

THE KERALA DOMESTIC WORKERS (LIVELIHOOD RIGHTS, REGULATION OF EMPLOYMENT, CONDITIONS OF WORK, SOCIAL SECURITY AND WELFARE) BILL

Preamble: Social and economic justices are promises of our Constitution. Justice to the domestic workers who are long neglected victims of very exploitative conditions is, therefore, an urgent imperative of our Socialist Republic. The experience of implementation, failure, legal and litigation hurdles of existing labour legislations have made it necessary to make creative changes in the structure, schemes and operation of any labour legislation designed to liberate the workers in this sector from the unjust practices prevalent in the field. The participation of workers as envisaged by the Constitution under Article 43-A in the working of the legislation and enforcement of remedies thereunder is essential if credibility and confidence are to be commanded by the law.

Now, therefore; be it enacted in the fifty ninth year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. Short Title, Extent, Commencement and Application: The Act may be called Domestic Workers (Livelihood Rights, Regulation of Employment, Conditions of Service, Social Security and Welfare) Act, —

1. It extends to the whole of Kerala.

2. Chapter I shall come into force at once. The rest of the provision in the Act shall come into force on such date or dates as the Government may, by notification in the official Gazette, appoint. However it shall not be later than 2 years from the passing of this Act. In cases where such notification is not issued within the said period, it is deemed that the Act shall come into operation immediately after the lapse of such period.

2. Declaration as to Expediency of Regulation: It is hereby declared that it is expedient in the public interest that the domestic sector, 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 provisions in Article 39, 41, 42, 43 and 43-A of the Constitution are given effect to by a law made by Legislature with reference to entries 22, 23 and 24 of List III in the 7th Schedule to the Constitution.

3. Definitions: In this Act, unless the context otherwise requires:—

(a) “Adolescent” means a person who has completed 15 years of age but has not completed 18 years of age.

(b) “Adult” means a person who has completed 18 years of age.

(c) “Government” means the Government of Kerala.

(d) “Board” means one of the Domestic Workers Boards established under Section 9 of this Act.

(e) “Child” means a person who has not completed 15 years of age.

(f) “Contractor” in relation to any establishment in the domestic employment, means a person who undertakes to supply domestic workers to or for an establishment or a placement agency by engaging such workers on hire or otherwise, or who supplies such workers either in groups, or as individuals; and includes a subcontractor, an agent, domestic placement agency as any supplier of labour.

(g) “Domestic Worker” means a person or a group of persons between the age of 15 and 70 years working in any domestic employments, directly or through any agency or contractor whether exclusively for one employer, one or more employers or a group of employees whether simultaneously or otherwise and includes—

a casual or temporary domestic worker;

a migrant worker,

but does not include any member of the family of an employer.

(h) “Employer” in relation to any domestic worker means the person who has the ultimate control over the affairs of the establishment of work or service and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an employee or is called by any other name prevailing in the scheduled group of employments.

(i) “Establishment” means any place or premises belonging to, or under the control of an employer where the domestic workers are employed in any work; and includes an establishment belonging to the employer. “establishment” means a shop, a commercial establishment, residential hotel, restaurant, eating house, theatre or other places of public amusement or entertainment and includes such other establishments as Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;

(j) “Family” in relation to an employer or any unorganized sector worker in the scheduled grouping of employments, means the spouse, son, daughter, father, mother, brother or sister of such employer or any unorganized sector worker in the scheduled grouping of employments, who lives with him / her and is wholly dependent on him / her.

(k) “Fund” means fund created for social security, administration and welfare schemes under this Act.

(l) “Government” means the Government of Kerala.

(m) “Inspector” means an Inspector appointed under Section 15.

(n) “Inter-State migrant workman” means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the employer in relation to such establishment;

(o) “Prescribed” means prescribed by rule or scheme made under this Act.

(p) “Principal employer” means any employer who engages any domestic worker directly or through a contractor.

(q) “Scheme” means a scheme notified by the appropriate Government under the Act.

(r) “Social security number” means the number given to the worker under Section. 10(2) (n).

(s) “State Advisory Committee” means an Advisory Committee constituted by the Government under Section 13.

(t) “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 any service excluded from the computation of wages by general or 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 travelling allowance or the value of any travel concession;

(iv) any sum paid to the domestic worker to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

4. Effect of Laws and Agreements Inconsistent with this Act: (a) The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any other decree or order of any court, tribunal or authority or under any settlement.

(b) The Government may by notification in the Official Gazette and subject to such conditions as may be specified in such notification, exempt any employer of domestic worker from the operation of this Act, if the domestic workers under such employment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

5. Application of Various Laws to Domestic Workers: Notwithstanding anything contained in any other law for the time being in force, provisions of Workmen’s Compensation Act 1926, Inter State Migrant Workers Act 1976, Payment of Wages Act 1936, Maternity Benefit Act 1961, Minimum Wages Act 1948, Equal Remuneration Act 1976, Employees State Insurance Act, Employees Provident Fund Act,

Payment of Gratuity Act, 1972, will apply to the domestic workers subject to the modifications made under this Act.

6. Rules of Evidence: In this Act, notwithstanding anything contained in the Indian Evidence Act, 1872, the onus to prove compliance with the provisions of the Act and the Scheme shall be entirely on the employer and the units of the Board wherever applicable.

7. Values to be Adopted in the Application of the Act: The Domestic Worker Boards, their units, the Dispute Resolution Council and any other authority which may be constituted under the Act and Scheme shall strive to apply, as the situation may require, the principles enshrined in Articles 41, 42, 43, 43-A and 46 of Part IV and clauses (h) and (j) of Article 51-A of part IV A of the Constitution of India.

CHAPTER II

MINIMUM LABOUR STANDARDS TO BE ENSURED FOR THE DOMESTIC WORKERS

8. The Government shall Ensure to Every Domestic Worker the Following Rights and Entitlements:

- (i) The right to livelihood;
- (ii) Not to be employed in employments such as forced/bonded labour, child labour and manual scavenging;
- (iii) Prohibition of discrimination in employment on grounds of religion, race, caste, creed, sex, place of birth/residence/domicile or any other reason;
- (iv) Minimum age of employment not to be below 15 years of age;
- (v) The age of superannuation not exceeding 60 years for men and 55 years for women;
- (vi) The right for written contract with regard to terms and conditions of employment;
- (vii) The right to have an uniform social security card;
- (viii) The right to have a model set of standing orders framed by the Government in consultation with workers' representatives on matters such as hours of work, weekly rest, annual leave with wages, suspension, disciplinary proceedings, discharge, termination and welfare measures within the scope of employment, with a condition that every employer must agree to the standing order in conformity with these standing orders. Any condition of engagement, employment or service not so provided, shall be in accordance with the provisions of this Act;
- (ix) The right to minimum wages in accordance with norms evolved at the 15th Session of Kerala Labour Conference, 1957 and Raptakos Brett Judgment;
- (x) The right to form union for collective bargaining through the tripartite mechanism or otherwise;
- (xi) The right to collective action by the Unions and the Workers;
- (xii) The employer's duty to provide occupational and other safety measures;

(xiii) The right to the entitlement for vocational training and guidance through the State, Employers Organisations or otherwise.

(xiv) Ensuring special protection for migrant workers and their families in providing ration cards, housing, medical help and education to their children;

(xv) Providing the protection for women workers against sexual harassment

at work place, as defined in the Visakha judgment;

(xvi) Restricting mechanization causing labour displacement and other labour displacement methods in the Domestic Sector.

(xvii) Ensuring the health and medical care, employment, injury benefit, maternity benefits, group insurance, housing, gratuity, bonus and pension benefits.

CHAPTER III

CONSTITUTION OF STATE BOARDS AND FRAMING OF SCHEMES

9. Domestic Worker Boards: 1. The Government shall, by notification in the official Gazette, establish State Domestic Worker Board for domestic employments for the State. Apart from the representatives of workers and employers, each Board shall also consist of representatives of the State Government, and such number of experts and social activists as are considered necessary.

2. Every such Board shall be a body corporate with the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose off property and to contract and may by that name sue and be sued.

3. The Government shall after consulting the State Advisory Committee, by notification in the official Gazette and subject to the condition of prior publication set up tripartite bodies at the district level and below on the same pattern as each of the State Domestic Worker Board.

4. The representatives of workers on each of the Board shall be elected by registered Domestic Workers every three years. Rules shall be framed for conduct of elections, subsequent to the completion of the registration process. Until that time, representatives of the workers shall be the representatives of Trade Unions of the Domestic Workers in the domestic employments with such substantial membership as may be prescribed.

5. Women unorganized sector workers shall have proportionate representation among representatives of workers in all bodies. 6. The term of the members of the Boards and the District and local area bodies shall be for a period of three years.

7. The meeting of the State level boards shall take place every two months and the meeting of the district / taluk / local boards shall take place every month.

10. Scheme for Ensuring Regular Employment of Workers: (1) The Government may in consultation with its Domestic Worker Boards frame schemes to be called the Domestic Workers (Regulation of Employment and Conditions of Service) Schemes, 2008 for ensuring greater regularity of employment, for regulating the employment of domestic workers and for prescribing conditions of service for the domestic workers covered by the scheme.

(1) (a) Each Scheme may provide for one more benefits for the domestic workers for the whole State.

(2) In particular, the Scheme may provide for any or all of the following—

(a) for ensuring regular employment and regulating employment in the domestic employments in the unorganized sector and providing benefits to workers;

(b) for regulating the recruitment and entry into the Domestic Worker Board, by way of registration of domestic workers identified by registered trade unions and employers including the maintenance of registers, temporary or permanent; removal of names of workers or employers from the registers and the imposition of fees for registration for provision of identity card, work book and a social security number to each worker;

(c) for regulating the employment of domestic workers, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof;

(d) for providing for minimum payment to domestic workers who are available for work in respect of periods during which full employment, or even part employment, is not available;

(e) for prohibiting, restricting or otherwise regulating the employment of domestic workers who are not registered workers and the employment of domestic workers by employers who are not registered employers;

(f) for collecting levy from employers of the domestic worker towards the scheme and social security and welfare fund;

(g) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed, including any contributions to the fund by employers and domestic workers and the rate of such contributions;

(h) for creating such fund or funds as may be necessary or expedient for the purposes of social security and other welfare benefits and for the administration of such fund or funds;

(i) for training, imparting skills to and providing welfare for domestic workers; such as housing, crèche, assistance for accidents, natural death of the registered workers, marriage and education of children etc.;

(j) for the welfare of the officers and other staff of the Board;

(k) for health and safety measures in places where domestic workers are employed;

(l) for implementing ESI, PF, pension from the age of 55, maternity benefit to the registered domestic workers;

(m) for constituting Social Security and Welfare Fund composed of contributions from Employers through Cess, levy, annual budgetary provision from Central and State Govts. and small contribution from the workers;

(n) provision of National Social Security Number to each domestic worker by the Domestic Worker Boards;

(o) for implementing special protection for migrant workers and families;

(p) for constituting complaints committee on sexual harassment of women workers;

(q) for evolving guidelines for restricting of mechanization and other labour displacement policies and practices in the domestic sector and implementing them;

(r) for devising steps to help workers depending on open and common resources to see that their activities are not hindered and sustainability maintained with environmental protection;

(s) for taking steps to protect the right of the domestic workers to share the public space to engage in economic activities;

(t) for promotion of labour intensive methods and practices in the domestic workers;

(u) for constituting, Administrative Bodies at various levels as may be necessary for the administration of the Scheme;

(v) for setting up units of the Board at various levels, district, taluk etc.;

(w) For constituting, primary and appellate forums to adjudicate disputes that may arise between domestic workers and contractors, or between domestic workers and employers;

(x) for formulating appropriate provisions for taking disciplinary action if necessary against employers and workers, and the functionaries of Boards and its bodies.

(3) Contribution to Social Security and Welfare Fund: Notwithstanding anything contained in any law for the time being in force or in any agreement.

(i) The employers of domestic worker shall make contribution to the social security and Welfare Funds of the Domestic Workers Boards in the State. At least one thousand rupees shall be paid by every employer of full-time domestic worker and two hundred rupees for part-time domestic worker at the time of Registration before commencing employment which shall be renewed every year.

(ii) Each registered worker shall make a small contribution, the full-time domestic worker shall contribute Rs. 100 per year and the part-time domestic worker shall contribute Rs. 20 per part-time employment.

(4) The Scheme may further provide for constituting appropriate dispute resolution bodies for speedy resolution of disputes that may arise between workers, the contractors, employers and Board, or any two of the domestic workers, the employer's/contractors and the Board.

(5) The Scheme may further provide for the consequences and penalties for contravention of any provisions of the Scheme.

(6) In framing the scheme, the Governments shall keep in view the provisions of the model scheme as may be prescribed by the Central Government, if any and ensure that the provisions of the scheme framed are not in material particulars inconsistent with or less beneficial to the unorganized workers than the provisions of the model scheme. The Central Government shall in according its prior approval likewise ensure that the provisions of the Scheme are not in material particulars inconsistent with or less beneficial to the domestic workers than the provisions of the model scheme if any.

11. Variation and Revocation of Schemes: (1) The Government may, by notification in the official gazette, add to the schedule, amend, alter or vary the schemes made by it for the purpose of more effective implementation of the Schemes having regard to any special condition obtaining in the State after the scheme was originally framed for conferring additional benefits to the domestic workers.

(2) Such amendments, alterations or variations of the Schemes may be effected in consultation with the Central Government and the State Domestic Workers Boards.

12. Functions of the Boards: 1. The Domestic Worker Boards set up in the State shall be responsible for administering the schemes and shall exercise such powers and perform such functions as may be conferred on them by the scheme.

2. (i) The tripartite bodies set up under Section 9 of the Act shall likewise be responsible for administering the Schemes in their respective areas, under the over all supervision and guidance of the Board.

(ii) To conduct taluk/local wise meeting of registered workers in each scheduled grouping of employments shall be held every year and the minutes placed before the corresponding boards in the subsequent meeting.

(iii) There shall be grievance day every week in the units of the boards, local/taluk/district and the state level when the registered worker can get the redressal of grievance relating to the functioning of the scheme.

3. No decision of a Board which is adverse to the interests of domestic workers shall generally be implemented except with the concurrence of the representatives of the domestic workers on the concerned Board.

4. The Boards shall recruit necessary staff from the employment exchange. The service rules of such staff of the Boards shall be formulated by the Board in meeting and published in the gazette.

5. Notwithstanding anything contained in any other law, the Board may nominate persons or officers who would be competent to act on behalf of any domestic workers to initiate action for making any claim under any law or rules made there under or award or settlement made under any such law and appear on behalf of the domestic workers in such proceedings.

6. The Board shall submit to the Government as soon as may be, after the first day of April every year, the annual report on the working of the scheme during the preceding year ending on thirty first March of that

year. Every report so received shall be laid as soon as may be after it is received before the State Legislature if it is in session, or in the session immediately following the receipt of the report.

7. The Board shall constitute a Vigilance Committee comprising of the representatives of workers, employers, government and experts to check corruption, monitor the functioning of the board and evolve strategies to eradicate corruption and to promote accountability and transparency.

8. Accounts and audit:—

(i) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including a balance sheet in such form as may be prescribed.

(ii) The accounts of the Board shall be audited annually by such qualified person as the Government may appoint in this behalf.

(iii) The auditor shall at all reasonable time have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require or examine any member or officer of the Boards.

(iv) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the Government after it is approved by the corresponding Board.

(v) The Board shall comply with such directions as the Government may after perusal of the report of the auditor, think fit to issue.

(vi) The cost of audit, as determined by the Government, shall be paid out of the funds of the Board.

9. Recovery of dues to the Board:— (a) On an application made by the Board for the recovery of arrears of any sum payable to it under this Act or any scheme and on its furnishing a statement of accounts in respect of such arrears, the Collector may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(b) A certificate by the Collector shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall then be recovered in accordance with the Kerala Revenue Recovery Act as arrears of land revenue and remitted to the Board.

10. State Advisory Committee: (i) State Advisory Committee shall be constituted by the Government in order to evolve appropriate schemes for the scheduled grouping of employments on the basis of a survey in the State and the model schemes evolved by the Central Advisory Committee if any.

(ii) The Advisory Committee shall monitor the functioning of the schemes and Boards in the State and make suggestions for suitable amendments to the schemes in conformity with the provisions of this Act.

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

11. Inspectors: (i) Any registered trade union may have the power to inspect the work premises and prosecute the erring employer for violations under this Act. The Board may appoint such persons as it

thinks fit to be Inspectors possessing the prescribed qualifications for the purpose of this Act or of any scheme and may define the limits of their jurisdiction.

(ii) Subject to any rules made by the Government in this behalf, an Inspector may

(a) enter and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where domestic workers are employed or are deputed for work for the purpose of examining any register, record of wages or notice required to be kept or exhibited under any scheme, and require the production thereof, for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a domestic worker employed therein or contractor workers to whom work is given out therein;

(c) require any person giving any work to domestic workers or to a group of domestic workers to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

(d) seize or take copies of such registers, records of wages or notices or portions thereof as he may consider relevant, in respect of an offence under this Act or Scheme, which he has reason to believe has been committed by an employer;and

(e) exercise such other powers as may be prescribed: Provided that no one shall be required under the provisions of this section to answer any question or make any statement tending to incriminate him.

(iii) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act XLV of 1860).

15. Obstructions: (i) Whoever obstructs an Inspector or a person appointed under this Act or Scheme (hereinafter referred to “as the authorized person”) in the discharge of his duties under this Act or refuses or willfully neglects to afford the Inspector or authorized person any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees, or with both.

(ii) Whoever willfully refuses to produce on the demand of any Inspector or authorized person 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 any Inspector or authorized person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees or with both.

(iii) Such obstruction or willful refusal shall at once be reported to the respective unit of the Board within whose jurisdiction such obstruction/willful refusal takes place, as well as to the Board which may also take appropriate action in accordance with the scheme.

CHAPTER IV

DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION

16. Resolution of Disputes: All disputes arising out of the enforcement of the provisions of this Act shall be resolved only by Dispute Resolution Councils and Appellate Authority duly constituted under this Act.

17. Constitution of Dispute Resolution Councils and Appellate Authority: (1) There shall be Dispute Resolution Council in each of the five cities comprising three members, representing the Government, the domestic workers and the employers constituted by the Labour Commissioner.

(2) The term of office of the members of the council shall be three years.

(3) The Appellate authority shall likewise be a tripartite body, representative in composition and constituted in the same manner by the Government.

18. Reference of Disputes: (1) Where the appropriate unit of the Board is of the opinion that dispute exists or is apprehended, it may at any time, by order in writing—

(a) refer the dispute to the Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Council for inquiry; or for resolution of the dispute as provided in the Scheme.

(2) No proceeding pending before a Dispute Resolution Council or the appellate authority in relation to a dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such council or appellate authority shall complete such proceedings and submit its award to the appropriate unit of the Board.

(3) The decision of the Appellate Authority shall be final and binding on the parties.

CHAPTER V

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

19. Procedures and powers of Boards, Councils and appellate authorities: (1) Subject to any rules that may be made in this behalf by the Board, the Dispute Resolution Council or appellate authority shall follow such procedure as may be deemed fit and conforming to principles of natural justice.

(2) Every unit of the Board, Dispute Resolution Council or the appellate authority 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; and every enquiry or investigation by a Board or Dispute Resolution Council shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (45 of 1860).

(3) Every document in relation to a dispute as above said, will be a public document within the meaning of Section 76 of the Evidence Act, 1972. Any person interested in the dispute or his authorized representatives shall have a right to obtain copies of such documents.

(4) The Dispute Resolution Council may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which it has ground for considering being relevant to the implementation of any Award or for carrying out any other duty imposed on it under this Act. For the aforesaid purposes, the Dispute Resolution Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

(5) All members of the Council and the presiding officers of a Council or Appellate Authority shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code. Subject to any rules made under this Act, the costs of, and incidental to any proceedings before a Council shall be in the discretion of that Council, which shall have full power to determine by whom, to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may on application made to the appropriate Board, by the person entitled, be recovered by the appropriate government in such manner as it deems appropriate.

(6) Every Council shall be deemed to be civil court for the purposes of Sections 345, 346 and 348 of the Code of Criminal Procedure, 1973 (2 of 1974).

20. Bar of Jurisdiction of Civil and Labour Courts: No civil or labour court shall entertain the suit or application in respect of any matters arising under this Act or the Scheme.

21. Contravention of Provisions Regarding Employment of Unorganized Sector Workers: Whoever contravenes any provisions of this Act or of any rules made thereunder regarding the employment of unorganized sector workers, or contravenes any other provision under this Act or this Scheme, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and in the case of continuing contravention, with an additional fine which may extend upto one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

22. Other Offences: If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to thousand rupees, or with both.

23. Offences by Companies: (1) Where an offence under this Act or Scheme has been committed or the provisions thereof have been violated by a company, it shall be presumed that appropriate instruction has not been issued by the Company for wholesome compliance with the Act and Scheme unless it is otherwise proved.

(2) Where it is not so proved, every person who, at the time the offence was committed, was in charge of and was responsible, to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) Where it is so proved the person who is responsible for such violation shall be proceeded against and punished accordingly.

(4) Notwithstanding anything contained in sub-section (i), if the commission of the offence under this Act is attributable to any omission or negligence on the part of the director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section:

(a) ‘company’ means any body corporate and includes a partnership firm or other association of individuals; and

(b) ‘director’, in relation to a firm, means a partner in the firm.

24. *Cognizance of offences:* (1) Every offence punishable under this Act and the scheme shall be cognizable only by a Judicial Magistrate not lower in rank than a First Class Magistrate of the area concerned.

(2) Whenever any contravention of the provisions of the Act and Scheme takes place, the Inspector of the Board or any person aggrieved by such contravention may in writing complain to the Magistrate for taking cognizance of the offence.

(3) Whenever an Inspector without sufficient reason refuses or fails to make a complaint of such a contravention, the Board, may suo motu or on a report from the person aggrieved, make a report to the Magistrate in writing to take cognizance of the offence. This will be without prejudice to such disciplinary action that the Board may cause to be initiated against the Inspector for his lapse.

25. *Power to make Rules:* The Government and its Unorganized sector worker boards together shall have the power to make Rules for the purposes of effective functioning of the Scheme. In particular the Government and its domestic worker boards shall have the power to make rules in respect of the following:

(a) The election of representatives of domestic workers in the domestic workers boards.

(b) Health, safety and medical facilities, social security and maternity benefits, and domestic workers welfare funds.

(c) Enforcement of Provisions of the Act and Scheme, including machinery for such enforcement.

(d) Provisions in regard to welfare crèches, education and such other social welfare benefits for the children of domestic workers.

(e) The conditions of service including recruitment, pay, allowance, tenure, discipline and appeal, retirement benefits of various categories of employees of the Board and their welfare.

(f) The remuneration or honorarium payable to the Presidents and other Office bearers of the Boards.

(g) Provisions for leisure time activities, recreation, library any literacy measures including legal literacy among domestic workers.

26. *Overriding effect of other enactments.*- This Law will not affect the functioning of any other State or Central Act which is more beneficial than this Act.

SCHEDULE

LIST OF EMPLOYMENTS IN THE DOMESTIC SECTOR

1. Domestic Work will Include

a. gardening,

b. baby sitting,

c. cooking and serving,

d. cleaning & washing,

e. care of the sick & aged.

Statement of Objects and Reasons:

Social justice and economic justice are the promises of our Constitution. Justice to the domestic workers who are long neglected victims of exploitative conditions are, therefore, an urgent imperative of our Socialist Republic. The participation of workers as envisaged by the Constitution under Article 41-A in the working of the legislation and enforcement of the remedies thereunder is essential if credibility and confidence is to be commanded by the law. Domestic workers include a large number of women whose conditions of work are far from satisfactory. They are exploited by the employers and invariably treated with scant respect. Their living conditions leave much to be desired and need to be improved to bring them to the mainstream of workers to lead a decent life. It is the duty of the Government to ensure their right to livelihood, protection from discrimination and exploitation, minimum wages, security of employment, the right to a written contract embodying the terms of employment etc. The Bill seeks to enable the domestic workers to enjoy their rights under the Constitution by a welfare scheme to be framed by the Government and implementation of the provisions of the scheme by a statutory body called Domestic Worker Boards with appropriate powers. Provision has also been made for settlement of disputes arising out of the enforcement of the provisions in the Act. Violation of the provisions of the Act has also been made an offence punishable with imprisonment and fine.