

Domestic Worker Rights Campaign

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Submitted to: Smt. Girija Vyas, Chairperson: NCW

Submitted by: Domestic Worker Rights Campaign

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Proposed legislation on: **Domestic Workers (Regulation of Employment, Conditions of Work, Social Security and Welfare) Bill, 2010**

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Members : Geeta Menon , Sr. P. Clara, Surabhi T. Mehrotra, Sr. Leona

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Domestic Workers

(Regulation of Employment, Conditions of Work, Social Security and Welfare)

Bill, 2010

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Statement of Objects and Reason

Employment and working conditions of Domestic Workers are very different from that of other workers in the informal economy. Their employment and employer – employee relations are grounded in a social reality that their workplace is someone’s home. While talking of implementation mechanisms, the nature of their work place, working hours, type

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of work, definition of employer and employee relationship, and the definition of intermediaries need to be considered.

Large number of people are engaged in Domestic Work specially women and children. Domestic workers are a hugely neglected workforce in terms of recognition as labour, dignity of work and also in terms of organizing. 90% to 95% of Domestic Workers are women.

The discrimination and exclusion of Domestic Workers begins by not recognizing their work. The problems they face are vast beginning with ill treatment, physical and mental abuse at the workplace and working conditions similar to forced and bonded labour. There is also trafficking in Domestic Work.

Other laws do not recognize or regularize Domestic Work. Therefore they can also not be clubbed along with other workers of the informal economy in terms of legislative protection. Therefore to ensure that they are not excluded from the benefits accruing to workers protected by labour laws there is a need for a comprehensive central legislation.

This legislation is made in order to secure recognition, dignity, rights, decent work and working conditions, social security and welfare along with respect of fundamental rights of domestic workers.

An Act to regulate the conditions of their work and provide for the welfare of the workers in Domestic work for matters connected therewith, BE it enacted by Parliament in the ----- Year of the Republic of India as follows:

1. Short title, extent and commencement

- i. This Act may be called the Domestic Workers (Regulation of Employment, Conditions of Work, Social Security and Welfare) Act,
- ii. It extends to the whole of India except the State of Jammu and Kashmir,
- iii. It shall come into force in a State of such date^{1*} as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act,

2. Definitions

In this Act, unless the context requires,

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- (a) "adult" means a person who has completed eighteen years of age;
- (b) "child" means a person who has not completed eighteen years of age;
- (c) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;
- (d) "Intermediaries", "Contractor cum Agents", "Placement agency, Service provider, Agents", "NGO's doing placements" (including Cooperatives and SHG's) means a person or agency who undertakes to produce a given result by executing the work through "contract" worker or who engages workers in private dwelling house.
(Please add in rules) Persons / Agencies and or organisations, not bound in the same manner as an Employer should be considered "intermediaries", including: recruitment agencies, brokers, labour-only contractors, manpower placement agencies and out-sourcing agencies. These 'intermediaries' or third parties are 'agents' and agents require a specific set of guidelines, outline of best practices and a detailed list of responsibilities and accountabilities that covers time from recruitment, pre-departure meetings, travel to work destination, stay before joining work to the actual placement.
- (e) "contract labour" means any person engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer;
- (f) "Domestic Worker" means a person employed directly or through any agency, for wages, in any private dwelling to do any work, skilled, unskilled, and includes-- (i) any worker, who engages in domestic work in the household for remuneration - whether woman or man, stay-in (who lives on the premises of the employer), night worker (who is employed to perform work after 20:00 and before 06:00 the next day only for special type of agreed upon work at night) or live-out, local or migrant, on a full-time (8 hours of work) or part-time (not more than 5 hours of work) basis or as part of contracted work - provided that domestic work is the primary source of income; (ii) Any remunerated work performed in a household other than one's own for the employer and immediate members of the household; (iii) Household work refers to housekeeping, cleaning, marketing, care work for the elderly and children other than nursing, cooking, laundry and related household chores NOT done for commercial purposes;
- (g) "employer, means, (i) in relation to contract labour, the principal employer, and (ii) in relation to other labour, the person who has the ultimate control over the affairs of any household or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any household, and includes any other person to whom the affairs of the household are entrusted;

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- (h) "Inspector" means an Inspector appointed under the act -
- (i) "private dwelling house" or a "household" means a house in which person/s engaged to do domestic work;
- (j) "State Government", in relation to a Union territory, means the Administrator thereof;
- (k) "week" means a period of seven days beginning at midnight of the day preceding the day off;
- (l) "Nature of work" means, (i) Full time work will not more than 8 hrs. with ½ hour lunch break and other tea breaks; (ii) Residential work will be as a "Live-in" worker with not more than 12 hours of actual work time with breaks in between and every three hours; (iii) Part time work will not be more than 4 hours at a given work place; (iv) Night shift work will be for 12 hours at night with breaks in between and every three hours; (v) Piece work will be as per hour and work keeping in mind each work and number of family members;
- (m) "Minimum Age of a Worker" takes note of the fact that in India, Child Labour (Prohibition and regulations) Act 1986 lists domestic work in the schedule of "hazards" work; hence, the permissible age is 18 years. (Given the prevailing conditions in the country, 15 years may appear permissible, but there is a need to strive progressively towards making the age of admission to domestic work as 18 years). Keeping in focus **the best interest of child**, the age of a domestic worker should not be less than 18years, thereby, meaning domestic child labour should be prohibited;
- (n) "Replacement worker" means a worker who is working as a replacement for the main workers for a short and specific period of time as agreed with the main worker;
- (o) "Minimum wage" may be notified by the appropriate government to be paid to domestic workers. The minimum wages should include the element of risk while working, security for old age, pregnancy, odd hours of work, and working in un-safe areas.

(to add in rules) Wages should be fixed by the hour, physical strain, rather than location, category of skilled – unskilled nature of work. Wages should not be less than the National Minimum wage as prescribed for any work not covered under the schedule of employment. Wages to include over-time pay (one & half times), incase the working hours exceed more than 9 hours and should be based on percentage of employers' salary and should be revised with the increase in price index. It should be a living, dignified and decent wage. Wages should be decided in consultation with the workers through a standard

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contract. There should be equal pay for equal work. All workers should have a bank account and it should be the responsibility of the worker herself along with TWB that the salary should be paid directly to the worker;

(p) "Tripartite Welfare Board" Tripartite Welfare Boards (TWB) will have 60% representation from the workers and remaining equal representation from the government and the employers. The TWB will regulate and implement the social security measures. TWB will be set up at the Panchayat, City, Taluka, District and State levels and wherever practicable, at the include local ward level also;
(Please to add in rules, the functions of TWB, decision making process for inducting representatives of employers, mechanism for grievance redressal by the TWB)

3. Registration of workers and Employers

a. There be compulsory registration of Employers, Workers, placement agencies, agents and all service providers including contractors and NGO's doing placements etc.

(Please add in rules) as per Contract Labour Act or maybe consider registering them under a special law for domestic workers. The competent authority for registration as well as issuing of ID cards should be the Labour department;

b. Workers should be compulsorily registered at the source area along with at the work area. Regulation of employment along with ID cards shall be done at source as well as the work destination.

(Please add in rules) Where ever possible onus should be on employers to register the workers and the principle responsibility should. Any local council including Panchayat and other Local self-government;

c. Registration cards be like PAN cards which have a National status and numbering;

4. Inspectors

(1) The State Government may, by notification in the Official Gazette, appoint such of its officers or such officers of any local authority as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit;

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State;

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(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860);

(4) Rights to inspection of workplace and living space of a Domestic Worker by the officially appointed Inspector be done by a committee duly constituted by the labour department consisting of labour officers, workers, employers along with individuals / groups / organisations (including Trade Unions, NGO's working with Domestic workers, Welfare organisations working as service providers, along with the Labour Department and Police where necessary) as assigned by the Tripartite Welfare Board along with the chief inspector;

5. Powers of Inspectors

(1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,-- (a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises: Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate herself ; (b) enter, with such assistants as he thinks fit, at all time any place or premises including the residences of employees if he has reasonable grounds for doing so, after giving due notice to the employer; (c) exercise such other powers as may be prescribed.

(2) Every employer or present member of the household shall accord to the Chief Inspector or the Inspector along with the inspecting committee, as the case may be, all reasonable facilities in the discharge of his duties under this Act;

6. Working hours

(1) No employee shall be required or allowed to work in any household for more than nine hours in any day or for more than forty-eight hours in any week;

(2) Working hours are to be defined as per the nature of work and taking 8 hrs as maximum, with sufficient periods of rest and food for full time workers;

(3) The work span should not be more than 12 hours for live – in (with 3-4 hrs. of rest in between), and similarly full time live-out workers, the work span should not be more than 8 hours;

(4) Provided that any adult employee may be allowed to work in such household premises for any period in excess of the limit fixed under this section subject to the payment of

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overtime wages if the period of work, exceeds 48 hrs. a week and including overtime work, does not exceed ten hours in any day and in the aggregate fifty-hours in any week.

7. Wages for overtime work

(1) Where any employee employed in any household is required to work overtime, she shall be entitled in respect of such overtime work, to wages at the rate of twice her ordinary rate of wages;

(2) The overtime rate shall be calculated, shall be calculated at one and half times the average earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done;

(3) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such prescribed allowances, but does not include bonus.

8. Annual wage increases

a. Every domestic worker must be granted wage increases of at least 8% every year and must be calculated on the domestic worker's actual wage in the preceding month.

b. If the annual increase in the Consumer Price Index is 10% or higher, domestic workers will be entitled to receive a wage increase equivalent to the increase in the Consumer Price Index.

9. Interval for rest

The periods of work for employees in a household shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before she has had an interval for rest of not less than half hour;

10. Weekly holidays

Every worker irrespective of being a full-time, part-time, live-in, nights shift workers will be entitled to a weekly day off;

11. Leave with wages

- i. "Full time worker" and live-in worker will be entitled 30 days of total annual leave with pay which includes National / Festival holidays. Live-in workers will be entitled to travel allowance. A local full-time worker also may be given annual leave totaling

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- to 30 days a year with mutual agreement between the worker and the employer;
Subject to agreement with the workers, a weekly off can be converted to 4 days leave / month rather than a weekly off;
- ii. “Part time worker” will be entitled to the same provisions as that of full-time worker will apply;
 - iii. “Medical and Sick leave” will to apply to all types of workers – sick leave of 10 days as applicable to public sector employees;
 - iv. “Personal Day off” not exceeding 4 days in a year, will be applicable to all Domestic workers.
(Please add this to rules) This means that domestic workers often cannot make doctors appointments that take place during the hours they are at work. Personal days are crucial to allow domestic workers to take care of their own and their families’ health, and to properly do their jobs. The worker should be allowed Union time off for meetings, celebrations of organizations, labour day and trainings;
 - v. If an employee is discharged or dismissed from service or quits employment during the course of the year, she shall be entitled to leave with wages as laid down in the act;
 - vi. If the employment of an employee who is entitled to leave is terminated by the employer before she has taken the entire leave to which she is entitled, or if having applied for leave, she has not been granted such leave, or if the employee quits her employment before she has taken the leave, the employer shall pay her the amount payable under this section in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits her employment, on or before the next pay day;
 - vii. The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal
 - viii. Maternity leave with wages shall be 3 months leave with pay in case the worker has worked for a period more than 240 days, ensuring that when a worker returns from maternity leave she shall not loose the job. (The worker and the employer should through mutual agreement decide regarding the terms and conditions of employment for a replacement during the period of maternity leave);

12. Conditions of work

(i) Work Contract: The government by notification may prescribe a standard employment contract to be drawn up by the employer and to be signed by the employer and the employee (tripartite wherever possible). The work contract should clearly mention leave, time and day off, wages, overtime pay, hours of work, type of work, include full details of the job, conditions of work, employment conditions, living conditions, address, contact etc and a copy should be kept with both employer and employee

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(2) Accommodation: The employer shall make provisions to provide for live-in workers adequate, safe, secure, hygienic, private and fixed space for sleeping (with bedding), and belongings should be provided to residential workers.

(3) Drinking water: The employer shall make adequate and effective arrangements to provide and maintain and situated at convenient, hygienic and safe places, a sufficient supply of safe drinking water;

(4) Bathrooms, latrines and urinals: The employer shall make available safe access to latrine and urinals, situated as may be accessible to the workers at all times, for live-in, full time workers, and allow use and access to the same to part time workers;

(5) Food: The employer shall provide the workers with quality nutritious, fresh and sufficient food as opposed to left overs as prescribed below-

- i. Full time work: Breakfast, lunch and tea
- ii. Residential work: Breakfast, lunch, Dinner tea and food during weekly / or other days off
- iii. Part time work: Tea and snacks
- iv. Night shift work: tea, snacks and breakfast and dinner where applicable

13. Onus as to age

When by any act or omission, a person under a certain age or 18 years of age, is employed by the employer, it will be an offence punishable under this Act. The burden shall be on the accused to prove that such person is not under such age;

14. Forced labour

Subject to the Constitution of India all forced labour is prohibited. No person may, for their own benefit or for the benefit of someone else cause, demand or impose forced labour in contravention of the constitution of India. A person who employs a child or forces a person to work under conditions defined as forced labour, or engages in any form of forced labour, commits an offence in terms of the child labour (regulation and Abolishment) Act and the Bonded labour abolition act.

15. Termination of Employment and Notice of dismissal

- (1) No employer shall dispense with the services of an employee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice;
- (2) Live-in workers who are dismissed without notice face the sudden and simultaneous loss of their job and their home. The employer should ensure proper time is given for a

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live-in worker to make alternate arrangements with a time frame of not more than 1 (one) month;

- (3) The worker to may be prescribed to give one months notice to the employer in the event she wishes to terminate her services;
- (4) The act may also provide for the eventuality that in case of mutual agreement, without notice one months salary should be paid by the employer for termination of services;
- (5) If the employer of a domestic worker who resides at the workplace or in other accommodation supplied by the employer terminates the contract of employment of that domestic worker before the date on which the employer was entitled to do so in terms this clause, the employer is required to provide the domestic worker with accommodation for a period of one month or if it is a longer period, until the contract of employment could lawfully have been terminated.
- (6) On termination of employment, an employer must pay a domestic worker all monies due to the domestic worker for any wages, allowance or other payments that have not been paid;
- (7) If termination rules are violated by the employer, 10,000 Rs should be collected on the spot as fine. In case of a Placement agencies, the agent should face 3 months imprisonment and also cash fine in the nature so that it is difficult for him / her to commit a crime again;
- (8) It should be ensured that workers are not removed from jobs during pregnancy and illness.

16. Special provisions for emigrant workers

The government would through official gazette and along with the Ministry of Overseas Affairs and External Affairs notify guidelines for regulating employment and working conditions for workers going overseas for employment. It shall by this act -

- 1) Documentation of state and status of Immigrant Migrant;
- 2) The age of work for emigrant workers may be 21;
- 3) Issuing of special identity cards with a traceability factors;
- 4) Immigration Act gives very negligible security (including social security) to labour immigrating to other countries so the Act should provide that migrant and immigrant labour should be registered with the TWB and should be given an ID and monitoring of welfare given to them. Ensure that there rights and welfare by consultation with overseas department;
- 5) Government should have proper contracts between the employers and the workers to protect the interests of workers;
- 6) emigrant should be registered at source and place of work with compulsory registration of employer;
- 7) emigrant workers and their agents should register with the labour dept and the lab. Dept should provide them with certification so that the workers know whom to contact in distress

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- 8) If emigrants are employed through placement agency there should be an investigation into placement agencies and cancellation of their licenses if they have not followed the registration and other procedures;
- 9) If emigrant worker is thrown out of work shelter arrangement should be there set up by the govt.;
- 10) There should be Training centers for emigrants labour;
- 11) Ensure that the passport and other travel documents remain in the safe custody of the worker

17. Tripartite Welfare Boards and Functions

- (1) The Central Government may constitute a tripartite welfare board (TWB) constituting not less than 50% of workers/ workers representatives from amongst both the live-in and live-out, employers / their representatives and the government. Each TWB member shall be chosen in such manner as may be prescribed by the Central government. The Chairman of each TWB shall be appointed by the Central Government. The Central Government shall publish in the Official Gazette the names of all members of every TWB;
- (2) The TWB or the Central TWB may, at any time and for such period as it thinks fit, co-opt any person or persons to the TWB. A person co-opted under sub-section 17 (2) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote;
- (3) A TWB member, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, she/he shall not be entitled to vote;
- (4) The TWB thus set up in a State or in a Union Territory shall be responsible for administering the Act and the schemes and shall exercise such powers and perform such functions as detailed in section 18 and as may be conferred on them by the Act
(please add functions of the government and labour department in rules)

18. Welfare fund

- (1) The Central government by way of this Act should set up a fund and by notification shall provide for the financing of measures to promote the welfare of persons engaged in domestic work. The fund may be called the Domestic Workers Welfare and Social Security Fund;
- (2) It extends to the whole of India. It shall come into force in a State on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas in the State and for different provisions of this Act;
- (3) The Employers shall contribute one months wages / annum to the fund for welfare and social security of the workers. A matching contribution should also be given by the Central

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and state governments. Any income from investment of the amount credited under the Act, towards the Fund;

(4) The fund shall be monitored and administered by the Tripartite Welfare Board (TWB);

(5) The Fund shall be applied by the appropriate Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the social security and welfare of persons engaged in domestic work; and in particular –

- a. Health: minimum standards for health care should be met by the employer. The government shall formulate adequate Insurance schemes to cover complete health of the Domestic Workers; emergency health care should be provided by employer when worker falls sick during working hours. First aid facilities should be provided as may be prescribed. The government should formulate as rules a comprehensive scheme to cover all types of health problems that arise with Domestic Workers and to include hospitalization, OPD, loss of work etc...The TWB can also contribute towards OPD charges not more than Rs. 3,000 annually. This will be limited to the workers herself;
- b. Occupational health hazards: safety materials for work shall be provided. OHS be given special attention and further studies be done to come up with specific suggestions; emergency health care should be provided by employer when accidents happen at workplace;
- c. Crèches: TWB shall be responsible to set up a crèches/child care centre near the place of work. There shall be provided and maintained a suitable room or rooms for the use of children under the age of six years. Such rooms shall (i) provide adequate accommodation ; (ii) be adequately lighted and ventilated ; (iii) be maintained in a clean and sanitary condition ; (iv) be under the charge of women trained in the care of children and infants.
- d. Education of children of Domestic Worker: Welfare boards to pay scholarship for the primary, secondary and graduation of the child and wherever based on merit, post graduation and above. There should be a tie up with the government schemes for education and aid be defined for two children / family;
- e. Education, Training and skill development of the worker: Welfare boards to run training and skill development centers (specifically in the area of house / home management skills) and assist the workers to take advantage of the government run literacy centers and other such skill development and enhancement programmes. The board will also assist in identifying them as workers beneficiaries under these programmes. Employers at their own initiative should ensure minimum literacy to the workers they employ. The Government through the TWB should have a role in running worker facilitation centers as per local needs and facilities available; screening of working capacity before enrolling them in training facilities. They should be certified as trained. Mainstream schools also to have vocational training. Vocational training at source.
- f. Education subsidy for the children of domestic workers be set up by the board and to ensure that child labour get education;

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- g. Natural death and accident benefit: take into account compensation for accidents which happen during travel to and fro to work;
- h. Old age pension: to be implemented by the board as per the draft bill. Workers above 60 yrs be eligible to pension;
- i. Provident fund: to apply as per existing laws;
- j. Gratuity: to apply as per existing laws;
- k. Bonus: to apply as per existing laws but to ensure that bonus is paid in cash as one month salary;
- l. Maternity benefit: 90 days paid leave. (when a worker returns from maternity leave the worker should not loose the job. The worker and the employer should through mutual agreement decide regarding the terms and conditions of employment for a replacement)
- m. Paternity leave to apply as per existing laws;
- n. Retirement age to be as in the Factories Act;
- o. Housing subsidy for the improvement of housing including standards of living, and amelioration of social conditions;
- p. Shelter homes: shall be set up for the battered and distressed women and children and also for those workers who are in dispute with the employer;
- q. Helpline and information centers: for workers who are harassed, battered and distressed;
- r. Sexual Harassment, Physical abuse, Gender Harassment: first to be reported to RWA where applicable, TWB, to the police and to the child welfare committee if below 18 years of age. Guidelines to be framed for protection and decent / dignified treatment of workers. A redressal system and cell to be set up for sexual harassment. Wide publicity should be given with maximum use of print, visual and electronic media to these guidelines and its implementation mechanism. Complaint should also go the State Commission of Women;
- s. Domestic workers should be organised and unionized;**
- t. A complaints committee be set up in each welfare board;
- u. Protection against verbal abuse.
- v. A monitoring and vigilance committee also be set up to deal with corruption;
- w. Counseling center for employers and employees;
- x. Set up a children's home;
- y. Old age home for those who have no one to depend upon;
- z. There should be a log book system; (Please add details in rules)

19. Offences and Penalties

(1) Any employer or service provider who contravenes the provisions of the Act or any rules made there under shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to

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one hundred rupees for every day during which such contravention continues after conviction for the first such contravention;

(2) Penalty for obstructing Inspector: Whosoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demand any register or other document kept in his custody in pursuance of this Act or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both;

(3) General penalty for offence: Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Act or of any rule made there under, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under the act, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both;

(4) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936) with regard to the definition of wages, any compensation required to be paid by an employer under the act but not paid by him shall be recoverable as delayed wages under the Act;

(5) Cognizance of offences: No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector. No Court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

20. Competent Authority

(1) Effect of laws and agreements inconsistent with this Act: The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act: Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to her than those to which he will be entitled to under this Act, the employee shall continue to be entitled to

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the more favourable benefits in respect of that matter notwithstanding that she receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

(3) Powers of Central Government to give directions: The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

21. Power to make rules

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. The rules as formulated by the Central government will apply in each state till the state government forms and applies state rules;

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the terms and conditions of employment and the employment contract;
- (b) the powers which may be conferred on the Inspectors and TWB under this Act;
- (c) the types of urinals and latrines required to be provided under this Act ;
- (d) the form and manner of notice regarding the periods of work and rest;
- (e) the manner in which the issuing of identity cards, BPL cards and travel concession shall be given;
- (f) specifying how and when wages and other benefits shall be paid;
- (g) any matter which is required to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication;

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, and be published in the official gazette.

22. Right to Association – Freedom of Association

Every worker will be ensure dthe right to belong to an association and shall enjoy the freedom to choose to belong to an association of ones own choice.

23. Model Contract for Employment

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(should be certified by the TWB)

This contract was made between _____ (the employer) and _____ (the employee) on _____ (date) and has the following terms of employment:

1. The employee shall be employed beginning on _____ (date).
2. The employee shall work at employer's residence at _____.
3. The employee is live-in / live-out / night shift / part time (circle one).
4. State number of children / elderly to be cared for: _____

Description of children / elderly (age, gender, activities, etc.)

5. Work Responsibilities:

Job entails the following:

Job does **not** entail the following:

6. The employee shall not be required to work for or under supervision of any person other than the employer or otherwise agreed upon
7. Employer shall pay employee Rs. _____ per month, not including overtime. The normal rate of pay is Rs. _____ per hour. Overtime rate of pay is Rs. _____ per hour.
8. The span of work with a working week shall be 48 (live-out work) or 72 (live-in work) hours.
- In accordance with the laws, employee shall be compensated **one and a half** times the normal rate of pay for every hour worked beyond 54 (live-out work) or 60 (live-in work) hours.
9. Employee shall receive her monthly wages every _____ (day of the week)
10. Both employer and employee shall have a signed record of the payment of wages.
11. Employer shall provide a letter of reference at the end of the first year and at the end of each subsequent year of employment.
12. Upon completion of one year of employment, employee shall receive _____ days of paid vacation annually.
 - The timing of the vacation shall be determined by the employee. The employer cannot require employee to take her/his vacation to coincide with that of the employer.
 - If the contract is terminated before the employee takes her vacation, the employee shall be paid for the above number of weeks at the time of termination.

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13. Employee shall receive, with pay, the following eight nationally observed holidays:
 - a) Independence Day
 - b)-----
14. Employee shall receive 7 paid sick leave days.

- In addition, employee is entitled to four paid personal days.
15. Employee shall receive three month of paid maternity leave. Employment shall not be terminated under this provision if employee can resume employment after the month of maternity leave.
16. Employee is entitled to periodic breaks throughout the day, including meal breaks.
 - Child care worker may take these breaks when the child(ren) is/are sleeping or otherwise safe.
17. Employer and employee agree to the following food arrangement:

Employer should facilitate that the live-in employee keep in contact with the family. In case of an emergency the employer shall allow access to employer's phones,
18. Lodging (for live-in domestic workers only): The employer shall make provisions to provide for live-in workers generally accepted accommodation,
19. Employer and employee shall make good faith efforts to discuss and resolve any conflicts arising under this contract.
20. Either party may terminate the contract by giving one months notice.
 - The employer may give one month notice pay in lieu of notice to terminate the contract immediately
21. Employee is entitled to a raise of not less than 8 % every year.
22. Any addition to the family reflects a significant change in the job description. For this reason, for each additional work, employer shall compensate employee with a raise in salary of Rs. _____ per week.
23. Employer understands that workers are protected by labor laws, regardless of race, gender, immigration status or age.

Date _____

Signed by the Employer _____

Name of Employer _____

Signed by the Employee _____

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Name of Employee _____

In the Presence of

Name of Witness

Signature of Witness

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