

LEGISLATION WATCH CELL

Punjab Home-Based Workers
Act 2023

Report 2023-02



Human Rights
Commission of Pakistan

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Introduction

Home-based workers constitute a significant part of the informal economy¹ as well as overall employment in Pakistan, according to the International Labour Organization.² They contribute to various sectors such as textiles, handicrafts and agriculture, among others.³ According to UN Women's 2016 report on the status of women's economic participation and empowerment in Pakistan, home-based workers contributed almost PKR 400 billion to the economy in 2013/14.⁴ This amounts to almost 3.8 percent of the total GDP that year; 65 percent of this contribution was by women.⁵

Informal estimates indicate that there are at least 20 million home-based workers in the country, of which 12 million are women.⁶ However, these figures are not generally incorporated into national and global data collection systems or into development work; the contribution of home-based workers to the economy thus remains largely unrecognized. This lack of recognition means that home-based workers, the majority of whom include women and vulnerable individuals, have limited access to credit facilities and markets.

Home-based work is prevalent in both urban and rural settings within Punjab and across Pakistan. In rural areas, agricultural tasks and handicrafts are common forms of home-based work, while urban centres see home-based workers in sectors such as textiles and leather.

¹ <https://labour.punjab.gov.pk/home-based-workers>

² https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-islamabad/documents/publication/wcms_122320.pdf

³ https://www.wiego.org/sites/default/files/publications/file/WIEGO_Statistical_Brief_N26_Pakistan%20final.pdf

⁴ <https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2016/05/PK-WEE-Status-Report-lowres.pdf>

⁵ <https://library.fes.de/pdf-files/bueros/pakistan/14909.pdf>

⁶ Ibid.

The Government of Punjab has taken a welcome step in acknowledging home-based workers as part of the workforce. On 17 February 2023, the Punjab Home-Based Workers Act 2023 was promulgated to provide for the rights of this labour group. The Act also aims to recognize home-based workers in Punjab as important stakeholders in the labour market and ancillary matters. The passage of this Act thus formalizes the employment relationship for home-based workers—a significant step considering their significant contribution to the economy—while providing them with safeguards against exploitation and injustice. By defining the rights, entitlements and working conditions of home-based workers and extending social protection to those based in Punjab, the Act strives to empower them, manifest their contributions to the economy and rectify the disparities that have affected this labour group.

The Punjab Home-Based Workers Act 2023 is the most recent legislation in this area. Sindh set an example in 2018 by enacting the Sindh Home-Based Workers Act 2018. The KP Home-Based Workers Act was passed in 2021 and the Balochistan Home-Based Workers Act followed in April 2022.

Scope of the law and analysis

Under section 2(o) of the Act, a home-based worker is defined as a person who performs home-based work; this does not include workers engaged in labour involving explosives, toxic or noxious chemicals or related substances. The Act provides other key definitions under section 2 relevant to home-based work and the parties involved therein, such as that of a 'contractor', which refers to a person or entity performing assignments for economic gain, and an 'employer', which refers to individuals, organizations or entities employing home-based workers under written employment contracts—necessary for establishing the regulatory boundaries of home-based work in Punjab. However, there are other definitions, such as that of 'home' and 'disablement' that need to be reviewed from a human rights perspective.

It must be noted that the benefits and entitlements extended under the Act are applicable to secured home-based workers only. Under section 2(t) of the Act, a secured home-based worker is defined as follows:

... a person who performs home-based work in respect of whom contributions are or were payable under the Act, but does not include a person performing home-based work on wages exceeding the wage limits determined by the Government.

This means that home-based workers employed at wages exceeding the upper wage limits set by the provincial government are not covered by the definition of 'secured home-based worker' and are thus not entitled to any benefits or claims under the Act.

Taking this into account, the Act leaves room for employers, contractors, subcontractors and intermediaries to exploit home-

based workers by fixing their wages negligibly above the maximum limit set by the Government of Punjab in order to escape the scope of the Act. Such home-based workers would not then be entitled to the benefits extended to 'secured home-based workers' under section 4 of the Act; these include sickness benefits, maternity benefits, medical care during sickness and maternity, medical care of the family, employment injury benefits, disablement pension or survivor's pension.

Employment contract

Section 4(4) of the Act makes it binding on every employer to sign a written contract with a home-based worker as per the template provided in the Act's appendix.

This template covers essential features of the contract such as assignment of work, wages or compensation rate, and duration of employment. The contract also obligates the employer to ensure workplace safety and hygiene. Furthermore, it includes clauses on home-based workers' rights to free medical treatment and coverage of transportation costs. Finally, while both parties may incorporate terms and conditions mutually agreed on under clause 3, such terms and conditions have to adhere to the confines of the Act.

Prohibition on employment

Section 3 of the Act safeguards the rights of children and young individuals under 15 years of age by restricting their employment as home-based workers. Moreover, this section is aligned with the Punjab Restriction on Employment of Children Act 2016 by prohibiting the employment of individuals between the ages of 15 and 18 years in work involving hazardous material.

Rights and entitlement

Section 4 outlines the rights and entitlements of secured home-based workers in Punjab, thereby ensuring their wellbeing and protection. It emphasizes that home-based workers should not be subjected to working conditions inconsistent with their employment contracts. Additionally, secured home-based workers are entitled to benefits such as sickness benefits, maternity benefits, medical care, workplace injury benefits, disablement pension, and survivor's pension. The Act also emphasizes the importance of non-

discrimination in recruitment, wage determination and continuation of employment in order to promote fairness and equality.

Disablement

In section 2(e) of the Act, 'disablement' has been defined as a condition or injury caused to a home-based worker during the course of employment that would permanently reduce their earning capacity, and certified by a medical practitioner authorized for the purpose in such manner as may be prescribed by regulations.

However, any harm or injury that results in the temporary reduction of a home-based worker's earning capacity is not covered under this section. These home-based workers would thus not be entitled to disablement pensions. This is critical to note as many conditions or injuries such as certain fractures, wounds, infections and medical conditions may be temporary and heal with time, but they might significantly affect the earning capacity of a home-based worker during a certain period, such as the timeframe of their work assignment, or later during their recovery.

Punjab Home-Based Workers Welfare Fund

The Act stipulates the establishment of a Home-Based Workers Welfare Fund to financially support home-based workers in Punjab. This fund is composed of initial contributions from the government of Punjab, employers and secured home-based workers based on prescribed wage limits, voluntary donations, grants and loan proceeds. The fund is dedicated to financing projects benefiting home-based workers, managing fund-related costs, maintaining registers of workers, repaying loans, investing in approved securities, and providing benefits to secured home-based workers.

Section 6 also outlines the financial contributions required from both employers and secured home-based workers to sustain the welfare fund. It specifies that failure to pay contributions may result in consequences such as the suspension of benefits for secured home-based workers or arrears of land revenue for employers. This provision ensures the financial sustainability of the fund and the continuity of benefits.

However, no budget has been allocated to the Punjab Home-Based Workers Welfare Fund in compliance with the Act despite the fact

that the Punjab government has already approved a budget of PKR 1.719 trillion for the first four months of the fiscal year 2023/24. Furthermore, the regulation of the fund and handling of claims and benefits thereunder have not been discussed under the Act except that such matters are to be governed by the rules and regulations prescribed under the Act. It is significant to note that such crucial details have been left for the rules and regulations, which have yet to be passed, to determine.

Registration of employers and home-based workers

Section 7 pertains to the procedure for registering employers and home-based workers, thereby establishing a formal process for recognizing and tracking those involved in home-based work. This contributes to transparency, accountability and effective administration. However, the procedure of registration has yet to be determined by the governing body since the rules and regulations of the Act have yet to be passed.

Settlement of disputes between the parties involved

The Act also stipulates the establishment of settlement committees in order to resolve disputes between employers and home-based workers. Under section 8 of the Act, the government may assign the functions of the settlement committees to the district vigilance committees constituted under the Punjab Bonded Labour System (Abolition) Act 1992. It is pertinent to indicate here that the district vigilance committees, though established by the Punjab Vigilance Committees Act 2016, are still not functional in the province.

The settlement committees under the Punjab Home-Based Workers Act 2023 shall play their role in terms of receiving written complaints, conducting inquiries, documenting proceedings, summoning individuals, issuing awards, and performing additional tasks as defined by the regulations. The provision of settlement committees aligns with the goal of achieving fair resolution and maintaining a harmonious working environment.

Under section 10, either of the parties has the right to file an appeal before the labour court against a decision passed by the settlement committee up to 30 days after.

International obligations regarding home-based workers:

Pakistan is a member state of the ILO and has ratified 36 ILO conventions related to labour rights. However, ILO Convention No. 177, the Home Work Convention 1996, has not been ratified by Pakistan.

This convention specifically addresses the rights of home-based workers, aiming to ensure fair treatment, social protection and decent working conditions for this vulnerable workforce.⁷ It further recognizes home-based work as a legitimate form of employment, stipulates equality of treatment between home-based workers and other workers, and establishes mechanisms for consultation and negotiation between the relevant stakeholders.

Although the Punjab Home-Based Workers Act can be seen as a move in the right direction to protect the province's home-based workers, it is necessary for Pakistan to ratify ILO Convention No. 177. This could influence domestic legislation and change it in accordance with international law, international human rights standards and best practices in the home-based work industry.

Women in home-based work

A 2020 study by UN Women states that out of 20 million home-based workers in Pakistan, 12 million are women.⁸ Many women engage in home-based work because it allows them to work without leaving their homes, as expected of many women due to cultural, religious and social pressures. There are many other factors that push women more than men into home-based work, such as limited means of transport to onsite/in-office work, harassment on public transport and in public spaces, and women providing cheaper labour than men.⁹ It is also important to note the already disadvantaged position of women in terms of education, opportunities, skills, knowledge, and access to healthcare and other

⁷ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312322

⁸ <https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/06/pk-Economic-Empowerment-of-Women-Home-Based-Worker-V5.pdf>

⁹ [https://www.undp.org/sites/g/files/zskgke326/files/2023-](https://www.undp.org/sites/g/files/zskgke326/files/2023-06/gender_mainstreaming_research_paper_2_ver_4_05-06-202369.pdf)

[06/gender_mainstreaming_research_paper_2_ver_4_05-06-202369.pdf](https://www.undp.org/sites/g/files/zskgke326/files/2023-06/gender_mainstreaming_research_paper_2_ver_4_05-06-202369.pdf)

protections. In view of this, the Act does not specifically introduce any affirmative action such as additional support to women home-based workers in the form of imparting skills, providing subsidies or training and/or social protection that would bring female home-based workers at par with male home-based workers.

While recognizing the intersectionality between gender and the labour force, international law emphasizes the need to address the specific challenges faced by female home-based workers such as lack of knowledge and access to government financial schemes, loans, occupational healthcare, skills to negotiate wages and ensure their access to social protection and decent working conditions. However, the Punjab Home Based Workers Act does not make any such provisions that cater to specially protect women in this sector, despite women being in majority in the sector.

Recommendations

- The definition of ‘disablement’ must be revised to include temporary harm or damage done to the earning capacity of the home-based worker since that is a far more common occurrence than permanent damage. This would enable home-based workers to access disablement pension as well.
- The definition of ‘home’ under section 2(m) stipulates a place of temporary or permanent residence of home-based workers where they reside along with their family. However, the phrase ‘along with his family’ should be removed to include home-based workers who may not reside with their families while carrying out home-based work.
- The designated fund for home-based workers must be established on an urgent basis. The Punjab government must allocate the requisite budget to make the fund functional.
- The government must ensure that district vigilance committees are activated and made fully functional or alternative forums created under the Rules for adequate redressal of disputes between employers and home-based workers.
- The regulatory framework with respect to the Act has not been fully established and depends largely on the rules and regulations yet to be passed. Therefore, the rules and regulations as prescribed under the Act must be enacted soon in order to implement this Act and guarantee the rights of home-based workers without further delay.
- Pakistan must ratify ILO Convention No. 177 to guarantee protections and the welfare of home-based workers across the country in line with international standards and protocols.
- Special provisions for the protection of women home-based workers—such as checks on the labour exploitation of women, opportunities to impart skills and knowledge to women home-based workers, taking into account the unpaid care work taken up by women at homes, access to sexual, reproductive and other healthcare facilities—must be included to incorporate gender equity in the Act.

Annex

The Punjab Home-Based Workers Act 2023 (Act V of 2023)

[17th February 2023]

An Act to provide for protection of rights of home-based workers.

It is necessary to make provisions for protection of rights of home-based workers for encouraging home-based workers as important stakeholders in the labour market and for the ancillary matters.

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Home-based Workers Act 2023.

(2) This Act extends to whole of the Punjab.

(3) This Act shall come into force at once.

2. Definitions.– In this Act:

(a) “contractor” means a person, natural or legal, who agrees to carry out an assignment for economic profit or for the benefit of hirer and includes a sub-contractor or agent;

(b) “contribution” means the sum of money payable by an employer in respect of a secured home-based worker and by a secured home-based worker to the Fund;

(c) “commercial establishment” means an establishment as defined in the Punjab Shops and Establishments Ordinance, 1969 (VIII of 1969);

(d) “Commissioner” means the Commissioner of the Employees’ Social Security Institution as appointed under section 18 of the Provincial Employees Social Security Institution Ordinance, 1965 (X of 1965);

(e) “disablement” means a condition or injury, caused to a home-based worker during the course of an employment having an impact of reducing his earning capacity permanently, certified by a medical

practitioner authorized for the purpose in such manner as may be prescribed by the regulations;

Explanation: Loss of earning capacity less than twenty per centum shall be "minor" disablement; the loss of earning capacity ranging from twenty one per centum to sixty six per centum shall be "partial"; and, shall be "total" where the loss of earning capacity exceeds sixty six per centum;

(f) "employer" means any person, establishment, office, firm, factory, society, undertaking, company, shop or enterprise, whether incorporated or not, which employs home-based worker, directly or indirectly through a contractor or intermediary, under a contract of employment, in writing;

(g) "employment injury" means a personal injury to a home-based worker caused by an accident or by such occupational diseases as may be prescribed, arising out of and in the course of his home-based employment;

(h) "establishment" means an establishment as defined in the Punjab Shops and Establishments Ordinance, 1969 (VIII of 1969);

(i) "family" in relation to a home-based worker means his spouse, a child below the age of 18 years and includes a child with disability of fifty percent or more who is above the age of 18 years;

(j) "Fund" means Home-based Workers Welfare Fund constituted under the Act;

(k) "Government" means Government of the Punjab;

(l) "Governing Body" has the same meaning as under section 5 of the Provincial Employees Social Security Ordinance, 1965 (X of 1965);

(m) "home" means the place of temporary or permanent residence of the home-based worker where he resides along with his family;

(n) "home-based work" means production of goods or rendering of services by a person in his home or in other premises of his choice other than the workplace of the employer, for wages, under a

contract of employment in writing either directly with the employer or indirectly through a contractor or intermediary subject to limitations mentioned under this Act:

provided that any work performed by a person, registered as an employee or worker under any other law, shall not be deemed as a home-based work by working occasionally at home rather than at his usual workplace;

(o) "home-based worker" means a person who performs home-based work but does not include a worker engaged in explosives, toxic or noxious chemicals and related substances;

(p) "Intermediary" means a person or a legal entity or a body corporate that contracts with a contractor for economic gain pursuant to a home base work, or a part thereof the contractor has agreed to perform, for the benefit of hirer, and includes any person, natural or legal, who enters into a contract with a contractor regardless of number of stages of any sub-contracts;

(q) "prescribed" means prescribed by the rules or the regulations;

(r) "regulations" means the regulations framed under this Act;

(s) "rules" means the rules made under this Act;

(t) "secured home-based worker" means a person who performs home-based work in respect of whom contributions are or were payable under the Act but does not include a person performing home-based work on wages exceeding the wage limits determined by the Government;

(u) "settlement" means the settlement of a dispute or any other matter relating thereto between an employer and a home-based worker;

(v) "shop" means a shop as defined in the Punjab Shops and Establishments Ordinance, 1969 (VIII of 1969); and

(w) "wages" means the remuneration in terms of money or anything in kind, as expressed in the contract of employment in writing,

payable to a home-based worker by an employer but does not include:

- (i) any contribution paid by the employer in respect of the secured home-based worker under any scheme of social insurance or to a pension fund or provident fund;
- (ii) any traveling allowance or the value of any traveling concession;
- (iii) any sum paid to the home-based worker to defray special expenses incurred by him in respect of his employment;
- (iv) any sum paid as annual bonus;
- (v) any gratuity payable on discharge; and
- (vi) gift:

provided that where the mode of payment of wages, whether in cash or in kind, makes it difficult to determine the amount of wages for computing the contribution, the Commissioner may subject to regulations and in consultation with the representatives of employers and home-based workers, determine such wages.

3. Prohibition on employment.– (1) No employer shall employ a person who has not attained the age of fifteen years as a home-based worker.

(2) No employer shall employ a person who has attained the age of fifteen years but has not attained the age of eighteen years in an employment prohibited under the Punjab Restriction on Employment of Children Act 2016 (L of 2016).

4. Rights and entitlement.– (1) A home-based worker shall not be forced to work in a manner inconsistent with the contract of his employment.

(2) A secured home-based worker shall be entitled to sickness benefits, maternity benefits, medical care during sickness and maternity, medical care of family, employment injury benefit, disablement pension and survivor's pension in such manner as may be prescribed.

(3) A home-based worker shall not be discriminated in recruitment, continuance of employment and determination of wages on the grounds of religion, race, caste, creed, gender, ethnic background or place of birth.

(4) Every employer shall enter into a written contract of employment with a home-based worker in accordance with Appendix of this Act.

(5) Every employer including a contractor and intermediary shall be responsible for the payment of wages to the home-based worker employed under the contract of employment under this Act.

5. Establishment of Fund.– (1) The Government shall, by notification in the official Gazette, establish a Fund to be called the 'Punjab Home-based Workers Welfare Fund'.

(2) The Fund shall consist of:

(a) an initial contribution to be made by the Government;

(b) such moneys as may be paid by the employers and secured home-based workers on such rate of wage limits as may be prescribed by the rules;

(c) voluntary contributions in the shape of money, building, land, equipment, tools or other property made from time to time by the Government, an organization or a person;

(d) grants, donations and gifts from any Government, donor, multilateral organization, local government, general public or any other person; and

(e) proceeds of loan raised by the Governing Body.

(3) The Fund shall be applied to:

(a) finance projects connected with the welfare of home-based workers;

(b) meet expenditures in respect of the cost of management and administration of the Fund;

(c) maintain a register of home-based workers;

(d) repay loans raised by the Governing Body;

(e) invest in securities as may be approved by the Government; and

(f) provide benefits to the secured home-based workers.

(4) All claims and entitlements for benefits under this Act shall be entertained by the Governing Body within such time and in such manner as may be prescribed by the regulations.

(5) The Governing Body shall lay down the procedure for prioritization and allocation of the Fund in such manner as may be prescribed by the regulations.

(6) The Governing Body may, by a notification in the official Gazette, for the reasons of efficient management of the Fund and under such limitations as deemed appropriate, delegate any of its powers to the Commissioner.

6. Contribution to the Fund.– (1) The contribution shall be payable in respect of every secured home-based worker by the employer and the secured home-based worker himself to the Fund in such manner, at such rate and on such conditions as may be prescribed by the regulations.

(2) Non-payment of contribution by:

(a) a secured home-based worker for a continuous period of one year shall lead to suspension of his benefits under this Act unless he pays the entire contribution which is due to him in such manner as may be prescribed by the regulations; and

(b) an employer shall make him liable for payment of the amount due to him as arrears of land revenue.

7. Registration.– The Governing Body shall lay down the procedure of registration of employers and home-based workers in such mode and manner as may be prescribed through regulations.

8. Committees.– (1) The Governing Body shall, by notification in the official Gazette, constitute such number of committees including settlement committees, for such number of areas, having such

composition and for such purposes as may be determined by the Governing Body.

(2) The Governing Body may assign the function of settlement committees to the District Vigilance Committees constituted under the Punjab Bonded Labour System (Abolition) Act, 1992 (III of 1992) on such conditions as may be determined by it.

9. Powers and functions of settlement committees.– The settlement committee shall:

(a) receive written complaints in the event of a dispute between the employer and the home-based worker either referred to it by the employer, home-based worker or the District Vigilance Committee;

(b) inquire into the issue raised in written complaint;

(c) maintain record of all its proceedings;

(d) call for the appearance of any person or production of any document;

(e) decide the dispute through an award, in writing; and

(f) exercise such other powers and perform such other functions as may be prescribed under the regulations.

10. Appeal.– Any person aggrieved by the award announced by a settlement committee, may, within thirty days of such award, file an appeal to the Labour Court established under the Punjab Industrial Relations Act, 2010 and the decision of Labour Court on such appeal shall be final.

11. Maintenance of record.– Every employer, contractor or intermediary, as the case may be, shall maintain such records, and submit it to the Governing Body or the committee, as the case may be, at such times and in such form as may be prescribed.

12. Power to make rules.– The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

13. Power to frame regulations.– Subject to this Act and the rules, the Governing Body may, by notification in the official Gazette, frame regulations to carry out the purposes of the Act.

14. Removal of difficulties.– If any difficulty arises in giving effect to any of the provisions of the Act, the Government may, by notification in the official Gazette, make such order, consistent with the Act, as it may deem necessary for the purposes of removing such difficulty.

HRCP Legislation Watch Cell

Instituted in 2022, the Legislation Watch Cell is an initiative of the Human Rights Commission of Pakistan (HRCP). The Cell aims to monitor and analyse legislation, rules and procedures in the form of draft bills and amendments introduced by the federal and provincial assemblies each year that warrant attention from a human rights perspective, especially with respect to women, transgender persons, vulnerable labour groups, religious minorities, and the incarcerated population.

The Cell comprises HRCP staff members, an independent legal consultant, and an advisory committee composed of legislators, lawyers and other members of civil society. HRCP seeks to publish quarterly reports through this exercise that encompass the analysis, findings and recommendations of the Cell.



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