

THE PLANTATIONS LABOUR (AMENDMENT) ACT, 2010

[Act No. 17 of 2010]

[18th May, 2010]

PREAMBLE

An Act further to amend the Plantations Labour Act, 1951.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:--

Section 1 - Short title and commencement

- (1) This Act may be called the Plantations Labour (Amendment) Act, 2010.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall, in relation to any State, be construed as a reference to the coming into force of that provision in that State.

Section 2 - Amendment of section 2

In section 2 of the Plantations Labour Act, 1951(69 of 1951) (hereinafter referred to as the principal Act),--

- (a) in clause (e), the following Explanation shall be inserted, namely:--

Explanation.--For the purposes of this clause, "the person who has the ultimate control over the affairs of the plantation" means in the case of a plantation owned or controlled by--

- (i) a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual;
- (ii) the Central Government or State Government or any local authority, the person or persons appointed to manage the affairs of the plantation; and
- (iii) a lessee, the lessee;';

(b) in clause (ee), for the words "and includes, where the worker is a male, his parents dependent upon him", the words "and includes parents and widow sister, dependent upon him or her" shall be substituted;

(c) in clause (k),--

(i) in the opening portion, after the words "manual or clerical", the words "and includes a person employed on contract for more than sixty days in a year" shall be inserted;

(ii) in sub-clause (ii), for the words "rupees seven hundred and fifty", the words "rupees ten thousand" shall be substituted;

(iii) in sub-clause (iii), for the words "managerial capacity, notwithstanding that his monthly wages do not exceed rupees seven hundred and fifty", the words "managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand" shall be substituted.

Section 3 - Amendment of section 7

In section 7 of the principal Act, in sub-section (2), in clause (b), for the words "and children are, or are to be", the word "are" shall be substituted.

Section 4 - Amendment of section 10

In section 10 of the principal Act, in sub-section (2), for the words "chief inspector", the words "State Government upon a request by the chief inspector" shall be substituted.

Section 5 - Insertion of new Chapter IVA

After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:--

"CHAPTER IV A

Provisions as to safety

18A. Safety.- (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

(2) The State Government may make rules for prohibiting or, restricting employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(6) Every employer shall maintain health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer shall provide--

(a) washing, bathing and clock room facilities; and

(b) protective clothing and equipment,

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

18B. Power of State Government to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the restriction on employment of women and adolescents for handling hazardous chemicals under sub-section (2) of section 18A;

- (b) the qualifications of supervisor appointed under sub-section (3) of section 18A;
 - (c) the matters for training of workers under sub-section (4) of section 18A;
 - (d) the medical examination of workers under sub-section (5) of section 18A;
 - (e) the facilities and equipment to be provided to the workers engaged in handling insecticides, chemicals and toxic substances under sub-section (7) of section 18A;
 - (f) the precautionary notices to be exhibited under sub-section (9) of section 18A."
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Section 6 - Amendment of section 19

In section 19 of the principal Act, in sub-section (1), the words "or child" shall be omitted.

Section 7 - Insertion of new section 24

After section 23 of the principal Act, the following section shall be inserted, namely:--

"24. Prohibition of employment of Children.- No child shall be employed to work in any plantation."

Section 8 - Amendment of section 25

In section 25 of the principal Act,--

- (a) the words "or child" shall be omitted;
- (b) in the marginal heading, the words "and children" shall be omitted.

Section 9 - Amendment of section 26

In section 26 of the principal Act,--

- (a) in the opening portion, the words "child and no" shall be omitted;
 - (b) in clause (b), the words "child or" shall be omitted.
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Section 10 - Amendment of section 27

In section 27 of the principal Act, in sub-section (1), the words "either as a child or" shall be omitted.

Section 11 - Insertion of new section 32C

After section 32B of the principal Act, the following section shall be inserted, namely:--

"32C. Compensation.- The employer shall give compensation to a worker in plantation in case of accident and the memorandum relating to such compensation shall be got registered by the employer with the Commissioner in accordance with the provisions of the Workmen's Compensation Act, 1923."

Section 12 - Amendment of sections 33, 35 and 36

In sections 33, 35 and 36 of the principal Act, for the words "three months, or with fine which may extend to five hundred rupees, or with both", wherever they occur, the words "six months, or with fine which may extend to ten thousand rupees, or with both" shall be substituted.

Section 13 - Amendment of section 34

In section 34 of the principal Act, for the words "one month, or with fine which may extend to fifty rupees, or with both," the words "two months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

Section 14 - Amendment of section 37

In section 37 of the principal Act, for the words "six months, or with fine which may extend to one thousand rupees, or with both", the words "one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both" shall be substituted.

Section 15 - Substitution of new sections for section 39

For section 39 of the principal Act, the following sections shall be substituted, namely:--

"39. Cognizance of offences.- No court shall take cognizance of any offence under this Act except on a complaint made by any worker or an office bearer of a trade union of which such worker is a member or an inspector and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

39A. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

Section 16 - Amendment of section 43

In section 43 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:--

"(3) Every rule made by the State Government under this Act shall, as soon as may be after it is made, be laid before the State Legislature."