

MATERNITY BENEFIT ACT, 1961

E-CONTENT for MBA - HR PREPARED BY:

Dr. RICHA BANERJEE

DEPARTMENT OF BUSINESS ADMINISTRATION,

UNIVERSITY OF LUCKNOW.



OBJECTIVE OF THE ACT

- a) To regulate women employment during maternity or child birth.
- b) To enjoy Right to Live and Personal Liberty.
- c) A legislation to give social justice to women workers.
- d) To provide maternity leave and benefits to working women.
- e) To protect the dignity of motherhood.

Applicability of the Act

- It extends to whole of India.
- It applies to all woman workers working in organised sector.
- The woman should be **working for at least 80 days** in the previous year.
- It cover women working in :
 - ***Plantations***
 - ***Mines***
 - ***Factories***
 - ***Shops***
 - ***Government organizations***
 - ***Legislative organizations***
 - ***Establishments where persons are employed for showing acrobatics and other performances***
- Establishments **employing 10 or more employees**
- It has 30 sections.

Definitions u/s 3 of the Act:

- **Appropriate Government** – In case of Mines, its is **Central government** and in other cases, it is the **State government**.
- **Child** – means a still-born child
- **Wages** – Any remuneration paid or payable in cash to a woman including cash allowances, **DA, HRA, incentive bonus** and **monetary value** of the **concessional supply** of food grains and other articles. It *does not* include – any bonus other than incentive bonus, overtime wages, contributions of employer to pension fund or provident fund or gratuity.
- **Woman** – means any woman **employed directly or through agency** for wages.

Payment of Maternity Benefits

- ❑ **Sec 4: Prohibition of employment of women during certain periods** – No employer shall allow the women to work **during 6 weeks** after the delivery or miscarriage, the work given to the pregnant women should not be ardent or requiring long standing hours.
- ❑ **Sec 5: Right to payment of maternity benefit** – Every woman is entitled to claim and every employer is liable to pay maternity benefit at **the rate of average daily wages** for the period of her actual absence (provided the woman has worked for more than 160 days in the 12 months preceding the expected delivery date). The **maximum period of 12 weeks leave** is provided to the women entitled to maternity benefit. (*6 weeks before delivery and 6 weeks after delivery*)
- ❑ **Sec 6: Notice of claim of maternity benefit** – For claiming the maternity benefit, the woman shall **give it in writing** to the employer at a date **6 months prior to her expected delivery**. The employer shall permit her leave on this ground.
- ❑ **Sec 7: Payment of maternity benefit incase of death of woman** – On the woman's death, the employer shall be liable to pay the maternity benefit amount to the **nominee or her legal representative**.

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- ❑ **Sec 8: Payment of Medical Bonus** – Every women is entitled to receive from her employer a medical bonus.
- ❑ **Sec 9: Leave for Miscarriage** – The employer shall provide a leave with **wages at a rate of maternity benefit for a period of 6 weeks** immediately after her miscarriage.
- ❑ **Sec 10: Leave for illness arising out of pregnancy, delivery, premature childbirth or miscarriage** – In such a case, the woman may be allowed an **additional leave of 1 month** with wages on presenting proofs.
- ❑ **Sec 11: Nursing Breaks** – The employer shall allow **2 nursing leave** and required rest periods after such delivery upto the time the **child attains 15 months** of age.
- ❑ **Sec 12: Dismissal during Absence or pregnancy** – It shall be **unlawful if the employer dismisses or discharges her from work** on account of absence according to the provisions of this act.

Role of Inspectors:

- ❑ **Sec 14: Appointment of Inspectors** – The Central government has the power to appoint the inspectors by notification to the Official Gazette and define their limits of work.
- ❑ **Sec 15: Powers and Duties of Inspectors** – Inspectors can enter into the premises of the industries where women are employed, ask for copies of registers , notices, etc, inspect them, investigate the persons involved in the work.
- ❑ **Sec 16: Inspectors are to deemed to be public servants** u/s 21 pf IPC.
- ❑ **Sec 17: Power of Inspector to direct payments** – If any complaint is made by a woman regarding improper payment of maternity benefit, then the inspector will after investigation orders the employee for making the payment of the claim.

Penalties

Section	CAUSES	Penalties
18	If the woman returns to work during the leave period permitted by employer	Forfeiture of maternity benefit for that period
21	For contravention of any rule or provision under the act by employer	Fine of INR 500 or Imprisonment upto 3 months or Both
22	For obstructing Inspector	Fine of INR 500 or Imprisonment upto 3 months or Both

AMENDMENTS *as on 2016.....*

- a) The maternity leave period has been **increased from 12 weeks to 26 weeks** for women working in private sectors
- b) The maternity benefit amendment will be applicable for women **having two surviving children (called Commissioning Mother)** and if the woman is **having more than two children (called Adopting mother)** will get 12 week leave from their work.
- c) It is **mandatory to have creches** where the number of **women employees are 30** or the employees are more than 50.
- d) Facilitate **work from home conditions** for the women during such maternity period.

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