

Domestic workers Welfare and Social Security Act 2010

Statement of objects and reasons

The issue of exploitation of women and children domestic workers is frequent and regularly reported. With no rights and rules to fall back on, most of the domestic helps have become contemporary slaves. It is also a known fact that many women and children are trafficked and exploited by the placement agencies, which operate openly without any form of restrictions and regulations.

In last few decades there has been a tremendous growth in the demand for domestic workers which has led to the trafficking and other forms of exploitation of millions of Women and children of the both sexes and to meet this growing demand there has been a spurt of thousands of placement agencies providing domestic workers in metro-towns of many states who are exploited in various ways as well as trafficked and remain outside the purview of any legislative control.

Absence of any legal protection, has led to severe exploitation women and children which include depriving domestic workers from their entire salary average more than 16-18 hours of work per day, absence of proper food and living/sleeping condition, forced and total cut off from their family members, bounded labour, sexual exploitation by agent during transit, at the office of agency and at the work place in houses of employers, The list of exploitation is endless and frequently reported upon by the media

The legislations such the recent notification on prohibition of child labour in domestic work under Child Labour (Prohibitions & Regulation) Act, 1986 can not be implemented in the absence of any implementation mechanism in this Act. Recently few State Govt. have taken different initiative such as including domestic workers under minimum wage notification but in the absence of a central legislation

capable of reaching all domestic workers none of these state level measures can really benefit the domestic workers

That only a **Comprehensive Central Legislation** specifically designed to meet the working condition of the domestic workers including registration , who are an important segment of service sector of Indian economy and who have an Multiplier impact on the economy by enabling the women in particular to work by sharing the family burden, **can ensure the end of the exploitation of these domestic workers.**

That in the public interest that the domestic workers, employing, as it does, a very large number of women and whose conditions of work and living need amelioration and to whom regularity of employment must be assured, Placement agencies must be regulated so that the Directive Principles of the Constitution more particularly the relevant provisions Article 39, 41, 42, 43, and 43-A of the Constitution are given effect to by a law made by Parliament with reference to entries 22, 23 and 24 of List III in the 7th Schedule in the Constitution.

CHAPTER ONE PRELIMINARY

1. Short title, Extent and Commencement

(a) This Act may be called the **Domestic Workers Welfare and Social Security Act 2010**

(b) It extends to the whole of India except the state of Jammu & Kashmir

(c) It does not apply to such domestic workers emigrating for employment to any other country

It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions- in this Act unless the Context otherwise requires

(a) **“Appropriate Government”** means the concerned State Government or the Union Territory administration.

(b) **“Beneficiaries “** means every domestic worker registered as a beneficiary under this Act

(c) **“Child “**means a person who has not completed eighteen years of age.

- (d) **“Central Advisory Committee “** means an advisory Committee constituted by the central Government under section 4 of the act
- (e) **“District Board”** means the District Board for domestic workers established under Section 8 of the act
- (f) **“Domestic Worker”** means, a person who is employed for remuneration whether in cash or kind , in any house hold ‘or similar Establishments’ through any agency or directly, either on a temporary or **contract** basis or permanent, part time or full time to do the household or allied work and includes a **“Replacement 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;**
 EXPLANATION: household and allied work includes but is not limited to activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, **driving** , caring/nursing of the children/sick/old/**mentally challenged or disabled persons**
- (g) Domestic Workers Welfare Fund – means the fund under section 19 of the Act
- (h) **“Employer”** means any **person , authorities, management** that engages the domestic worker to do any work in a household whether part time or full time either directly or through any other person or agency and who has an ultimate control over the affairs of the household and includes any other person to whom the affairs of such household is entrusted and in relation to contract labour, the principal employer
- (i) **“Notification”** means a notification published in the Official Gazette.
- (j) **“Service provider”** means any voluntary association registered under the society’s registration Act 1860 or a company registered under the companies Act 1956 or any other law for the time being in force, which espouses the cause of domestic work and/or provides or engages in employment of domestic workers and includes any person or an association of such persons

or placement agency whether registered or otherwise through whom any such worker is engaged in any household work with the principal employer .

Explanation: **“Placement Agency”** “Placement Agency” means any agency /bureau /contractor or person(s) or association or organization whether registered or otherwise which provides/ engages in employment of domestic workers or which facilitate the placement of domestic help for prospective employers and includes such agency or person offering such services through any print ,electronic or any form of communication

(k) **State Board** means the State Advisory Committee for domestic workers established under section 6 of the act

(l) **Workplace** means any household where a domestic worker works.

Explanation: household means any residential place where the domestic worker works

(m) **“Wages”** means all remunerations expressed in terms of money or capable of being so expressed which would, if the terms of contract of employment, express or implied were fulfilled, be payable to a domestic worker in respect of work done but does not include –

- (i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or wages by general special order of the Government;
- (ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme or social insurance and the interest which may have accrued thereon;
- (iii) any traveling allowance or the value of any traveling concession;
- (iv) any sum paid to the domestic worker to defray special expenses entailed on him by the nature of his employment

3. **Act not in derogation of other laws**

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

CHAPTER TWO

IMPLEMENTING AUTHORITIES UNDER THE ACT

4. CENTRAL ADVISORY COMMITTEE

(1) The Central Government shall, constitute a Committee to be called the **Central Advisory Committee** (hereinafter referred to as the Central Committee)

(2). The Central Committee shall consist of—

(a) A Chairperson to be appointed by the Central Government;

(b) such number of members , as the central government may nominate , that shall include association, Union or persons espousing the cause of domestic workers , individuals having expertise in issues relating to labour matters, women and child issues , law and any other interests which in the opinion of the central Government ,ought to be represented on the central Board

Provided further that composition of committee shall be at least 5 members excluding the chairperson

(3) The number of persons to be appointed as members from the categories specified in sub-section (2), the term of officer and other conditions of service of, the procedure to be followed in the discharge of their functions and the manner of filling up of vacancies shall be such as may be prescribed

5. Functions of the Central Committee

The Central committee shall perform the following functions:

- (a) To review and monitor implementation of the Act and rules made there under and recommend to the Central Government of any changes in the said Act and rules.
- (b) Review and monitor the implementation of the Act in States
- (c) Advise the State Boards regarding schemes for benefit and welfare of domestic worker such as social security , health ,medical ,education and other beneficial schemes
- (d) Advise upon such matters arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to any particular class of domestic workers and employers, and co-ordination and monitoring of the work of various Boards
- (e) In consultations with State Boards prescribe Minimum Standards to achieve Decent Conditions of Work
- (f) Recommend appropriate strategies on elimination of any form of_
trafficking/ forced/ bonded labour and child labour where the child happens to be below 18 yrs. of age.
- (g) Any other matter as may be prescribed by the central Government

6. State Advisory committee

- (1) The State Government may constitute an Advisory Committee to advise upon such matters arising out of the administration of this Act or relating to the application of the provisions of this Act to domestic workers and employers or co-ordination of the work of various Boards, as the State Government may refer to it for advice.

- (2) *The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed:*

Provided that, the Advisory Committee shall include an equal number of members representing the employers, domestic workers and the members representing State Government which shall not exceed one third of its total number of members.

- (3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.
- (4) The State Government shall publish in the Official Gazette, the names of all the members of the Advisory Committee.
- (5) The meetings of the Advisory Committee and procedure to be followed thereat shall be such as may be prescribed by the regulations .
- (6) The term of office of members of the Advisory Committee shall be such as may be prescribed.
- (7) The member of the Advisory Committee (not being a member representing the State Government) shall receive traveling and daily allowances for attending meetings of the Committee at such rates as may be prescribed .

7. Functions of the State Advisory Committee (1) The State Board shall perform the following functions:

The Board may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made there under for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Board, necessary for the exercise of its powers and the discharge of its functions under this Act.

Review and monitor the District Board constituted for the State and take appropriate steps to ensure its proper and effective implementation

- (b) Allocate funds to the district Board and administer the domestic workers welfare fund and allocate such amounts to district Boards as may be considered necessary
- (c) **Prescribe the fees to be charged from the employers, service providers/placement agencies and domestic workers from time to time**
- (d) ***Prescribe fee for registration as beneficiaries under the Fund and rate per mensem for the beneficiaries of the fund.,***
- (e) Implement such schemes and welfare measures as formulated in consultation with the central Board
- (f) ***Prescribe the form of register to be maintained for registration of domestic workers under the fund***
- (g) **Procedure for renewal of registration certificate**
- (h) ***Entertain appeals with respect to any decision by the district Board***

- (i) Ensuring decent conditions of service , including rates of remuneration, hours of work and conditions
- (j) **Any other matter as may be prescribed**

8. District Boards

- (1) The State Government may for the purposes of preparation and implementation of the schemes for welfare of domestic workers, in a District, by notification in the Official Gazette, establish such number of Boards to be known as " District Domestic Labour Welfare Board":

Provided that, the State Government may constitute such Board for two or more Districts:

Provided further that, the State Government may, by like notification also constitute more than one Board for a District and specify the local limits in which such Boards shall have jurisdiction **or authorize any existing Board under any other law dealing with labour related matters.**

- (2) The Board shall consist of members nominated, from time to time, by the State Government representing the employers, the domestic workers and the State Government.
- (4) The members representing employers and domestic workers shall be equal in number, and the members representing the State Government shall not exceed one-third of the total number of members representing employers and domestic workers.
- (5) The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.
- (6) After nomination of all the members including the Chairman, the State Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.

- (7) **The term of office of members of the Board shall be such as may be prescribed.**
- (8) **Every member shall be paid (not being a member representing the State Government) from the fund of the Board, traveling and daily allowances for attending meetings of the Board at such rates as may be prescribed.**
- (9) The meetings of the Board and the procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall be such as may be laid down by the regulations.

9. Disqualification and removal of member

- (1) No person shall be chosen as, or continue to be, a member of the Board who,-
 - (a) is a salaried officer of the Board;
 - (b) is or at any time has been adjudged insolvent;
 - (c) is found to be a lunatic or become of unsound mind; or
 - (d) is or has been convicted of any offence involving moral turpitude.
- (2) The State Government may remove from office any member, who,--
 - (a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or
 - (b) is absent without leave of the Board for more than three consecutive meetings of the Board;
 - (c) in the opinion of the Government, has so abused the position of member as to render that persons continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member:

Provided that, no person shall be removed under clause (c), unless that person has been given a reasonable opportunity to show cause as to why he should not be removed.

- (3) Notwithstanding anything contained in any other provisions of this Act, the members shall hold office during the pleasure of the State Government and if in the opinion of the State Government,--
- (a) the member representing employers and the domestic workers, ceases to adequately represent the employers or, as the case may be, the domestic workers, or
 - (b) having regard to exigencies of circumstances or services in the State Government, the member representing the State Government cannot continue to represent the State Government, then it may, by an order, remove all or any of them from office at any time.

10. Resignation of office by member

Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of the resignation, become vacant.

11. Proceedings presumed to be good and valid

No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

12. Secretary and other officers of Board

- (1) The Board shall, with the approval of the State Government, appoint a secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.
- (2) The Secretary of the Board shall be its Chief Executive Officer.
- (3) The functions, terms and conditions of appointment and the salary and allowances payable to the secretary and other officers and employees of the Board shall be such as may be laid down, from time to time, by regulations.

13. Functions of the Board

- (1) The District Boards shall perform the following functions:
 - (a) The Board shall carry out or cause to carry out the registration of domestic worker and employers and service providers as per the procedure prescribed under the Act either directly or through the WFC and maintain records registration of domestic workers as beneficiaries under the Act;
 - (b) to grant following benefits to beneficiaries which they are entitled to under the Act:--
 - (i) provision for immediate assistance to a beneficiary in case of accident;
 - (ii) financial assistance for the education of children of the beneficiary;
 - (iii) provision for medical expenses for treatment of ailments of a beneficiary or his such dependent;
 - (iv) provision for maternity benefit to the women beneficiaries:

Provided that, such maternity benefit shall be restricted in case of two children only;
 - (v) make payment of funeral expenses to the legal heir on the death of the beneficiary;
 - (vi) Facilitate the settlement of disputes through conciliation
 - (vii) Renewal of registration certificate
 - (vii) Issue of identity card for the beneficiaries
 - (viii) Disseminate information on available social security schemes for the Workers;
 - (ix) Authorize the WFC to act as an authorized intermediary in collecting contributions from the workers and others as mandated under the Act and remit them to the district Board;
 - (x) Training, imparting skills to domestic workers;

- (xi) Implement any schemes or any welfare measures framed by the central Board in consultation with State Boards
- (xii) such other benefits as may be decided by the Board, from time to time;
- (c) The district Board in consultation with the State Board may make available such schemes as applicable under other laws such as the unorganized sector Act 2009
- (2) Designate any one or more of the following at such areas as maybe considered necessary , as Workers' Facilitation Centres (WFC) for purposes of facilitating registration of workers:
 - i) Local Panchayati Raj Institutions (PRI) or urban local bodies;
 - ii) Resident welfare associations/society ;
 - iii) Non-profit organizations working among the Domestic workers.

Provided further that such Workers' Facilitation Centres (WFC) shall function under the supervision of the district Board

- 3. The board shall maintain such registers and records giving such particulars of domestic workers employed the nature of work performed by the domestic worker, and such other particulars in such form as may be prescribed.
- 4. **The board may implement any welfare schemes under any other law with prior approval of the centre or State Government**

14. Powers of the District Board

Subject to any rules by the State Government in this behalf, the Board may, within the local limits

- (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 within any place or premises:
 - (b) Require the production of any document, record or evidence (written or oral)
 - (c) Enter, with such assistance as it may consider necessary, at all times any place or premises if there are reasonable grounds for suspecting that any domestic worker has or is being subjected to any form of sexual exploitation or wrongfully confined in any such place or premises or rescue any child being used employed as a domestic worker
- (2) Every employer shall accord to the Board , all reasonable facilities in the discharge of his duties under this Act.
- (3) Each District board shall have the same powers as are vested in civil court under the Code of Civil Procedure, 1908 (5 of 1908), when adjudicating a dispute in respect of the following matters, namely -
- (a) enforcing the attendance of any person and examining him on oath;
 - (b) compelling the production of documents and material objects;
 - (c) issuing commissions for the examination of witnesses;
 - (d) **in respect of such other matters as may be prescribed;**

CHAPTER THREE

REGISTRATION PROCEDURE

15. **REGISTRATION** – (a) Notwithstanding anything contained in any law for the time being in force, all domestic workers, employers or service providers shall be registered as per procedure hereinafter prescribed

(b) Every employer / service provider and domestic worker wherever applicable, shall within one month of the commencement of the employment of domestic worker, in the household, shall submit to the District Board or any person so authorized by the District Board, application along with prescribed fee ,for registration , providing such **details as prescribed**

Provided that the Board or any such person so authorized may entertain any such application for registration after expiry of the period fixed in this behalf, if satisfied that the applicant had sufficient cause from making the application in time.

c) Where a domestic worker undertakes part time work in two or more households and is not engaged through any placement agency, it shall be the duty of such domestic worker to register with the District Board

Provided further that where such worker is engaged through any agency and works in more than one household, it shall be the duty of such agency to register the worker

(d) where a domestic worker leaves the work in a district and moves to any other area in any part of the territory of India and takes up work in any household in such part either on his/her own or through any agency or middleman, it shall be the duty of such worker or agency or middleman, to inform the concerned Board where so registered regarding the move and register with the Board At the place where work has been taken up.

(e) Notwithstanding anything contained in provisions above, where a domestic worker is engaged through a middleman or agency or service provider for work in any household , it shall be the duty of such agency or middleman or

service provider and not of the main employer in whose household such worker works , **to register as per the procedure prescribed.**

- 16. Registration fee – (a)** where a employer engages a domestic worker on full time basis, it shall be the duty of such employer to register with the Board on payment of prescribed fee, which shall form a part of yearly subscription, irrespective whether the domestic worker continues in such employment or otherwise or performs any part of household work part time in more than two households

- (b) Where a domestic worker is engaged through a agency or middleman or service provider it shall be the duty of such agency or middleman as the case may be , to provide such details for registration **along with the fee as may be prescribed**

Provided that the Board may on application made by any service provider exempt such service provider from payment of the fee, if so considered necessary, giving cogent reasons therefore

- 17. Renewal of registration certificate**

A registration certificate shall be renewed at an interval of One year on the **payment of the fee as may be prescribed**

- 18. Employment of a child:**

No child shall be employed as a domestic worker or for any such incidental or ancillary work which is prohibited under any law for the time being in force.

Chapter FOUR

ESTABLISHMENT OF FUND

19. Domestic Workers Welfare Fund

There shall be formed a Fund, to be called the **Domestic workers Welfare Fund**, and there shall be credited thereto--

- (a) Any grants made to the Fund by the Central Government and State Government ;
- (b) Any money received by the beneficiaries
- (c) all amounts from the District Boards received as registration and other fees
- (d) Any income from investment of the amounts in the Fund.
- e) All fines collected
- f) all other sums received by the Board from any other sources
- (2) The Fund shall be administered and applied by the district Board to meet the expenditure incurred in connection with measures and facilities which, in the its opinion is necessary or expedient to promote the welfare of domestic workers; and, in particular,--
 - (i) To defray the cost of such welfare measures or facilities for the benefit of domestic workers /beneficiaries as may be decided by the Board
 - (ii) To sanction any money in aid of any scheme for the welfare of the domestic - workers including family welfare, family planning, education ,Insurance and other welfare measures ;

CHAPTER FIVE

REGISTRATION OF DOMESTIC WORKERS AS BENEFICIARIES

20. **Beneficiaries of the Fund**

- (1) Subject to the provisions of this Act, every domestic worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

Every domestic worker who has completed eighteen years of age, but has not completed **sixty five** years of age, and who has been engaged in any domestic work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

- (2) **An application for registration shall be made in such form, as may be prescribed, to Board in this behalf.**
- (3) Every application under sub-section (2) shall be accompanied by such **documents together with such fee as may be prescribed.**
- (4) If Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the domestic worker as a **domestic worker** under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard and without assigning reasons in writing”.

- (5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the state Board and the decision of the State Board on such appeal shall be final:

Provided that the State Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the domestic worker was prevented by sufficient cause from filing the appeal in time.

21. Identity cards

The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon along with passbook to enable them in opening the bank accounts.

- (2) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, or any other authority for inspection.

22. Cessation of registration

- (1) A domestic worker who has been registered as a beneficiary under this Act shall cease to be as such when he attains the age of **sixty five years** or when he is not engaged in any domestic work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from work due to any personal injury accident

- (2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits **including pensions as may be prescribed.**

23. Register of domestic workers

The district Board shall maintain records / register in such form as may be prescribed showing the details of employment of beneficiaries in the district .

24. Contribution of domestic workers

- (1) A Domestic worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate **per mensem, as may be specified /prescribed**

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

- (2) A beneficiary may authorize his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.

25. Effect of non-payment of contribution

When a beneficiary has not paid his contribution under sub-section (1) of section 20 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the domestic worker is willing to deposit the arrears, he may allow the domestic worker to deposit the contribution in arrears and on such deposit being made, the registration of domestic worker shall stand restored.

CHAPTER SIX

REGULATION OF THE WORKING CONDITIONS

26. Duties of the employer and service provider

- (1) Every employer and service provider shall provide such particulars of the domestic workers engaged directly or through agency, to the District Board or any person so authorized by the Board , in such form and paying such fees as may be prescribed
- (2) No service provider or a person /agency shall carry on the business of providing domestic worker to any employer unless the said service provider or agency or person is registered under the Act
- (3) The service provider shall maintain the records of all the domestic workers being contracted by them for purposes of employment from any part of the territory of India and provide the details thereof in such form as may be prescribed
- (4) **Working hours - 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; 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; provided that t he 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;**

Provided further 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 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.

(5) Wages for overtime work

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; 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;

(6) 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;

(7) 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;

27. Minimum wages - The appropriate Government shall by notification fix the minimum rates of wages payable to domestic worker

(b) review at such intervals as it may think fit, such intervals not exceeding five years. The minimum rates of wages so fixed and revise the minimum rates, if necessary :

(2) The appropriate Government may fix--

(a) a minimum rate of wages for time work (hereinafter referred to as 'a minimum time rate');

(b) a minimum rate of wages for piece work (hereinafter referred to as 'minimum piece rate');

(c) a minimum rate of remuneration to apply in the case of employees employed en piece work for the purpose of securing

to such employees a minimum rate of wages on a time work basis (hereinafter referred to as 'a guaranteed time rate');

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as 'overtime rate');

(e) Minimum rates of wages may be fixed by any one or more of the following wage- periods, namely :--

(i) by the hour,

(ii) by the day,

(iii) by the month

28. Offences and penalties

- (1) Any 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 three months 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 one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.
- (2) If any person who has been convicted of any offence punishable under sub section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees or with both:

- (3) Where an employer fails to comply with the provisions of the Act he/she shall be punishable with fine which may extend to two thousand rupees
- (4) any person who willfully obstructs any officer so authorized by the district boards to conduct inspection under the act or refuses or willfully neglects to afford the such officer any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to the employer or a service provider to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to two thousand rupees, or with both.
- (5) Whoever willfully refuses to produce on the demand of such an inspecting a person so authorized by the district boards, any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspecting person acting in pursuance of his duties under this Act, shall be punishable with with imprisonment for a term which may extend to three months or with a fine which may extend to two thousand rupees, or with both.
- (6) Any person who -
 - (i) Knowingly sends, directs or takes any girl or woman to any place for immoral purposes or to a place where she is likely to be morally corrupted or ,
 - (ii) In any manner sexually exploits such woman or child or
 - (d) Make available young children as domestic workers shall be subjected to imprisonment for not less than three years and which may extend up to period of seven years and fine up to 2000 rupees or both

29. No court shall take cognizance of any offence punishable under this Act except on a complaint--

- (a) Made by, or with the previous sanction in writing of, the State Board or the district Board or
- (b) Made by an office-bearer of a voluntary organization registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force ; or
- (c) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

30 Limitation of prosecutions

No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within **one year** from the date on which the alleged commission of the offence came to the knowledge of the district or state Board

CHAPTER SEVEN

MISC PROVISIONS

31. Effect of laws and agreements inconsistent with the Act

- (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, whether made before or after the commencement of this Act:
- (2) Nothing contained in this Act shall be construed as precluding any worker from entering into an agreement with the principal employer as the case may be, for granting them rights or privileges in respect of any matter which are

more favorable to them than those to which they would be entitled under this Act.

32. Protection of action taken under Act

- (1) No suit, prosecution or other legal proceedings shall lie against any Member of the Board or any Non governmental organization for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.
- (2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or notification or order made or issued there under.

33. Supersession of Board

- (1) If the State Government is satisfied that, or otherwise is of the opinion that,--
 - (a) The Board is unable to perform its functions, or
 - (b) The Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers,

then the State Government may, by notification in the Official Gazette, supersede the Board and re-constitute it in the manner specified in section ... within a period of twelve months from the date of supersession. The period of supersession may be extended for sufficient reasons by a like notification by not more than six months:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

- (2) After the supersession of the Board and until it is reconstituted, the powers and functions of the Board under this Act shall be exercised and performed by the State Government or by such officer or officers as the State Government may appoint for this purpose.
- (3) When the Board is superseded, the following consequences shall ensue, that is to say,--
 - (a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;
 - (b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification;
 - (c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such funds and property shall reinvest in the Board.

34 Power to remove difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

35. Accounts and Audit

- (a) The Central, State and district Boards shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed.
- (b) The Central Board shall furnish to the Central Government, before such

date as may be prescribed, the audited copy of the consolidated account of itself and the Funds together with the auditor's report.

- (c) The state and district boards shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

36. Power to make rules

- (1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.
- (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 number of persons to be appointed on the Central Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling of casual vacancies of the Chairperson and other members of the Board under section 4 of the Act.
 - (b) Any other matter which is required to be, or may be, prescribed under section 5 (g) of the Act.
 - (c) The form and manner in which the annual statement of accounts together with the auditor's report shall be furnished under section 29 of the Act.
- (3) Every rule made by the Central Government 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 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.

37. Power to make rules

- (1) The State Government may, by notification in the Official Gazette, and subject to the conditions of previous publication except when the rules are made for the first time, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the forgoing provision, such rules may be made for all or any of the following matters, namely:--
 - (a) term of office of members of the Board;
 - (b) rate of traveling and daily allowances to be payable to members of the Board for attending meetings of the Board;
 - (c) form of application for registration as a beneficiary;
 - (d) documents to be accompanied alongwith application for registration as a beneficiary and fees for the same;
 - (e) registers to be maintained by the Secretary of the Board;
 - (f) form of an application to be made by a beneficiary to the Board and documents which may be accompanied to such application, for grant of payments out of the fund;
 - (g) amount of contribution of the beneficiaries to the fund;
 - (h) form of annual statement of accounts including a balance sheet;
 - (i) form in which and the time when the budget of the Board is to be prepared and forwarded to the State Government;
 - (j) form in which and the time when the annual report of the Board is to be prepared and submitted to the State Government;

- (k) number of members of the Advisory Committee and the manner in which they may be chosen;
 - (m) term of office of members of the Advisory Committee;
 - (n) rate of traveling and daily allowances to be payable to members of the Advisory Committee for attending meetings of the Advisory Committee;
 - (o) any other matter which is required to be or may be prescribed, for carrying out the purposes of this Act.
- (3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature 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 in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of publication of a notification in the Official Gazette, 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 or omitted to be done under that rule.