



Batas Kasambahay: Implications to TESDA

I. Background

The International Labour Organization (ILO) adopted Convention No. 189: Decent Work for Domestic Workers Convention 2011, and Recommendation No. 201 during the 100th International Labour Conference on June 16, 2011, in Geneva, Switzerland. The Conference was attended by delegates from government, worker and employer organizations from the 183 member States of ILO. The Convention was ratified by the President on May 18, 2012 and concurred by the Senate of the Philippines on August 6, 2012.

When a country ratifies a Convention, its government shall formally make a commitment to implement all the obligations provided in the Convention, and to report periodically to the ILO on measures taken in this regard.

Convention No. 189 offers specific protection to domestic workers. It lays down basic rights and principles and requires States to take a series of measures with a view to making decent work a reality for domestic work.

ILO Convention No. 189 took 75 years before its adoption. In many years, domestic workers are excluded in domestic laws and vulnerable

Under the Convention, Domestic Work is defined as “work performed in or for a household or households”. This may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, or even taking care of household pets. Domestic Worker refers to “any person engaged in domestic work within an employment relationship”. Further, “a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker” (Article 1, C189)

to discrimination. The ILO Convention contends domestic work as a job and domestic workers have human rights to enjoy.

II. The Law in Retrospect

On January 18, 2013, President Benigno S. Aquino III signed into law Republic Act No. 10361, An Act Instituting Policies for the Protection and Welfare of Domestic Helpers. This is the Philippine government’s response in support of the ILO Convention 189, our country’s commitment as member of the United Nations. Its Implementing Rules and Regulations was

signed by DOLE, DILG, DSWD, PNP, SSS, PhilHealth and Pag-Ibig Fund on May 9, 2013.

This Law is considered to be a landmark piece of labor and social legislation as this treats domestic workers similar to formal sector employees. It provides for the protection and promotion of the rights and welfare of the Kasambahay.

Certain provisions of the Law defined the roles and functions of TESDA. The agency will be tapped in the conduct of training, assessment and certification to enhance the competencies of the domestic workers. Likewise, TESDA shall work with the NWPC-DOLE in the development of a skills/competency-based pay system for the

Kasambahay. Aimed at professionalizing the Kasambahay, wage adjustments for the domestic workers shall be based on the additional competencies that they will acquire. The table below shows the specific provisions of RA 10361 and its Implementing Rules and Regulation that pertains to TESDA.

RA 10361 "Batas Kasambahay"	Implementing Rules and Regulations
<p style="text-align: center;">Article II – Rights and Privileges</p> <p>Section 9. Right to Education and Training. The Employer shall afford the domestic worker the opportunity to finish basic education and may allow access to alternative learning systems and, as far as practicable, higher education or technical and vocational training. The employer shall adjust the work schedule of the domestic worker to allow such access to education and training without hampering the services required by the employer.</p>	<p style="text-align: center;">Rule IV – Rights and Obligations of Kasambahay</p> <p>Section 16. Opportunities for Education and Training. The Kasambahay shall be afforded the opportunity to finish basic education, consisting of elementary and secondary education. He/She may be allowed access to alternative learning systems and as far as practicable, higher education or technical vocational education and training.</p> <p>The employer shall adjust the work schedule of the Kasambahay to allow his/her access to education or training without hampering the services required by the employer. Access to education may include financial assistance at the option of the employer.</p> <p>The Department of Education (DepEd) shall ensure continued access of Kasambahay to alternative learning system education.</p>
<p style="text-align: center;">Article III – Pre-Employment</p> <p>Section 18. Skills Training, Assessment and Certification. To ensure productivity and assure quality services, the DOLE through the Technical Education and Skills Development Authority (TESDA) shall facilitate access of domestic workers to efficient training, assessment and certification based on duly promulgated training regulations.</p>	<p style="text-align: center;">Rule VIII - TESDA Skills Training, Assessment and Certification</p> <p>Section 1. Training for local-hired Kasambahay. To promote the training of the Kasambahay, TESDA shall adjust the existing training regulations for issuance of National Certificate (NC II) on household services and customize them for local-hired Kasambahay within six months from the promulgation of the IRR.</p> <p>Section 2. Skills Training, Assessment and Certification. To provide productivity and assure quality services, the DOLE through the Regional/Provincial or District Offices of TESDA, shall facilitate access of Kasambahay to efficient training, assessment and certificate based on TESDA Training Regulations (TR) for Household Services NC II.</p>

RA 10361 “Batas Kasambahay”	Implementing Rules and Regulations
	<p>The competencies to be achieved for NC II consist of: (a) cleaning living room, dining room, bedrooms, toilet, and kitchen; (b) washing and ironing clothes, linen and fabric; (c) preparing hot and cold meals/food; and (d) serving food and beverage.</p>
<p>Article IV – Terms and Conditions of Employment</p> <p>Section 24. Minimum Wage. After one (1) year from the effectivity of this Act, and periodically thereafter, the Regional Tripartite and Productivity Wage Boards (RTPWBs) shall review, and if proper determine and adjust the minimum wage rates of domestic workers.</p>	<p>Section 3. Requirement for Training. Kasambahay intending to be trained and certified for Household Services NC II must possess the qualifications specified in the customized local-hired Kasambahay training regulation of TESDA.</p> <p>Section 4. Skills/Competency-Based Pay System. The National Wages and Productivity Commission (NWPC)/RTWPBs shall coordinate with TESDA on the development of a skills/competency-based pay system in line with the thrust to professionalize the Kasambahay. Wage advisories containing a range of wage increase on top of the minimum wage shall be issued by the RTWPBs taking into consideration the competency standards set by TESDA.</p>

III. Developments on the Implementation of the Batas Kasambahay

Since the passage of the law and the promulgation of its IRR, there are several activities that were initiated to advance the implementation of the law, to wit:

1. TESDA conducted compliance audits for TVIs offering HSW NC II. As of November 19, 2013, a total of 279 were subjected to compliance audits. Of the total, there were 129 TVIs that were found compliant with the prescribed standards. On the other, 70 TVIs were non-compliant and were subjected for compliance. A total of 54 programs were closed.
2. TESDA disseminated the copy of the Law and its IRR to its Executive, Regional, Provincial/District Offices and TESDA Technology Institutions.
3. TESDA facilitated the review of the Training Regulations on Household Services NC II customized for local hired Kasambahays.
4. Health and Safety Guidelines for the Kasambahay was formulated by the Occupational Safety and Health Center. These guidelines contained the standards for the protection and welfare of the Kasambahay at the workplace.
5. Revised Guidelines on Private Recruitment and Placement Agency (PRPA) for the recruitment of the Kasambahay was prepared by the DOLE-Bureau of Local Employment.
6. The Unified Registry System is still being worked out among SSS, Pag-Ibig and PhilHealth that will establish a single registration system for the Kasambahays and their employers.
7. The National Wages and Productivity Commission (NWPC) prepared the Policy Guidelines in the review and determination of adjustment in the monthly minimum wage rates of the Kasambahays.

8. To advocate the law, DOLE conducted orientation seminars on the Batas Kasambahay and its IRR to various government agencies, private organizations, homeowners associations, and local government units including barangays nationwide.
9. Kasambahay desk officers designated in all DOLE Regional and Field Offices for the settlement of complaints and contract disputes.
10. As an oversight mechanism, the Tripartite Industrial Peace Council (TIPC) issued Resolution No. 9, Series of 2013 entitled

“Recommending the Development of a Specialized Payment Scheme Allowing Kasambahay and their Employers to Comply with the Mandate of Existing Laws on SSS and PhilHealth Contributions Since 1993 and 1995, Respectively”.

11. The Department of Interior and Local Government (DILG) issued a Memorandum Circular/ Guidelines to all local chief executives, Punong Barangays, DILG Regional Directors and Field Officers and the ARMM governor. The Circular enjoined the local chief executives to initiate the conduct of registration of all kasambahay in their area of jurisdiction.

IV. Challenges to TESDA

On December 17, 2013 during the 87th TESDA Board Meeting, the TESDA Board approved TESDA Board Resolution No. 15-2013, Approving the Amendment of Household Services National Certification (NC) II. The Training Regulation was published on December 23 and 28, 2013.

The DOLE is eyeing to professionalize the domestic helper sector, the bulk of which will be placed at the service sector workforce. DOLE has asked TESDA to give proper and appropriate training to those who want to apply as Kasambahay. This will be the national certification II for household service workers.

The efficient access to skills training, assessment and certification as provided in the Law is the mandate of TESDA. The readiness and availability of resources (i.e. trainers, training facilities, assessment centers, and assessment tools) will have to be reviewed to meet the requirements of this sector.

To date, the current number of trainers for Household Service Worker (HSW) NC II totaled 365, while the assessment centers totaled

113. Almost half of the assessment centers (52) are in the national capital region (NCR).

The Batas Kasambahay required TESDA to adjust the Training Regulation on HSW NC II. Significant adjustments on the TESDA policy and program implementation and monitoring are visibly seen to conform to the existing Batas Kasambahay. In effect, implementation of the Batas Kasambahay poses a number of challenges for TESDA. These include:

1. Implementation and monitoring of the Amended Training Regulations on HSW NC II.
2. Conduct of Compliance Audit for registered programs on Amended HSW NC II.
3. Expand accreditation of assessors and assessment centers to meet the requirements for assessment.
4. Work with NWPC in the formulation of a competency-based scheme for the determination of monthly wage adjustment for the kasambahay.

