

**An Act Amending Book III, Articles 141-152 of the Labor Code, Otherwise
Known as the “Magna Carta for the Kasambahay 2005”**

ARTICLE 1 TITLE, POLICIES, PRINCIPLES AND DEFINITION OF TERMS

Section 1. *Short Title.* — This Act shall be known as the “*Magna Carta for the Kasambahay 2005*”.

Section 2. *Declaration of Policies.* — The State affirms labor as a primary social force and has committed to protect the rights of workers and promote their welfare. It is party to international instruments pledging the elimination of forced labor, elimination of discrimination in employment and occupation, and the abolition of child labor and trafficking in persons.

The State has adopted the Decent Work Framework outlining good conditions of work for Filipino workers, which includes establishing labor standards, decent employment and income, enhanced coverage of social protection and strengthened social dialogue, including kasambahays.

It seeks to uphold the rights and dignity of kasambahays to protect them from abuse and exploitation by providing safe and humane working conditions. Despite the vital and necessary work performed by kasambahays for most Filipino households and the important role they play in society, they are considered as one of the most vulnerable sectors in society due to the nature of their work. Of equal concern however, are employers of kasambahays who have equal rights to protection from abuse and exploitation of kasambahays.

The State further recognizes that kasambahays of minority age have special inalienable rights and privileges that should be espoused and protected, particularly in the areas of education and self-improvement.

The State recognizes the importance of partnering with various groups and individuals in the promotion and protection of the rights and welfare of kasambahays and enabling to be empowered members of society.

Section 3. *Definition of Terms.* – For purposes of this Act, the following terms shall mean:

- a.) “*Kasambahay*” – Kasambahay shall refer to any person employed in the employer's residence, performing tasks ascribed as household work for which he or she is being paid wages by the employer for services rendered.
- b.) “*Batang-kasambahay*” – Children below eighteen years of age employed as kasambahay.

- c.) “*Employer*” – shall refer to any person who engages the services of the kasambahay for household work and/or is party to the employment contract.
- d.) “*Household*” – an aggregate of persons generally but not necessarily bound by ties of kinship, who sleep in the same dwelling unit and have common arrangements for the preparation and consumption of food.
- e.) “*Household work*” – refers to tasks performed by the kasambahay as specified in the employment contract.
- f.) “*Hazardous work*” – refers to any activity or circumstance where the kasambahay is exposed to risk which constitutes an imminent danger to his or her safety, health or morals.
- g.) “*Wages*” – adopt official definition of wages, to be provided by NWPC.
- h.) “*Board and lodging*” – shall refer to food and shelter which shall be afforded to the kasambahay free of charge and nondeductible to his or her wage.

ARTICLE 2 - RIGHTS OF THE KASAMBAHAY

The kasambahay has the right to decent work which includes decent employment and income, humane conditions of work, access to and coverage in social protection schemes, and the opportunity for social dialogue and representation.

Section 4. *Right to Just and Humane Conditions of Work.* The kasambahay has the right to a safe and healthy work environment, continuous (sufficient) rest periods, time for recreation and leisure.

Section 5. *Right to Just and Humane Treatment.* The Kasambahay is entitled to be treated free from any physical or psychological violence, or any other act which debases, degrades or demeans the intrinsic worth and dignity of the *kasambahay* as a human being be used upon the latter.

Section 6. *Right against Involuntary Servitude, Debt Bondage and Trafficking.* The kasambahay shall have the right to refuse or deny his or her services to work or tasks not stipulated in the employment contract.

In case the kasambahay agrees to work in industrial undertakings and perform work or task for the service or benefit of another household, he or she shall be entitled to applicable minimum wage or just compensation respectively.

Section 7. *Right to Social Protection.* The kasambahay shall be covered by the Social Security System (SSS) and be entitled to all the benefits provided under Republic Act No. 8282, as amended. The employers of said kasambahay shall pay for the employer's

share of the SSS contributions without deducting the same from the monthly compensation of the kasambahay. The kasambahay shall also pay for the employee's share of the SSS contributions.

All house helpers shall be covered by the Philippine Health Insurance Corporation (Philhealth) in accordance with its guidelines and be entitled to all the benefits provided by law.

Section 8. *Right to Privacy.* The kasambahay shall have the right to privacy during his/her rest periods. The *kasambahay's* right to privacy shall extend to any and all forms of personal communications.

Section 9. *Right to Minimum Wage.* The kasambahay shall be entitled to the following minimum wage rates:

- (a) TWO THOUSAND FIVE HUNDRED PESOS (Php2,500.00) a month for *KASAMBAHAY* WORKING in the National Capital Region (NCR);
- (b) ONE THOUSAND SEVEN HUNDRED PESOS (Php1,700.00) a month for those WORKING in other chartered cities and first class municipalities; and,
- (c) ONE THOUSAND FIVE HUNDRED PESOS (Php 1,500.00) a month for those WORKING in other municipalities."

Within one (1) year after the passage of this law, the Regional Tripartite Wages and Productivity Boards (RTWPBs) shall determine and adjust, from time to time, the appropriate minimum wage rates of kasambahays in accordance with the special wage fixing mechanism.

Section 10. *Right to free board, lodging and medical attendance.* The kasambahay has the right to suitable and sanitary living quarters as well as adequate food and medical attendance free of charge.

Section 11. *Right to access educational opportunities.* The kasambahay has the right to access opportunities for education and training to upgrade their skills and improve the services they provide to their employers.

Section 12. *Right to self-organization.* The kasambahay shall have the right to form or join association or societies for purposes not contrary to law.

Section 13. *Right to redress grievance.* The kasambahay shall have the right to redress grievance and to the expeditious settlement of disputes.

All other rights not specified herein but guaranteed by the Constitution are affirmed and shall be equally afforded to the kasambahay.

ARTICLE 3 - LABOR STANDARDS FOR THE KASAMBAHAY

Section 14. *Employment contract.* - (a) All household working arrangements or agreements shall be covered by a written employment contract, in a language or dialect understood by both employer and the *kasambahay*, duly signed by both of them. Each of the contracting party shall be provided with a complete set of the duly signed employment contract, certified by the *Punong Barangay*, whose office has jurisdiction over the residence of the employer, which shall include the following:

14(a) *Parties to the contract.* Parties to the contract shall contain the name and provincial address of the *kasambahay* as well as the name and residential address of the employer.

14(b) *Members of the household.*

14(c) *Work Description.* The scope and description of work of the *kasambahay* shall be identified by the employer provided that the *kasambahay* agrees to the same.

14(d) *Period of Employment.* The period of employment of the *Kasambahay* shall be no less than one (1) year.

14(e) *Monthly compensation and mode of payment.* Payment of wages shall be made directly to the *kasambahay* in legal tender, at least once every two (2) weeks or twice a month at intervals not exceeding sixteen (16) days.

No employer shall pay wages of *kasambahays* by means of promissory notes, vouchers, coupons, tokens, tickets, chits or any object other than legal tender, even when expressly requested by the *kasambahay*.

14(f) *Rest periods and day-off.* The employer shall provide the *kasambahay* a daily rest period of at least 8 hours and a weekly rest period of at least (24) consecutive hours after six (6) consecutive normal work days.

The employer and the *kasambahay* shall agree in writing the schedule of the weekly rest day of the *kasambahay*. However, the employer shall respect the preference of employees as to their weekly rest day when such preference is based on religious grounds.

14(g) *Deductions.* Unless mutually agreed upon by the *kasambahay* and his or her employer, no deductions from the pay shall be made, other than those authorized by law including wage advances, subject to the agreement between the employer and the *kasambahay* on the amount of deductions per payday.

14(h) *Living quarters, food and medical provisions.* The employer shall provide the *kasambahay* suitable and sanitary living quarters, adequate food and medical attendance free of charge.

14(i) *Termination of employment.* The causes and conditions of termination to be stipulated in the employment contract shall be in accordance with Sections 26-29 of this Act.

14(j) accountabilities acceptable to both parties and conditions to maintain harmonious relations in carrying out and safeguarding said accountabilities

In the event that the provisions of the employment contract could not sufficiently guaranty the basic rights of both parties, the provisions of this law shall serve in suppletory manner.

Section 15. *Pre-requisites for employment.* The employer may require reasonable pre-requisites for employment of the kasambahay.

Section 16. *13th Month pay.* The kasambahay shall be entitled to a thirteenth (13th) month pay equivalent to the existing minimum wage.

Section 17. *Assignment to Non-Household Work.* No kasambahay shall be assigned to work in a commercial, industrial or agricultural enterprise at a wage or salary rate lower than that provided for agricultural or non-agricultural workers as prescribed therein.

Section 18. *Prohibition on the use of services of household workers in places other than their legitimate workplace.* It shall be unlawful for any individual, entity or institution to engage the services of the kasambahay without a valid contract.

Section 19. *Maternity Leave.* All female kasambahay shall be entitled to a maternity leave benefit pursuant to Section 14A of R.A. 8282, otherwise known as Social Security Act of 1997.

Section 20. *Paternity Leave.* All married male kasambahay shall be entitled to a paternity leave of seven (7) days pursuant to the provisions of R.A 8187 or the Paternity Leave Act of 1997

Section 21. *Vacation Leave.* The kasambahay shall be entitled to a minimum five (5) days vacation leave with pay.

Section 22. *Salary increase and/ or other benefits.* Salary increase and/or other benefits may be granted by the employer based upon internal and mutual agreement by both parties pursuant to existing laws, rules and regulations.

Section 23. *Indemnity for Unjust Termination of Services.* - If the period of household service is fixed, neither the employer nor the kasambahay may terminate the contract before the expiration of the term, except for a ***just cause***.

Section 24. *Service of Termination Notice.* - If the duration of the household service is not determined either in stipulation or by the nature of the service, the employer or the kasambahay may give notice to put an end to the relationship five (5) days before the intended termination of the service.

- (a) The employer may disregard the five (5) day notice and immediately cause the termination of the service of the *kasambahay*; provided that the employer pays the salary due him or her;
- (b) The *kasambahay* may, prior to the expiration of contract, put an end to the *employer-kasambahay* relationship, by putting the employer on notice at least five (5) days in advance.

Section 25. *Termination initiated by the Kasambahay.* The *kasambahay*, may unilaterally terminate the relationship without serving any notice on the employer for any of the following just causes:

- (a) Serious insult by the employer or any of his or her immediate household on the honor and person of the *kasambahay*;
- (b) Inhuman and unbearable treatment accorded to the *kasambahay* by the employer or any of his or her immediate household;
- (c) Commission of a crime or offense by the employer or any of his or her immediate household against the *kasambahay*;
- (d) Other causes analogous to any of the foregoing.

Section 26. *Termination by employer.* An employer may terminate an employment for any of the following causes *without serving any notice*:

- (a) serious misconduct or willful disobedience by the kasambahay of the lawful order of his employer in connection with his/her work;
- (b) gross or habitual neglect by the kasambahay of his duties;
- (c) fraud or willful breach by the kasambahay of the trust reposed in him by his employer;
- (d) Commission of a crime or offense by the kasambahay against the person of his employer or any immediate member of his family; and
- (e) Other causes analogous to the foregoing

Section 27. *Prohibition on the employment of Batang-kasambahay.* Consistent with Republic Act 9231, the employment of batang-kasambahay is hereby prohibited. In no case shall children of kasambahay, below 18 years of age, be suffered to work as kasambahay.

Pursuant to this policy, the LGU in cooperation with the DOLE, DSWD, DepEd, DILG, other concerned government agencies, and all other stakeholders, shall endeavor to implement appropriate measures for the eradication of child domestic work. Such measures shall include but not limited to access to appropriate education and training,

alternative livelihood and employment for their families, rescue, healing and reintegration services.

ARTICLE 4 - THE ROLE OF GOVERNMENT ENTITIES IN THE DELIVERY OF PROGRAM AND SERVICES

Section 28. *Role of LGUs.* Local Government Units (LGUs) shall facilitate access of kasambahays to all existing programs and services. The LGUs, through their local development plans, shall prioritize concerns regarding kasambahays and develop and implement plans and programs in support of this law.

Section 29. *Support Institutions.*

(a) *Role of Department of Interior and Local Government.* The DILG shall oversee and provide technical assistance to ensure the implementation of LGU on the kasambahay programs and services. The DILG shall be responsible for the continuous upgrading and enhancement of the knowledge and skills of barangays to assume their assigned responsibilities under this Act.

(b) *Role of the Department of Labor and Employment.* The DOLE shall be responsible for the continuous enhancement of standards for the employment and welfare of kasambahays. Towards this end, the DOLE shall also provide a venue for the continuous of dialogue between and among stakeholders and domestic workers. It shall also conduct trainings and seminars on improving working conditions in the households, occupational safety and health, labor education and livelihood development. It shall also provide employment facilitation services for the kasambahay.

(c) *Role of Department of Social Welfare and Development.* The DSWD shall institute a program designed specifically to provide emergency services to the kasambahay in need of custody, shelter, healing or legal, medical, psychological and rehabilitative services.

(d) *Role of Department of Education.* The DepEd shall develop and administer equivalency test and alternative educational programs for the accreditation of educational qualification of the kasambahays. The DepEd shall work with LGUs in establishing and strengthening special education programs including capacity-building for instructional managers.

(e) *Role of Technical Education and Skills Development Authority.* The TESDA shall be responsible for the continuous enhancement of training regulations which will serve as the basis for the development of curricula, registration and delivery of training programs for kasambahays. It shall also be responsible for the development and administration of assessment packages and certification of kasambahays.

(f) *Role of Philippine National Police.* The PNP shall coordinate with LGUs, DSWD and other relevant agencies in conducting rescue operations for abused kasambahays.

(f) *Role of NGOs and other groups.* Non-government organizations and other groups shall equally contribute to the delivery of programs and services to be provided by government offices as prescribed in this law.

ARTICLE 5 - SETTLEMENT OF DISPUTES

A mechanism for settlement of disputes arising from the employment contract is hereby prescribed as follows:

Section. 30. *Barangays as Primary Resort in Settling Disputes.* The *barangays* shall serve as the primary resort in settling disputes and shall render conciliation and mediation services in disputes.

Section 31. *Role of the Department of Labor and Employment.* The DOLE shall take cognizance of disputes arising from the employment of *kasambahays* for any violation of the labor standards provisions hereof, only upon the exhaustion of conciliation and mediation at the level of the *barangay*.

Section 32. *Role of the National Labor Relations Commission.* The NLRC shall assume jurisdiction on disputes arising from employment of *kasambahays* over cases which it has original and exclusive jurisdiction, only upon the exhaustion of conciliation and mediation at the level of the *barangay*.

Section 33. *Role of the Courts.* Regular courts which have exclusive and original jurisdiction of cases other than disputes arising from the employment of *kasambahays* shall take cognizance only after prior recourse in the *barangay* level has been exhausted.

ARTICLE 6 – EMERGENCY SERVICES FOR CASES OF ABUSE (VF)

Punitive acts and recourse (define what acts to be punish) (role of PNP)

ARTICLE 7 - MISCELLANEOUS PROVISIONS

Section. 34. *Implementing Rules and Regulations.* - The Department of Interior and Local Government and the Department of Labor and Employment, in collaboration with other government agencies charged with the implementation of the provisions of this Act shall, within a period of one (1) year from the date of its effectivity, promulgate the necessary implementing rules and regulations.

Section. 35. *Araw ng mga Kasambahay*. - The date upon which the President shall approve this *Batas Kasambahay* will be designated as the " *Araw ng mga Kasambahay*".

Section. 36. *Non-diminution clause*. - Nothing in this Act shall be construed to cause the diminution or substitution of any benefits and privileges currently enjoyed by the *kasambahay*. All existing arrangements between employer and *kasambahay* shall conform to the minimum standards set by this *Batas Kasambahay* within a period of sixty (60) days upon effectivity of this Act.

Section. 37. *Penal Provisions*. – To be provided by DOJ

Section. 38. *Repealing Clause*. – Article 143 paragraph (c) and (d) of PD 442 as amended is hereby expressly repealed. All laws, decrees, presidential issuances, executive orders, rules and regulations or parts thereof not consistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

Section. 39. *Separability Clause*. - If any provision or part of this Act, or the application thereof to any person or circumstance be held unconstitutional or be declared invalid, the remainder of this Act shall not be affected thereby.

Section. 40. *Effectivity Clause*. - This *Batas Kasambahay* shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.