

THE MATERNITY BENEFIT ACT, 1961 & RULES FRAMED THERE UNDER

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 eque strain, 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 month's 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.

[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, -

[] In this Act, unless the context otherwise requires, -

In this Act, unless the context otherwise requires, -

"Appropriate Government" means, in relation to an establishment being a mine [or an establishment wherein 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;

"Child" includes a still-born child;

"Delivery" means the birth of a child;

"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;

"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 performances; 2[* * *]

[(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;]

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

"Inspector" means an Inspector appointed under section 14;

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

"Medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971.];

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

"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);

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

"Prescribed" means prescribed by rules made under this Act;

"State Government, in relation to a Union territory" means the Administrator thereof;

"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 allowance) as a woman is for the time being entitled to,

(2) Incentive bonus, and

(3) The money value of the concessional supply of foodgrains 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;

"Woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

"the Act" means the Maternity Benefit Act, 1961 (53 of 1961) ;

"Competent Authority" means the Chief Inspector of Factories Ahmedabad ;

"Form" means a form appended to these rules;

"Muster Roll" means a muster roll maintained under rule 3 ;

"Registered Medical Practitioner" means a medical practitioner whose name has been enrolled in a register maintained under any law for the time being in force regulating the registration of practitioners of medicine ;

"Section" means a section of the Act;

All other words and expressions used hereinafter but not defined herein shall have the same meaning as respectively assigned to them in the Act.

Inspectors ¶ ¶

The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

¶

The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

Penalty for contravention of Act by employer ¶ ¶ (1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

¶ (1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

(1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no

other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

Provided that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.]

Penalty for obstructing Inspector-whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extent to **1**[one year, or with fine which may extend to five thousand rupees], or with both.