

## **THE MATERNITY BENEFIT ACT, 1961**

- I. **OBJECT:** To regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits.
- II. **APPLICABILITY:** It extends to the whole of India and applies to
- i) every factory, mine, plantations, establishments for the exhibition of equestrian, acrobatic and other performances.
  - ii) to every shop or establishments defined under any law applicable to such establishments in a state in which persons are employed on any day of the preceding twelve months.

*Note: Vide G.O.(MS) No.5/72/Labour dt. 21.01.1972. (Published in Kerala Gazette dt.8<sup>th</sup> Feb. 1972, page 63) the govt. of Kerala have extended all the provisions of the Maternity Benefit Act, 1961 to the V as defined in Clause-8 of section-2 of the Kerala Shops and Commercial establishments Act 1960.*

- III **PROHIBITED PERIOD OF EMPLOYEMENT OR WORK:** The employment of women, or work by women in any establishment during the six weeks immediately following the day of her delivery or her miscarriage (section-4).
- IV **PAYMENT OF MATERNITY BENEFIT:** Every women shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of average daily wage for the period of her actual absence, and any period of her actual absence, and any period immediately following the date of delivery and including the actual day for her delivery (Section –5). In addition to the maternity benefit, every women shall also be entitled to receive a medical bonus of Rs.250/- if no prenatal confinement and post natal care is provided free of charge (section-8)
- V **ELIGIBILITY FOR MATERNITY BENEFIT:**  
A women shall be entitled to maternity benefit only if she has actually worked in an establishment of the employer for a period of not less than eighty days in the twelve months immediately proceeding the date of her expected delivery (section-5[2])

- VI **MAXIMUM PERIOD OF MATERNITY BENEFIT:** Maximum twelve weeks of which not more than six weeks shall proceed the date of her expected delivery (section-5[5])
- VII **OTHER BENEFITS:** Act also provides provisions for leave for miscarriage, leave for illness arising out of pregnancy or delivery, premature birth of child or miscarriage and nursing breaks for nursing the child until the child attained the age of 15 months (section-910 & 11)
- VIII **DISMISSAL, DEDUCTION WAGES, ETC:** No employer shall discharge or dismiss a women for her absence form work in accordance with the provisions of this Act and no deduction shall be made from the normal; and usual daily wages of a women entitled to maternity benefits. (section –12&13)
- IX **TO WHOM CLAIM CAN BE PREFERRED:** Any claim due under this act may file to the inspector appointed under section 14 of the Act (section-17)
- X **APPELLATE AUTHORITY:** Any appeal against the decision of the Inspector may within thirty days prefer to the Deputy Labour Commissioner, who is the appellate authority prescribed. (section-17[3])
- XI **REGISTERS:** Every employer shall prepare and maintain a muster roll in Form-A.
- XII **ANNUAL RETURN:** The employer shall on or before 31<sup>st</sup> day of January in each year submit a return in Form-L to the complete authority as to the particulars specified, in respect of the preceding year (Rule-16)
- XIII **PENALTY:** Punishment for the offences under the Act is 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 Rupees two thousand but it may extend to Rupees five thousand. (section-21)
- XIV **WHO CAN FILE PROSECUTION:**
1. Any aggrieved women.
  2. An office bears of a trade union registered under the Trade unions Act.1926.

3. A voluntary organisation registered under the Societies Act.

4. An inspector

No court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offences under this Act, (section-23)

**XV AUTHORITIES APPOINTED UNDER THE ACT:**

1. Inspectors (under Section-14)

a. Labour commissioner .

b. Additional Labour commissioner, (IR and E).

c. Additional Labour commissioner, Kozhikode

d. Joint Labour Commissioner (P)

e. Deputy Labour Commissioner (HQ)

f. Regional Joint Labour Commissioners.

g. Chief Inspector of Plantations

h. Inspector of Plantations

i. District Labour Officers (E)

j. Asst. Labour officers – Grader II

2. Appellate Authority under Section-17(3)

Deputy Labour Commissioners.

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Provided that where a notice, appeal or complaint under the said rules has been submitted by a woman entitled to receive maternity benefit or any other amount due under the Act in a form other than the prescribed form, the authority concerned may, within 15 days of the receipt of such notice, appeal or complaint, require the woman to submit the notice, appeal, or complaint, as the case may be, in the prescribed form.

14. **RECORDS.-** Records kept under the provisions of the Act and these rules shall be preserved for a period of two years from the date of their preparation.

15. **ABSTRACT.-** The abstract of the provisions of the Act and these rules required to be exhibited under Sec.19 shall be in Form “K” and shall be exhibited in such manner as the competent authority may require.

### **16. Annual returns .-**

(1) The employer of 1[every mine or circus] shall on or before the 21<sup>st</sup> day of January in each year submit to the competent authority return in each of the Forms “L”, “M”, “N” and “O” giving information’s as other particulars specified in respect of the preceding year.

(2) If the employer of 1[a mine or circus] to which the Act applies, sells, abandons or discontinues the working of 1[the mine or circus] he shall, within one month of the date of sale or abandonment or four months of the date of discontinuance, as the case may be, submit to the competent authority a further return in each of the said forms in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

FORM A  
(See rule 3)

**MUSTER - ROLL**

Name of 1[ESlt].....

1. Serial No.
2. Name of women and her father's (or, if married husband's) name.
3. Date of appointment.
4. Nature of work.
5. Dates with month and year in which  
She is employed, laid off and not employed.

<b>Month</b>	<b>No. of days Employed</b>	<b>No. of days laid off</b>	<b>No. of days not employed</b>	<b>Remarks</b>
1	2	3	4	5

6. Date on which the women gives  
Notice under See.6
7. Date of discharge/dismissal, if any.
8. Date of production of proof of  
Pregnancy under See.6
9. Date of birth of child
10. Date of production of proof of  
Delivery/miscarriage/death.
11. Date of production of proof of  
Liness referred to in Sec.10.
12. Date with the amount of maternity  
Benefit paid in advanced of expected delivery.
13. Date with the amount of subsequent  
Payment of maternity benefit.

14. Date with the amount of bonus, if Paid, under Sec.8.
15. Date with the amount of wages paid On account of leave under Sec.9
16. Date with the amount of wages paid On account of leave under Sec.10 And period of leave granted.
17. Name of the person nominated by the Woman under-Sec.6
18. If the woman dies, the date of her death, The name of the person to whom maternity Benefit and/or other amount was paid, the Amount thereof and the date of payment.
19. If the woman dies and the child survives, the Name of the person to whom the amount of Maternity benefit was paid on behalf of the Child and the period for which it was paid.
20. Signature of the employer of the mine Authenticating the entries in the master-roll.
21. Remarks column for the use of the Inspector.

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*Subs. By G.S.R. 59 (E), dated 27<sup>th</sup> february, 1975*

**FORM – B**  
[See rule 4 (1)]

This is to certify that I examined.....wife/daughter of....., a woman employee in.....(name of 1[mine or circus] on.....(date) and found / cannot discover that she is pregnant and is expected to be delivered of a child within (month and/days.) from the above-mentioned date/has undergone miscarriage/has been delivered of a child on.....(date) or is suffering from.....(date) from illness arising out of pregnancy/delivery/premature birth of a child or miscarriage.

Date.....

Signature, Qualifications and Designation  
of Medical Officer/Medical Practitioner.

Definitions of “child” and “miscarriage” as in the Maternity Benefit Act, 1961 -

1. “Child” includes a still-born child.
2. “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.

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1. Subs. by G.S.R. 59 (E), dated 27<sup>th</sup> February, 1975.