

Bill No. XLIII of 2016

THE MATERNITY BENEFIT (AMENDMENT) BILL, 2016

A

BILL

further to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2016.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

53 of 1961.

2. In the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in section 3, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 3.

‘(ba) “commissioning mother” means a biological mother who uses her egg to create an embryo implanted in any other woman;’.

3. In the principal Act, in section 5,—

Amendment of section 5.

(A) in sub-section (3)—

(i) for the words “twelve weeks of which not more than six weeks”, the words “twenty-six weeks of which not more than eight weeks” shall be substituted;

(ii) after sub-section (3) and before the first proviso, the following proviso shall be inserted, namely:—

“Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;”;

(iii) in the first proviso, for the words “Provided that”, the words “Provided further that” shall be substituted;

(iv) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted;

(B) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.”.

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

Insertion of
new section
11A.

Creche
facility.

“11A. (1) Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(2) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.”.

STATEMENT OF OBJECTS AND REASONS

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing ten or more persons, except the employees who are covered under the Employees' State Insurance Act, 1948, for certain periods before and after child-birth and provides for maternity and other benefits.

2. The 44th Session of Indian Labour Conference (ILC), has recommended for enhancing maternity leave under Maternity Benefit Act, 1961 from existing twelve weeks to twenty-four weeks. This recommendation has been reiterated during 45th and 46th Session of ILC. The Ministry of Women and Child Development and other stakeholders has also requested to enhance maternity benefit under the Maternity Benefit Act, 1961.

3. Based on the recommendations of ILC and requests from the various quarters and the deliberations during the Tripartite Consultations with stakeholders, it has been decided to amend the Maternity Benefit Act, 1961.

4. The salient features of the Maternity Benefit (Amendment) Bill, 2016 are as follows:—

- (i) increase the maximum period of maternity benefit from the existing twelve weeks to twenty-six weeks, in case of women who have less than two surviving children and in other cases, the existing period of twelve weeks maternity benefit shall continue;
- (ii) to extend the maternity benefits to a "commissioning mother" and "adopting mother" and they shall be entitled to twelve weeks maternity benefit from the date the child is handed over;
- (iii) to facilitate "work from home" to a mother by inserting an enabling provision;
- (iv) to make it mandatory in respect of establishment having fifty or more employees, to have the facility of creche either individually or as a shared common facility within such distance as may be prescribed by rules and also to allow four visits to the creche by the woman daily, including the interval for rest allowed to her;
- (v) every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment about the benefits available under the Act.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 8th August, 2016.

BANDARU DATTATREYA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for the purpose of prescribing the distance for facility of creche in respect of every establishment having fifty or more employees.

2. The matters in respect of which rules may be made under the proposed legislation are matters of administrative details. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE
EXTRACT FROM THE MATERNITY BENEFIT ACT, 1961
(53 OF 1961)

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5. (1) *

Right to
payment of
maternity
benefits.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

Provided that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

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RAJYA SABHA

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BILL

further to amend the Maternity Benefit Act, 1961.

*(Shri Bandaru Dattatreya, Minister of State (I/C) of the
Ministry of Labour and Employment)*