

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD**

Dated: 27.03.2017

No. LD/Legis-Act/232-2432017. The following Act of Assembly received the assent of the President on the 16th day of March 2017, is hereby published for general information.

[Act XVI of 2017]

An

Act

to provide for, the prohibition of child labour and regulation of the labour at the brick kilns in the Azad Jammu and Kashmir

Whereas, the environment at brick kilns is hazardous for children, adversely affecting their growth, health and education;

And whereas, it is necessary to provide for, the prohibition of the child labour and regulation of the labour at the brick kilns in the State of Azad Jammu and Kashmir and other ancillary matters.

It is enacted hereby as follows:

1. **Short title, Extent and Commencement.**– (1) This Act may be called as the Azad Jammu and Kashmir Prohibition of Child Labour and Regulation of Labour at Brick Kilns Act, 2017.
 - (2) It extends to whole of the Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions.**– In this Act unless there is anything repugnant to the subject or context,
 - (a) “Act” means the Azad Jammu and Kashmir Prohibition of Child Labour at Brick Kilns Act, 2017;

- (b) "Advance (peshgi)" means any 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;
- (c) "Appellate Authority" means an appellate authority appointed under this Act;
- (d) "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 System (Abolition) Act, 2017;
- (e) "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 work place connection;
- (f) "Child" means a person who has not completed the fourteenth year of age;
- (g) "Committee" means a District Labour Committee constituted under this Act;
- (h) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (i) "Inspector" means any person appointed by the Government as an Inspector for purposes of the Act;
- (j) "Manager", by whatever name called, means the person appointed for purposes of administering and management of the affairs of the Brick Kiln;
- (k) "Occupier" means the owner of a brick-kiln and includes his heirs, successors, administrators, agents or assigns and the Manager;
- (l) "Prescribed" means prescribed by the Rules;
- (m) "Rules" means the rules made under this Act;

- (n) "Wage" means the rates of wage notified under the Minimum Wages Act, 1976;and
- (o) "Worker" means a person engaged or employed, directly or indirectly by the Occupier whether for wages or not, on a brick kiln, or in any other kind of work whatsoever incidental to or connected with the manufacturing process of bricks.

3. Contract of engagement on work.– (1) Every engagement or appointment of a worker at a Brick Kiln shall be subject to a written contract in the form as may be prescribed 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 and executed under this Section 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 sub-section (1) with each of the Worker engaged on work at a Brick Kiln immediately before the commencement of this Act.

(4) If a Worker is engaged on work at a Brick Kiln in contravention of sub-section (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, 2017.

(5) The contract of engagement made under sub-section (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 sub-section (1) shall not exceed the amount equivalent to six times of the Wage of the Worker for one Wage period, if his wages are time rated and earned wages during one month, if his wages are piecerated.

(3) The amount of Advance (peshgi) given to a Worker under sub-section (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 Child 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 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) issued by the National Database and Registration Authority of Pakistan or the birth certificate issued by the competent authority.

(3) The burden shall lie on the Occupier to prove that any 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 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. **District Labour Committee.**– (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 this Act.
10. **Appellate authority.**– (1) The Government shall appoint an appellate authority in each District to hear and decide the appeals preferred under sub-section (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 the 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 Azad Jammu and Kashmir 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 deem necessary for carrying out the purposes of the Act;
- (c) make a complaint to the officer in-charge 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 this Act.

- 13. Penalty.**– An Occupier who contravenes any provisions of Section 3, 4 or 5 of the 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.
- 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), as enforced in the Azad Jammu and Kashmir.
- 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 for the time being in force.

17. **Power to make rules.**– The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the 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.

(Mehr-un-Nisa Qadri)
Section Officer (Legislation)