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# **ADVISORY**

## **MATERNITY BENEFITS UNDER THE LABOUR LAWS**

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### **I. INTRODUCTION**

Maternity benefits form an integral part of India's labour welfare framework, aimed at protecting the health, dignity, and employment of women during pregnancy and childbirth. These benefits are primarily governed by the **Maternity Benefit Act, 1961**, as aligned with the **Code on Social Security, 2020**, along with applicable rules, notifications, and amendments.

### **II. APPLICABILITY**

The provisions apply to establishments employing **10 or more employees** on any day in the preceding 12 months, including factories, mines, plantations, shops, and other notified establishments.

### **III. ELIGIBILITY AND COVERAGE**

A woman employee is entitled to maternity benefits if she has worked for **at least 80 days** in the 12 months preceding the expected date of delivery. Coverage extends to **permanent, contractual, fixed-term employees and those engaged through contractors**, with the principal employer remaining responsible.

### **IV. MATERNITY LEAVE & BENEFITS**

- **26 weeks** of paid maternity leave for the **first two children**
- **12 weeks** of paid maternity leave for the **third child onwards**
- Leave may be availed **up to 8 weeks before delivery**, with the balance post-childbirth
- Maternity benefit is payable at the rate of average daily wages, and the employer is liable for such payment
- Maternity leave shall not be treated as leave without pay or as a break in service for any purpose

No deduction or adverse adjustment shall be made to wages, allowances, or service benefits on account of maternity leave, work-from-home arrangements, reduced working hours, or nursing breaks availed in accordance with law.

### **V. ADOPTION & COMMISSIONING MOTHERS**

Adoptive mothers (adopting a child below 3 months) and commissioning mothers are entitled to **12 weeks of maternity benefit** from the date the child is handed over.

## **VI. POST-DELIVERY PROTECTION**

Women shall not be required or permitted to work during the **six weeks immediately following delivery, miscarriage, or medical termination of pregnancy**. Upon resumption of duty, women are entitled to **two nursing breaks per working day** until the child attains the age of **15 months**.

## **VII. WORK FROM HOME PROVISION**

Post-maternity **work-from-home arrangements** may be permitted based on the nature of work and mutual agreement between employer and employee. While enabling in nature, denial of such arrangements must be **reasonable and non-discriminatory**.

## **VIII. CRÈCHE FACILITY**

Establishments employing **50 or more employees** must provide access to a crèche facility and permit **up to four visits per day**, including rest intervals.

## **IX. ADDITIONAL STATUTORY OBLIGATIONS**

- **Prohibition on dismissal or adverse service conditions** during maternity leave, except for proven gross misconduct
- **Medical bonus** (currently ₹3,500 or as notified), where pre-natal and post-natal care is not provided free of charge
- **Paid leave entitlements** for miscarriage, medical termination of pregnancy, tubectomy, and illness arising out of pregnancy or childbirth
- Mandatory **intimation to women employees** regarding maternity benefits at the time of appointment and **display of statutory abstracts** at the workplace
- Maintenance of **prescribed registers, records, and returns**
- Companies are required to **confirm compliance with the provisions of the Maternity Benefit Act in the Board's Report** forming part of the annual financial statements under the Companies Act, 2013.

## **X. CONSEQUENCES OF NON-COMPLIANCE**

Non-compliance may result in **imprisonment up to six months**, or **fine up to ₹50,000**, or both, for offences including denial of maternity benefits, unlawful termination, failure to maintain records, or obstruction of inspectors.

## **XI. CONCLUSION**

Compliance with maternity benefit laws is both a statutory obligation and a key component of equitable employment practices. Employers should periodically review HR policies, employment contracts, and internal processes to ensure full compliance.

## **XII. HOW OCTAGONA INDIA CAN HELP**

Octagona India assists organizations with maternity benefit compliance under Indian labour laws, including:

- Advisory on the **Maternity Benefit Act, 1961**, the **Code on Social Security, 2020**, and applicable rules
- Review and alignment of HR policies, employment contracts, and workforce structures
- Assessment of employee eligibility and statutory maternity entitlements
- Drafting and updating maternity benefit policies and internal guidelines
- Guidance on statutory records, inspections, and **Board's Report disclosures**
- Practical support on implementation, including work-from-home and crèche obligations

### **Disclaimer Note:**

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