

A

Bill

to formulate the law relating persons who work in the informal or unorganized sector carrying out remunerative work within their homes or in the surrounding, grounds and protection for their rights.

WHEREAS it is expedient to formulate and introduce a law relating to the social protection of home-based workers, their rights, their contribution towards economy and settlement of any difference or dispute and ancillary matters.

preamble

1. (1) This Act may be cited as the Sindh Home-Based Workers Act, 2018.

(2) It shall extend to the province of the Sindh.

(3) It shall apply to all persons working for any Industry, Undertaking, establishment, Commercial Establishment, contractor, sub-contractor or with any other intermediary;

(2) It shall come into force at once.

Short title, extent, application and commencement.—

2. In this Act, unless there is anything repugnant in the subject or context:

(i) "Arbitration Committee" means an Arbitration Committee constituted by the Labour Department for settlement of disputes.

(ii) "Award" means the determination by the Arbitration Committee of any dispute or any other matter relating thereto and includes an interim award.

(iii) "Contractor" means a person natural or legal who agrees to carry out for an economic profit or assignment, for the benefit of hirer of the primary contractor

Definitions

regardless of the form of contract, agency, sale agreement, sale or purchase or otherwise;

- (iv) "Contribution" means the sum of money payable to the Sindh Employment Old Age Benefit Institution/Employment Old Age Benefit Institution & Sindh Employees Social Security Institution or any other money payable, as determined.
- (v) "Child" means a person who is 14 years old or below;
- (vi) "Commercial establishment" means an establishment as defined in "Sindh Terms of Employment (Standing Orders) Act 2015;
- (vii) "Dependents" means the wife or wives or a needy invalid husband, dependent parents and any unmarried children under the age of 18 years in case of sons and 21 years in case of daughters dependent upon the protected person:
- (viii) "Department" means the Labour & Human Resources Department Government of Sindh;
- (ix) "Disablement" means a condition caused by an employment injury during the course of employment which, as certified by a medical practitioner authorized for the purpose as provided in the regulations, has permanently reduced or is likely to reduce permanently a protected person's earning capacity, and disablement shall be "minor" where the earning capacity is less than twenty per centum, "partial" where the loss of earnings capacity ranges from twenty one per centum to sixty six per centum and "total" where the loss of earning capacity is in excess

of sixty six per centum;

- (x) "Employer" in relation to an establishment, industry, contractor, sub-contractor or any other intermediary means any person or body of persons, whether incorporated or not, who or which employs directly or indirectly or through any contractor, sub-contractor or intermediary home-based workers in the establishment under an agreement of employment and also means a person natural or legal who employs a home based worker for remuneration, also includes any agent, manager or representative;
- (xi) "Employment Injury" means a personal injury or occupational disease to a protected Home Based Worker;
- (xii) "Establishment" means any office, firm, factory, society, undertaking, company, shop, premises or enterprise in the Province, which employs workmen directly or through a contractor for the purpose of carrying on any business or industry and includes all its departments and branches whether situated in the same place or in different;
- (xiii) "Employees Old Age Benefits" means old age benefits as allowed under Sindh Employees Old Age Benefit Institution Act 2014.
- (xiv) "Group of establishments" means establishments belonging to the same employer and the same industry;
- (xv) "Government" means the Government of the Sindh;
- (xvi) "Home Based Worker" means any person indulged in production and manufacturing of goods and rendering of services in relation ancillary thereto in

the home premises or nearby premises or in a yard, garage or any other place near the home while working in connection with the work of any Industry, establishment, undertaking or commercial establishment or any place of his/her choice for hire or reward or remuneration either directly or through a contractor or sub-contractor or intermediary whether the terms of employment be express or implied.

- (xvii) "Industry" means any business, trade, manufacture, calling, service, employment or occupation of producing goods or services for sale excluding those set up for charitable purposes;
- (xviii) "Intermediary" means a person or a legal entity or a body corporate who contracts with a sub-contractor for an economic profit all or part of a job the sub-contractor has agreed to perform, for the benefit of hirer. The intermediary includes any person natural or legal, who enters into a contract with a sub-contractor regardless of how many stages of sub-contract there may be;
- (xix) "Labour Court" means a court established under the Sindh Industrial Relations Act, 2013;
- (xx) "Prescribed" means prescribed by rules.
- (xxi) "Provincial Council" means agency constituted under section 3 of this Act.
- (xxii) "Remuneration" means sum of money that an employer agrees to pay a home based worker in return for work done; in accordance with Sindh Minimum Wage Act 2015.
- (xxiii) "Sub-contractor" means a person who contracts with a primary contractor to perform for an economic profit all or

part of a job the primary contractor has agreed to perform, for the benefit of hirer. The sub-contractor includes any person natural or legal, who enters into a contract with a sub-contractor regardless of how many stages of sub-contract there may be;

(xxiv) "Shop & Establishment" means any Shop & Establishment as defined under Sindh Shops & Establishment Act 2015;

(xxv) "Wages" means remuneration for service or payable in cash or in kind to a home based worker, not being less than remuneration based on minimum rates of wages declared under the Minimum Wages Ordinance 1961 (as amended till to date), without taking account of deductions for any purposes, under a contract of service or apprenticeship, expressed or implied, and shall be deemed to include any dearness allowance or other addition in respect of the costs of living and any payment by the employer to a protected person in respect of any period of authorized leave, illegal lock out or illegal strike;

3. The Government shall notify a Provincial Council for the home base workers in the Province under the administrative control of Labour Department of the Province.

Establishment of Provincial Council.

- 4.** The council shall monitor and oversee the;
- (i) Identification and mapping of HBW in different sectors
 - (ii) Registration of home based workers in the manner prescribed by the Government.
 - (iii) Registration of employers engaging home based workers on remuneration, contract, hire or reward in the manner

Functions of Provincial Council for the Home Based Workers.

prescribe by the Government.

- (iv) Maintenance of record of registration of home based workers for the purpose in the manner prescribed by the Government.
- (v) Establishment of Regional/Divisional, District and Sub-District Committees assigned functions as prescribed by the Government through notification in the official gazette Offices at each district.

- 5.** Every registered home based worker shall be entitled to social protection, medical benefits, grants and other privileges as available to a person falling with in the meaning of worker and workman as envisaged in Sindh Industrial Relations Act, 2013, Sindh Factories Act 2015, Sindh Terms of Employment (Standing Order) Act 2015, Sindh Workers Fund Act 2014, Sindh Employees Old Age Benefits Institute Act 2014, Sindh Employees Social Security Act 2016 subject to the Contribution as defined in the said act or benefit/ privilege granted to industrial workers in any other law.
- Social Benefits and Grants.**
- 6.** The Labour & Human Resources department shall:
- Social Protection of Home Based Workers**
- (1) Survey the place of work of home based workers for identifying and removing the hazardous conditions.
 - (2) discourage child labour in home based working.
 - (3) establish health counter at each district and arrange mobile health counters providing health facilities to home based workers at the door steps repeatedly visiting the work place.
- 7.** (1) After the commencement of this Act, the Government shall establish by
- Establishment**

notification in the official gazette, a Fund **of Fund**
for the Home Based Workers.

(2) The Fund shall consist of:-

- (a) an initial contribution shall be made by the Government;
- (b) such moneys as may, from time to time be paid by the employers at the rate and manner as prescribed by the Government;
- (c) voluntary contributions in the shape of money or building, Land or other property made to it from time to time by the Government or by any person or by any organization;
- (d) grants, donations and gifts from Government, donor or a multilateral organization, a local authority or any other person and general public; and
- (e) proceeds of loan raised by the Governing body of the Fund.

8. Moneys in the Fund shall be applied to _

- (a) the financing of projects connected with the welfare of the home based workers;
- (b) the financing of other measures for the welfare and benefits of the home based workers
- (c) the meeting of expenditure in respect of the cost of management and administration of the Fund;
- (d) the repayment of loans raised by the Governing body; and
- (e)** investment in securities approved for the purpose by the Government.

Purposes to which moneys in the Fund may be applied

9. (1) As soon as may be after the commencement of this Act, the Government shall, by notification in the official gazette, constitute a Governing Body of the Fund to whom shall be entrusted the management and administration of the Fund.

Constitution of Governing Body

(2) The Governing Body shall consist of the secretary to the Government, Labour & Human Recourses Department, who shall be its Chairperson and not more than ten other members to be appointed by the Government, of whom-

- (a) One from the Finance department, Sindh/ Official members;
- (b) One from Social Welfare Department Sindh.
- (c) One from Women Development Department Sindh;
- (d) One from Cooperative Department, Sindh;
- (e) One from Sindh Employees Social Security Institution;
- (f) One from Sindh Employees Old Age Benefits Institution;
- (g) One from Sindh Workers Welfare Board;
- (h) At least three shall be appointed amongst the home base workers/ Federations/registered trade Unions in Sindh.
- (i) at least three shall be appointed amongst the employers;
- (j) Director Labour Sindh shall ex officio member and Secretary of the Governing Body.

(3) The Member of the Governing Body other than the Chairperson and official member shall hold office for a period of three years.

(4) No act or proceeding of the Governing Body shall be invalid by reason only of the existence of a vacancy, or defect in the constitution of the Governing Body.

- 10.** As soon as may be after it has been constituted, the Governing Body shall, with the previous approval of the Government, lay down the procedure for making applications of the Funds, prioritization between respective **Governing Body to lay down procedure, etc.**

applications and allocations from the Fund accordingly;

11. (1) The Government may by notification in the official Gazette, establish the Arbitration Committee as it considers necessary and, where it establishes more than one Committees, shall specify in the notification the territorial limits within which the Committee shall exercise jurisdiction under this Act.

**Arbitration
Committee**

(2) The Arbitration Committee shall consist of three persons appointed by the Provincial Government, comprising of Employer, Worker and Labour Department officer.

12. Subject to the provisions of this Act, the Arbitration Committee shall;

**Powers and
Procedure of
Arbitration
Committee**

a) adjudicate and determine the dispute which has been referred to or brought before it under this Act;

b) enquire into or adjudicate any matter relating to the implementation or violation of a settlement which is referred to it;

c) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this Act or any other law.

d) No court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from an Arbitration Committee.

13. (1) Any dispute arising between home based worker, Trade union, federation and Employer/ or Contractor or sub-contractor or intermediary contractor related to the contract of a job whether implied or express or payment of delayed and deducted wages or matters related to OSH, harassment ancillary thereto shall be

**Settlement of
Dispute**

settled by the Arbitration Committee constituted by the Government headed by concerned area officer of Directorate of Labour.

Provided that every such dispute shall be presented within three years from the date on which the dispute arises or from the date on which the payment was due to be made, as the case may be.

(2) The dispute should be decided within three months of the presentation.

(3) The parties shall be given full opportunity to defend their case.

Appeal

14. Any party aggrieved of the order passed by the Arbitration Committee, shall file an appeal before the Labour Court.

(2) The appeal shall be filed within 30 days of the order of the arbitration committee, which shall be decided within 90 days.

(3) The appeal against the order of the labour Court may be filed in subsequent higher courts.

15. (1) Government may make rules for carrying out the purpose of this Act.

Application and Power to make Rules

(2) No benefit, provided by this Act, shall be extended to an ~~unregistered~~ home based worker unless registered under Section 4(ii) of this Act.

16. Every employer including a contractor, sub-contractor or intermediary shall be responsible for the payment to home based workers employed by him of all wages required to be paid under this Act

Responsibility for payment of wages

17. Every employer shall keep such records and shall submit for registration to the Labour

Maintenance of record by

Office, at such times, in such form and containing such particulars relating to persons employed by him/her, as may be provided in the rules and regulations.

**employers,
Contractors,
Sub
Contractors or
other
Intermediaries**

- 18.** If any difficulty arises in giving effect to any provision of this Act, the government may, by notification in the official gazette make such orders, not inconsistent with the provisions of the Act, as may appear to it to be necessary for the purposes of removing the difficulty.

**Removal of
Difficulties**