

Extract of the Worker's Right Act

Section 5. Discrimination in employment and occupation

- (1) (a) *No employer shall treat, in a discriminatory manner, any worker who is in his employment.*
- (b) *No prospective employer shall treat a person in a discriminatory manner in respect of access to employment.*
- (2) *Any distinction, exclusion or preference in respect of a particular occupation based on the inherent requirements of the occupation shall not be deemed to be discrimination.*
- (3) *A person does not discriminate against another person by imposing or proposing to impose on that other person a condition, requirement or practice that has or is likely to have a disadvantaging effect, where the condition, requirement or practice is reasonable in the circumstances.*
- (4) *The matters to be taken into account in determining whether or not a condition, requirement or practice is reasonable in the circumstances include –*
- (a) *the nature and extent of the disadvantage resulting or likely to result, from the imposition or proposed imposition of the condition, requirement or practice;*
- (b) *the feasibility of overcoming or mitigating the disadvantage; and*
- (c) *whether the disadvantage is proportionate to the result sought to be achieved by the person who imposes, or proposes to impose, the condition, requirement or practice.*
- (5) *In this section –*
- “discrimination” includes affording different treatment to –*
- (a) *different workers attributable, wholly or mainly, to their respective description by age, race, colour, caste, creed, sex, sexual orientation, HIV status, impairment, marital or family status, pregnancy, religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;*
- (b) *workers of a subsidiary company performing work of equal value as a worker employed by another subsidiary company of the parent*
- company or the parent company, operating in the same line of business, on less favourable salary, terms and conditions of employment;*
- “employment” or “occupation” includes access to vocational training, to employment and to particular occupations, and terms and conditions of employment.”*

Section 26. Equal remuneration for work of equal value

- (1) (a) Every employer shall ensure that the remuneration of a worker shall not be less favourable than the remuneration of another worker performing work of equal value.
- (b) Where an employer has recourse to the services of a job contractor, the job contractor shall ensure that the remuneration of any worker employed by him shall not be less favourable than the remuneration of a worker employed by the principal employer and performing work of equal value.
- (2) The following criteria shall apply in determining whether there exists an element of discrimination, based on the sex of a worker or between workers of the same sex for any work or class of work payable under any agreement –
- (a) the rates and types of remuneration shall be based on an objective job evaluation of the work performed instead of on the worker's sex or personal attributes;
- (b) any job classification system shall be based on objective criteria irrespective of the worker's sex;
- (c) the work of a worker of the same or different sex shall be given the same value for a like job or a work rated as equivalent in the same employment;
- (d) for work which is not exclusively or predominantly performed by female workers, the extent to which –
- (i) the work or class of work calls for the same, or substantially similar degrees of skill, effort and responsibility; and
- (ii) the conditions under which the work is to be performed are the same or similar;
- (e) for work which is exclusively or predominantly performed by female workers, the rate of remuneration that would be paid to male workers with the same or substantially similar skill, responsibility, and service performing the work under the same or substantially similar conditions and with the same or substantially similar degree of effort.”

Section 64. Protection against termination of agreement

- (1) An agreement shall not be terminated by an employer by reason of –
- (a) a worker's race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, HIV status, impairment, marital status or family responsibilities;
- (b) a worker's absence from work during maternity leave and for the purpose of nursing her unweaned child;
- (c) a worker's temporary absence from work because of injury or sickness duly notified to the employer and certified by a medical practitioner;

- (d) *a worker becoming or being a member of a trade union, seeking or holding of trade union office, or participating in trade union activities outside working hours or, with the consent of the employer, within working hours;*
- (e) *a worker, in good faith, filing a complaint, or participating in proceedings, against an employer, involving alleged breach of any terms and conditions of employment;*
- (f) *a worker exercising any of the rights provided for in this Act or any other enactment, or in any agreement, collective agreement or award.”*

Section 114. Violence at work

- (1) *No person shall –*
 - (a) *harass, sexually or otherwise;*
 - (b) *assault;*
 - (c) *verbally abuse, swear at or insult or humiliate in any manner whatsoever;*
 - (d) *express the intention to cause harm to;*
 - (e) *bully or use threatening behaviour towards;*
 - (f) *use aggressive gesture indicating intimidation, contempt or disdain towards; or*
 - (g) *by words or act, hinder, a worker, in the course of or as a result of his work.*
- (2) *An employer or his agent shall not carry out a search on a worker.*
- (3) *An employer shall be vicariously liable for violence at work, including sexual harassment, committed by a worker and any third party where the employer knew or should have known of the violence at work and failed to take any action to prevent or stop the violence.*
- (4) *An employer shall enquire into any case of alleged violence at work and take appropriate action to protect the rights of the worker.*
- (5) *Any person who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.*
- (6) *The Minister may for the purpose of this section make such regulations as he thinks fit.*
- (7) *In this section –*
“bullying” includes a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour or an abuse or misuse of power or authority which attempts to undermine an individual or group of individuals, gradually eroding their confidence and capacity which may cause them to suffer stress;

“harassment”, in relation to a worker, includes any unwanted conduct towards the worker, whether verbal, non-verbal, visual, psychological or physical, based on age, impairment, HIV status, domestic circumstances, sex, sexual orientation, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, birth or other status, which occurs in circumstances where a reasonable person would consider the conduct as harassment of the worker;

“verbal abuse” includes screaming, yelling, name calling and making mean and disrespectful remarks with a view to humiliating a person.”

In this regard, the term “impairment” has been included in those sections with a view to ensuring that persons with disabilities enjoy similar rights and protection as any other workers concerning labour protection and access to employment. This inclusion is also meant to prohibit any possibilities of exploitation or abuse towards them with regards particularly to discrimination, access to employment, termination of employment and any act of violence.

Moreover, with the increasing advent of technological innovations, the Government has, with a view to opening up new avenues and opportunities for work among a broader spectrum of workers including those with disabilities, come forth with the notion of “*work from home*” in our work culture. This measure would assist workers to fulfill their family obligations and to facilitate their integration in the labour market.

A “home worker” is defined as one who carries out work at his residential premises or at such other place, not being business premises, as may be agreed upon with his employer.

This measure has been translated into the **Workers' Rights (Atypical Work) Regulations 2019, GN 234 of 2019** and the **Workers Rights (Working from Home) Regulations 2020**.