

## LabourLaw

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**L.L.B Part- 3<sup>rd</sup>**

**Subject- Labour Law**

**Paper- 6<sup>th</sup>**

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**Topic- Discuss the provisions of Factories Act 1948 relating to the employment and working hours for children.**

**Introduction**- Some of the provisions of factories Act 1948 relating to the employment and working hours for children are: 1. Prohibition of Employment of Young Children 2. Non-Adult Workers to Carry Tokens 3. Certificate of Fitness 4. Effect of Certificate of Fitness Granted to Adolescent and Others.

#### **Provision # 1. Prohibition of Employment of Young Children [Section 67]:**

A child who has not completed his fourteenth year is prohibited from working in any factory. Under any circumstances, whatsoever, no exemption even in case of emergency can be allowed to overcome the provisions of this section.

This is an absolute prohibition and admits of no exception. It is the duty of the employer to ascertain the age of the children whom he allows to work in his factory. He cannot depend on the statement of the applicant.

A child is a person who has not completed his fifteenth year of age. As this section applies only to children below 14 years, it has obviously no application to children between the age of 14 and 15.

#### **Provision # 2. Non-Adult Workers to Carry Tokens [Section 68]:**

A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless he is given a certificate of fitness by a competent certifying

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surgeon. Such a certificate shall be in the custody of the manager of the factory. The young person shall carry while he is at work a token giving a reference to such a certificate.

The object of section 68 is to prevent the exploitation of the young labour force.

### **Provision # 3. Certificate of Fitness [Section 69]:**

The certificate of fitness is granted by a certifying surgeon on the application of young person or a guardian. The application must be accompanied by a document signed by the manager of a factory that the young person will be employed therein if certified to be fit for work in a factory.

The application for the grant of the certificate of fitness can also be made by the manager of the factory in which the young person wishes to work. The certifying surgeon shall examine the young person and ascertain his fitness for work in a factory.

#### **If the certifying surgeon is satisfied, he may grant or renew to such young person in the prescribed form:**

- (a) A certificate of fitness to work in factory as a child, provided he has completed his fourteenth year, has attained the prescribed physical standards and is fit for such work;
- (b) A certificate of fitness to work in a factory as an adult, provided he has completed his fifteenth year and is fit for a full day's work in a factory.

The certifying surgeon must have personal knowledge of the proposed place of work and of the manufacturing process involved.

The certificate of fitness is valid only for a period of 12 months. It may be granted subject to such conditions as regard the nature of the work involved and periodical re-examination. The certificate may be revoked by a certifying surgeon if the holder of the certificate is no longer fit to work. Where certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall state his reasons in writing for so doing.

Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recovered from the young person, his parent or guardian.

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### **Provision # 4. Effect of Certificate of Fitness Granted to Adolescent [Section 70]:**

An adolescent who has been granted a certificate of fitness to work as an adult, would be deemed to be an adult and all provisions of the Factories Act relating to adult workers would apply to him.

No female adolescent or a male adolescent who has not attained the age of seventeen years but who has been granted a certificate of fitness to work in a factory as an adult shall be required or allowed to work in any factory except between 6 A.M. and 7 P.M.

### **Provided that the State Government may by notification in the Official Gazette, in respect of any factory or group or class or description of factories:**

(i) Vary the limits laid down in this sub-section so that, no such section shall authorise the employment of any female adolescent between 10 P.M. and 5 A.M.

(ii) Grant exemption from the provisions of the sub-section in case of serious emergency where national interest is involved.

An adolescent who has not been granted a certificate of fitness to work in the factory as an adult shall be deemed to be a child for the purposes of the Act.

### **Provision # 5. Working Hours for Children [Section 71]:**

#### **No Child can be employed or permitted to work in any factory:**

(1) For more than four and a half hours in any day;

(2) During the night i.e., a period of at least twelve consecutive hours including the interval between 10 p.m. and 6 a.m.

(3) On any day on which he has already been working in any other factory.

The period of work of all children employed in a factory shall be limited to two shifts. Such shifts shall not overlap or spread over more than five hours. Each child must be employed in only one of the relays which must not be changed more frequently than once in thirty days, except with the previous permission in writing of the Chief Inspector.

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Provision relating to weekly holidays for adults under section 52 will also apply to child workers. No child can be required or allowed to work in any factory on any day on which he has already been working in another factory.

No female child shall be required or allowed to work in any factory except between 8 A.M. and 7 P.M.

### **Provision # 6. Notice of Periods of Work for Children [Section 72]:**

Every factory must display and correctly maintain a notice of periods work for children. Such notice should show clearly the periods during which children may be required or allowed to work. The periods shown in the notice shall be fixed beforehand as per section 61 regarding period of work for adults, but there shall be no contravention of the provisions of section 71.

### **Provision # 7. Register of Child Workers [Section 73]:**

**The manager of every factory in which children are employed shall maintain a register of child workers showing:**

- (a) The name of each child worker in the factory
- (b) The nature of his work
- (c) The group in which he is included
- (d) Where his group works on shifts, the relay to which he is allotted
- (e) The number of his certificate of fitness

No child worker shall be required or allowed to work in any factory unless his name other particulars have been entered in the register of child workers Section73 (1—A)

This register must be made available to the Inspector at all times during working hours or when any work is being carried on in a factory.

The State Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

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### **Provision # 8. Hours of work to Correspond with Notice Under Section 72 and Register Under Section 73 [Section 74]:**

No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made before hand against his name in the register of child workers of the factory.

### **Provision # 9. Power to Require Medical Examination [Section 75]:**

An inspector has power to server a notice on the manager of the factory asking him for the medical examination of the young person who works in a factory either without a certificate of fitness, or with a certificate of fitness but is no longer fit to work in that capacity.

Such a young person, shall not, if the inspector so directs, be employed or permitted to work in any factory until he has been granted certificate of fitness or fresh certificate of fitness as the case may be or has been certified by the certifying surgeon examining him not to be a young person.

### **Provision # 10. Power to make Rules [Section 76]:**

**This section authorises the state Government to make rules:**

- (a) Prescribing the forms of certificates of fitness to be granted to young persons, and the procedure for their issue
  
- (b) Prescribing the physical standards to be attained by children and adolescents working in factories
  
- (c) Regulating the procedure of certifying surgeons
  
- (d) Specifying other duties which the certifying surgeons may be required to perform in connection with the employment of young persons in factories.

### **Provision # 11. Provisions relating to Safety of Young Persons:**

**The provisions relating to the safety of young persons are scattered through the Act, but for the convenience of the readers are summarised as under:**

1. No young person shall be allowed to clean, lubricate, or adjust any part of the machinery while it is in motion if it is likely to expose him to risk of injury from any moving part (Section 22).
  
2. No young person shall work at any dangerous machine unless:

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(a) He has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and

(b) He has received sufficient training in work at the machine or is under adequate supervision by a person who has a thorough knowledge and experience of the machine (Section 23).

3. No child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work. This prohibition may be relaxed in certain cases (Section 27).

4. Where the State Government declares any manufacturing process or operation in any factory as dangerous or injurious to the health of young person, it may make rules prohibiting or restricting the employment of young person in the operation (Section 87).

**The End**