

PROTECTING DOMESTIC WORKERS: Ensuring Fair Treatment & Compensation in Kenya





THE LAW

Employment Act, 2007: Outlines the rights and duties of both employers and employees.

Domestic Workers Convention, 2011: The International Labour Organization (ILO) Convention 189, ensures that domestic workers enjoy the same basic labor rights as other workers. It mandates fair wages, reasonable working hours, and safe working conditions.

Regulation of Wages Orders: The 2022 revision sets minimum wage standards for domestic workers based on their location.

INTRODUCTION

Domestic workers play a crucial role in many Kenyan households, yet they often face significant challenges, including underpayment and unfair treatment. While Kenya has enacted several laws to protect the rights of domestic workers, enforcement and awareness remain critical issues.

Legal Protections for Domestic Workers in Kenya

- a) **Employment Act, 2007:** This act is the cornerstone of employment legislation in Kenya, outlining the rights and duties of both employers and employees. Key provisions include prohibiting

discrimination, ensuring fair wages for employees including domestic workers, mandating reasonable working conditions such as **rest periods and limits on working hours**, and providing detailed procedures for fair termination and dismissal processes.

- b) **Domestic Workers Convention, 2011:** Following the International Labour Organization (ILO) Convention 189, this convention ensures that domestic workers enjoy the same basic labor rights as other workers. It mandates fair wages, reasonable working hours, and safe working conditions.

- c) **Regulation of Wages Orders:** These orders are dependent on the year when the service was rendered. The 2022 revision sets minimum wage standards for domestic workers based on their location. For instance, domestic workers in Nairobi are entitled to a minimum monthly wage of Kshs 15,201.65.
- d) Additionally, Employers must remit contributions to these funds on behalf of their domestic workers, ensuring access to social security and health insurance.

Challenges Faced by Domestic Workers

Underpayment: Despite legal protections, many domestic workers are still paid below the minimum wage. Employers often fail to remit social security and health insurance contributions, further disadvantaging these workers.

- a) **Lack of Formal Contracts:** Many domestic workers lack formal employment contracts, making it difficult to enforce their rights. Verbal agreements can lead to disputes over wages and working conditions.

- b) **Long Working Hours:** Domestic workers often work long hours without overtime pay. Section 27 and 28 of the Employment Act mandates a day of rest per week and 21 days of annual leave, but these provisions are not always followed.

- c) **Limited Bargaining Power:** Domestic workers often lack the bargaining power to negotiate better wages and working conditions. Joining trade unions, such as the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals & Allied Workers (**KUDHEIHA**), can help improve their bargaining power.

CONCLUSION

While Kenya has made significant strides in protecting the rights of domestic workers, challenges such as underpayment and lack of formal contracts persist. Strengthening enforcement mechanisms and raising awareness about these legal protections are crucial steps to ensure domestic workers receive fair treatment and just compensation.

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