

No. S-36012/03/2015-S5-I

Government of India

Ministry of Labour & Employment

Shram Shakti Bhawan, Rafi Marg,

New Delhi,

Dated : 12.04.2017

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 creche.
- 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 in to force w.e.f 1st April, 2017, except those relating to creche facility (Section 4(1)) which would come into force from 01.07.2017.

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. 1st 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.

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)