

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Third Regular Session

HOUSE BILL No. **10930**



Introduced by Representative CAMILLE A. VILLAR

AN ACT REGULATING WORK MEDIATED, ORGANIZED, OR ALLOCATED
THROUGH ONLINE PLATFORMS FOR THE PROTECTION OF PHILIPPINE
WORKERS IN THE GIG ECONOMY

Explanatory Note

The 1987 Philippine Constitution provides that the State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. They shall be entitled to security of tenure, humane conditions of work, and a living wage.¹

The gig economy is a segment of the service economy based on flexible, temporary, or freelance jobs, often involving connecting clients and customers through an online platform.²

A gig economy, also known as the sharing economy or access economy, relies heavily on temporary and part-time positions filled by independent contractors and freelancers rather than full-time permanent employees. Gig workers have flexibility and independence but little or no job security. In a gig economy, employers save money when they do not have to provide benefits such as health coverage and paid vacation time.³

According to the Asian Development Bank, the global gig economy has expanded due to its flexibility in generating employment and providing services (Chen et al. 2020; Hall and Krueger 2018). Several empirical studies have shown that gig economy platforms are efficient in matching workers with clients, which reduces

¹ Article XIII, Section 3, 1987 Philippine Constitution

² <https://www.investopedia.com/terms/g/gig-economy.asp>

³ Ibid

barriers to creating jobs for low-productivity workers (Schwellnus et al. 2019). The gig economy expansion accelerated in many countries during the COVID-19 pandemic.⁴ The foregoing observation also applies to the Philippines.

The growth of the country's freelance industry cannot be understated. On the back of a global pandemic that saw remote work barriers shattered, up to 1.5 million Filipinos are registered on international online platforms for freelancing services and the country is among the fastest-growing gig markets in the world.⁵

However, as pointed out by human resource practitioners, the gig economy does not lack serious drawbacks and challenges, as follows.⁶

- Inconsistent income: Gig workers usually have irregular earnings, as their income depends on the work they can get. There may be periods when there are fewer job opportunities, so their monthly income may be unstable. This can make it difficult to plan their finances.
- Lack of benefits: Employers don't offer traditional employment benefits to gig workers, such as health insurance, a pension, annual leave, sick leave, and performance bonuses. Independent workers have to pay for their insurance and plan for retirement on their own.
- Uncertainty and instability: Gig work may be unpredictable. That can affect financial security. It may also be hard to get approved for loans and mortgages without a stable income.
- Dependence on market demand: Shifts in market trends and consumer needs may mean low demand for certain jobs. This can cause workers to lose certain jobs and directly impact their income.
- Job security concerns: Gig work might not include a contract. When it does, the contract may not specify any notice period. This means that workers can lose their job and income stream immediately. Freelancers overcome this problem by having multiple streams of income from different projects.

Since most gig workers in the Philippines are classified as independent contractors, they are technically not covered by the Labor Code of the Philippines, as amended. Therefore, as mentioned, they don't enjoy the basic rights, benefits, and protection that traditional workers do.⁷

⁴ ADB Briefs No. 251, July 2023

⁵ Sean Baker, Philippines gig economy: The rise and risks, August 7, 2023; <https://www.microsourcing.com/learn/blog/philippines-gig-economy/>

⁶ Jobstreet content team, What is the gig economy? Definition plus pros and cons, updated on 26 June, 2024; <https://www.jobstreet.com.ph/career-advice/article/what-is-the-gig-economy-definition-plus-pros-and-cons>

⁷ Ibid

This bill aims to give all workers performing services mediated, organized, or allocated through online platforms the protection and benefits they deserved under our Constitution and applicable laws regardless of their employment status.

In view thereof, this Representation joins her colleagues in Congress in humbly calling for the passage of this bill.

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* - This Act shall be known as the "*Online Freelancer Act of 2024*".

SECTION 2. *Declaration of Policy.* - It is the policy of the State to afford protection to labor, promote full employment, and regulate the relations between workers and employers. Towards this end, the State shall establish clear and comprehensive regulatory standards to ensure that workers performing services mediated, organized, or allocated by way of digital labor platforms are provided with access to social protection programs; treated in a fair, transparent, and non-discriminatory manner; and allowed to freely exercise all of the rights guaranteed by the Constitution and applicable laws, regardless of their employment status.

SECTION 3. *Coverage.* - This Act shall cover workers performing platform work, or services within the Philippines mediated, organized, or allocated through the use of online platforms, regardless of their employment status.

SECTION 4. *Definition of Terms.* - As used in this Act, the following terms shall be defined as follows:

- a) The term "Online Platform" shall refer to a digital service that facilitates interactions between two or more distinct but interdependent sets of users, whether persons or juridical entities, who interact through the service by way of the Internet;
- b) The term "Platform Work" shall refer to paid work mediated, organized, or allocated through an Online Platform, involving three parties, namely the online platform provider, the end-user or customer, and the worker, the objective of which is to contract out the performance, on demand, of specific services;
- c) The term "Online Platform Provider" shall refer to the person or juridical entity who owns, manages, or operates an Online Platform that mediates, organizes, or allocates the performance of specific services within the Philippines for end-users or customers;
- d) The term "Online Platform Worker" shall refer to workers performing specific services mediated, organized, or allocated by an Online Platform, regardless of employment status under Philippine law; and
- e) The term "Algorithmic Management System" shall refer to technological tools and techniques used to remotely manage workers, relying on data collection and surveillance to enable automated or semi-automated monitoring, supervision, evaluation, and decision-making.

SECTION 5. *Determination of Employment Status.* - Pursuant to this Act, the Department of Labor and Employment ("DOLE") shall issue rules and regulations for the purpose of ensuring that Online Platform Workers who would otherwise be classified as regular employees under Philippine law, are not misclassified as independent contractors, self-employed, or any other classification falling outside the ambit of an employer-employee relationship.

For this purpose, the correct determination of the employment status should be guided primarily by the facts relating to the actual performance of work, and not by how the relationship between the Online Platform Worker and Online Platform Provider is contractually defined, taking the following circumstances into account: the selection and engagement of the employee; the payment of wages and other benefits; the power of dismissal; and the power to control the employee's conduct as to both the end achieved and the manner and means used to achieve that end.

SECTION 6. *Regulatory Standards for Online Platform Workers.* -The State shall ensure that the following regulatory standards are observed *vis-a-vis* the services performed by Online Platform Workers:

- a) *Written Agreement* - The agreements between the Online Platform Worker and the Online Platform Provider shall specify, at the minimum, a description of the specific services to be performed by the Online Platform Worker as well as the other terms and conditions of the engagement; the rate and method of compensation; and the name and registered address of the Online Platform Provider or, in the case of a foreign Online Platform Provider, the name and address of its local representative. In the absence of a written agreement, any written exchange or proof of submission and receipt of completed services, whether electronic or printed, shall be sufficient basis for claiming compensation or any other form of redress. Any provision purporting to waive any of the rights provided under this Act shall be void as against public policy. Online Platform Providers shall publish through their webpages and apps, or otherwise make available to the public, the full text of all current and previous written agreements entered into with Online Platform Workers.
- b) *Equitable Compensation* - Online Platform Workers shall be entitled to compensation not less than the minimum wage provided under Philippine law, computed on an hourly or per-task basis, considering the specific services mediated, organized or allocated by the Online Platform Provider, as well as the depreciation of any equipment owned by the Online Platform Worker used in the performance of said services. If the rate or price for the specific service to be performed is regulated by a government agency, said agency shall ensure that these rates or prices are set or updated in a timely manner for the purpose of ensuring that Online Platform Workers are equitably compensated. Once performance of the service has commenced, no Online Platform Worker shall be required to accept less than the specified or agreed contract price, as a condition for the payment of the service or work rendered. No deduction shall be made on the agreed contract price or compensation, unless the parties have agreed otherwise, or such deduction is on account of payment of applicable taxes or social protection program contributions.
- c) *Transparency in the Use of Algorithmic Management Systems*. Online Platform Providers shall provide adequate written or published notice to the Online Platform Workers performing the services organized, mediated, or allocated by their Online Platforms of the use and key features of their Algorithmic Management Systems, including information on the automated monitoring systems used to monitor, supervise or evaluate their work performance, and the automated decision-making systems used to take or support decisions significantly affecting their working conditions. The

information to be provided shall include the categories of actions monitored, supervised and evaluated, and the main parameters that such systems take into account for automated decisions. The operation of Algorithmic Management Systems shall be placed under human oversight and supervision in such a way as to ensure that they do not put undue pressure on Online Platform Workers, or otherwise put their physical and mental health at risk. In accordance with applicable law, Online Platform Workers shall also have the right to request a copy of any stored or retained data related to the worker's engagement with the Online Platform Provider. For regulatory purposes, Online Platform Providers shall store or retain the data produced or processed by their Algorithmic Management Systems for a period of at least five (5) years, and provide the government with access to, and copies of, said data upon request.

- d) *Due Process.* Online Platform Workers shall have the right to information related to any decision or action taken by an Online Platform Provider, whether or not taken or supported by an Algorithmic Management System, affecting their continued engagement with the Online Platform Provider or their working conditions. For this purpose, the Online Platform Provider shall provide Online Platform Workers with the opportunity to clarify the facts, circumstances, and reasons for such decisions with a human contact person. The Online Platform Provider shall also provide the Online Platform Worker with a written statement of the basis for any decision to restrict, suspend or terminate the worker's engagement, refuse compensation for services or performed, or affecting the worker's contractual status. Any dispute arising under this Act shall be cognizable by the DOLE, which shall promulgate the rules and regulations necessary therefor. Online Platform Workers filing complaints pursuant to this Act shall be provided with immediate protection against adverse treatment or discrimination from the Online Platform Providers involved.
- e) *Portability of Social Protection Programs.* Online Platform Providers shall ensure that Online Platform Workers are enrolled with the Philippine Health Insurance Corporation ("PhilHealth"), Social Security System ("SSS"), Home Development Mutual Fund ("Pag-IBIG"), and all other applicable social protection programs managed or administered by the government. For this purpose, in accordance with the rules promulgated to implement this Act, a portion of each amount collected by an Online Platform Provider shall be used to pay the social protection program contributions of the Online Platform Worker performing the services involved. The government agencies and instrumentalities administering or managing the relevant public social protection programs shall ensure

that these amounts are credited to the proper Online Platform Worker, whatever Online Platform the said amounts may have been sourced from.

- f) *Right to Organize.* Online Platform Workers shall have the right to self-organization, to collectively bargain and negotiate with Online Platform Providers, and to engage in peaceful concerted activities. Online Platform Providers shall not discriminate, or take any adverse action against, Online Platform Workers for exercising these rights, or any of the other rights provided in this Act. Organizations of Online Platform Workers, including unions, cooperatives, social and solidarity economic units, shall have the right to freely function and act as the representatives of their members in policy and decision-making processes, collective negotiations, and other similar bodies and processes in the context of tripartism, as well as establish, join or affiliate with local unions, national and international federations and organizations as a protected and supported right.
- g) *Occupation Safety and Health Standards.* Online Platform Providers shall ensure that the performance of the services organized, mediated, or allocated by their online platforms do not put the safety and health of the Online Platform Workers performing these services at risk. Online Platform Providers shall be liable in the concept of an employer for injuries sustained by Online Platform Workers arising from the performance of above-described services.
- h) *Non-discrimination.* Discrimination, particularly in the recruitment and selection of workers and the granting of emoluments and benefits, on the sole basis of religion, race, color, marital status, age, disability, sexual orientation, gender identity and expression shall be prohibited; *Provided*, that any distinction, exclusion or preference in respect of a particular job based on the inherent requirements shall not be deemed to be discrimination; *Provided further*, that a maternity benefit shall be provided to female Online Platform Workers upon childbirth in a manner and amount determined by the SSS pursuant to paragraph e of this Section.

SECTION 7. *Construction in Favor of Online Platform Workers.* - All doubts in the implementation of this Act, including its implementing rules and regulations, as well as in contracts between the Online Platform Workers and the Online Platform Providers, shall be resolved in favor of the Online Platform Workers.

SECTION 8. *Application of the Labor Code of the Philippines, as amended.* - The provisions of the Labor Code of the Philippines, as amended, particularly on general labor standards and occupational safety and health standards, shall apply to work

arrangements under this Act. The other provisions of the Labor Code of the Philippines, as amended, shall apply in suppletory manner where applicable.

SECTION 9. *Implementing Rules and Regulations.* - Within sixty (60) days from the effectivity of this Act, the DOLE, Department of Information and Communications Technology, and relevant departments and agencies of the government, shall promulgate the implementing rules and regulations as may be necessary to carry out the provisions of this Act.

SECTION 10. *Separability Clause.* - If any provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SECTION 11. *Repealing Clause.* - All laws, ordinances, rules, regulations, issuances, or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,