

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 6 | Issue 6

---

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Implication of Maternity Benefit Act in Real World Organisations

---

B. TEJAS REDDY<sup>1</sup> AND ANUSHKA THAKUR<sup>2</sup>

## ABSTRACT

*The "Implication of Maternity Benefit Act in Real World Organizations" explores the practical ramifications of the Maternity Benefit Act in the context of contemporary workplaces. This legislation, designed to safeguard the rights of pregnant women and new mothers in the workforce, has far-reaching implications for both employers and employees. The abstract delves into the multifaceted aspects of the Act, examining its impact on organizational dynamics, employee welfare, and the overall corporate landscape.*

*The study investigates how organizations navigate the challenges posed by the Maternity Benefit Act, balancing the imperative of providing a supportive environment for women during the crucial maternity period with the operational demands of the business. Key facets include the Act's provisions regarding maternity leave duration, prenatal and postnatal care, and the provision of a secure and healthy work environment for pregnant employees. Furthermore, the research scrutinizes the Act's influence on recruitment practices, career progression, and the broader issue of gender inclusivity within organizations.*

*The abstract also sheds light on the economic considerations for employers, analyzing the financial implications of providing maternity benefits and potential strategies for organizations to ensure compliance without compromising their economic viability. Additionally, the study explores the cultural shift within workplaces, assessing how the Maternity Benefit Act contributes to fostering a more inclusive and supportive work culture, thereby attracting and retaining a diverse talent pool.*

*This research employs a mixed-methods approach, combining quantitative analysis of organizational data, surveys, and qualitative interviews with key stakeholders, including human resources professionals, legal experts, and female employees. By triangulating these diverse data sources, the study aims to provide a comprehensive understanding of the lived experiences, challenges, and successes in implementing the Maternity Benefit Act across various industry sectors.*

*The implications of this research extend beyond legal compliance, touching upon broader societal and economic dimensions. As organizations increasingly recognize the significance of diversity and inclusivity in the workplace, understanding the practical implications of the Maternity Benefit Act becomes paramount. The findings are anticipated to contribute*

---

<sup>1</sup> Author is a student at Presidency University Bangalore, India.

<sup>2</sup> Author is a student at Presidency University Bangalore, India.

*valuable insights to policymakers, employers, and advocacy groups, fostering informed discourse and facilitating the evolution of legislation and organizational practices to better accommodate the needs of working women during the pivotal maternity phase.*

**Keywords:** *Creche facility, amendments, yojana, prenatal and postnatal leaves.*

## I. INTRODUCTION

The Maternity Benefit Act of 1961 is a piece of legislation that safeguards women's work during pregnancy. It gives female employees the right to maternity benefits, which include fully paid salaries for the time they miss working to care for a kid. The law applies to all businesses with ten or more employees. The Maternity (Amendment) Bill 2017, which modifies the Maternity Benefit Act of 1961, was adopted by the Lok Sabha on March 9, 2017. The said bill was thereafter withdrawn by the Rajya Sabha on August 11, 2016. Additionally, on March 27, 2017, the President of India gave his blessing. The Maternity Benefit (Amendment) Act of 2017 went into effect on April 1, 2017, while Section 111 A, which deals with childcare facilities, went into effect on July 1.

The benefits of pregnancy include those that women experience while they are pregnant and the encouragement of childrearing. According to the most recent study conducted in India on this subject, India is on par with international conventions. This article describes the maternity benefits offered in the country as well as those recommended by international standards. Additionally, it makes a limited comparison with other countries on the same topic and aims to compile all recent studies on the topic that are relevant to India. A woman's employment must include maternity benefits because they provide her with the support, she needs to consider starting a family. The laws were put in place to support new parents throughout their postpartum recovery and as they wait to start working again. They bring comfort during this time because they guarantee benefits in addition to the mother's employment security and pay. The article also strives to provide basic understanding of the law to citizens of the nation.

Maternity benefits are offered to women who work in specific establishments under the Maternity Benefit Act of 1961, an Indian statute. By giving them paid leave and other benefits, the Act strives to protect the health and wellbeing of female workers throughout pregnancy and after childbirth. It applies to all businesses with at least ten employees, including factories, mines, plantations, and businesses.

The legislation was approved on December 12 and went into effect on April 1 of the following year. It has undergone significant alteration since then to accommodate the evolving needs of

female workers. The most recent change, which included the ability for female employees to work from home, childcare options, and an extension of motherhood leave, was implemented in 2017.

Employees who qualify are entitled to a period of paid leave both before and after childbirth under the Maternity Benefit Act of 1961. Other perks including medical bonuses, nursing breaks, and leave for miscarriage or medical pregnancy termination are also covered by the Act. The Act also guarantees that female employees' jobs would be reinstated following their maternity leaves and forbids firing them at that time.

The Maternity Benefit Act of 1961 is a significant legal provision that upholds the rights of female employees and promotes gender equality in the workplace. It helps to ensure that women are not the targets of gender discrimination and provides them with much-needed support at a pivotal point in their life.

## **II. MATERNITY BENEFIT ACT, 1961**

Following India's independence, on December 12, 1961, the Union of India passed the Maternity Benefits Act of 1961. In accordance with the then-applicable international standards, the Act offered conditional benefits for pregnancy, childbirth, and complications associated to those. Even though India was still a developing country and in its 14th year of independence, the Act was extremely thorough and careful attention was paid to many dimensions of factors influencing maternity benefits.

The Maternity Benefit Act, 1961, sets down the rules governing maternity benefits in India. All organisations with ten (10) or more employees must comply with the Act. According to the Act, all women who have worked for an organization for at least eighty days are qualified for maternity benefits.

As stated by the Supreme Court in the case of *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (2000), the Maternity Benefit Act, 1961, aims to provide all the amenities to a working woman in a dignified manner so that she may overcome the "state of motherhood honorably, peacefully, undeterred by the fear of being victimized for forced absence during the pre or postnatal period." The Maternity Benefit Act of 1961 states that if there is no prenatal confinement and no paid postpartum care, the employer must provide the beneficiary a medical bonus of up to 1,000 rupees. The medical bonus has been increased by the Central Government to 25,000 rupees. The lady is entitled to paid leave if she miscarries or encounters any other problems related to pregnancy. Upon confirmation of any condition connected to pregnancy, the beneficiary is granted a 30-day additional leave with pay. The

woman is entitled to a break after reporting back to work and is permitted two breaks to feed the child until they are 15 months old.

Every company with fifty or more female employees is required to have the "facility of a crèche" available in convenient areas. Depending on the evidence offered, women will be permitted to leave for their tubectomy procedure with payment. The Act states that it is illegal for an employer to fire or dismiss a pregnant employee while she is away or on account of her pregnancy, or to give termination notice on a day when the notice would expire while she is away, or to alter any of the conditions of her employment to their disadvantage. The law prohibits wage reductions for light tasks assigned to pregnant mothers and breaks for child feeding.

All businesses, including government-owned enterprises and those that hired persons to perform equestrian, acrobatic, and other performances for exhibition in factories, mines, and plantations, are subject to the law. It also applies to any store or company with ten or more workers. The act constituted a substantial improvement over the rudimentary one from 1928 with the addition of provisions for industrial, agricultural, and commercial establishments.

The Act covers all maternity benefits in the following sections:

- **Section 4:** Employment of, or work of, women prohibited during certain periods.
- **Section 5:** Right to payment of maternity benefits.
- **Section 7:** Payment of Maternity Benefits in case of death of a woman.
- **Section 8:** Payment of Medical Bonus.
- **Section 9:** Leave for miscarriage, etc.
- **Section 10:** Leave for illness arising out of pregnancy, delivery, premature birth of a child, miscarriage, medical termination of pregnancy or tubectomy operation.
- **Section 11:** Nursing Breaks.
- **Section 12:** Dismissal during absence of pregnancy.
- **Section 13:** No deduction of wages in certain cases.
- **Section 18:** Forfeiture of maternity benefits.

Every business, including those that belonged to the government and those that hired persons to do equestrian, acrobatic, and other performances for show in factories, mines, and plantations, must abide by the law. Furthermore, it was applicable to any store or company with ten or more workers. The act was a vast advance over the crude one from 1928 because it

included provisions for industrial, agricultural, and commercial establishments.

### **III. BENEFIT OF THE ACT**

For six weeks after the day of delivery, miscarriage, or medical termination of pregnancy, the employee is prohibited by the Act from recruiting any known woman in any location. No woman may work for any company for the six weeks that immediately follow the day of delivery or miscarriage. The employer cannot make such women undertake any tasks unless the employed woman specifically requests it.

Any work that could endanger her health or put her at risk for miscarriage, or that would negatively impact her pregnancy or the fetus's development.

Every woman is entitled to maternity leave, which her employer must pay her at the amount of the average daily wage for the time she was off work, i.e., the days leading up to her delivery day or on the day of her delivery and for a short while after.

### **IV. AMENDMENTS OF THE ACT**

The Rajya Sabha and Lok Sabha adopted the Maternity Benefits (Amendment) Bill, 2017, on August 11, 2016, and the President of India granted his assent on March 27, 2017. The Maternity Benefits (Amendment) Act 2017's provisions become operative in India on April 1, 2017. However, the clauses relating to the childcare facility (Section 11) came into force on July 1, 2017. The Act after the change still adheres to its fundamental principles but offers better benefits and promotes better childcare. According to our investigation, the four levels of this statute have undergone the following changes:

**Duration of leave:** The amendment offers 26 weeks of maternity leave, not to exceed 8 weeks prior to the anticipated due date unless they have two or more living children. The overall period of maternity leave is shown to have increased by 117% since the previous Act. Additionally, it complies with the ILO's suggestion of 18 weeks or more. In order to improve childcare and give women enough time for self-healing, as well as to reduce infant mortality, this amendment was passed. The exception to this is adoption. A commissioning mother or a woman who adopts a child under three months old is eligible for twelve weeks of maternity leave.

**Job protection:** The original Act's discharge and dismissal clause remain unchanged.

**Financial benefits:** No immediate financial benefits have been put into practice. However, the amendment stipulates that a woman has the right to work from home provided both her employer and she mutually agrees to this. Every business with 50 or more employees should include a crèche facility, either independently or as part of the common areas. This is another

benefit. The employer will permit the woman four visits to the childcare provider.

## **V. NATIONAL MATERNITY BENEFIT SCHEMES UNDER INDIAN GOVERNMENT**

Under the NMBS, women who are 19 years of age or older and reside in homes that are below the poverty line are provided financial assistance of Rs. 500 up to their first two live births. Pre-delivery and post-delivery payments are also included in this help. Since 1995, the strategy has been in effect. The programme aims to provide disadvantaged women with financial support during their pregnancies, and if the baby dies, the mothers can still take use of the program's benefits. To improve its efficacy and coverage, the NBMS was superseded with the "Janani Suraksha Yojana" (JSY) project.

### **(A) Janani Suraksha Yojna**

The Janani Suraksha Yojana was introduced by the National Rural Health Mission in 2005 with the main objective of lowering maternal and infant mortality by promoting institutional delivery among women who belong to vulnerable social groups. The Yojana categories are stated as low-performing (LPS) or high-performing (HPS), depending on the pre-programme level of institutional performance. The Janani Suraksha Programme (ASHAs) established frontline healthcare workers known as Accredited Social Health Activists. Financial assistance is provided to the intended clients for childbirth and postpartum care.

### **(B) Vande Mataram Scheme**

Any obstetric and gynecological association in India is welcome to take part in this voluntary scheme to offer safe motherhood services, as are private clinics. By utilizing the vast pool of trained employees and specialists that the private sector has to offer, the programme aims to reduce maternal mortality and morbidity among expectant and pregnant women. Through public-private partnerships, the campaign intends to provide free prenatal and postnatal checks, dietary advising, breastfeeding support, etc.

### **(C) Pradhan Mantri Matru Yojna**

The Pradhan Mantri Matru Vandana Yojana, a maternity benefit programme that provides financial incentives of Rs. 5000 to pregnant mothers and nursing moms, was introduced by the Indian government with effect from 2017. The Yojana's goal is to provide financial assistance to partially make up for pay loss and let the mother get enough rest both before and after giving birth to the first kid who will survive. The benefit under the scheme is not available to women who hold regular job with the federal, state, or public sector enterprises (PSUs), or who receive benefits of a similar character under any other law.

### **(D) Pradhan Mantri Surakshit Matritva Abhiyan**

The Pradhan Mantri Surakshit Matritva Abhiyan was established by the Indian government to guarantee that pregnant women in the nation receive high-quality antenatal care, a kind of preventative healthcare. The Abhiyan offers the beneficiaries a minimal bundle of preventive healthcare treatments on the ninth day of every month at the Pradhan Mantri Surakshit Matritva Clinics to promote healthy lifestyles that benefit both mother and child.

## **VI. IS CRECHE FACILITY MANDATORY?**

The Amendment Act of 2017 states in Section 11A that crèche facilities must be maintained at "every establishment." By applying the principle of literal interpretation, it may be deduced that the section only requires the establishment of crèches in "establishments" that fall under the purview of Section 3(e) of the Act's definition of "establishment".

Additionally, it can be deduced that a "establishment" that is exempt from Section 2(2) or that receives a notification under Section 26 of the Act is not required to create a crèche as required.

As previously indicated, "establishments" falling under the purview of the Maternity Benefit Act, 1961 are subject to Section 11A's requirement to create crèches. Furthermore, it was made clear in the clarification notification sent out in support of The Maternity Benefit (Amendment) Act, 2017, that because Section 2 had not been changed, the Act of 1961 continued to apply as before. Every store or establishment that is covered by legislation that is currently in effect in relation to shops and establishments in a State is considered an "establishment" under Section 2(b).

Therefore, all establishments covered by the Delhi Shops and Establishment Act, 1954, must have crèches. According to Section 2(5) of the 1954 Act, a "commercial establishment" is "any premises where any trade, business, or profession, or any work in connection therewith, incidental to, or ancillary thereto" is conducted. Additionally, Section 2(9) of the Act of 1954 states that "'establishment' means a shop, a commercial establishment." Additionally, "'establishment' means a shop, a commercial establishment," according to Section 2(9) of the Act of 1954.

Therefore, childcare facilities are required in businesses, firms, and consulting firms, regardless of whether they were formed or registered in accordance with The Partnership Act of 1932 or The Companies Act of 2013.

People hired under a contract are those who work for a certain amount of time until the project or work is completed. Female employees are given maternity benefits to protect their rights



throughout pregnancy and after childbirth. The Act's regulations apply only to businesses with ten or more employees and to women who worked at least 80 days in the 12 months preceding their expected due date. The 1961 Act did not provide protection for women working under contracts, so they were not entitled to maternity leave payments.

In the current case, a division bench of the High Court of Madras directed the state government to give all women 180 days of paid maternity leave, regardless of the sort of employment they hold, whether it be permanent, temporary/ad hoc, or on a contractual basis. According to supplemental instructions provided to the state response, all female employees who are recruited regularly, contractually, ad hoc, or temporarily and who have minor children who must be 18 years of age or below shall be offered a 730-day paternity leave. A woman employee's term of employment shouldn't be cut short or excluded for maternity leave.

## **VII. CONCLUSION**

Maternity leave is a crucial period for mothers to take time off work and focus on both their own and their child's health. It provides new mothers with the opportunity to form bonds with their children, recover physically and psychologically from the traumatic experience of childbirth, and, if they choose, begin nursing. It also enables new parents to adjust to the rigors of parenting as well as their new job as carers.

Employers and society at large can gain much from maternity leave as well. It contributes to a more varied and inclusive workplace, increased job satisfaction and productivity, and less employee turnover. Additionally, by enabling women to combine work and family obligations and decreasing the possibility that they would leave the labor entirely, it advances gender equality in the workplace.

Nevertheless, despite the clear benefits of maternity leave, many countries currently do not have such legislation in place. Women may be forced to choose between their employment and family responsibilities as a result, or they may not be able to take the required time off to recover and bond with their new-born.

Maternity leave is important, and organisations and governments must recognize this and put policies in place to support and protect new mothers. By giving new mothers enough time and support, we can ensure that they can put their health and wellbeing first while also promoting a more inclusive and equitable workplace for everyone.

The Maternity Benefit Act of 1961 is a significant piece of legislation that works to protect women's rights prior to, during, and following childbirth. The Act provides provisions for paid

maternity leave, medical benefits, and other measures to guarantee that women can recuperate after childbirth without compromising their ability to work.

The Act's requirement that women take a minimum of 12 weeks of paid leave after working for their employer for at least 80 days within the previous 12 months is one of its most significant features. This ensures that women have sufficient time to recover from childbirth, develop a bond with their child, and, if they choose to, begin nursing.

Additionally, the Act provides coverage for certain medical costs, including those related to prenatal and postnatal care, which can help reduce the rates of maternal and new-born mortality.

According to the Act, women cannot be fired from their jobs, have their benefits or salary reduced, or have any unfavorable working conditions if they are pregnant or have recently given birth. As a result, the workplace becomes more egalitarian and inclusive, and women are protected from discrimination when they become pregnant or take maternity leave.

However, there are a few limitations to the Maternity Benefit Act of 1961. Women who work for themselves or in the unorganized sector, for example, are not covered by it; only those employed in the formal sector are. As a result, many women are unable to benefit from the Act's protections and advantages.

The Act does not include any provisions for paternity leave, which can burden women and promote gender stereotypes about caregiving. In addition, the Act does not promote flexible job alternatives like part-time work or telecommuting, which can make it difficult for women to balance their careers with their family responsibilities.

The Maternity Benefit Act of 1961, notwithstanding these limitations, represents a significant step towards safeguarding the rights of women both during pregnancy and after birth. Given that it acknowledges the need of paid maternity leave, medical benefits, and workplace non-discrimination, it has the potential to improve the health and wellbeing of mothers and new parents as well as advance gender equality.

Continued lobbying and policy reform are required to build on the Act's accomplishments and solve its shortcomings. This would include creating paternity leave and flexible work schedules, as well as expanding the Act's protection to include women who work for themselves and those employed in the unorganized sector. Implementing family-friendly practices like on-site childcare and breastfeeding assistance can help employers considerably satisfy the needs of their employees.

\*\*\*\*\*