

THE ISLAMABAD CAPITAL TERRITORY DOMESTIC
WORKERS ACT, 2022

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THE ISLAMABAD CAPITAL TERRITORY DOMESTIC WORKERS ACT, 2022

ACT No. XXV OF 2022

[24th October, 2022]

to provide for regulation of employment of domestic workers in Islamabad Capital Territory

WHEREAS Articles 3 and 11 of the Constitution aims to eliminate all forms of exploitation and prohibits slavery and forced labour;

WHEREAS Government of Pakistan has instituted a mechanism to determine and notify minimum wages for unskilled workers on periodical basis;

WHEREAS Government of Pakistan has enacted laws to prevent employment of children of age below sixteen years and declared access to free and compulsory education to all children of the age of five to sixteen years as mentioned in Article 25A of the Constitution;

WHEREAS Government of Pakistan has signed the Convention on the Rights of the Child and thus committed to protect rights of all Pakistani children and ensure provision of education, health, nutrition, play, entertainment, and all other rights to them;

WHEREAS rising number of incidents of exploitation, abuse, and violence against domestic workers created the need to regulate employment of domestic workers to safeguard their safety and rights;

AND WHEREAS there is a need to regulate the terms of employment of domestic workers to ensure basic needs are met including rest breaks, number of hours of sleep, medical care, minimum number of meals, working time, freedom from discrimination and sexual harassment and to protect the safety and dignity of domestic workers.

It is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Islamabad Capital Territory Domestic Workers Act, 2022.

(2) It extends to whole of 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) “Act” means the Islamabad Capital Territory Domestic Workers Act, 2022;

(b) “Administrator” means a person nominated by the Commissioner of the Islamabad Capital Territory;

(c) “Appellate Authority” means an authority appointed under section 26;

(d) “beneficiary” means a domestic worker or heirs of a deceased domestic worker

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eligible to receive benefits;

“Board” means the minimum wages board established under section 3 of the Minimum Wages Ordinance, 1961 (XXXIX of 1961) or other relevant law adopted by Federal Government for the Islamabad Capital Territory;

“dispute” means any dispute or conflict between employee and employer or between employer and domestic worker which is connected with the terms of employment of a domestic worker;

“domestic work” means any work which takes place within or for the house hold and includes child care, old age care, sick care or natal/post-natal care and matter ancillary thereto;

“Domestic worker” is a person who provides services of a domestic nature in a household;

“employ” means to engage or permit to work;

“employer” means—

(i) in relation to a person or group of persons registered under the Act and employing domestic workers, such person or group of persons generally or collectively responsible for employment themselves or through an agent, working conditions, hours and care of domestic workers; and

(ii) in relation to an establishment or agency, the owners of the establishment or agency or a person registered under the Act and having the ultimate control over the affair of the establishment or agency as well as any other person to whom affairs of such establishment or agency are entrusted whether such person is called an agent, a manager, an occupier or by any other name.

“family” in relations to that of a domestic worker means the spouse, children

below the age of eighteen years and includes disabled children above the age of eighteen years with disability of fifty percent or more;

“Government” means Federal Government;

“Governing Body” has the same meaning as in section 5 of the Employees Social Security Ordinance, 1965 (X of 1965) or elaborated otherwise separately

by the Government for Islamabad Capital Territory through a notification;

“household” means individual who comprise a family unit and who live together under the same roof;

“ICT” means Islamabad Capital Territory for the purpose of this Act;

“Labour Court” means the labour court established by the Government;

“Prescribed” means prescribed by rules;

3.

(x) "Shift" means the designated number of working hours with a starting hour and an ending hour; and

(s) "Wages" means all amounts paid for labor performed by employees of every description which would if the terms and conditions of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes fixed amount or conditional on time, task commission basis or any method of calculation but does not include—

(i) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund; and

(ii) gift or anything given in kind.

Prohibition on employment.— No child under the age of sixteen years shall be allowed to work in a household in any capacity.

4.

Rights and entitlements of domestic workers.— Domestic workers shall have the following rights and entitlements, namely:-

(a)

(b)

(c)

(d)

(e)

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5.

a domestic worker shall not be employed under the bonded labour system or forced or partly forced labor system;

no domestic worker shall be discriminated in recruitment, continuance of employment, deciding wages, benefits and other rights on grounds of religion, race, caste, creed, sex, ethnic background, place of birth, residence, domicile, migration. or any other specific employments that require a certain minimum level of strength or educational qualification or carry a risk of physical danger to a particular class of person;

domestic worker shall be addressed and referred to as a domestic worker;

domestic workers shall be entitled to receive overtime wages for labour performed in excess of their shift as per the provisions of section;

employer shall provide dignified working conditions and occupational safety and health measures to the domestic worker; and

benefits for domestic worker shall include sickness benefits and medical care during sickness and injury.

Employment on work.— (1) Every employment or appointment of a domestic worker

shall be subject to the issuance of letter of employment in the prescribed Form showing the terms and conditions of his or her employment including nature of work and amount of wages.

(2)

The employer shall send a copy of the letter of employment issued under sub-section

(1) to the commissioner office, Islamabad or any other official appointed by the Government. The employer may keep a copy of identification documents of domestic worker during the course of

employment.

(3)

An employer shall, within sixty days of the commencement of this Act arrange for the

issuance of letter of employment under sub-section (1) to each of the domestic workers employed on work in relation to a household.

(4) No domestic worker shall be required to perform. Any work other than his job description mentioned in the letter of employment.

(5) A fulltime or live in domestic worker shall have at least a twelve hour period free of duty in a twenty four hours period, provided that in the twelve hours of duty performed, not less than three hours shall be for a rest or break, except-

(a) the domestic worker and employer may decide mutually as to whether three hours period referred to above shall be continuous or with intervals; and

(b) the domestic worker is required to work a twelve hours period without a break, the three hours period shall be compensated at a rate not less than ninety times the rate of pay or the wages paid by the employer to the domestic worker.

(6) No full time or live in domestic worker shall be required to work more than a six days in any working week, provided that this may be mutually agreed to a seventh day paid at the rate of double the rate of pay or wages ordinarily paid by the employer to the domestic worker.

(7) A domestic worker may be employed for consecutive seven workdays if the total hours in a workday of such employment do not exceed 30 hours and the total numbers of hours on any day do not exceed six hours.

6. Leave and Holidays.— (1) Every domestic worker engaged in domestic work shall be entitled to a holiday of at least one whole day in a week.

(2) Every domestic worker shall be entitled to sick leave with full wages for a total period of eight days in a year and such leave, if not availed of by a domestic worker during a calendar year, may be carried forward, but the total accumulation of such leave shall not exceed sixteen days at one time.

(3) Every domestic worker engaged in domestic work shall be entitled to ten days festival holidays with full wages in a year. The days and dates for such festival holidays shall be agreed between the domestic worker and the employer in the beginning of the calendar year.

(4) A female domestic worker engaged in domestic work shall be entitled to six weeks maternity leave.

7. Wages during leave or holiday period.— (1) For each day of the leave or holidays allowed to a domestic worker under sub-sections (1), (2), and (3) of section 6, he must be paid at rate equivalent to the daily average amount, which, during the three months preceding the leave or holidays, was being earned by the domestic worker.

(2) A domestic worker, who has been allowed leave under sub-section (2) of section 6 for any period not less than four days shall before the leave begins, be paid his wages for the period of the leave allowed.

8. Minimum wage.— (1) Every domestic worker shall be paid on a designated day such wages for all the hours of labour performed, within such time as may be prescribed in the letter of employment, but such wages must in no case be less than the wages specified by the Government

under this Act.

(2) No employer shall pay to domestic worker, remuneration payable, at rates less favorable than those at which remuneration is paid to the domestic workers of the opposite sex performing same work or work of a similar nature or of equal value.

9. Maternity benefit— A female domestic worker engaged in domestic work shall be entitled to maternity benefits with a minimum amount equivalent to six weeks wages in a prescribed manner but not less than the minimum wages notified by the Government.

10. [Accommodation.— (1) Every employer under express terms and conditions of employment, is to ensure to provide for the accommodation for live in domestic worker who at his free will stays at place of work.

(2) Every employer shall ensure decent living conditions for live-in domestic worker. No domestic worker will be required to share a bed.

11. Medical examination, vaccination and inoculation— Every employer, on yearly basis, shall ensure medical examination of a domestic worker in a household by a registered medical practitioner and the domestic worker shall also be vaccinated and inoculated against such diseases at such intervals as may be prescribed, and expenses, if any, of such medical examination, vaccination and inoculation shall be borne by the employer.

12. Notice of certain accident Where in any household, an accident occurs which causes death or bodily injury whereby any domestic worker injured is prevented from resuming his or her work in the household during the forty- eight hours after the accident occurred or which is of any nature which may be prescribed in this behalf, the employer of the domestic worker shall send a notice thereof to such authorities, in such form and within such time, as may be prescribed.

13. Termination of employment.— The termination of employment shall be subject to one month's prior notice in writing either by the domestic worker or by the employer and in lieu of notice, one month's wages shall be paid calculated on the basis of average of wages earned during the preceding three months.

14, Restoration of possession of property to domestic worker.— (1) Upon termination of employment personal belongings and identification documents of domestic worker or his family shall not be retained. If possession of any property is not made, the aggrieved domestic worker may apply to the Dispute Resolution Committee for the restoration of the possession of such property and the Dispute Resolution Committee may, after giving the employer a reasonable opportunity of being heard, direct the employer to restore to the applicant the possession of the said property within such time as may be specified in the award.

(2) Whoever, being required by this Act to restore any property to the possession of any domestic worker or his family, omits or fails to do so, within such time as specified in sub-section (1), shall be liable, on conviction before a Magistrate, to a fine not exceeding ten thousand rupees and restoration to the applicant the possession of the said property.

15. Relinquishing of right Where a domestic worker relinquishes any right conferred

by this Act, whether made before or after the commencement of this Act, the relinquishment shall be null and void in so far as it purports to deprive him of such right.

16. Recommendation of Minimum Wages for Domestic Workers.— (1) The Board shall upon a reference made to it by the Government, recommend to it, after such enquiry as the Board thinks fit, the minimum rates of wages for domestic workers employed in households.

(2) In its recommendations under sub-section (1), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout the Islamabad Capital Territory or with such local variations for such localities as are specified therein.

(3) In pursuance of a direction under sub-section (1), the Board may recommend minimum rates of wages for all classes of domestic workers in any category or capacity and, in such recommendation, may specify—

(a) the minimum rates of wages for —

(i) time work;

(ii) piece work;

(iii) — on call work;

(iv) over time work;

(v) work on the weekly day of rest and for paid holidays; and

(vi) | commission basis; and

(b) the minimum time rates for domestic workers employed on piece work so as to guarantee minimum wages on a time basis for such domestic workers.

(4) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

(5) The rates recommended under this section for overtime work and work on paid holidays shall not be less than the minimum rates fixed for such work under any other law for the time being in force.

17. Power to declare minimum rates of wages.— Upon receipt of a recommendation of the Board under section 16, the Government may proceed as per procedure laid down under Section-6 of the Minimum Wages Ordinance, 1961 (XXXIX of 1961).

18. Time and conditions of payment of wages.— (1) The wages of every domestic worker shall be paid before the expiry of the fifth day, after the last day of the wage-period in respect of which the wages are payable.

(2) No wage period, so fixed, shall exceed one month.

(3) Where the employment of any domestic worker is terminated by employer, the wages earned by him/her shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(4) All payments of wages shall be made on a working day.

(5) All wages shall be paid in current coin or currency notes or in both.

19. Prohibition to pay below the minimum rate of wages.— (1) No employer shall pay any domestic worker wages at a rate lower than the, rate declared under this Act to be the minimum rate of wages for such domestic worker.

(2) Any employer who contravenes the provisions of this section shall be liable, on conviction before a Magistrate of the first class, to a fine not exceeding ten thousand rupees, and if the court trying such contravention by order so directs, shall also pay to the domestic worker concerned such sum as may be specified in the order to represent the difference between the amount actually paid to such domestic worker and the amount which would have been paid to him had there been no such contravention.

(3) All claims of a domestic worker relating to wages or claims arising out of deductions from wages against the employer, as the case may be, shall be settled and recovered in the same manner as is provided in the Minimum Wages Ordinance, 1961 (XXXIX of 1961).

(4) If the Authority hearing any application under this section is satisfied that no amount to be paid as wages is due from the employer to the applicant, it shall reject the application; and if the application, in the opinion of the Authority, is malicious or vexatious, the Authority when rejecting it, may direct the applicant to pay a penalty not exceeding five thousand rupees to the employer.

(5) An appeal against a direction made under sub-section (3) or sub-section (4) under this section may be preferred, within thirty days of the date on which the direction was made, before the Labour Court constituted under the law, within whose jurisdiction the cause of action to which the appeal relates arose —

(a) by the employer, if the total sum directed to be paid by way of wages exceeds twenty thousand rupees:

Provided that no appeal under this clause shall lie unless the memorandum of appeal is accompanied by a certificate of the authority to the effect that the appellant has deposited the amount payable to the authority under the direction appealed against; and

(b) by the applicant directed under sub-section (4) of this section to pay a penalty.

(6) The decision of appeal shall be final and shall not in any manner be questioned by any person in any court or before any authority.

20. Violation of child labour laws.— Employers in violation of child labour laws shall be subject to all civil and criminal liabilities attached thereto.

21. Functions of the Governing Body.— The functions of the Governing Body shall be the same as laid down under the Employees Social Security Ordinance, 1965 (X of 1965) and Rules made thereunder.

22. Manner of claiming benefits — (1) All claims for benefits under this Act shall be made within such times as may be prescribed, and in such form and manner, and shall be accompanied by such documents, information and evidence as to entitlement, as may be provided in the regulations laid down by the Governing Body.

(2) The payment in respect of benefits shall be made in such manner, and at such time and place as may be provided in the regulations.

(3) The payment in respect of benefits shall be made from the Fund under this Act in the prescribed manner.

23. Resolution of Disputes.— (1) The Government may, by notification in the official Gazette, constitute the Dispute Resolution Committee for the effective enforcement of the Act.

(2) The Dispute resolution committee shall be headed by the Assistant Commissioner or such other officer as may be notified by the Government.

(3) All disputes or complaints arising out of and in connection with enforcement under this Act shall be heard and resolved through an award by Dispute Resolution Committee:

Provided that every such dispute shall be presented within 30 days from the date on which the dispute arises.

(4) Any party aggrieved of the award made under sub-section (3), may, within thirty days of the date on which the award was made, prefer an appeal before the Appellate Authority.

24. | Appellate Authority— (1) The Government shall appoint an Appellate Authority in each District to hear and decide the appeals preferred against the award of a dispute resolution committee.

(2) The Appellate Authority may confirm, modify or reverse the award of a dispute resolution committee.

25. Powers of the Dispute Resolution Committees and Appellate Authorities — Dispute Resolution Committee and Appellate Authority shall, while holding an enquiry regarding a dispute or complaint under this Act or the rules made there-under, have same powers as are vested in Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), 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.

26. Power to issue directions— The Government may, from time to time, issue such directions to employers as may be necessary for the effective enforcement of the provisions of the Act.

27. 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.

28. Tax treatment of the Income of the Fund.— The income of the Fund including capital gains shall be exempt from Income Tax within the meaning of the Income Tax Ordinance, 2001.

29. Penalties — (1) An employer who fails to comply with or contravenes any provisions of this Act other than section 3, shall, on conviction, be punishable with fine which for the first offence may extend to five thousand rupees, and for a second or subsequent offence with fine which may extend to ten thousand rupees.

(2) Whoever knowingly contravenes the provisions of section 3, shall be liable to punishment with imprisonment for a term which may extend to one month if he employs a child under the age of twelve years and in case of a child under sixteen years by fine which may extend to rupees fifty thousand but which shall not be less than ten thousand rupees.

(3) Any employer who willfully obstructs any local administration in the exercise of any power in compliance of section 36, or fails to produce on demand there under any evidence, statement or other document, shall be punishable with fine which may extend to ten thousand rupees.

30. Presumption.— A child present in a household along with one or both of his parents who are employed therein shall not be presumed to be in employment within the meaning of the Act unless proved.

31. Prosecution.— No prosecution under this Act or any rules made there under shall be instituted except by or with the previous sanction of the dispute resolution committee.

32. Trial of offence — No Court inferior to that of a Magistrate of the first class shall try any offence against this Act or any rule made thereunder.

33. Administrator.— The commissioner may notify any officer as an administrator in such area as it may deem fit for the purposes of securing compliance with the provisions of this Act.

34. Functions and powers of the administrator.— (1) No household shall be inspected by the administrator except on receipt of a complaint to the commissioner or on the directions of a dispute resolution committee as may be.

(2) Administrator on direction of Dispute Resolution Committee may, for the discharge of any functions under this Act or the rules made there under—

(a) file a case through the public prosecutor in the Court of competent jurisdiction;
and

(b) exercise such other powers conferred upon him as may be necessary for carrying out the purposes of this Act.

35. Protection of action taken under the Act.— No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or rules made there- under.

36. Rules.— The Government may make rules for carrying out ae purposes of this Act.