

(As Reported by the Standing Committee)

THE DOMESTIC WORKERS (EMPLOYMENT RIGHTS) BILL 2013**A****BILL****TO PROTECT AND REGULATE THE RIGHTS OF DOMESTIC WORKERS**

WHEREAS it is expedient to protect the rights of the domestic workers such as right of speech, association, health, indemnity, freedom, action, respect, fair and dignified treatment etc.; to regulate the employment conditions and entitlement of the workers such as holidays, accommodation, safety, social security, appropriate working hours, nature of work, minimum wages, leaves etc. and matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

CHAPTER I**PRELIMINARY**

1. **Short title, extent and commencement.**- (1) This Act may be called Domestic Workers (Employment Rights) Act 2015;

(2) It extends to the Islamabad Capital Territory

(3) It shall come into force at once.

2. **Definitions.**- In this Act, unless there is anything repugnant in the subject or context,

(a) "Government" means the Federal Government;

(b) "Board" means Domestic Workers Board;

(c) "Domestic Work" means work performed in or for a household;

(d) "Worker" means any person engaged in Domestic Work within an employment relationship;

(e) "Employer" means in relation to a household or Family the head of the household or the family who has employed the Domestic Worker;

- (f) "Family" in relation to that of a worker means the spouse, children below the age of eighteen years, fifty percent or more disabled children above the age of eighteen, and the dependant parents;
- (g) "Fund" means Domestic Workers Welfare Fund; and
- (h) "Prescribed" means prescribed by rules.

3. **Over riding effect.-** The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force.

4. **Rights and privileges under more beneficial other laws not affected.-** Nothing contained in this Act shall affect the operation of any corresponding law, contract, custom, usage, award, settlement or agreement regulating the employment and conditions of service of the workers and providing for welfare measures or schemes which are more beneficial to the workers than those provided for them by or under this Act.

CHAPTER II

RIGHTS AND ENTITLEMENTS OF DOMESTIC WORKERS

5. **Rights etc..-** All domestic workers shall have the following rights and entitlements, namely:-

- (a) the age requirement for employment shall be eighteen years of age or above and not more than sixty for men and women;
- (b) workers shall have freedom of work and shall not be employed in employments such as forced or bonded labour, child labour and manual scavenging and in any manner inconsistent with the contract;
- (c) no worker shall be discriminated in recruitment, continuance of employment deciding wages, benefits and other rights on grounds of religion, race, caste, creed, sex and place of birth / residence / domicile or any other reasons;
- (d) every worker shall enter into a written contract with his employer in regard to the terms and conditions of the employment;
- (e) the employment contract shall include specific terms and conditions related to matters such as hours of work, specific nature of work, wages, leave, food and accommodation, termination, dispute settlement and healthcare/Welfare measures within the scope of the employment;

- (f) the workers shall be addressed as domestic workers and not "Servant";
- (g) the right to minimum wages in accordance with the prevailing laws of Islamabad Capital Territory;
- (h) the Worker shall be made special payments for overtime work, night work and works of specified risks. The rate of such special payments must be expressly mentioned in the employers contract;
- (i) the Worker shall have the right to bargain for festival allowance;
- (j) the Worker shall have predefined working hours;
- (k) the nature of job and duties expected from the Worker are to be specifically defined. No extra work may be assigned to the Worker without free will of the Worker and extra remuneration;
- (l) the Employer's duty to provide dignified working conditions and occupational and other safety measures; and
- (m) the Workers shall be entitled to social security measure which shall be provided through the Fund.

CHAPTER III CONDITIONS OF SERVICE OF WORKERS

6. **Employment contract.-** No worker shall enter into employment without a written contract with the employer, which shall include specific terms and conditions related to matters such as hours of work, specific nature of work, wages, leave, food and accommodation, termination, dispute settlement and healthcare or welfare measures within the scope of the employment.

7. **Nature of work.-** No worker shall be required to perform any work other than what is specifically mentioned in the Employment contract, unless the Worker with free will agrees to perform such work for any such extra remuneration as may be agreed between the Worker and the Employer.

8. **Working hours.-** No Worker shall be required to work for more than eight hours in a day and provided that the worker at freewill may work overtime for such time duration and for such remuneration as may be prescribed.

9. **Minimum wage.-** 1) Every Worker shall be paid such wages within such time as may be prescribed in the Employment contract, but such wages shall in no case be less than the wages fixed under the Minimum Wages Ordinance, 1961 (XXXIX of 1961).

(2) No employer shall pay to worker, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him or her to the workers of the opposite sex performing same work or work of a similar nature.

10. **Leave.-** Every Worker shall be entitled to holidays or compensatory off, annual leave, casual leave, sick leaves and maternity leaves in accordance with law and other leaves as may be sanctioned by the Government from time to time.

11. **Maternity benefit.-** A female Worker shall be entitled to maternity benefits with a minimum amount equivalent to three months salary up to two children.

12. **Other Benefits.-** Every Worker shall be entitled to health and medical care, employment injury benefits, group insurance, housing, gratuity, bonus and pension benefits, which shall be paid through the Fund under the supervision of the Domestic Welfare Board.

13. **Compensation or Injury.-** If a personal injury is caused to a Worker by accident arising out of and in course of his or her employment, by reason of the omission of the employer to maintain a good and safe working condition, the Employer shall be liable for payment of compensation amount to the extent of the medical bill for the personal injury sustained.

14. **Food and Accommodation.-** It shall be the responsibility of the Employer to provide for the food and accommodation of the Worker, with or without family, unless such right is expressly waived off by the Worker.

15. **Facilities.-** It shall be the duty of the Government to ensure.-

- (a) regular employment to the domestic workers;
- (b) regular and timely payment of wages;
- (c) suitable, conducive and dignified working conditions;
- (d) provision for prescribed medical facilities and also maternity facilities by the Domestic Workers Board;
- (e) provision for protective clothing as may be prescribed; and
- (f) provision of such other facilities as may be prescribed from time to time.

16. **Notice of termination.-** No Worker may be removed from employment without at least one month's prior notice to the Worker by the Employer.

17. **Certain contracts and agreements to be void.-** Any contract or agreement, whether made before or after commencement of this Act, whereby a Worker relinquishes any right conferred by or any privilege or concession accruing to him or her under this Act or any scheme, shall be void and of no effect in so far as it purports to deprive him or her of such right or privilege or concession.

CHAPTER IV

DOMESTIC WORKERS BOARD

18. **Constitution of the board.-** (1) The Government, for the purposes of this Act, shall constitute a Board to be called "the Domestic Workers Board".

(2) The Board shall consist of;

- (a) a Chairperson to be appointed by the Government;
- (b) such number of members, as the Government may nominate, that shall include individuals having expertise in issues relating to labour matters, women and child issues, law and any other interests which in the opinion of the Government, ought to be represented.

- (3) The number of persons to be appointed as members from the categories specified in Clause (b) of sub-Section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions and the manner of filling up of vacancies shall be such as prescribed.

19. Functions of the Boards.- The Board shall perform the following functions, namely:-

- (a) to formulate policy matters relating to employment conditions of the service, social security, safety and welfare of workers;
- (b) to formulate schemes and review their implementation and make the changes required from time to time in such schemes in consultation with the Government;
- (c) to review and monitor implementation of the Act and rules made thereunder and recommend to the Government of any changes on the said Act;
- (d) to create public awareness about the rights of workers and schemes available for the workers;
- (e) to collect statistics and information of agencies who supply/ provide workers for domestic works or services;
- (f) to guide workers in respect of social security, safety and welfare activities undertaken by the Board, and non-governmental organizations or associations; and
- (g) any other matter as may be prescribed by the Government.

20. Registration of workers.- Every domestic worker, in order to benefit from this Act, shall make an application to the Board for registration under the provision of this Act, which shall be renewable after completion of every three years. Every such worker shall be provided by the Board with a security number and identity card. None of the workers is eligible to get more than one security number.

21. Registration of employer.- Every Agency or contractor or Trust or NGO or association by whatever name called, which supply domestic workers, in order to benefit from this Act, shall make an application to the Board for registration under the provision of this Act, which shall be renewable after completion of every one year. Every application that gets registered shall be provided with a registration number.

CHAPTER V

DOMESTIC WORKERS WELFARE FUND

22. Constitution of the fund.- To provide safety, social security and welfare to domestic workers, the Government shall constitute a Fund to be called "the Domestic Workers Welfare Fund" and the following shall be credited thereto, namely:-

- (a) all grants and loans made to the Board by the Government;
- (b) all sums received by the Board from other sources as may be decided by the Government; and
- (c) contributions by the employers and registered Workers in such form and in such manner as may be prescribed.

23. Purpose of the Fund.- The Fund shall be applied for meeting:-

- (a) the salaries, allowances and other remunerations of the members, Officers and other employees of the Board;
- (b) the cost of such welfare measures or facilities for the benefit of domestic workers as may be decided by the Board which shall include Health and medical care, employment injury benefits, maternity benefits, group insurance, housing, gratuity, bonus and pension benefits;
- (c) to sanction any money in aid of any scheme for the welfare of the domestic workers including family welfare, family planning, education, insurance and other welfare measures; and
- (d) any other expenses of the Board in connection with the discharge of its functions or for the purpose of this Act.

24. **Contribution to the Fund.-** Every worker and employer registered under the relevant provisions of this Act shall make to the Fund, such contribution, as may be prescribed,

25. **Non-payment of the contribution.-** Non-payment of the contribution by any,-

- (a) Worker for a continuous period of not less than one year shall disqualify such worker from being the beneficiary of the Fund;
- (b) Employer shall make such a person liable to pay such amount as arrears of land revenue.

CHAPTER VI

RESOLUTION OF DISPUTE

26. **Resolution of Dispute.-** All disputes arising out of the provision of this Act shall be resorted only by Dispute Resolution Committee and Appellate authority as may be prescribed.

27. **Dispute Resolution Committee.-** The jurisdiction, composition, experience and qualification of the person, the Dispute Resolution Committee and Appellate authority shall consist of, and the rules of procedure of the conduct of their business shall be as may be prescribed by the Government.

28. **Procedures and powers of the Committee and appellate authorities.-** (1) Subject to rules that may be made in this behalf, the Dispute Resolution Committee or appellate authority shall follow such procedure as may be deemed fit and conforming to principles of natural justice;

(2) Every unit of Dispute Resolution Committee or appellate authorities shall have same powers as are vested in civil court under the Code of Civil Procedure, 1908, when adjudicating a dispute in respect of the following matters, namely:-

- (a) enforcing the attendance of any person and examining him on Oath;

- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) such other matters as may be prescribed.

Every enquiry or investigation by Dispute Resolution Committee shall be deemed to be a judicial proceeding.

29. **Bar of jurisdiction of civil and labour courts.-** No civil or labour court shall entertain the suit or application in respect of any matter arising under this Act.


30. **Contravention of provisions.-** Whoever contravenes the provisions of this Act or of any rules made there under shall be punishable with imprisonment for a term which may extend to three months or with a fine of one hundred thousand Rupees or both.

31. **Cognizance of offences.-** Every offence punishable under this Act shall be cognizable, upon receipt of a written complaint by the person aggrieved, only by a Judicial Magistrate not lower in rank than a First Class Magistrate of the area concerned.

32. **Rules.-** The Government may make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

No accurate figures exist for the number of domestic workers employed in Pakistani households, but the figure is certainly in the hundreds of thousands if not the millions. Domestic work provides many Pakistanis with the opportunity to earn an honest living, but the conditions under which these men and women work are highly variable. There is a need to ensure that these domestic workers are provided at least a minimum level of benefits and facilities. Furthermore there is a need to regulate their terms and conditions of employment to ensure that they are treated with respect and dignity, while ensuring that excessive regulation does not create an impediment to the hiring of such workers. The present Bill is being moved in pursuance of these objectives.


(SENATOR OSMAN SAIFULLAH KHAN)
 Member-in-Charge

