



International  
Labour  
Office  
Geneva

## Philippines enact new law protecting domestic workers

The Philippines has promulgated a new domestic workers law, namely the Act Instituting Policies for the Protection and Welfare of Domestic Workers (Republic Act 10361), which is also called the Domestic Workers Act.<sup>1</sup> It was signed into law by President Benigno Simeon Aquino III on 18 January 2013.

The Domestic Workers Act is a landmark piece of labor and social legislation that extends labor rights, benefits, and protection to an estimated 1.9 million domestic workers in the Philippines. The Act provides for the protection of domestic workers against abuse, debt bondage, and worst forms of child labor. It sets minimum standards for wages, hours and days of rest, and other benefits for domestic workers. Furthermore, it extends social security and public health insurance to the sector and provides for mechanisms for quick response to abuses and accessible means to redress grievances.

The new law improves on the provisions of the Labor Code of the Philippines on Household Helpers and other related social legislation. The law derived guidance from the Domestic Workers Convention, 2011 (No. 189).<sup>2</sup>

<sup>1</sup> Full text of the law is available at <http://www.gov.ph/2013/01/18/republic-act-no-10361/>

<sup>2</sup> The Philippines is the second country to ratify Convention No. 189 on 5 September 2012.

## Main innovations

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### Scope and exclusions

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The Domestic Workers Act covers persons engaged in domestic work within an employment relationship. This includes persons performing general household, or working as nursemaids, cooks, gardeners, or laundry persons. The law covers both domestic workers living with the employer and those in live-out arrangements (Section 3).

The law does not cover those who perform domestic work only occasionally or sporadically and not on an occupational basis. It also excludes children in foster family arrangements as long as they are provided access to education and given allowances incidental to education (Section 3).

### General obligations

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Employers of domestic workers are obligated to treat domestic workers with fairness and respect. Domestic workers shall not be subjected under any form of abuse or exploitation. Employers are mandated to provide at least three adequate meals per day, human sleeping conditions, and appropriate rest and medical assistance in case of illnesses or injuries to the domestic worker (Section 4-6). The law also states that employers should respect the right to privacy of domestic workers and provide the worker with access to outside communication (Section 7-8).

The law guarantees the right of domestic workers to education and training. Employers are mandated to adjust the work schedule of the domestic worker to allow access to education or training (Section 9).

### Recruitment of domestic workers

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The law provides for strict rules regarding the recruitment of domestic workers. Agencies, intermediaries, and employers are prohibited from extracting “finders’ fees” and deployment expenses<sup>3</sup> from domestic workers (Section 13). Private Employment Agencies (PEAs) are jointly and severally liable with the employer for all the wages, wage-related benefits and other benefits due to domestic workers (Section 36).

### Employment contract

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The employer and the domestic worker are required to enter into a written contract before commencement of the service. The contract should be in a language or dialect understood by both the employer and the domestic worker. There will be three original copies of the contract – one each for the domestic worker and the employer while the last copy will be registered with the barangay, the smallest unit of local government in the Philippines (Section 11).

### Minimum wage and protection of wages

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The new Act adjusts the minimum wage for domestic workers.<sup>4</sup> Wages shall not be less than P2,500 per month for those employed in the National Capital Region, P2,000 for those employed in chartered cities and municipalities, and P1,500 for those employed in other municipalities (Section 24).

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<sup>3</sup> Deployment expenses refer to expenses that are directly used for the transfer of the domestic worker from the place of origin to the place of work. This includes cost of transportation, accommodation, meals, and other related items. It does not include advances or loans of domestic workers.

<sup>4</sup> Prior to the passage of the Domestic Workers Act, the minimum wage of domestic workers was last adjusted in 1995 through Republic Act 7655, an Act Increasing the minimum wage of householders.

The Domestic Workers Act mandates the Regional Tripartite Wage Boards (RTWPBs) to review and, if necessary, adjust the minimum wages of domestic workers one year after the enactment of the law and periodically thereafter (Section 24).

In addition, domestic workers who have rendered at least one month of service are entitled to a thirteen month pay which shall not be less than one-twelfth of the total basic salary earned in a calendar year (Section 25).

The law mandates employers to pay wages in cash. It prohibits employers from interfering with the domestic workers' disposal of wages. It penalizes employers who will place domestic workers in debt bondage or illegally withhold the wages of domestic workers (Sections 14 and 15). Furthermore, the law provides clear and strict guidelines for deductions from wages of domestic workers for loss and damages to the property of the employer caused by domestic workers (Sections 27 and 28).

To ensure protection of wages, employers are required to issue pay slips to the domestic workers every pay day reflecting wages received by domestic workers along with deductions, if there are any (Section 26).

### **Rest periods and leaves**

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Domestic workers are entitled to an "aggregate daily rest period" of eight hours per day. They are also entitled to at least 24 hour consecutive hours of rest for every week. The schedule for the rest periods shall be indicated in the employment contract (Sections 20 and 21).

Domestic workers who have rendered at least one year of service shall be entitled to an annual service incentive leave with pay of at least five days per year (Section 29).

### **Social security, health insurance coverage, and other benefits**

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Domestic workers who have rendered at least one month of service shall be covered by the Social Security System (SSS), Employees Compensation Commission (ECC), Philippine Health Insurance Corporation (PHIC), and the Home Development Mutual Fund (Pag-IBIG Fund). Premiums are to be shouldered by the employer for domestic workers earning less than P5,000. Where domestic workers earn more than P5,000, they will pay a proportionate share of the premium as defined by the law (Section 30).

The Act specifically states that domestic workers are covered by other laws that provide benefits and protection to workers (Section 30).

### **Minimum age and other protections from child labour**

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Children below 15 years of age are prohibited from being employed as domestic workers. The law allows the employment of children aged 15-17 years old as long as the working conditions conform to the standards set forth in Republic Act 9231 or the Anti-Child Labor Act<sup>5</sup> (Section 16).

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<sup>5</sup> Under RA 9231, children shall not be allowed to work more than eight (8) hours a day, they should not work from ten in the evening to six o'clock the morning of the following day. Children are also prohibited from work that are hazardous to the health, safety or morals of children.

## **Termination of employment relationship**

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Domestic workers and employers are prohibited from terminating the contract before the expiration of the term except for the following just causes (Sections 32 to 34).

The domestic worker may terminate the employment relationship if the worker experienced verbal or emotional abuse, inhumane treatment, physical abuse, and other forms of exploitation from the hands of the employer or any other member of the household.

The employer may terminate the employment relationship due to the misconduct or willful disobedience by the worker of a lawful order, gross or habitual neglect or inefficiency in the performance of duties by the worker and fraud.

The violation of any party to the terms and conditions of the contract or the standards set forth in the law and the contracting of any disease prejudicial to the health of the worker, the employer or the household, are also just causes for termination of contract.

If the domestic worker is unjustly dismissed by the employer, the worker shall be paid the compensation already earned plus the equivalent of fifteen days of work. If the domestic worker leaves without justifiable reason, the worker will forfeit any unpaid salary due not exceeding the equivalent of fifteen days of work.

The domestic worker and employer may pre-terminate the contract as long as there is mutual agreement and that there is a written notice for such agreement.

## **Rescue of abused domestic workers**

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The Domestic Workers Act assures the immediate rescue of abused and exploited domestic workers, including children in worst forms of child labor. The Department of Social Welfare and Development (DSWD), the Department of Interior and Local Government (DILG), will work with local government units in developing and implementing standard operating procedures for the effective rescue and rehabilitation of abuse domestic workers (Section 31).

Victims of abuse will be entitled to programs and services that would help them recover from the trauma, including subsequent job placements through the Department of Labor and Employment (DOLE) (Section 31).

## **Information programme and dispute settlement**

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The Act commits DOLE, in coordination with other relevant government authorities, to develop and implement a continuous information dissemination programme on the provisions of the Act, both at the national and local levels (Section 38).

The venue for the resolution of labor disputes shall be the DOLE Regional Office, with prejudice to file court cases as appropriate. Cases where there are corresponding crimes, such as physical abuse, trafficking in persons, or crimes against properties, will be handled by the regular courts (Section 37).

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