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PART-IV

PROVINCIAL ASSEMBLY OF SINDH NOTIFICATION KARACHI, THE 29TH MAY, 2018

NO.PAS/LEGIS-B-25/2018-The Sindh Home-Based Workers Bill, 2018 having been passed by the Provincial Assembly of Sindh on 09th May, 2018 and assented to by the Governor of Sindh on 23rd May, 2018 is hereby published as an Act of the Legislature of Sindh.

THE SINDH HOME-BASED WORKERS ACT, 2018

SINDH ACT NO. XXXVII OF 2018

AN ACT

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

Preamble

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Home-Based Workers Act, 2018. (2) It extends to the whole Province of the Sindh.

Short title and commencement.

(3) It shall apply to all persons working for any industry, undertaking, establishment, Commercial Establishment, contractor, sub-contractor or with any other intermediary.

(4) It shall come into force at once.

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

- (i) "arbitration Committee" means an Arbitration Committee constituted by the 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 or for the benefit of hirer of the primary contractor regardless of the form of contract, agency, sale agreement, sale or purchase or otherwise;
- (iv) "contribution" means the sum of money payable to the Social Security Institution as determined and prescribe by the council in respect of a home based worker as envisaged in the Sindh Social Security Institution Act, 2015;
- (v) "child" means a person who is 14 years or below;
- (vi) "commercial establishment" means a commercial establishment as defined in Sindh Terms of Employment(Standing Orders)Act, 2015;
- (vii) "dependents" means the wife or wives or a needy disabled husband, dependent parents and any unmarried children under the age of 18 years in case of sons and 21 years in case of daughter dependent upon the protected person;
- (viii) "department" means the Labour Department, Government of Sindh;
- (ix) "disablement" means a condition caused by an employment industry during the course of employment which, as certified by a medical practitioner authorized for the purpose as shall be provided in the rules, 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 include any agent, manager or representative;
- (xi) "employment injury" means a personal injury to a Home Based Worker caused by an accident or by such occupational diseases as may be specified in the regulations, arising out of and in the course of his employment;
- (xii) "establishment" means any office, firm, factory, society, undertaking, company, shop, premises or enterprises, 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 Sindh;
- (xvi) "Home Bases Worker" means any person indulge in production and manufacturing of goods and rendering of services in relation ancillary thereto in the home premises or nearby premises, 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 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 or 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) "prescribe" means prescribed by rules;
- (xxi) "remuneration" means sum of money that an employer agrees to pay a home based worker in return for work done;
- (xxii) "Registration Council" means agency constituted under section 3 of this Act;
- (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 and Establishment Act, 2015;
- (xxv) "wages" means remuneration for service or payable in cash or in kind to a protected person, not being less than remuneration based on minimum rates of wages declared under the Sindh Minimum Wages Act, 2015, 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. Government shall notify a Council for the home base workers under the administrative control of Labour and human Resources Department comprising of Employers, Contractors, Home Bas Workers and their Unions. Establishment of Council.
4. The Council shall monitor and oversee the:- Functions of Provincial Council for the Home Based Workers.
- (i) Identification and mapping of HBW in different sectors;
 - (ii) Registration of home based workers in the manner prescribed by rules;
 - (iii) Registration of employers engaging home based workers on remuneration, contract, hire or reward in the manner prescribed by rules;
 - (iv) Maintenance of record of registration of home based workers for the purpose in the manner prescribed by rules;
 - (v) Establishment of Regional or Divisional, District Committees assigned functions as prescribed by Government through notification in the official gazette.
5. Every registered home based worker shall be entitled to all those social, medical and maternity benefits, compensations and marriages and death grants available to a person failing with in the ambit of worker and workman envisaged in all Labour Laws including Sindh Industrial Relation Act, 2013 and Sindh Terms of Employment (Standing Orders) Act, 2016 and Sindh Workers Welfare Board:- Social Benefits and Grants.
- (1) Survey the place of work of home based workers for identifying and removing the hazardous conditions;
 - (2) To 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.
6. (1) After the commencement of this Act, Government shall establish by notification in the official gazette, a Fund for the Home Based Workers. Establishment of Fund.
- (2) The Fund shall consist of:
- (a) such moneys as may, from time to time be paid by the employers at the rate and manner as prescribed by Government;

- (b) voluntary contributions in the shape of money or building, Land or other property made to it from time to time by Government or by any person or by any organization;
- (c) grants, donation and gifts from any Government, donor or a multilateral organization, a local authority or any other person and general public; and
- (d) proceeds of loan raised by the Governing body of the Fund.

Note: Notwithstanding anything to the contrary contained in the Stamp Act, 1899 (Act II of 1899), stamp duty shall not be chargeable upon draft or order or receipt in respect of any benefit payable under this Act.

7. Moneys in the Fund shall be applied to-

Purposes to which moneys in the Fund may be applied.

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

8. (1) As soon as may be after the commencement of this Act, 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 Department, who shall be its chairperson and not more than ten other members to be appointed by Government, to whom-

- (a) from the Finance Department, Official member;
- (b) from the Social Welfare Department, Official member;
- (c) from the Directorate Labour Welfare, Official member; (shall be the Secretary of the Governing Body as prescribed)
- (d) at least three members shall be appointed amongst the home based workers;
- (e) at least three members shall be appointed amongst the employers or representative of registered trade union;

(f) At least two members shall be appointed amongst the home based workers organizations or trade union.

(3) The Member of the Governing Body other than the Chairperson and official members shall hold office for such period and on such terms and conditions as may be prescribed.

(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.

9. As soon as may be after it has been constituted, the Governing Body shall, with the previous approval of Government, lay down the procedure for making applications of the Fund, prioritization between respective applications and allocations from the Fund accordingly. **Governing Body to lay down procedure, etc.**
10. (1) Government may by notification in the official Gazette, establish the Arbitration Committee as it considers necessary and, where it establishes more than one Committee, 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 Government.
11. Subject to the provisions of this Act, the Arbitration Committee shall:- **Powers and Procedures 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.
 - d) No court fee shall be payable for filing, exhibiting or recording any document in, or obtaining any document from an Arbitration Committee.
12. (1) Any dispute arising between home based worker, Trade union, Federation and Employer or Contractor or sub-contractor or intermediary contract to related to the contract of a job whether implied or express or payment of delayed and deducted wages or matters related to Occupational Safety and Health, harassment ancillary thereto shall be settled by the Arbitration Committee constituted by Government under the protection of Inspector of Factories (Labour) of the respective district where the dispute arises. **Settlement of Dispute.**

Provided that every such dispute shall be presented within two 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.

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

(2) The parties shall be given full opportunity to define their case.

13. (1) Any party aggrieved of the order passed by the Arbitration Committee, shall file an appeal before the Labour Court. **Appeal.**

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

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

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

15. 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.**

16. Every employer shall keep such records and shall submit for the Registration to home based workers Council or Labour Directorate, 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. **Maintenance of record by employers, Contractors, Sub-Contractors or other Intermediaries.**

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

**BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH**

**G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH**

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