

MATERNITY BENEFIT ACT, 1961

CHECK LIST

Object of the Act

To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.

Coverage of the Act

Upon all women employees either employed directly or through contractor except domestic women employees employed in mines, factories, plantations and also in other establishments if the State Government so decides. Therefore, if the State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act. Bihar, Punjab Haryana, West Bengal, U.P., Orissa and Andhra have done so.

Conditions for eligibility of benefits

Women indulging temporary of unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately preceding the date of her expected delivery

Cash Benefits

- Leave with average pay for six weeks before the delivery.
- Leave with average pay for six weeks after the delivery.
- A medical bonus of Rs.25 if the employer does not provide free medical care to the woman.
- An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.
- In case of miscarriage, six weeks leave with average pay from the date of miscarriage.

Non Cash Benefits/Privilege

- Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it.
- Two nursing breaks in the course of her daily work until the child is 15 months old.
- No discharge or dismissal while she is on maternity leave.
- No change to her disadvantage in any of the conditions of her employment while on maternity leave.
- Pregnant women discharged or dismissed may still claim maternity benefit from the employer.

Exception: Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit

Conditions for eligibility of benefits

- Ten weeks before the date of her expected delivery, she may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant.
- She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also name the person to whom payment will be made in case she can not take it herself.
- She should take the payment for the first six weeks before she goes on leave.
- She will get payment for the six weeks after child-birth within 48 hours of giving proof that she has had a child.
- She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work till her child is fifteen months old.
- Her employer cannot discharge her or change her conditions of service while she is on maternity leave.

Sec. 5.

Leave for Miscarriage & Tubectomy Operation

- Leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or her medical termination of pregnancy.
- Entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

Leave for illness arising out of pregnancy etc. etc.

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child (Miscarriage, medical termination of pregnancy or tubectomy operation) be entitled, in addition to the period of absence allowed to her leave with wages at the rate of maternity benefit for a maximum period of one month.

Sec. 10

Prohibition of dismissal during absence of pregnancy

- Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to vary her disadvantage.
- Discharge or dismissal during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
- At the time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus, etc.
- Not barred in case of dismissal for gross misconduct.

Sec.

Failure to Display Extract of Act

Imprisonment may extend to one year or fine.

Forfeiture of maternity benefit

If permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.

For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will fine, but not exceeding Rs.5, 000.

Sec. 18