

BA LLB HONS

8th Semester

LAWS AGAINST CHILD AND JUVENILE OFFENCES

# Factories Act 1948 & Child Labour Laws in India

## 1. Factories Act, 1948 — Overview

The Factories Act, 1948 is the principal legislation governing working conditions in factories across India. It was enacted to regulate health, safety, welfare, and working hours of workers employed in factories.

### Applicability

The Act applies to any premises where a manufacturing process is being carried on, specifically:

- 10 or more workers are employed with the aid of power, or
- 20 or more workers are employed without the aid of power

## 2. Provisions Related to Child Labour under the Factories Act, 1948

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### Definition of 'Child' and 'Young Person'

- Child: A person who has not completed 14 years of age
- Young Person: A person who is either a child or an adolescent (14–18 years)
- Adolescent: A person who has completed 14 years but not 18 years

### Prohibition on Employment of Children (Section 67)

This is the most critical provision on child labour under the Act.

- No child below 14 years shall be employed or permitted to work in any factory, under any circumstances whatsoever.
- This is an absolute prohibition — no exceptions apply.

Provision :

**Section 67.** Prohibition of employment of young children.

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

## Employment of Adolescents (Sections 68–77)

Adolescents (14–18 years) may be employed but only under strict conditions:

Requirement	Details
Certificate of Fitness	Must hold a certificate from a certifying surgeon (Section 68–69)
Token	Must carry a token referencing their certificate while working (Section 70)
Working Hours	Maximum 4.5 hours per day (Section 71)
Night Shifts	Prohibited between 7 PM and 6 AM
Dangerous Operations	Cannot be employed in hazardous/dangerous processes
Register	A separate register of child workers must be maintained by the occupier (Section 73)

68. Non-adult workers to carry tokens.—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. Certificates of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full day's work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the **manufacturing** process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has **examined** such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be **valid** only for a period of **twelve** months from the date thereof:

(b) may be made subject to **conditions** in regard to the nature of the work in which the young person may be employed, or requiring re-**examination** of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall **revoke** any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind

requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any **fee** payable for a certificate under this section shall be paid by the **occupier** and shall not be recoverable from the young person, his parents or guardian.

**70. Effect of certificate of fitness granted to adolescent.—(1)** An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be **deemed to be an adult for all the purposes of Chapter VI and VIII.**

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2[(1A) 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, however, 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 this sub-section in case of **serious emergency where national interest is involved.]**

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be **deemed to be a child for all the purposes** of this Act.

71. Working hours for children.—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than **four and a half hours** in any day;

3[(b) during the **night.**

Explanation.—For the purpose of this sub-section “night” shall mean a period of at least twelve consecutive hours which shall include the interval between **10 P.M. and 6 A.M.]**

(2) The period of work of all children employed in a factory shall be limited to **two shifts** which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be

changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in **another factory**.

4[(5) No **female** child shall be required or allowed to work in any factory except between **8 A.M. and 7 P.M.**]

**72. Notice of periods of work for children.—**(1) There shall be **displayed** and correctly maintained

in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

**73. Register of child workers.—**(1) The manager of every factory in which children are employed shall maintain a **register** of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

(a) the name of each child worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted, and

(e) the number of his certificate of fitness granted under section 69.

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

(2) 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.

**74. Hours of work to correspond with notice under section 72 and register under section 73.—**

No child worker 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 beforehand against his name in the register of child workers of the factory.

**75. Power to require medical examination.—***Where* an Inspector is of opinion—

(a) that any person working in a factory **without a certificate of fitness is a young person**, or

(b) that a young person working in a factory with a certificate of fitness is **no longer fit** to work in the capacity stated therein, he may serve on the **manager** of the factory a **notice** requiring that such person or young person, as the case may be, shall be **examined by a certifying surgeon**, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been

certified by the certifying surgeon examining him not to be a young person.

**76. Power to make rules.—The State Government may make rules—**

(a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

(c) regulating the procedure of certifying surgeons under this Chapter;

(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

77. Certain other provisions of law not barred.—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (26 of 1938).

### Certificate of Fitness (Sections 68–70)

- Issued by a certifying surgeon after medical examination
- Certifies that the young person is fit for work in a factory
- Can be granted, renewed, or revoked
- Certificate is valid for 12 months
- The occupier/manager must ensure no young person works without a valid certificate

### Working Hours for Children/Young Persons (Section 71)

- Cannot work for more than 4½ hours in a day
- Cannot work during night hours (7 PM – 6 AM)
- Cannot work in two shifts
- Cannot work more than 3 continuous hours without a rest interval

### Penalties for Violation (Section 92)

- Imprisonment up to 2 years, or Fine up to ₹1,00,000 (one lakh), or both
- If the violation continues, an additional daily fine may apply

## CHAPTER X

### PENALTIES AND PROCEDURE

92. General penalty for offences.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any

factor there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with

imprisonment for a term which may extend to1[two years] or with fine which may extend to2[one lakh rupees] or with both, and if the contravention is continued after conviction, with a further fine which may extend to3[one thousand rupees] for each day on which the contravention is so continued:

4[Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than5[twenty-five thousand rupees] in the case of an accident causing death, and6[five thousand rupees] in the

case of an accident causing serious bodily injury.

Explanation.—In this section and in section 94 “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.]

### 3. Other Key Child Labour Laws in India

#### A. Child Labour (Prohibition & Regulation) Act, 1986 — Amended 2016

This is the primary dedicated legislation on child labour in India.

Feature	Details
Total Ban	Children below 14 years prohibited from all occupations and processes
Adolescents (14–18)	Prohibited from hazardous occupations (mines, explosives, etc.)
Family Exception	Children may help in family enterprises after school hours (non-hazardous)
Penalty	6 months – 2 years imprisonment; Fine ₹20,000–₹50,000
Repeat Offence	Minimum 1 year, up to 3 years imprisonment

#### B. Constitutional Provisions

Article	Provision
Article 21A	Right to free and compulsory education for children aged 6–14
Article 24	Prohibits employment of children below 14 in factories, mines, or hazardous work
Article 39(e)	State shall ensure health and strength of workers; children not abused

Article 39(f)	Children given opportunities to develop in a healthy manner; protected against exploitation
Article 45	Early childhood care and education for children below 6 years

### C. Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)

- Every child aged 6–14 years has the right to free and compulsory education
- Indirectly combats child labour by keeping children in school

### D. Juvenile Justice (Care and Protection of Children) Act, 2015

- Children employed in contravention of labour laws are treated as 'children in need of care and protection'
- Child Welfare Committees (CWCs) are empowered to intervene and rehabilitate such children

## 4. Interaction Between Factories Act & Child Labour Act

Aspect	Factories Act, 1948	Child Labour Act, 1986 (Amended 2016)
Scope	Factories only	All occupations & processes
Age of prohibition	Below 14 years	Below 14 years (all work); 14–18 in hazardous work
Adolescent work	Allowed with fitness certificate	Allowed (non-hazardous)
Working hours	Max 4.5 hrs/day	Regulated
Night work	Prohibited	Prohibited
Penalty	Up to 2 years / ₹1 lakh	6 months–2 years / ₹20,000–₹50,000

## 5. Key Judicial Pronouncements

### M.C. Mehta v. State of Tamil Nadu (1996)

The Supreme Court directed the government to survey child labour, withdraw children from hazardous work, and provide them education and welfare.

### Bandhua Mukti Morcha v. Union of India (1984)

The Court emphasized the State's duty to eliminate child labour and bonded labour.

## 6. Summary

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The Factories Act, 1948 provides foundational protections against child labour in industrial settings, particularly through Sections 67–77. Combined with the Child Labour (Prohibition & Regulation) Act, 1986 (as amended in 2016), Constitutional safeguards under Articles 21A, 24, and 39, and the RTE Act, India has a comprehensive legal framework to protect children from exploitation in the workplace. Enforcement, however, remains an ongoing challenge requiring vigilance from labour inspectors, civil society, and the judiciary.

Previously Asked in 2024

Discuss the salient features of the Child Labour (Prohibition and Regulation) Act, 1986. 12

**Or**

What are the provisions relating to welfare of the child under the Factories Act, 1948 ?