

[REPUBLIC ACT NO. 10361, January 18, 2013]

AN ACT INSTITUTING POLICIES FOR THE PROTECTION AND WELFARE OF DOMESTIC WORKERS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Domestic Workers Act” or “Batas Kasambahay”.

SEC. 2. *Declaration of Policies.* – It is hereby declared that:

(a) The State strongly affirms labor as a primary social force and is committed to respect, promote, protect and realize the fundamental principles and rights at work including, but not limited to, abolition of child labor, elimination of all forms of forced labor, discrimination in employment and occupation, and trafficking in persons, especially women and children;

(b) The State adheres to internationally accepted working conditions for workers in general, and establishes labor standards for domestic workers in particular, towards decent employment and income, enhanced coverage of social protection, respect for human rights and strengthened social dialogue;

(c) The State recognizes the need to protect the rights of domestic workers against abuse, harassment, violence, economic exploitation and performance of work that is hazardous to their physical and mental health; and

(d) The State, in protecting domestic workers and recognizing their special needs to ensure safe and healthful working conditions, promotes gender-sensitive measures in the formulation and implementation of policies and programs affecting the local domestic work.

SEC. 3. *Coverage.* – This Act applies to all domestic workers employed and working within the country.

SEC. 4. *Definition of Terms.* – As used in this Act, the term:

(a) *Debt bondage* refers to the rendering of service by the domestic worker as security or payment for a debt where the length and nature of service is not clearly defined or when the value of the service is not reasonably applied in the payment of the debt.

(b) *Deployment expenses* refers to expenses that are directly used for the transfer of the domestic worker from place of origin to the place of work covering the cost of transportation. Advances or loans by the domestic worker are not included in the definition of deployment expenses.

(c) *Domestic work* refers to work performed in or for a household or households.

(d) *Domestic worker* or "Kasambahay" refers to any person engaged in domestic work within an employment relationship such as, but not limited to, the following: general househelp, nursemaid or "yaya", cook, gardener, or laundry person, but shall exclude any person who performs domestic work only occasionally or sporadically and not on an occupational basis.

The term shall not include children who are under foster family arrangement, and are provided access to education and given an allowance incidental to education, i.e. "baon", transportation, school projects and school activities.

(e) *Employer* refers to any person who engages and controls the services of a domestic worker and is party to the employment contract.

(f) *Household* refers to the immediate members of the family or the occupants of the house that are directly provided services by the domestic worker.

(g) *Private Employment Agency (PEA)* refers to any individual, legitimate partnership, corporation or entity licensed to engage in the recruitment and placement of domestic workers for local employment.

(h) *Working children*, as used under this Act, refers to domestic workers who are fifteen (15) years old and above but below eighteen (18) years old.

ARTICLE II

RIGHTS AND PRIVILEGES

SEC. 5. *Standard of Treatment.* – The employer or any member of the household shall not subject a domestic worker or "kasambahay" to any kind of abuse nor inflict any form of physical violence or harassment or any act tending to degrade the dignity of a domestic worker.

SEC. 6. *Board, Lodging and Medical Attendance.* – The employer shall provide for the basic necessities of the domestic worker to include at least three (3) adequate meals a day and humane sleeping arrangements that ensure safety.

The employer shall provide appropriate rest and assistance to the domestic worker in case of illnesses and injuries sustained during service without loss of benefits.

At no instance shall the employer withdraw or hold in abeyance the provision of these basic necessities as punishment or disciplinary action to the domestic worker.

SEC. 7. *Guarantee of Privacy.* – Respect for the privacy of the domestic worker shall be guaranteed at all times and shall extend to all forms of communication and personal effects. This guarantee equally recognizes that the domestic worker is obliged to render satisfactory service at all times.

SEC. 8. *Access to Outside Communication.* – The employer shall grant the domestic worker access to outside communication during free time: *Provided*, That in case of

emergency, access to communication shall be granted even during work time. Should the domestic worker make use of the employer's telephone or other communication facilities, the costs shall be borne by the domestic worker, unless such charges are waived by the employer.

SEC. 9. *Right to Education and Training.* – The employer shall afford the domestic worker the opportunity to finish basic education and may allow access to alternative learning systems and, as far as practicable, higher education or technical and vocational training. The employer shall adjust the work schedule of the domestic worker to allow such access to education or training without hampering the services required by the employer.

SEC. 10. *Prohibition Against Privileged Information.* – All communication and information pertaining to the employer or members of the household shall be treated as privileged and confidential, and shall not be publicly disclosed by the domestic worker during and after employment. Such privileged information shall be inadmissible in evidence except when the suit involves the employer or any member of the household in a crime against persons, property, personal liberty and security, and chastity.

ARTICLE III

PRE-EMPLOYMENT

SEC. 11. *Employment Contract.* – An employment contract shall be executed by and between the domestic worker and the employer before the commencement of the service in a language or dialect understood by both the domestic worker and the employer. The domestic worker shall be provided a copy of the duly signed employment contract which must include the following:

- (a) Duties and responsibilities of the domestic worker;
- (b) Period of employment;
- (c) Compensation;
- (d) Authorized deductions;
- (e) Hours of work and proportionate additional payment;
- (f) Rest days and allowable leaves;
- (g) Board, lodging and medical attention;
- (h) Agreements on deployment expenses, if any;
- (i) Loan agreement;
- (j) Termination of employment; and
- (k) Any other lawful condition agreed upon by both parties.

The Department of Labor and Employment (DOLE) shall develop a model employment contract for domestic workers which shall, at all times, be made available free of charge to domestic workers, employers, representative organizations and the general public. The DOLE shall widely disseminate information to domestic workers and employers on the use of such model employment contract.

In cases where the employment of the domestic worker is facilitated through a private employment agency, the PEA shall keep a copy of all employment contracts of domestic workers and shall be made available for verification and inspection by the DOLE.

SEC. 12. Pre-Employment Requirement. – Prior to the execution of the employment contract, the employer may require the following from the domestic worker:

- (a) Medical certificate or a health certificate issued by a local government health officer;
- (b) Barangay and police clearance;
- (c) National Bureau of Investigation (NBI) clearance; and
- (d) Duly authenticated birth certificate or if not available, any other document showing the age of the domestic worker such as voter's identification card, baptismal record or passport.

However, Section 12(a), (b), (c) and (d) shall be standard requirements when the employment of the domestic worker is facilitated through the PEA.

The cost of the foregoing shall be borne by the prospective employer or agency, as the case may be.

SEC. 13. Recruitment and Finder's Fees. – Regardless of whether the domestic worker was hired through a private employment agency or a third party, no share in the recruitment or finder's fees shall be charged against the domestic worker by the said private employment agency or third party.

SEC. 14. Deposits for Loss or Damage. – It shall be unlawful for the employer or any other person to require a domestic worker to make deposits from which deductions shall be made for the reimbursement of loss or damage to tools, materials, furniture and equipment in the household.

SEC. 15. Prohibition on Debt Bondage. – It shall be unlawful for the employer or any person acting on behalf of the employer to place the domestic worker under debt bondage.

SEC. 16. Employment Age of Domestic Workers. – It shall be unlawful to employ any person below fifteen (15) years of age as a domestic worker. Employment of working children, as defined under this Act, shall be subject to the provisions of Section 10(A), paragraph 2 of Section 12-A, paragraph 4 of Section 12-D, and Section 13 of Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act".

Working children shall be entitled to minimum wage, and all benefits provided under this Act.

Any employer who has been sentenced by a court of law of any offense against a working child under this Act shall be meted out with a penalty one degree higher and shall be prohibited from hiring a working child.

SEC. 17. Employer's Reportorial Duties. – The employers shall register all domestic workers under their employment in the Registry of Domestic Workers in the barangay where the employer's residence is located. The Department of the Interior

and Local Government (DILG) shall, in coordination with the DOLE, formulate a registration system for this purpose.

SEC. 18. *Skills Training, Assessment and Certification.* – To ensure productivity and assure quality services, the DOLE, through the Technical Education and Skills Development Authority (TESDA), shall facilitate access of domestic workers to efficient training, assessment and certification based on a duly promulgated training regulation.

ARTICLE IV

EMPLOYMENT – TERMS AND CONDITIONS

SEC. 19. *Health and Safety.* – The employer shall safeguard the health and safety of the domestic worker in accordance with laws, rules and regulations, with due consideration of the peculiar nature of domestic work.

SEC. 20. *Daily Rest Period.* – The domestic worker shall be entitled to an aggregate daily rest period of eight (8) hours per day.

SEC. 21. *Weekly Rest Period.* – The domestic worker shall be entitled to at least twenty-four (24) consecutive hours of rest in a week. The employer and the domestic worker shall agree in writing on the schedule of the weekly rest day of the domestic worker: *Provided*, That the employer shall respect the preference of the domestic worker as to the weekly rest day when such preference is based on religious grounds. Nothing in this provision shall deprive the domestic worker and the employer from agreeing to the following:

- (a) Offsetting a day of absence with a particular rest day;
- (b) Waiving a particular rest day in return for an equivalent daily rate of pay;
- (c) Accumulating rest days not exceeding five (5) days; or
- (d) Other similar arrangements.

SEC. 22. *Assignment to Nonhousehold Work.* – No domestic worker shall be assigned to work in a commercial, industrial or agricultural enterprise at a wage rate lower than that provided for agricultural or nonagricultural workers. In such cases, the domestic worker shall be paid the applicable minimum wage.

SEC. 23. *Extent of Duty.* – The domestic worker and the employer may mutually agree for the former to temporarily perform a task that is outside the latter's household for the benefit of another household. However, any liability that will be incurred by the domestic worker on account of such arrangement shall be borne by the original employer. In addition, such work performed outside the household shall entitle the domestic worker to an additional payment of not less than the existing minimum wage rate of a domestic worker. It shall be unlawful for the original employer to charge any amount from the said household where the service of the domestic worker was temporarily performed.

SEC 24. *Minimum Wage.* – The minimum wage of domestic workers shall not be less than the following:

- (a) Two thousand five hundred pesos (P2,500.00) a month for those employed in the National Capital Region (NCR);