government shall appoint an appellate authority in each District to hear and decide the appeals preferred under subsection (2) of this section.

(2) The occupier aggrieved by an order of sealing may, within three days of the sealing of the brick kiln, prefer an appeal against the sealing of the brick kiln before the appellate authority.

(3) The appellate authority may confirm, modify or reverse the order made under section 8 of this Act.

11. Inspectors.– The Government may, by notification in the official Gazette, appoint an inspector or confer the powers of an inspector on any person for any local area.

12. Powers of inspector.– An inspector may, within the local limits for which he is appointed:

(a) enter, with such assistants, being persons in the service of the state or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be a brick kiln;

(b) make such examination of the brick kiln, and of any prescribed register and Forms, and take on the spot or otherwise such evidence as he may deemed necessary for carrying out the purposes of this Act;

(c) make a complaint to the officer incharge of a police station of the area to take cognizance of the offence under the Act; and

(d) exercise such other powers as may be necessary for carrying out the purposes of the Act.

13. Penalty.– (1) An occupier who contravenes any provisions of section 3, 4 or 5 of this Act, shall be liable to punishment with simple imprisonment which may extend to six months but which shall not be less than seven days and fine which may extend to five hundred thousand rupees but which shall not be less than fifty thousand rupees.

(2) A parent or guardian who permit the child to work at a brick kiln shall be jointly and equally liable for the offence under subsection (1) along with the occupier to the extent of contravention of section 5.

14. Trial of offences.– A magistrate of the first class shall summarily try an offence under this Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898).

15. Cognizance of offences.– Every offence under this Act, shall be cognizable by the police on the complaint in writing made by the inspector.

16. Application of other laws.– The provisions of this Act are in addition to and not in derogation of the provisions of any other law.

17. Power to make rules.– The Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

18. Power to issue directions.– The Government may, from time to time, issue such directions to an occupier as may be necessary for the effective enforcement of the provisions of this Act.

19. Power to remove difficulties.– If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of the Act as appear to it to be necessary or expedient for removal of the difficulty.