

[AS INTRODUCED IN THE SENATE]

**A
BILL**

to protect the rights of the domestic workers, to regulate their employment and conditions of service and to provide them social security, safety, health facility and welfare

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 and conditions of service of the workers such as holidays, accommodation, safe environment, settlement of-dispute, actual working hours, nature of work, minimum wages, leaves etc.; to provide their social security, safety, health and welfare 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 the Domestic Workers (Employment Rights) Act, 2013.

(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) "Beneficiary" means a worker eligible to receive benefits under the Domestic Workers Welfare Fund;

(c) "Board" means Domestic Workers Board;

(d) "Domestic Work" means in relation to a household any work which takes place within the premises of the household and includes childcare or old age care or sick care and delivery care;

(e) "Domestic Worker" means a person engaged in domestic work directly or through an agency or contractor whether exclusively for one employer or in a group or otherwise for one or more employers by staying at the household premises or otherwise includes migrant or piece-rate worker;

(f) "Dispute" means any dispute or difference between employers and employees, or between employers and workers or between workers which is connected with the employment or non-employment of the terms of employment or with the conditions of labour of workers;

- (g) "Employer" means,-
- (i) in relation to a person or group of persons employing worker(s) such person or group of persons generally or collectively responsible for employment of workers;
 - (ii) in relation to an establishment or agency the owner(s) of the establishment or agency or a person(s) who has the ultimate control over the affairs of the establishment or the agency as well as any other person to whom affairs of such establishment or agency are entrusted whether such person(s) is called an agent, a manager, an occupier or by any other name;
 - (iii) in relation to a household or family the head(s) of the household or the family who as an individual or group of individuals severally or collectively responsible for the employment of workers;
 - (iv) in relation to the work carried on by or through a contractor or by the employment of worker(s) supplied by a contractor, the contractor;
- (h) "Family" in relation to that of a worker means and includes the spouse, children below the age of 18 years, fifty per-cent or more disabled children above the age of 18, and the dependant parents; and
- (i) "Fund" means Domestic Workers Welfare Fund.

3. Effect of law and agreements inconsistent with this Act.- The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any other decree or order of any court, tribunal or authority or under any settlement.

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 and Entitlements.- All domestic workers shall have the following Rights and Entitlements: -

- (a) The right to work/employment. Whereby the age requirement for employment shall be 14 years of age or above and not more than 60 years for men and women;
- (b) Workers shall have freedom of work and shall not be employed in employments such as forced/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 reason;
- (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, suspension, termination, disciplinary proceedings, dispute settlement and healthcare/welfare measures within the scope of the employment;
- (f) The workers shall be addressed as "domestic worker", not "servant";
- (g) The right to minimum wages in accordance with the prevailing laws of the country;
- (h) The worker shall be made special payments for overtime work, night work and works of specified risks;
- (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 of the worker are to be specifically predefined. 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;

- (m) The social security measure for domestic worker shall include Health and medical care, employment injury benefits, maternity benefits, group insurance, housing, gratuity, bonus and pension benefits; and
- (n) The right to form an association or union of workers for collective bargaining through tripartite mechanism or otherwise.

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, suspension, termination, disciplinary proceedings, dispute settlement and healthcare/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 at 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 twelve hours in a day with one hour break, provided that, if the worker stays with the family or at place of work, the worker at free will 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 Wage Ordinance 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/her to the workers of the opposite sex performing same work or work of a similar nature.
- 10. Leaves.-** 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 upto 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 Domestic Workers Welfare Fund under the supervision of the Domestic Welfare Board.

13. Compensation for Injury.- If a personal injury is caused to a worker by accident arising out of and in course of his/her employment, the employer shall be liable for payment of compensation amount.

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 appropriate 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 employer;
- (e) provision for protective clothing as may be prescribed;
- (f) that the worker is not tortured or physically or sexually exploited by the employer or any of the employer's family members; and
- (g) 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; and
- (b) such number of members, as the Government may nominate, that shall include association, Union or persons espousing the cause of domestic workers, 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 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 by the Government.

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

- (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 in 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 these shall be credited thereto,-

- (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 upon by the Government; and
- (c) contributions by the employers and registered domestic 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 by the Government.

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

- (a) domestic worker for a continuous period of not less than one year shall disqualify such worker from being the beneficiary of the Fund; and
- (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 by the Government.

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 any 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 matters 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