

By Speed Post

F.No-S-36012/03/2015-SS-I
Government of India
Ministry of Labour & Employment

Sharam Shakti Bhawan, New Delhi

28 August, 2017

To

The Secretary,
Labour Department,
All State Governments/UT Administrators

Subject: The Maternity Benefit (Amendment) Act, 2017

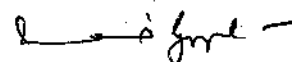
Sir/Madam,

Kind reference is invited to Ministry of Labour & Employment's earlier letter number S-36012/03/2015-SS-I dated 12.04.2017 (copy enclosed) highlighting the recent amendments made to the Maternity Benefit Act, 1961. The Ministry had also clarified therein certain points of doubts to facilitate smooth implementation of the provisions of the said Act, specially in respect of coverage of contractual workers under the Act.

2. This Ministry in the recent past have been receiving a number of complaints and grievances from working women stating non-implementation of the provisions of the M.B. Act, including alleged dismissal of few women by the employers in violation of section 12 of the said Act, non coverage of contractual employees, etc. The Hon'ble National Commission for Women has also taken serious view of such denial of rights of working women.

3. This Ministry would, therefore, urge all the State/UT Labour Commissioners (which is the implementing authority under the M.B. Act) to effectively enforce the provisions of M.B. Act, and take strict punitive action against defaulting employers and ensure that the provisions of the statute are implemented in true spirit and letter to protect the rights of working women enshrined in the Act.

Yours faithfully



(Manish Kumar Gupta)

Joint Secretary, Govt of India

Copy to:

1. Chief Labour Commissioner(Central), M/o Labour & Employment, New Delhi
2. Ms.Rekha Sharma, Hon'ble Member, National Commission for Women, Plot No-21, FC-33, Jasola Institutional Area, New Delhi for information.
3. Website of the Ministry of L&E

No. S-36012/03/2015-SS-I
Government of India/भारत सरकार
Ministry of Labour & Employment/श्रम और रोजगार मंत्रालय

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated 12th April, 2017

To,

The Labour Department,
All States/Union Territories

Sub: The Maternity Benefit (Amendment) Act, 2017 – reg.

Sir/Madam,

In line with recommendations of the 44th, 45th & 46th Session of Indian Labour Conference (ILC) and demands from various quarters, the Government has recently enacted the Maternity Benefit (Amendment) Act, 2017. Through this Amendment Act, following provisions have been added to the Maternity Benefit Act, 1961:-

- Increase in the maternity leave from existing 12 to 26 weeks for working women with less than two surviving children.
- Provisions for work from home for nursing mothers.
- Mandatory provisions for establishments having fifty or more employees to have the facility of crèche.
- Extension of twelve weeks of maternity benefit to the 'commissioning mother' and the 'adopting mother' from the date the child is handed over.

Provisions of the Amendment Act have come into force w.e.f. 1st April, 2017, except those relating to crèche facility (Section 4(1)) which would come into force from 01.07.2017.

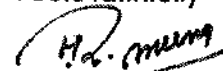
2. After the enactment of the said Act, the Ministry has been receiving numerous queries relating the revised provisions of the Act. The Ministry has examined such queries in consultation with Chief Labour Commissioner (Central) and the same are clarified as below :-

S No.	Query	Clarification
1.	Applicability of the Act to contractual or consultant women employees.	Since there is no amendment in Sec. 2 of the Act, hence the original provision will prevail.

		The Act is applicable to all women who are employed in any capacity directly or through any agency i.e. either on contractual or as consultant.
2.	Whether enhanced maternity benefit, as modified by the Maternity Benefit (Amendment) bill, 2016 can be extended to women who are already under maternity leave at the time of enforcement of this Amendment Act?	Yes.
3.	Whether enhance maternity benefit can be extended to those women who have joined after availing 12 weeks of the maternity leave?	Those women employee who had already availed 12 weeks of maternity leave before enforcement of the Maternity Benefit (Amendment) Act, 2017 i.e. 1 st April, 2017, shall not be entitled to avail the extended benefit of the 26 weeks leave.
4.	Protection of women in case she is fired by the employer after learning her pregnancy?	Under Section 12 of the M.B. Act, 1961 it is emphasized that any dismissal or discharge of a women during the pregnancy is unlawful and such employer can be punished under Section 21 of the Act.
5.	Whether benefits of this Act can be extended to the employed women in the unorganized Sector	The Maternity Benefit Act is applicable to all mines, plantations, shops and establishments and factories. Mines, plantations, shop and establishments could be either in organized sector or unorganized sector. Also, clarification at SL. No. 1 may be seen.

3. It is requested that these clarifications may be noted for compliance and also circulated widely so as to make the pregnant working women aware of their rights.

Yours faithfully



(H.L. Meena)

Director (SS)

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Copy to:

1. Chief Labour Commissioner (Central), M/o Labour & Employment, New Delhi

2. Website of the Ministry of Labour & Employment

3. Media Cell, Ministry of Labour & Employment