

AS INTRODUCED IN THE RAJYA SABHA
ON 31ST JULY, 2009

Bill No. XIX of 2009

THE WORKING WOMEN (PROTECTION, BASIC
FACILITIES AND WELFARE) BILL, 2009

A

BILL

to provide for the protection of women from discrimination, sexual exploitation and for the basic facilities like creches, recreational facilities, maternity benefits, hostel and transport facilities, etc. and for the welfare measures to be taken by the employers and the State for the women employees working in government establishments, public sector enterprises including banks and ports, educational institutions including universities, colleges and schools, factories, mines, plantations, agricultural fields, orchards and such other places and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Working Women (Protection, Basic Facilities and Welfare) Act, 2009.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “child” includes a still born child;

(c) “employer” means,—

(i) in relation to an establishment which is under the control of an appropriate government, the person or authority appointed by the appropriate government for the supervision and control of the employees or where no person or authority is so appointed, the head of the establishment;

(ii) in relation to an establishment under any local self-government or authority, the person appointed by such authority or local self-government for the supervision and control of the employees or where no person is so appointed the Chief Executive Officer by whatever name called of the local self-government or the authority as the case may be;

(iii) in other cases, the person who or the authority which has the ultimate control over the affairs of the establishment;

(d) “establishment” include an office of the appropriate government, quasi government or department including telegraph office, post office, telephone exchange etc., a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school, college, university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a woman is employed for any work whatsoever;

(e) “factory” means a factory as defined in the Factories Act, 1948;

63 of 1948.

(f) “industry” means an industry as defined in the Industrial Disputes Act, 1947;

14 of 1947.

(g) “prescribed” means prescribed by rules made under this Act;

(h) “sexual harassment” includes any unwanted verbal or gestural sexual advances, sexually explicit and derogatory statements or remarks, avoidable physical contacts, touching or patting, suggestive remarks, sexually slanted and obscene jokes, comments about physical appearance, compromising invitations, use or showing pornographic material, demands for sexual favours, threats, innuendos, physical assault and molestation of and towards working women by their male superiors, colleagues or any one who for the time being is in a position to sexually harass the working women;

(i) “working woman” mean a woman who is employed, whether directly or through any agency or contractor, as the case may be, for wages or similar other considerations in any establishment, factory or industry.

Appropriate government to ensure non-discrimination and equal wages for the working women.

3. It shall be the duty of the appropriate government to ensure that no discrimination is done by any establishment on gender basis with its women employees particularly in the matter of payment of wages which are paid to her male counterpart in such establishment.

Childcare facilities.

4. (1) **Notwithstanding anything contained in any other law for the time being in force, every employer shall provide basic childcare and facilities essential for the children of women workers in his establishment with provision of minimum needs like milk, tiffin, clothes, toys and trained *ayahs* to look after children of women working therein.**

(2) The appropriate government shall ensure that every employer of an agricultural field provides mobile childcare facilities for the working women in his establishment:

Provided that two or more of such employers may provide such childcare facilities collectively for their establishments.

(3) The appropriate government shall open such number of creches at such places as it may deem necessary for carrying out the purposes of this Act.

5. The appropriate government shall ensure that every employer provides retiring rooms with facilities like bathroom, latrine, drinking water at the workplace or worksite of the working women and also provide recreational facilities like radio, television, etc. for them and their children.

Recreational facilities.

6. The appropriate government alongwith the employer shall provide adequate and proper security measures for the safety of working women in the establishment, factory or industry, as the case may be, as well as to and from their places of residence.

Security arrangements.

7. It shall be the duty of the appropriate government to ensure reservation of beds and proper and adequate maternity facilities for the working women in hospitals and dispensaries having indoor patient facilities therein.

Maternity facilities.

8. The appropriate government as well as an employer shall provide hostel and residential facilities both for married and unmarried working women nearest to their place of work and shall also provide cheap, safe and quick transport facilities for such working women.

Hostel and transport facilities.

9. The appropriate government shall ensure protection from health hazards particularly for the women working in factories or industries like beedi, tobacco, stone mines, cashew, fish processing, salt, silk, construction projects and such other establishments as may be prescribed.

Protection from health hazards.

10. (1) The appropriate government shall maintain a register of working women in such manner and at such place as may be prescribed;

Register of working women.

(2) The appropriate government may require an employer to furnish for the purposes of this Act, such statistical and other information, in such form and within such period as may be prescribed.

11. (1) The sexual harassment of any working woman in any manner whatsoever at her work place is hereby prohibited.

Prohibition of sexual harassment of working women.

(2) Whoever contravenes provisions of sub-section (1) shall be guilty of an offence under this Act.

12. Notwithstanding anything contained in any other law for the time being in force, whoever sexually harasses a working woman in any establishment, factory or industry shall be punishable with imprisonment for a term which shall not be less than five years but may extend to seven years and also with fine which may extend to five lakh rupees.

Penalty.

13. Notwithstanding anything contained in any other law for the time being in force the onus of proving innocence shall be on the accused and the sexually harassed woman shall have the right to plead evidence in rebuttal.

Burden of proof.

14. The case of a sexually harassed woman worker at a work place shall be pleaded either by herself or with her consent by a woman's organization or the trade union of which she is a member, as the case may be.

Pleading of the case.

15. The trial of an offence under this Act shall be held in camera if the harassed woman so desires.

Trial to be held in camera.

Act to have
overriding
effect.

16. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the working women.

Power to
make rules.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Despite the unabated female foeticides and dwindling population of girls in the country and the conservative attitude of the society towards women, more and more women are venturing out of their houses to work to support their families. As a result the number of working women in government services, factories, industries, commercial establishments, agriculture, mines, fish processing sector, silk industry and so on so forth is increasing day by day, but their conditions of employment need amelioration. Various basic and essential facilities which are supposed to be made available to the working women by the government and private employers are either absent or not adequate and satisfactory. Unfortunately, in most of the private sector including agricultural sector, the facilities are rather minimal or negligible and the working women are an exploited lot there. The existing labour laws also do not provide for proper medical, educational, recreational and other facilities for the working women and their children. As regards security, transport, accommodation and facilities for some specific problems which are peculiar to women only are concerned, no enactment has been made so far. In many establishments they are not given equal pay for equal work. This discrimination has to be stopped.

Of late, cases of sexual harassment of working women are also on the rise. Cases of sexual harassment of women at the work places occur but more often these are not reported for fear of social ostracism, family pressure or reprisal in the form of threats and discriminatory treatment. Supreme Court of India in the case of *Vishakha and Others Vs. State of Rajasthan and Others* has taken a very serious view on the sexual harassment of working women at their work places and laid down norms and guidelines to be followed by the employers but even these guidelines are not being followed in letter and spirit.

Hence it has become necessary to provide adequate welfare measures for the working women.

Hence this Bill.

SANTOSH BAGRODIA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for childcare facilities, whereas clause 5 for recreational facilities and clause 7 for maternity facilities. Similarly clause 8 provides for hostel and transport facilities for the working women. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of Rs. two thousand crores may involve as recurring expenditure per annum.

A sum of Rs. five thousand crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause **17** of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

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(Shri Santosh Bagrodia, M.P.)