

Maternity Benefit Act, 1961

FORM K: Abstract of the Maternity Benefit Act, 1961, and the Rules Made There under

[Rule 15]

1. No employer shall knowingly employ a woman during the six weeks immediately following the day of her delivery of miscarriage /³[medical termination of pregnancy] and no woman shall work in any establishment during the said period.

2. No pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period of one month immediately preceding the period of six weeks before the date of her expected delivery and also for any period during this period of six weeks for which she does not avail of leave of absence, any work which is of an arduous nature or which involves long hours of standing, or which in way i s likely to interfere with her pregnancy or the normal development of the fetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

3.²[(1) Subject to the provisions of the Act, every woman who has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than eighty days, including the days during which she was laid off, shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of her average daily wages, or the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948, or ten rupees a day, whichever is highest, for the period of her actual absence not exceeding six weeks immediately preceding the day of delivery and the remaining period immediately following that day:

PROVIDED that the qualifying period of eighty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration:

PROVIDED FURTHER that where a woman dies during the period for which maternity benefit is payable to her, the benefit shall be payable only for the days up to and including the day of her death. However, where the woman having been delivered of a child, dies during her delivery or during the remaining period of maternity benefit leaving behind in either case the child, the employer shall be liable for the payment of maternity benefit for the entire period of maternity benefit following the day of her delivery but if the child also dies during the said period, then, for the days up to and including the day of the death of the child.]

(2) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of a certificate in Form 'B' stating that she is pregnant and is expected to be delivered of a child within six weeks of the

date of production of the certificate, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of the certificate in form 'B' or Form 'D' stating that she has been delivered of a child or production of a certified extract from a Birth Register maintained under the provisions of any law for the time being in force.

4. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in Form 'E' to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment until the expiry ²[of the remaining period of maternity benefit] after the day of her delivery.

5. (1) Every woman entitled to maternity benefit under the Act shall also be entitled to receive from her employer a medical bonus of ²[two hundred and fifty rupees], if no pre-natal, confinement and post-natal care is provided for by the employer free of charge. The medical bonus shall be paid along with the second installment of the maternity benefit.

(2) In case of miscarriage, a woman shall, on production of a certificate in Form 'B' or Form 'D' be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage. The wages shall be paid within 48 hours of production of the certificate in Form 'B' or Form 'D'.

³[(2a) In case of medical termination of pregnancy, a woman shall, on production of a certificate in Form 'B' be entitled to leave with wages of the rate of maternity benefit for a period of six weeks immediately following the day of her medical termination of pregnancy. The wages shall be paid within 48 hours of production of the certificate in form 'B'.]

(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child of miscarriage/²[medical termination of pregnancy or tubectomy operation] shall, on production of a certificate in Form 'B', be entitled, in addition to the period of absence allowed to her on account of maternity or miscarriage/²[medical termination of pregnancy or tubectomy operation], as the case may be, to leave with wages at the rate of maternity benefit for a

maximum period of one month. The wages for the leave period shall be paid within 48 hours of the expiry of that period.

6. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of 15 minutes' duration for nursing the child until the child attains the age of fifteen months. An extra sufficient period, depending upon the distance to be covered, shall be allowed for the purpose of the journey to and from the creche or the place where the children are left by women while on duty, provided that such extra period shall not be less than 5 minutes and more than 15 minutes' duration.

7. (1) When a woman absents herself from work in accordance with the provisions of the Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2)(a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for which discharge or dismissal would have been entitled to maternity benefit or medical bonus shall not have the effect of depriving her of the maternity benefit or medical bonus:

PROVIDED that where the dismissal is for one or more of the following acts, the employer may, by order in writing communicate to the woman, deprive her of the maternity benefit or medical bonus or both-

(i) willful destruction of employer's goods or property;

(ii) assaulting any superior or co-employee at the place of work;

(iii) criminal offence involving moral turpitude resulting in conviction in a court of law;

(iv) theft, fraud, or dishonesty in connection with the employer's business or property;
and

(v) willful non-observance of safety measures or rules on the subject or willful interference with safety devices or with fire-fighting equipment.

(b) Any woman deprived of maternity benefit or medical bonus or both, may within sixty days from the date on which the order of such deprivation is communicated to her, appeal in Form 'G' to ¹[the competent authority and his decision] on such appeal whether the woman should or should not be deprived of maternity benefit or medical bonus or both, shall be final.

8. If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of the Act, she shall forfeit her claim to the maternity benefit for such period.

9. (1) Any woman claiming the maternity benefit or any other amount to which she is entitled under the Act and any person claiming that payment due has been improperly withheld may make a complaint to the Inspector in writing in Form 'H' or 'I' as the case may be.

(2) The Inspector may, of his own motion or on receipt of a complaint in Form 'H' or 'I' make an inquiry or cause an Enquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the Inspector may, within, thirty days from the date on which such decision is communicated to such person, appeal to ¹[the Chief Inspector of Mines].

(4) The decision of ⁴[***] ¹[the competent authority] where an appeal has been preferred to him or of the Inspector where no such appeal has been preferred, shall be final.

10.(a) The employer shall supply to every woman employed by him at her request free of cost copies of Forms 'B', 'C', 'D', 'E', 'F', 'G', 'H' and 'I'.

(b) The failure to submit a notice, appeal or complaint in the prescribed form will not affect the right of a woman entitled to receive maternity benefit or any other amount due under the Act. Where a notice, appeal or complaint has been received in a form other than the prescribed form, the authority concerned shall within fifteen 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.

11. (a)(1) The employer of ⁵[every mine or circus] in which women are employed shall prepare and maintain a muster-roll in Form 'A' and shall enter therein particulars of all women workers in ⁵[the mine or circus.]

(2) All entries in the muster-roll shall be made in ink and maintained up-to-date and it shall always be available for inspection by the Inspector during working hours.

(b) The employer of every mine or circus shall on or before the 21st day of January in each year submit ⁴[***] ¹[the competent authority] a return in each of the Form 'L', 'M', 'N' and 'O', giving information as to the particulars specified in respect of the preceding year.