

SOS POLITICAL SCIENCE AND PUBLIC ADMINISTRATION,

JIWAJI UNIVERSITY, GWALIOR

MBA HRD 403

SUBJECT NAME: LABOUR LAW

UNIT-V

TOPIC NAME: MATERNITY BENEFIT ACT 1961

MATERNITY BENEFIT ACT, 1961

(No. 53 of 1961)1

[12th. December, 1961]

“An Act to regulate the employment of women in certain establishment for certain period before and after child-birth and to provide for maternity benefit and certain other benefits.”

[Section 2](H)

"Maternity Benefit" means the payment referred to in **sub-section (1) of section 5;**

[Section 1]. Short title, extent and commencement

(1) This Act may be called the Maternity Benefit Act, 1961.

(2) It extends to the whole of India.

(3) It shall come into force on such date as may be notified in this behalf in the

Official Gazette- 3[(a) In relation to mines and to any other establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, by the Central Government; and]

(b) in relation to other establishments in a State, by the State Government.

The Act is applicable to all establishments employing 10 or more workmen.

The amendment 2016 also provides 12-weeks leave for commissioning and adopting mothers and makes it mandatory to provide crèche facility for establishment where the number of workers is 50 and above.

2. APPLICATION OF ACT

(1) It applies, in the first instance-

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:]

Provided that the State Government may, with the approval of the Central Government, after giving not less than two months' notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

(2) [Save as otherwise provided in [sections 5A and 5B] nothing contained in this Act] shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), apply for the time being.

Definitions in this Act, unless the context otherwise requires-

(a) "**appropriate government**" means, in relation to an establishment being a mine, 7[or an establishment where in persons are employed for the exhibition of equestrian, acrobatic and other performances], the Central Government and in relation to any other establishment, the State Government;

(b) "**child**" includes a still-born child;

THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017 , NO .6 OF 2017

(ba) "**commissioning mother**" means a biological mother who uses her egg to create an embryo implanted in any other woman;'

*

(c) "**delivery**" means the birth of a child;

(d) "**employer**" means-

(i) in relation to an establishment which is under the control of the government a person or authority appointed by the government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

(e) "**establishment**" means-

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performance;

[(iva) a shop or establishment; or]

(v) an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable;]

(f) "**factory**" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(g) "**inspector**" means an Inspector appointed under section 14;

(h) "**maternity benefit**" means the payment referred to in sub-section (1) of section 5;

(ha) "**medical termination of pregnancy**" means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971;]

(i) "**mine**" means a mine as defined in clause (j) of section (2) of the Mines Act, 1952 (35 of 1952);

(j) "**miscarriage**" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);

(k) "**plantation**" means a plantation as defined in clause (f) of section 2 of the Plantations Labor Act, 1951 (69 of 1951);

(l) "**prescribed**" means prescribed by rule made under this Act;

(m) "**State Government**", in relation to a Union territory, means the Administrator thereof;

(n) "**wages**" means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes-

(1) such cash allowances (including dearness allowance and house rent allowances) as a woman is for the time being entitled to,

(2) incentive bonus, and

(3) the money value of the concessional supply of food grains and other articles but does not include-

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or

for the benefit of the woman under any law for the
time being in force; and

(iv) any gratuity payable on the termination of service;

(o) "**woman**" means a woman employed, whether directly or through any agency, for wages in any establishment.

NOTES. –

Sec 3 (f). – A factory does not include a mine subject to the operation of the Mines Act, 152, or a railway running-shed.

Sec. 3 (j) – The definition of miscarriage is similar to the definition as given in Sec. 2 (14-B) of the Employees' State Insurance Act, 1948.