

The Maharashtra Domestic Workers Welfare Board Act, 2008

MAHARASHTRA

India

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Act 1 of 2009

- Published on 6 January 2009
- Commenced on 6 January 2009
- [This is the version of this document from 6 January 2009.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra Domestic Workers Welfare Board Act, 2008 Maharashtra Act No. 1 of 2009 (First published after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 6th January, 2009.) An Act to provide for the constitution of Boards for promoting welfare of domestic workers in the State of Maharashtra and to create funds for granting various financial benefits and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for the constitution of Boards for promoting welfare of domestic workers in the State of Maharashtra and to create funds for granting them various financial benefits and for matters connected therewith or incidental thereto; it is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Maharashtra Domestic Workers Welfare Board Act, 2008. (2) It shall come into force in such area and on such date, as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

2. Definition.

- In this Act, unless the context otherwise requires, - (a) "Advisory Committee" means an Advisory Committee constituted under section 25; (b) "beneficiary" means a domestic worker registered under section 11; (c) "Board" means a Board established under section 3; (d) "domestic work" means household work like sweeping, cleaning utensils, washing clothes, cooking and such other manual works as is mutually agreed between the employer and domestic worker carried out at the work place; (e) "domestic worker" means a worker who is engaged for doing domestic work; (f) "employer", in relation to a domestic worker, means the person having the control as head of the family or the manager; (g) "fund" means the fund constituted by the Board under section 16; (h) "Government" or

"State Government" means the Government of Maharashtra;(i)"member" means a member of a Board and includes the Chairperson the Board;(j)"prescribed" means prescribed by rules;(k)"regulations" means regulations made by the Board;(l)"rules" means rules made by the Government; and(m)"work place" means any residential bungalow, wada, house, flat, place, villa or such other premises, including precinct thereof, in which or in part of which, any domestic work is being or is ordinarily carried on.

3. Constitution of 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.(2)Every such Board shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose off property, and to enter into contracts, and may by that name sue or be sued.(3)The Board shall consist of 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, travelling 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.

4. Power of State Government to appoint Board consisting of one person.

(1)Where, for any reason whatsoever, it appears to the State Government that it is unable to constitute a Board for the specified area in accordance with the provisions of section 3, the State Government may, by notification in the Official Gazette, appoint a person who shall hold office until a Board is duly constituted under section 3 for such specified area.(2)The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform functions and discharge all the duties conferred and imposed upon the Board by or under this Act. He shall continue to be in office until the day immediately preceding the date of the first meeting of the Board under section 3.(3)The person constituting the Board shall receive such remuneration from the fund of the Board, and the terms and other conditions of service shall be such as the State Government may determine.

5. 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 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 person's 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.

6. 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.

7. Vacancy to be filled in as early as possible.

- In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled in not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the member in whose place^H nominated would have held it, if the vacancy had not occurred.

8. 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.

9. 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.

10. Functions of Board.

- The Board shall perform following functions, namely (a) 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) such other benefits as may be decided by the Board, from time to time; (c) to constitute and administer the fund for the purposes of this Act as specified in section 15; (d) to appoint a secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act; (e) such other functions as may be assigned to it by the State Government, from time to time.

11. Registration of domestic worker as beneficiary.

(1) Every domestic worker who has completed eighteen years of age, but has not completed sixty years of age and who has been engaged in any domestic work 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 and shall be submitted to the officers authorised by the Board in this behalf. (3) Every application under sub-section (2) shall be accompanied by such documents together with such fees as may be prescribed, from time to time. (4) If the officer authorised by the 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 beneficiary under this Act or he may for reasons to be recorded in writing reject the application: Provided that, the application for registration shall not be rejected unless the applicant has been given a reasonable opportunity of being heard. (5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer authorised by the Board in this behalf and decision of the Secretary on such appeal shall be final: Provided that, the Secretary may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time. (6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

12. Identity Card.

(1) The Board shall give to every beneficiary an identity card, with his photograph duly affixed thereon. (2) The Identity Card shall be in such form and shall contain the name, address, photograph of the beneficiary and such other particulars as may be prescribed.

13. Cessation as beneficiary.

(1)A domestic worker who has been registered as a beneficiary under this Act shall cease to be as such when he is not engaged in the domestic work or when he has not paid his contribution under section 16 for a continuous period of not less than one year, unless the payment of contribution is waived by the Board under the proviso to section 16:Provided that, if the Secretary of 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.(2)Notwithstanding anything contained in sub-section (1), if a person had been the beneficiary for atleast three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be decided by the Board.

14. Grants by State Government.

- The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to every Board in each financial year by way of grants from the Consolidated Fund of the State, such sums of money as it may deem fit for being utilized for the purposes of this Act.

15. Fund, its application and procedure thereof.

(1)There shall be constituted by every Board a fund for providing various benefits to the registered domestic workers and there shall be credited thereto,-(a)grants received from the Government every year;(b)all contributions made by the beneficiaries;(c)all other sums received by the Board from any other sources.(2)The fund shall be applied for meeting,-(a)expenses of the Board in the discharge of its functions under section 10; and(b)salaries, allowances and other remuneration of the members, officers and other employees of the Board;(c)expenses on other objects and for the purposes authorized by the State Government.(3)No Board shall, in any financial year, incur expenses towards salaries, allowances, and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent., of its total expenses during that financial year.(4)The Board may keep current and deposit account with such Bank and the same may be operated by such officers of the Board as may be laid down in the regulations.(5)Every domestic worker registered as a beneficiary may make an application to the Board in such form and accompanied by such documents as may be prescribed, for grant of payments out of the fund towards the benefits he is entitled to under this Act.(6)The Board may after receipt of every such application, conduct such inquiry as it may deem fit, and either grant the application or, for the reasons to be recorded in writing, may reject the same:Provided that, any such application shall not be rejected unless a reasonable opportunity of being heard is given to the applicant.(7)The decision of the Board in this regard shall be final.

16. Contribution of domestic worker.

- A domestic worker who has been registered as a beneficiary under this Act shall until he attains the

age of 60 years, contribute to the fund such amount per month, as may be 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.

17. Investment of fund.

- Where the fund or any portion thereof cannot be applied at any early date, in performing the functions of the Board, the Board shall invest the same in any of the securities specified in clause (a) to (d) and (f) of section 20 of the Indian Trusts Act, 1882.

18. Powers of Board to Borrow.

- The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act, borrow any sum required for the purposes of this Act.

19. Accounts and Audit.

(1) 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. (2) The accounts of the Board shall be audited annually by such qualified persons as the State Government may appoint in this behalf. (3) The auditor shall at all reasonable times 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 Board. (4) The accounts of the Board certified by the auditor, together with the audited report thereon, shall be forwarded annually to the State Government, before such date as the State Government may specify in this behalf. (5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue. (6) The cost of audit as determined by the State Government shall be paid out of the funds of the Board.

20. Budget.

- The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government.

21. Annual Report.

- The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

22. Directions by State Government to Board.

- The State Government or any officer authorised by the State Government may give the Board such directions which in its opinion are necessary or expedient in connection with the expenditure from the fund or carrying out the other purposes of the Act and it shall be the duty of the Board to comply with such directions.

23. Powers of State Government or authorised officer to call for records etc.

- The State Government or any officer authorised by the State Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

24. 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 Board and re-constitute it in the manner specified in section 3 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 revert in the Board.

25. 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 Members of the State Legislature 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.(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 travelling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

26. Members, officers and servants of the Board to be public servant.

- Members including chairperson of the Board and all officers and servants of the Board shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.

27. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any member or any officer or employee of the Board or any person acting under the direction either of the Government or of the Board, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or regulations made thereunder.

28. 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 travelling 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; (l) meetings of the Advisory Committee and the procedure to be followed thereat; (m) term of office of members of the Advisory Committee; (n) rate of travelling 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.

29. Power to make regulations.

- The Board may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder 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.

30. Power to remove difficulty.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears it to be necessary or expedient for removing the difficulty: Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.