

Bill No. 54 of 2015

THE DOMESTIC WORKERS (DECENT WORKING CONDITIONS)
BILL, 2015

By

DR. KIRIT PREMJBHAI SOLANKI, M.P.

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BILL

*to provide for decent working conditions for, and regulation of terms of service of,
domestic workers and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

- 5 **1.** (1) This Act may be called the Domestic Workers (Decent Working Conditions) Act, 2015.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent,
commencement
and
application.

(4) It shall apply to every person employing one or more domestic workers.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "child" means a boy or a girl who has not completed the age of eighteen years;

(b) "domestic work" means work performed in or for a household and includes cooking, house-cleaning and attending to any other job connected with household chores;

(c) "domestic worker" means a person employed in a household for domestic work; and

(d) "employer" means a person who has employed a domestic worker in his household either directly or through any agency.

Application of the provisions of the Industrial Disputes Act, 1947.

3. (1) The provisions of the Industrial Disputes Act, 1947, as in force for the time being, shall, so far as applicable and subject to the modification specified in sub-section (2), apply to, or in relation to domestic workers as they apply to, or in relation to workmen within the meaning of that Act.

(2) Section 25F of the aforesaid Act, in its application to domestic workers shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a worker had been substituted, namely:—

(a) three months in case of domestic workers who have been in continuous service for a period of not less than two years; and

(b) two months in case of other domestic workers.

Agreement as to terms and conditions of service of domestic workers.

4. (1) Every employer shall enter into an agreement relating to terms and conditions of employment with the domestic worker.

(2) The agreement of terms and conditions of employment of a domestic worker shall include,—

(a) the name and address of the employer and of the domestic worker;

(b) the address of the usual workplace or workplaces;

(c) the duration of the contract of employment;

(d) the nature of work to be performed;

(e) the remuneration, method of calculation and periodicity of payment of wages;

(f) the normal hours of work;

(g) paid annual leave and daily and weekly rest periods;

(h) the provision of food and accommodation, if applicable;

(i) the period of probation or trial period, if applicable;

(j) the terms of repatriation, if applicable; and

(k) such other terms and conditions relating to the termination of employment, including any period of notice either by the domestic worker or the employer.

Payment of gratuity to domestic workers.

5. Where any worker has been in continuous service, whether before or after the commencement of this Act, for not less than one year, and—

(i) his services are terminated by the employer for any reason whatsoever, or

(ii) he voluntarily resigns from service, or

(iii) he dies while in service,

14 of 1947.	5	<p>the worker or, in the case of his death, his nominee or if there is no nomination in force at the time of the death of the worker, his heirs, as the case may be, shall without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, resignation or death, by the employer gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.</p>	
		<p>6. (1) The Central Government may, in consultation with the representatives of the domestic workers from amongst the unions or associations of the domestic workers, by order,—</p>	Fixation of wages by the Government.
	10	<p>(a) fix rates of wages in respect of domestic workers; and</p> <p>(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.</p>	
		<p>(2) The rates of wages may be fixed or revised by the Central Government in respect of domestic workers working on time work basis or on piece work basis.</p>	
15		<p>7. Every domestic worker shall be entitled to be paid by his employer wages at the rates which shall in no case be less than the rates of wages specified in the order referred to in section 6.</p>	Right to wages.
		<p>8. (1) No domestic worker shall, except the time taken for meals and leisures, be required to work for more than —</p>	Regulation of work hours.
20		<p>(i) eight hours in a day;</p> <p>(ii) forty-eight hours in a week; and</p> <p>(iii) five consecutive hours in a day.</p>	
		<p>(2) Every domestic worker shall be entitled to—</p>	
25		<p>(i) half-an-hour of rest every five hours of consecutive work;</p> <p>(ii) one holiday per week; and</p> <p>(iii) holidays on such occasions, as may be specified by the Central Government.</p>	
30		<p>9. Notwithstanding anything in section 8, a domestic worker may, owing to reasonable requirements in a household, agree to work for more than forty-eight hours in a week, and, in such a case, he shall be paid such overtime, being not less than twice the normal wage rate, as may be prescribed by rules made under this Act.</p>	Wages for overtime work.
		<p>10. Every domestic worker, who has put in a service for a period of not less than six months, shall be entitled every year to the following leave, namely:—</p>	Leave entitlement.
		<p>Casual Leave — 12 days;</p> <p>Sick Leave — 21 days;</p>	
35		<p>Earned Leave — 1/11th of the number of days spent on duty.</p>	
		<p>11. No employer shall employ a child as a domestic worker or for any such incidental or ancillary work which is prohibited under any law for the time being in force.</p>	Prohibition of employment of child as domestic workers.
40		<p>12. (1) The State Governments or the Union territory Administrations, as the case may be, may, by notification in the Official Gazette, appoint such persons as they think fit to be Inspectors for the purpose of this Act and may define the local limits within which they shall exercise their powers.</p>	Appointment of Inspectors.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

45 of 1860.

Powers of Inspectors.

13. An Inspector may,—

(a) require any person to produce any register, muster-roll or other documents relating to the employment of domestic workers by him and examine such documents; and

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(b) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are complied with.

Penalty.

14. If any employer contravenes the provisions of this Act, he shall be punished with imprisonment which may extend to one year and fine which may extend to ten thousand rupees.

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Provisions to be in addition to and not in derogation of any other Act.

15. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

16. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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STATEMENT OF OBJECTS AND REASONS

In a developing country like India, with a large informal employment sector, domestic workers constitute a significant proportion of the national workforce and remain the most marginalized. Domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, majority of whom are migrants or members of disadvantaged communities and are particularly vulnerable to discrimination in respect of conditions of employment and work and to other abuses of human rights.

Domestic worker organizations all over the country have been advocating for better service conditions. Therefore, a comprehensive legislation for the promotion of decent working conditions and protection of the rights of domestic workers is necessary.

Hence, this Bill.

NEW DELHI;
February 6, 2015

KIRIT PREMJI BHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides that the State Governments or the Union territory Administrations, as the case may be, may appoint such persons as they think fit to be inspectors for the purposes of this Act. The expenditure relating to States shall be borne out of the Consolidated Funds of the respective States. However, the Central Government may also have to provide some financial assistance to the States for this purpose. Also, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty lakh will be involved as recurring expenditure per annum from Consolidated Fund of India.

A non-recurring expenditure of rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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