

**THE KERALA DOMESTIC WORKERS (REGULATION AND WELFARE)**

**BILL, 2021**

**A**

**BILL**

**to provide for the protection, regulation and welfare of domestic workers in the State and for matters connected therewith or incidental thereto.**

**Preamble.- WHEREAS, it is expedient to enact a law to provide for the protection, regulation and welfare of domestic workers in the State and for matters connected therewith or incidental thereto.**

**BE it enacted in the Seventy second year of the Republic of India as follows:-**

1. **Short title, extent and commencement.**-(1) This Act may be called the Domestic workers (Regulation and Welfare ) Act,2021.  
 (2) It shall extent to the whole state of Kerala.  
 (3) It shall come into force at once.
2. **Definitions.**- In this Act, unless the context otherwise requires ,-
  - (a) “Act” means the Domestic Workers (Regulation and Welfare ) Act,2021;
  - (b) “agency” means any agency, bureau, contractor, person or association , registered under the Act , engaged in the placement of domestic workers with employers and includes such agency or person offering such services through any electronic communication;
  - (c) “beneficiary” means a domestic worker or the legal heirs of a deceased domestic worker eligible to receive benefits under the Act ;
  - (d) “Board” means the State Domestic Workers Welfare Board constituted under section 13 of the Act ;

- (e) "child" means a person who has not attained the age of 15 years;
- (f) "council" means the Dispute Redressal Council appointed by the Board under section 11 of the Act;
- (g) "director" means the director of the Board nominated by the Government under section 13;
- (h) "dispute" means any dispute or conflict between domestic worker and employer , domestic worker and agency or employer and agency concerning domestic work, employment or the terms and conditions of employment of domestic work;
- (i) "domestic work" means any household work like cooking, cleaning, house keeping, washing of clothes, gardening, childcare, old age care, care of sick and maternity and such other manual work as mutually agreed between the employer or the agency and the domestic worker, carried out at the work place;
- (j) "domestic worker" means a person employed directly or through an agency to do domestic work for remuneration, for one or more employers, by staying at the house premises or otherwise and includes casual and temporary domestic workers and home nurses;
- (k) "employer" means an owner or occupier of a house or other building who has employed domestic worker, either directly or otherwise on remuneration for doing domestic work;
- (l) "fund" means the fund constituted by the Board under section 18 of the Act;
- (m) "Government" means the Government of Kerala;
- (n) "house" means the place of work including any establishment or other place where the domestic worker is employed for doing domestic work;

- (o) "Inspecting Officer" means the Officer appointed under section 12 of the Act;
- (p) "member" means a registered member of the Domestic Workers Welfare Board entitled to the benefit under the Act;
- (q) "prescribed" means prescribed by rules made under this Act;
- (r) "remuneration" means all payments in terms of money which would be payable to a domestic worker in respect of domestic work done, but does not include,-
  - (i) the value of any house accommodation, supply of light, water, medical attendance or any other amenity;
  - (ii) any contribution paid by the employer under any scheme of social insurance and the interest which may have accrued thereon;
  - (iii) any travelling allowance ;
  - (iv) any sum paid to the domestic worker to defray special expenses entailed on him by the nature of his work;
  - (v) any compensation paid on discharge; or
  - (vi) gift or anything given in kind or otherwise.
- (s) "scheme" means the Domestic Workers' Welfare Scheme framed under the Act;
- (t) "State" means State of Kerala.
- (u) "working hours" means the period for which a domestic worker remains at the work place for purposes related to the domestic work.

3. **Rights of domestic worker**.- (1) Every domestic worker shall have the right to ,-

- (a) work and earn livelihood free from all forms of bonded labour and forced or compulsory labour ;
- (b) earn such remuneration as may be agreed to including allowances for extra work ;
- (c) redressal of grievances; and
- (d) benefits as may be provided under the Act.

(2) Domestic worker shall be provided with dignified working and living conditions, occupational safety and health measures.

(3) The working hours and leave of the domestic worker shall be as per the terms of employment.

4. **Registration of agency**.- (1) From the date of commencement of this Act all agencies engaged in the placement of domestic workers with employers shall compulsorily be registered with the Board.

(2) The Proprietor or the person in charge of the agency shall, within 30 days of the constitution of such agency, submit an application along with documents, as may be prescribed, to the Secretary of the Board for registration.

(3) On verifying the application and other records submitted under sub section (2), the Secretary shall, after conducting necessary enquiry as he deems fit , place the same together with a report before the Board for consideration.

(4) The Board shall after consideration of the application and the report, either register the agency on remitting such fee, as may be prescribed or reject the application :

Provided that, the Board shall, before rejecting the application afford a reasonable opportunity to the applicant of being heard .

(5) If the application is rejected the order thereof shall be served to the applicant forthwith.

(6) The party aggrieved by the decision of the Board under sub-section

(4) may file an appeal before the Government within 30 days of receipt of the order of rejection and thereupon the Government shall, after hearing the parties concerned , pass appropriate orders and the decision of the Government shall be final.

(7) After registration, the Board shall enter the name and other details of such agency in the Register maintained for that purpose and shall issue a certificate of registration in the form, as may be prescribed.

(8) The registration of the agency shall be for a period of 5 years and the registration may be renewed on fresh application on payment of such fee, as may be prescribed.

(9) After the commencement of this Act , no agency shall be engaged in the placement of domestic workers with employers without valid registration under the Act.

(10) If any agency is engaged in the placement of domestic workers with employers without valid registration under the Act, the proprietor or the person in charge of the agency shall , on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to 10,000 rupees or with both.

5. Rights and Duties of agencies .-(1) Every agency shall maintain a register of the domestic workers empanelled with that agency in the manner as may be prescribed.

(2) Before such empanelment the agency shall, after conducting an enquiry regarding the antecedents and medical records of the domestic worker who has applied for empanelment, register the domestic worker for placement with employers.

.

**(3) After placement of domestic workers with employers, the agency shall maintain proper registers and records of such domestic workers.**

**(4) The agency shall deliver a letter to the domestic worker in the form, as may be prescribed, showing the nature, terms and conditions of work and details of remuneration with a copy to the employer.**

**(5) The service charge levied for engaging a domestic worker by the agency shall not exceed ten percent of the total remuneration paid by the employer.**

**(6) Any proprietor or person in charge of an agency who violates the provision under sub section (5) shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to 10,000 rupees or with both.**

**(7) The agency shall take registration with Board and obtain a certificate of registration in the manner as may be prescribed.**

**(8) Every agency shall, at the time of registration and renewal, remit an amount as contribution to the fund, as may be prescribed.**

**6. Rights and duties of the employer.-(1) Every employer shall,-**

**(a) provide dignified living conditions to the domestic workers;**

**(b) provide such remuneration, extra remuneration or allowances and remuneration for leave etc. to the domestic worker as per the terms of employment;**

**(c) provide adequate facilities to take rest and other reliefs, as may be prescribed;**

**(d) if the domestic worker is engaged directly by the employer, he shall issue a letter of engagement to the domestic worker.**

**(2) Employer shall not engage the domestic worker for any work in contravention of the terms of employment without his consent.**

(3) Any employer who violates the provision under sub section(2) shall be punished with fine which may extend to rupees 10,000/-

7. **Prohibition on domestic work**.- No person under the age of 15 years shall be engaged for any domestic work:

Provided that a person who has completed 15 years of age but has not completed 18 years of age may, with the written consent of his parent or guardian, be engaged in domestic work which is not likely to harm his health, safety and education.

8. **Registration of domestic workers with the Board**.-(1) Every domestic worker , who has completed 18 years of age , but has not completed 62 years of age shall be entitled for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed and shall be submitted to the Officer authorized by the Board

(3) Every such application shall be accompanied by the letter given by the agency or the letter of engagement issued by the employer, as the case may be and such other documents and such fee, as may be prescribed .

(4 ) The Officer authorized by the Board shall, after conducting an inquiry regarding the antecedents and medical records of the domestic worker and scrutiny of the application and other records submitted by him, register the domestic worker as a beneficiary under the Act or for the reasons to be recorded in writing, reject the application:

Provided that the application for registration shall not be rejected unless the applicant has been given a reasonable opportunity of being heard.

(5) Any person aggrieved by the decision under sub section (4) may within thirty days from the date of order, prefer an appeal before the Board and the decision of the Board on such appeal shall be final.

(6) After registration, every such domestic worker shall be provided with a registration number and identity card, which may be renewed on completion of every five years.

(7) The Board shall cause to maintain such registers in this regard as may be prescribed.

(8) A domestic worker who has been registered as a beneficiary under the Act shall until he attains the age of sixty five years make such a contribution to the Fund, as may be prescribed.

(9) A domestic worker who has been registered as a beneficiary under the Act shall cease to be as such when he is not engaged in the domestic work or when he has not paid his contribution for a continuous period of not less than two years:

Provided that, if the Board is satisfied that the non payment of contribution was on sufficient ground, the domestic worker may be allowed to remit the arrears of contribution with interest thereon at such rate, as may be fixed by the Board, and on such remittance being made to the Board, the registration of domestic worker shall stand restored.

9. Termination of Employment.-(1) The termination of employment of domestic work shall be subject to seven days prior notice in writing either by the domestic worker or the employer, as the case may be.

(2) In lieu of the notice under sub section (1) the domestic worker shall be entitled to seven days remuneration calculated on the basis of average remuneration earned during the preceding three months or agreed remuneration:

Provided that, if the employer is satisfied that the continuation of the domestic worker would be dangerous to the interest of the employer, he may terminate the employment of the domestic worker subject to the payment of remuneration and other allowances, if any, up to the date of termination.

(3) Upon termination of employment, the employer shall return forthwith all the personal belongings, documents and other articles, if any, kept with the employer to the domestic worker.

(4) If any property of the domestic worker is not returned to him on termination, he may prefer an application before the Dispute Redressal

**Council and the Council shall, after hearing the parties concerned, take a decision and the decision thereof shall be final.**

10. **Contract or Agreement in contravention of the Act to be null and void.**- Any contract, agreement or relinquishment of any right made in contravention of the provisions of the Act shall be null and void in so far as it purports to deprive the domestic worker of any right conferred under the Act.
11. **Dispute Redressal Council.**- (1) The Government shall appoint a Dispute Redressal Council consisting of one or more members, as may be prescribed, to hear and decide the disputes referred under the Act .
 

(2) On reference of a dispute , the Council shall, after conducting such inquiry, as it deems fit and hearing the parties concerned, take a decision and communicate the same to the parties concerned forthwith.

(3) The aggrieved party may file appeal against the order of the Council before the Board within 30 days from the date of receipt of the order and the decision of the Board shall be final.
12. **Inspecting Officer**- (1). The Government shall notify the Labour Officers not below the rank of Assistant Labour Officer as Inspecting officers of the respective area of jurisdiction for the purpose of ensuring the compliance of the provisions of the Act.
 

(2) On receipt of a complaint, the Inspecting Officer shall make such inspection ,as he deems fit, in any house or agency and exercise such other powers conferred upon him, as may be prescribed, for carrying out the purposes of the Act.
13. **Constitution of Domestic Workers Welfare Board.**-(1) The State Government may, for the purpose of implementation of Schemes for the welfare of domestic workers, constitute a State Domestic Workers Welfare Board , by notification in the Official Gazette.
 

(2) The Board shall be a body corporate ,having perpetual succession and a common seal , with a power to acquire, hold and dispose off

property and to enter into contracts, and may by that name sue or be sued.

(3) The Board shall consist of nine directors nominated by the State Government, representing employers, domestic workers and Government officials, as may be prescribed.

(4) The term of office of the directors shall be, as may be prescribed.

(5) The Government shall appoint one among the directors as the Chairman of the Board.

(6) After constitution of the Board, the name of all Directors including the Chairman shall be notified by the Government in the Official Gazette.

(7) The Chairman and directors shall be paid TA and daily allowances for attending the meetings of the Board at such rates as may be prescribed.

(8) The Chairman and directors other than ex-officio directors shall be paid such honorarium as may be prescribed.

(9) The meeting of the Board and procedure to be followed shall be as may be prescribed.

14. Disqualification, removal and resignation of director ;-

(1) No person shall be chosen as a director of the Board, who,-

- (a) is a salaried officer of the Board;
- (b) is or at any time has been adjudged as an insolvent;
- (c) is found to be of unsound mind; or
- (d) is or has been convicted of any offence involving moral turpitude .

(2) The Government may remove from office any director, who ,-

- (a) is or has become subject to any of the disqualifications mentioned in sub section(1);

- (b) is absent without leave of the Board for more than three consecutive meetings of the Board; or
- (c) in the opinion of the Government, has so abused the position of director as to render that person unfit to hold that office or unsuitable to continue as such director :

Provided that, no person shall be removed under sub section (2) unless that person has been given an opportunity to show cause as to why he should not be removed .

(3) Any director other than ex-officio director of the Board may at any time resign his office by letter in writing addressed to the Government and his office shall , on acceptance of resignation, become vacant.

15. Vacancy to be filled.- In the event of any vacancy occurring on account of death, resignation, disqualification, removal or otherwise the Board shall forthwith inform the same to the Government and the vacancy shall be filled up by the Government at the earliest and the person nominated to fill the vacancy shall hold office so long only for the remaining period of the term of the director in whose place he was nominated.

16. Staff of the Board:- (1) The Board shall , with the approval of the Government appoint such officers and employees as it considers necessary for the efficient discharge of its functions under the Act.

(2) The functions, terms and conditions of appointment and the salary and allowances payable to the staff of the Board shall be, such as may be prescribed .

17. Functions of the Board:- The Board shall perform the following functions, namely:-

- (a) registration of agencies under the Act;
- (b) registration of domestic workers as beneficiaries under the Act;
- (c) to grant the following benefits to the beneficiaries under the Act, namely,-
  - (i) provision for immediate assistance to a beneficiary in case of accident;

- (ii) financial assistance for the education of children of the beneficiary, medical expenses for treatment of a beneficiary or his dependents; and
- (iii) such other benefits as may be provided under the Scheme.

- (d) to constitute and administer the fund for the purposes of the Act .
- (e) such other functions, as may prescribed.

18. **Fund, its application and procedure** .- (1) There shall be constituted by the Board a fund for providing various benefits to the registered domestic workers and the following sums shall be credited to the fund, namely:-

- (i) the grant received from the Government;
- (ii) all contributions made by the domestic worker;
- (iii) contribution made by the agency;
- (iv) registration fees received from the agency and domestic workers;
- (v) all other sums received by the Board from any other source.

(2) The fund shall be utilized for the expenses of the Board in the discharge of its functions and for the disbursement of benefits under the schemes framed under this Act.

(3) The Board may open current and deposit account with any of the Nationalized Banks, as may be prescribed.

(4) Every domestic worker registered as a beneficiary may make an application to the Board, as may be prescribed , for getting benefits out of the fund to which the domestic worker is entitled under the Act.

(5) The Board may, after receipt of such application , conduct such enquiry as it deems fit, either allow the application or for the reasons to be recorded in writing, reject the same :

Provided that no application shall be rejected unless a reasonable opportunity is given to the applicant for being heard.

(6) Any person aggrieved by the order of the Board may file appeal before the Government within 30 days of the date of receipt of the order and the decision of the Government shall be final.

19. **Domestic Workers' Welfare Scheme**.- (1) Government may by notification in the Official Gazette frame a scheme to be called "Domestic Workers' Welfare Scheme" for the welfare of the domestic workers under the Act.

(2) The scheme may be provided for all or any of the following purposes, namely:-

- (a) for payment of pension to the domestic workers who had completed 65 years of age and had remitted contribution for not less than 5 years;
- (b) for the refund of the amount of contribution already remitted by a member continuously for a period of not less than two years and who had become unable to work due to physical disability or on other sufficient grounds;
- (c) for the refund of the amount of contribution already remitted by a member continuously for a period of not less than two years and died while being a member of the Board, to his legal heirs;
- (d) for the payment of financial assistance to a member due to illness or accident;
- (e) for the payment of financial assistance for the marriage of a female member and daughters of the domestic worker and for maternity benefit of the member;
- (f) for payment of financial assistance, loan or advance for the member for the construction of a house or for the education facilities to the children;
- (g) for any other purpose, as may be prescribed.

20. **Grants by Government**.- The Government may, after due appropriation made by the State Legislature by Law in this behalf, pay to the Board in

each year by way of grants from the Consolidated fund of the State, such sums of money as it may deem fit for being utilized for the purposes of this Act

21. **Powers of Board to Borrow**.- The Board may from time to time , with the previous approval of the Government, and subject to the provisions of this Act , borrow any sum required for the purpose of this Act.
22. **Budget**.- The Board shall prepare at such time every year, as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure.
23. **Accounts and Audit**.- (1) The accounts of the Board shall be maintained and audited in such manner as may be prescribed.  
(2) The Board shall furnish, the audited copy of accounts together with the auditors reports thereon to the Government, before such date as may be prescribed.
24. **Annual Report**.- (1) The Board shall prepare its annual report giving full details of its activities during the previous financial year and submit a copy to the Government within six months after the end of every year.  
(2) The Government shall, as soon as may be, after the receipt of report under sub section (1) cause the same to be laid before the Legislative Assembly.
25. **Directions by the Government**.-The Government or any officer authorized by the Government may give the Board such directions which in its opinion are necessary or expedient in connection with the expenditure from the fund or carrying out the other purposes of the Act and it shall be the duty of the Board to comply with such directions.
26. **Directors, officers and employees of the Board to be public servant**.- Directors including chairperson of the Board and all officers and employees of the Board shall be deemed to be public servants with in the meaning of section 21 of Indian Penal Code 1860.

27. **Supersession of Board.**-(1) If the Government is satisfied that the Board persistently makes default in the performance of the duties imposed on it by or under the provisions of this Act, Rules or Scheme made thereunder or exceeds or abuses the powers of the Board, the Government may, by notification in the gazette, supersede the Board for such period not exceeding six months, as may be specified in the notification.

(2) In the case of supersession of the Board under sub section (1) the Government shall appoint an administrator for the administration of the Board.

28. **Penalties.**-(1) Any Agency who fails to comply with or contravenes any of the provisions of this Act shall, on conviction be punished with imprisonment for a term which may extend to one year or with a fine which may extend to Rs.10,000/- or with both.

(2) Any employer who fails to comply with or contravenes any provisions of the Act shall, on conviction be punished with a fine which may extend to Rs.10,000/-

(3) No court shall take cognizance of any offence punishable under this Act except on a complaint made by the Board or the victim.

(4) Offences under this Act shall be non cognizable and bailable.

29. **Protection of actions taken under this Act.**- No suit, prosecution or other proceedings shall lie against any officer of the Board for anything which is in good faith done or intended to be done in pursuance of the Act or Rules made thereunder.

30. **Power to remove difficulties.**-(1) Where any difficulty arises in giving effect to the provisions of the Act, the Government may, by order published in the official gazette, do anything not inconsistent with the provisions of this Act, which appears to the Government necessary or expedient for removing the difficulty.

Provided that no such order shall be made under this Act after the expiry of two years from the date of commencement of the Act.

(2) Every order published under sub section (1) shall be placed before the legislative assembly.

31. **Power to make Rules.** (1) The State Government may, by notification in the official Gazette make Rules for carrying out the provisions of this Act.

(2) Every Rule made under this Act shall be laid as soon as may be after it is made, before the legislative assembly, while it is in session, for a total period of 14 days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the legislative assembly makes any modification in the Rule or decides that the Rule should not be made, the Rule shall therefore 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 or anything previously done under the Rule.

#### STATEMENT OF OBJECTS AND REASONS

The domestic workers and home nurses consisting of mainly women members are coming under unorganized sector and they do not have any bargaining capacity or unions. So they are now being exploited by the Agencies and certain employees and they shall continue as a neglected lot. There is no specific law to protect them or to regulate their services. The provisions of existing laws such as Labour Laws, Industrial Disputes Act etc. are incapable of addressing their grievances.

The living conditions of domestic workers are need to be improved in order to bring them to the main stream of other protected category of workers. Duty is imposed on the Government to protect domestic workers from discrimination and exploitation and ensure their security of employment, minimum remuneration and welfare measures.

In these circumstances Government have decided to enact a law in this respect so as to enable the domestic workers to enjoy their rights

guaranteed by the Constitution of India by constituting a Welfare Board to implement a scheme for the welfare and benefit of domestic workers including home nurses. The proposed law on the subject of domestic workers intends to incorporate Provisions for right to livelihood , minimum remuneration , labour standards, safety measures, dispute redressal mechanism, welfare and benefits to the domestic workers and their legal heirs , registration of recruiting Agencies, pensionary benefits, protection from exploitation by Agencies and Employers etc.

**The Bill seeks to achieve the above object.**