

# RAJASTHAN MATERNITY BENEFIT RULES, 1967

Labour and Employment Department

Notification G. S. R. No. 80, dated March 25, 1968.—In exercise of the powers conferred by section 28 of the Maternity Benefit Act, 1961 (Central Act 53 of 1961), the State Government hereby makes the following Rules, the same having been previously published in the Rajasthan Gazette, Extraordinary, Part III B, dated the 27th March, 1967, as required under sub-section (1) of section 28 of the said Act, namely :—

1. **Short title and Commencement.**—(1) These rules may be called the Rajasthan Maternity Benefit Rules, 1967.

(2) They shall come into force on such date as the State Government may by notification in the Official Gazette, appoint in this behalf and from such date the Rajasthan Maternity Benefit Rules, 1954, shall stand superseded.

2. **Definitions.**—In these rules, unless the context otherwise requires—

- (a) "Act", means the Maternity Benefit Act, 1961 (Central Act 53 of 1961);
- (b) "Competent Authority" means the Chief Inspector of Factories and Boilers, Rajasthan;
- (c) "Form" means a form appended to these rules;
- (d) "Muster Roll" means a muster roll maintained under Rule 3;
- (e) "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;
- (f) "Section" means a section of the Act;
- (g) All other words and expressions used hereinafter but not defined herein shall have the same meaning as respectively assigned to them in the Act.

3. **Muster Roll.**—(1) The employer of every factory 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 the factory.

(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.

(3) The employer may enter in the muster roll such other particulars as may be required for any other purpose of the Act.

4. **Proof.**—(1) The fact that women is pregnant or has been delivered of a child or has undergone miscarriage or is suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall be proved by the production of a certificate to that effect in Form B :—

- (a) from a medical officer of a Government Hospital or a dispensary maintained under the E. S. I. Scheme; or
- (b) from a registered medical practitioner.

(2) The fact that a woman has been confined may also be proved by the production of a certified extract from a birth register maintained under the provisions of any law for the time being in force or a certificate signed by a registered midwife.

(3) The fact that a woman has undergone miscarriage may also be proved by the production of a certificate signed by a registered midwife.

(4) The fact of death of a woman or a child may be proved by the production of a certificate to that effect in Form "C" from any of the authorities referred to in sub-rule (1) or by the production of a certified extract from a death register maintained under the provisions of any law for the time being in force.

(5) The certificate from a registered midwife shall be in Form 'D'.

**5. Payment of maternity and other benefit.**—(1) A woman employed in a factory and entitled to maternity benefit shall give notice to her employer in Form "E" and the employer shall make payment of the maternity benefit and any other amount due under the Act to the woman concerned, or, in case of her death before receiving liable such maternity benefit or amount, or where the employer is for maternity benefit under the second proviso to sub-section (3) of section 5, to the person nominated by the woman in her notice in Form "E" and in case there is no such nominee to her legal representative.

(2) In case of doubt, the maternity benefit or other amount due to a woman employed in factory shall be deposited by the employer, within two months of the date of the woman concerned with the Competent Authority, who shall, after making necessary enquiries, pay it to the person who, in his opinion is entitled to receive it.

(3) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the employer in Form 'F' from the person to whom the payment is made. In cases falling under sub-rule (2), a receipt shall be given to the employer by the Competent Authority.

(4) The medical Bonus shall be paid along with the second instalment of the maternity benefit.

(5) The maternity benefit or any other amount payable under section 7 shall be paid within two months of the date of death of the woman entitled to receive such benefit or amount.

(6) The wages payable under section 9 shall be paid to the woman entitled to receive such wages within forty-eight hours of production by her of the certificate in Form "B" or Form "D".

(7) The wages payable under section 10 shall be paid to the woman entitled to receive such wages within forty-eight hours.

**6. Break for nursing child.**—Each of the two breaks mentioned in section 11 shall be of 15 minutes duration. An extra sufficient period depending upon the distance to be covered, shall be allowed for the purpose of journey to and from the creche or the place where the children are left by woman while on duty, provided that such extra period shall not be of less than 5 minutes and more than 15 minutes duration. If any dispute arises regarding such extra period, the matter shall be referred to the Competent Authority for decision.

**7. Duties and powers of the Competent Authority and Inspectors.**—(1) The Competent Authority shall be responsible for the administration of these rules throughout the territories to which they extend.

(2) Every Inspector shall discharge his duties within the area assigned to him by the State Government and shall act under the supervision and control of the Competent Authority.

- (3) Every Inspector shall at each Inspection of a factory see :—
- (a) Whether due action has been taken on every notice given under section 6 ;
  - (b) Whether the muster roll prescribed under rule 3 is correctly maintained;
  - (c) Whether there have been any cases of discharge or dismissal or notices of discharge or dismissal in contravention of the provisions of section 12 since the last inspection;
  - (d) Whether the provisions of sub-section (1) of section 4, sub-sections (5) and (6) of section 6, sections 8, 9, 10, 11, 13 and 19 have been complied with and whether amount due have been paid within the prescribed time;
  - (e) Whether there have been any cases of deprivation of maternity benefit or medical bonus in contravention of sub-section (2) of section 12; and
  - (f) How far the irregularities pointed out at previous inspections have been remedied and how far orders previously issued have been complied with.

4. Where an Inspector observes irregularities against the Act or these Rules he shall issue orders in writing to the employer asking the latter to rectify the irregularities within a specified period and to report compliance to the Inspector.

8. Acts which constitute gross misconduct—The following acts shall constitute gross misconduct for purpose of section 12, namely—

- (a) wilful destruction of employer's goods or property;
- (b) assaulting any superior or co-employee at the place of work;
- (c) criminal offence involving moral turpitude resulting in conviction in a court of law;
- (d) theft, fraud or dishonesty in connection with the employer business or property; and
- (e) wilful non-observance of safety measures or rules on the subject or wilful interference with safety devices or with firefighting equipment.

9 Appeal under Section 12—(1) An appeal under clause (b) of sub-section (2) of section 12 shall be preferred to the Competent Authority.

2. The appeal may be made in writing and either handed over personally or sent under a registered cover to the Competent Authority.

3. When an appeal is received, the Competent Authority shall furnish a copy of the memorandum of appeal to the employer, call for the reply thereto and also ask him to produce documents connected with the issue of the appeal by a fixed date. The Competent Authority may ascertain further details, if necessary from the employer as well as from the woman. On considering the fact presented to him and ascertained by him, the Competent Authority shall give his decision. In case the employer fails to submit his reply or produce the required documents within the specified period, the Competent Authority may give the decision *ex parte*.

10. Complaint under Section 17—(1) A complaint under sub-section (1) of Section 17 shall be made in writing in Form "H" or "T" as the case may be.

(2) When a complaint referred to in section 17 is received by an Inspector he shall examine the relevant record maintained by the employer in this behalf, examine in any person employed in the factory and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 7, as the case may be, immediately or within a specified period.

**11. Appeal under Section 17—**(1) An appeal against the decision of the Inspector under sub-section (2) of section 17 shall lie to the Competent Authority.

(2) The aggrieved person shall prefer an appeal in writing to the Competent Authority in Form "J" and file other supporting documents.

3. When an appeal is received the Competent Authority shall call from the Inspector before a fixed date, the record of the case. The Competent Authority shall, if necessary, also record the statements of the aggrieved persons, and of the Inspector and seek clarification, if required.

4. Taking into account the documents, the evidence produced before him and the facts presented to him or ascertained by him, the Competent Authority shall give his decision.

**12. Supply of forms—**The employer shall supply to every woman employed by him at her request free of cost copies of form 'B', 'C', 'D', 'E', 'F', 'G', 'H', and 'T'.

**13. Non-submission of notices, appeals or complaints in the prescribed forms—**Nothing in rules 5, 9 and 10 shall affect the right of a woman entitled to receive maternity benefit or any other amount due under the Act, if she fails to submit a notice, appeal or complaint under the said rules, as the case may be in a prescribed form:

Provided that where a notice, appeal or complaint under the said rules have 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 section 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 every factory shall, on or before the 21st day of January in each year submit to the Competent Authority a return in each of the Forms "L", "M", "N" and "O" giving information as to the particulars specified in respect of the preceding year.

(2) If the employer of a factory to which the Act applied sells, abandons or discontinues, the working of the factory 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 Factory.....

1. Serial Number.
2. Name of woman and her father's (or if married husband's) name.
3. Date of appointment.
4. Nature of work.

5. Dates with months and year in which she js employed. laid off and not employed.

Month	No. of days employed	No. of days laid off	No. of days not employed	Remarks
6. Date on which the woman gives notice under section 6.				
7. Date of discharge/dismissal, if any.				
8. Date of production of proof of pregnancy under section 6.				
9. Date of birth of child.				
10. Date of production of proof of delivery/miscarriage/death.				
11. Date of production of proof of illness referred to in section 10.				
12. Date with the amount of maternity benefit paid in advance of expected delivery.				
13. Date with the amount of subsequent payment of maternity benefit.				
14. Date with the amount of bonus, if paid, under section 8.				
15. Date with the amount of wages paid on account of leave under section 9.				
16. Date with the amount of wages paid on account of leave under section 10 and period of leave granted.				
17. Name of the person nominated by woman under section 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 date of payment.				
19. If the woman dies and the child survives, the name of the person to whom, maternity benefit was paid on behalf of the child and the period for which it was paid.				
20. Signature of the employer of the Factory authenticating the entries in the muster roll.				
21. Remarks column for the use of the Inspector.				

**FORM B**  
[See rule 4] (1)]

This is to certify that I examined.....wife/daughter of.....a woman employee in.....(name of factory) 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  
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.

**FORM C**  
[See rule 4(4) ]

This to certify that Smt.....wife/daughter of.....employed in.....(name of factory) expired on.....before/during after confinement. The child died on...../survives her.

Date..... Signature, qualifications and designation of  
Medical Officer/Medical Practitioner.

**FORM D**  
[ See rule 4 (5) ]

This to certify that I examined.....wife/daughter of.....a woman employed in.....(name of factory) and found that she has been delivered of a child/has undergone miscarriage on.....(date).

Date.....

Signature of registered midwife.

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 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.

**FORM E**  
[ See rule 5 (1) ]

(Notice under Section 6 of the Maternity Benefit Act, 1961.)

(Name of Factory).....

I.....(Name of woman) wife/daughter of..... employed on.....at.....(Name of factory) hereby given notice that I expect to be confined within six weeks next following from the date of this notice have given birth to a child on.....(date) and shall be absent from work from.....(date). I shall not work in any establishment during the period for which I received maternity benefit.

2. For the purpose of Section 7, I hereby nominate..... (here enter name and address of the nominee) to receive maternity benefit and/or any other amount due to me under the Act in case of my death.

Signature of an Attestor in case the woman is not able to sign and affixes thumb impression.

Signature or thumb Impression of woman.

**FORM F**  
[ See rule 5 (3) ]

Form of receipt of Maternity Benefit

To

.....(Name of factory).....  
I.....the undersigned, a woman employee the nominee of woman employee deceased in.....(name of factory).....at.....in.....district received Maternity benefit and/or other amount due under the Maternity Benefit Act, 1961, from the employer of the factory referred to above, below:—

- Rs. , being the first instalment of maternity benefit paid on.....
- Rs. , being the second instalment of maternity benefit after the delivery paid on.....
- Rs. , being the medical bonus under section 8 of the Act paid on.....
- Rs. , being the wages for the leave period from.....to..... mentioned under section 9 or 10.

My/Her confinement/miscarriage took place on.....or I/She fell ill because of pregnancy, delivery, premature birth of a child or miscarriage on.....In consequence I..... her Nominee/legal representative have received the aforesaid amounts prescribed in section 5, 8, 9 and 10 of the Maternity Benefit Act, 1961.

Signature or thumb impression of

“Woman employee or her nominee or legal representative, Signature of an attester in case the woman is not able to sign and affixes thumb impression.

Date .....

“Strike out unnecessary portion.

FORM G

( See rule 9 )

To,

The Competent Authority  
appointed under the Maternity Benefit Act, 1961  
(Address).

Sir,

I.....the undersigned woman employee of.....(name of factory and full address), having been wrongly deprived by the employer of maternity benefit or medical bonus or both (Strike out unnecessary portion) for the reasons attached hereto, prefer this appeal under sub-section (2) of Section 12 and request that the said employer be ordered to pay the above mentioned amount to me. A copy of the order of the employer in this behalf is enclosed.

Signature or thumb impression of the woman.

Date.....

Signature of an Attester in case the woman is not able to sign and affixes thumb impression.

FORM H

( See rule 10 )

To,

The Inspector,  
(Under the Maternity Benefit Act, 1961).

Sir,

I.....(name of woman) employed in..... (Name and full address of Factory) having fulfilled the conditions laid down in the Maternity Benefit Act, 1961, and the Rules thereunder and entitled to Rs.....being maternity benefit and/or Rs.....being the medical bonus and/or Rs.....being wages for leave due under section 9 or 10 but the same has been improperly withheld by the employer. He may, therefore, be directed to pay the amount to me.

Date.....

Signature or thumb impression of the woman.  
Signature of an attester in case the woman is unable to sign and affixes thumb impression.  
full address of the woman

**FORM I**  
(See rule 10)

To,

The Inspector,  
(Under the Maternity Benefit Act, 1961).

I..... (name) a person nominated under section 6 by or a legal representative of..... (name of woman) employed in..... (name and full address of factory) have to complain that the said woman having fulfilled the conditions laid down in the Maternity Benefit Act, 1961 and the Rules thereunder is entitled to Rs..... being maternity benefit and/or Rs..... being the medical bonus and/or..... being wages for leave due under section 9 or 10 but the same has been improperly withheld by the employer. He may, therefore, be directed to pay the amount to me.

Signature or thumb impression of  
the nominee/legal representative.

Dated.....

Signature of an attester in case  
the nominee/legal representative  
is unable to sign and affixes  
thumb impression.

Full address of the nominee/  
legal representative.

**FORM J**  
(See rule 11)

To,  
Sir,

Shri ..... Inspector, having directed under sub-section (2) of Section 17 to pay the Maternity Benefit or other amount being ..... (nature of amount) to which..... (name of woman) is said to be entitled. I prefer this appeal under sub-section (3) of section 17. In view of the facts mentioned in the memorandum attached hereto and other documents filed herewith it is submitted that the woman is not entitled to the maternity benefit or the said amount and hence the decision of the Inspector in this, behalf, copy of which is enclosed, may be set aside.

Signature of aggrieved person  
Full address

Date.....

**FORM K**  
(See rule 15)

**(Abstract of the Maternity Benefit Act, 1961, and the rules made thereunder)**

1. No employer shall knowingly employ a woman during the six weeks immediately following the day of her delivery or miscarriage 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 is any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.



3. (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 one hundred-sixty 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 one rupee a day whichever is higher for the period of her actual absence not exceeding six weeks immediately preceding and including the day of her delivery and for the six weeks immediately following that day:

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 upto and including the day of her death.

However, where the woman having been delivered of a child, dies during her delivery or during the period of six weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the payment of maternity benefit for the entire period of six weeks immediately following the day of her delivery but if the child also dies during the said period, then for the days upto 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 of six weeks after the day of 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 twenty-five 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 alongwith the second instalment 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 within 48 hours of production of the certificate in form 'B' or form 'D'.

(3) A woman suffering from illness arising out of pregnancy delivery premature birth of child or miscarriage 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, 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 return 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 cheche or the place where the children are left by woman 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 dis-advantage 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 such 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 communicated to the woman, deprive her of the maternity benefit or medical bonus or both:—

- (i) wilful 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) wilful non-observance of safety measures or rules or the subject or wilful 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 the Chief Inspector of Factories and Boilers, Rajasthan and the decision of the Chief Inspector of Factories and Boilers Rajasthan 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 provision of the Act, she shall forfeit her claim to the maternity benefit for such period.

9 (1) Any woman claiming that maternity benefit or any other amount to which she is entitled under the Act and any persons 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 in such person, appeal to the Chief Inspector of Factories and Boilers, Rajasthan.

(4) The decision of the Chief Inspector of Factories and Boilers, Rajasthan where an appeal has been performed to him or of the Inspector where no such appeal has been performed, 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 such notice, appeal or complaint, require the woman to submit the notice or complaint as the case may be, in the prescribed form.

11. (a) (1) The employer of every factory in which woman are employed shall prepare and maintain a muster roll in form 'A' and shall enter therein particulars of all woman workers in the Factory.

(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 factory shall on or before 21st day of January in each year submit to the Chief Inspector of Factories and Boilers, Rajasthan, a return in each of the forms 'L', 'M', 'N', 'O', giving information as to the particulars specified in respect of the preceding year.

#### FORM L

(See rule 10)

Annual return for the year ending on the 31st December, 19...

1. Name of the Factory.
2. Situation of the Factory.  
Tehsil  
District.  
State.  
Nearest Railway Station.
3. Date of the starting of the Factory.
4. Date of closing, if closed.
5. Postal address of Factory.
6. Name of employer.  
Postal address of employer.
7. Name of managing agent, if any.  
Postal address of managing agent.
8. Name of agent or representative of employer.  
Postal address of representative of employer.
9. Name of Manager.
10. (a) Name of Medical Officer, attached to the Factory.  
(b) Qualification of Medical Officer attached to the Factory.  
(c) Is he resident at the Factory.  
(d) If a part-time employee, how often does he pay, visits to the Factory.

11. (a) Is there any hospital at the Factory ?
- (b) If so, how many beds are provided for woman employees ?
- (c) Is there a lady Doctor ?
- (d) If so, what are her qualifications ?
- (e) Is there a qualified midwife ?
- (f) Has any creche been provided ?

Signature of employer.

Date.....

**FORM M**  
(See rule 16)

**Employment, dismissal, payment of bonus, etc. of woman for the year ending on 31st December, 19**

1. Factory.
  2. Aggregate number of woman permanently or temporarily employed during the year.
  3. Number of woman who worked for a period of not less than one-hundred and sixty days in the twelve months immediately preceding the date of delivery.
  4. Number of woman who gave notice under Section 6.
  5. Number of woman who were granted permission to absent on receipt of notice of confinement.
  6. Number of claims for maternity benefit paid.
  7. Number of claims for maternity benefit rejected.
  8. Number of cases where pre-natal, confinement and post-natal care was provided by the management free of charge (Section 8)
  9. Number of claims for medical bonus paid (Section 8).
  10. Number of claims for medical bonus rejected.
  11. Number of cases in which leave for miscarriage granted.
  12. Number of cases in which additional leave for illness under Section 10 was granted.
  13. Number of cases in which additional leave for illness under Section 10 was applied for but was rejected.
  14. Number of women who died ;
    - (a) before delivery,
    - (b) after delivery.
  15. Number of cases in which payment was made to persons other than the woman concerned.
  16. Number of women discharge or dismissed while working.
  17. Number of women deprived of maternity benefit and/or medical bonus under proviso to sub-section (2) of Section 12.
  18. Number of cases in which payment was made on the order of the Competent Authority or Inspector.
  19. Remarks.
- B.—**Full particulars of each case and reasons for the section taken under serials 7, 17 and 18 should be given.

Signature of Employer.

Dated.....

FORM N

(See rule 16)

Details of payment made during the year ending 31st December, 19....

Name of person to whom paid.	Amount paid
<ol style="list-style-type: none"> <li>1. Date of payment.</li> <li>2. Women employee.</li> <li>3. Nominee of the woman.</li> <li>4. Legal representative of the woman.</li> <li>5. Amount for the period preceding date of expected delivery.</li> <li>6. Amount for the subsequent period.</li> <li>7. Under Section 8 of the Act.</li> <li>8. Under Section 9 of the Act.</li> <li>9. Under Section 10 of the Act.</li> <li>10. Number of women workers who absconded after receiving the first instalment of maternity benefit.</li> <li>11. Cases where claims were contested in a Court of Law.</li> <li>12. Results of such cases.</li> <li>13. Remarks</li> </ol>	

Signature of employer.  
Date.....

FORM O

(See rule 16)

Prosecution during the year ending 31st December, 19....

Place of employment for the woman employee (For Factory)	Number of cases instituted	Number of cases which resulted in conviction.	Remarks

N.B.—Reasons for prosecution should be given in full.

Signature of employer.  
Date.....19.....



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 6] नई दिल्ली, मंगलवार, मार्च 28, 2017/चैत्र 7, 1939 (शक)  
No. 6] NEW DELHI, TUESDAY, MARCH 28, 2017/CHAITRA 7, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, the 28th March, 2017/Chaitra 7, 1939 (Saka)*

The following Act of Parliament received the assent of the President on the 27th March, 2017, and is hereby published for general information:—

### THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

No. 6 OF 2017

[27th March, 2017.]

An Act further to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2017.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

53 of 1961.

2. In the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in section 3, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 3.

'(ba) "commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;'

3. In the principal Act, in section 5,—

Amendment of section 5.

(A) in sub-section (3)—

(i) for the words "twelve weeks of which not more than six weeks", the

words “twenty-six weeks of which not more than eight weeks” shall be substituted;

(ii) after sub-section (3) and before the first proviso, the following proviso shall be inserted, namely:—

“Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;”;

(iii) in the first proviso, for the words “Provided that”, the words “Provided further that” shall be substituted;

(iv) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted;

(B) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.”.

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

“11A. (1) Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities :

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(2) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.”.

Insertion of  
new section  
11A.

Crèche  
facility.

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 914]

नई दिल्ली, शुक्रवार, मार्च 31, 2017/चैत्र 10, 1939

No. 914]

NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10, 1939

श्रम और रोजगार मंत्रालय  
अधिसूचना  
नई दिल्ली, 31 मार्च, 2017

का.आ. 1026(अ).— केन्द्रीय सरकार, प्रसूति प्रसुविधा (संशोधन) अधिनियम, 2017 (2017 का 6) की धारा 1 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा --

- (i) 1 अप्रैल, 2017 जिससे उक्त अधिनियम के प्रावधान, सिवाय धारा 3 की उप-धारा (5); तथा
- (ii) 1 जुलाई, 2017 जिससे उक्त अधिनियम की धारा 3 की उप-धारा (5),

प्रवृत्त होंगे, ऐसी तारीख नियत करती है।

[फा. सं. एस-36012/03/2015-सा.सु.-I]

मनीष कुमार गुप्ता, संयुक्त सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 31st March, 2017

**S.O. 1026(E).**— In exercise of the powers conferred by sub-section (2) of section 1 of the Maternity Benefit (Amendment) Act, 2017 ( 6 of 2017), the Central Government hereby appoints—

- (i) the 1<sup>st</sup> day of April, 2017 as the date on which the provisions of the said Act, except sub-section (5) of section 3; and
- (ii) the 1<sup>st</sup> day of July, 2017, as the date on which sub-section (5) of section 3 of the said Act,

shall come into force.

[F.No.S-36012//03/2015-SS-I]

MANISH KUMAR GUPTA, Jt. Secy.

1833 GI/2017

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**ALOK KUMAR** Digitally signed  
by ALOK KUMAR  
Date: 2017.04.01  
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# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 934]

नई दिल्ली, सोमवार, अप्रैल 03, 2017/चैत्र 13, 1939

No. 934]

NEW DELHI, MONDAY, APRIL 03, 2017/CHAITRA 13, 1939

श्रम और रोजगार मंत्रालय

शुद्धिपत्र

नई दिल्ली, 3 अप्रैल, 2017

का.आ. 1049(अ.).—दिनांक 31 मार्च, 2016 के का.आ. सं. 1026(अ.) के द्वारा भारत के राजपत्र, असाधारण, भाग-II, खण्ड-3, उप-खण्ड (ii) में प्रकाशित भारत सरकार, श्रम और रोजगार मंत्रालय की दिनांक 31 मार्च, 2017 की अधिसूचना संख्या 914 में 'धारा 3 की उप-धारा (5)' शब्दों और अंकों के लिए दोनों स्थानों पर 'धारा 4 की उप-धारा (1)' शब्द और अंक पढ़े जाएं।

[फाइल सं. एस-36012/03/2015-सा.सु.-]

मनीष कुमार गुप्ता, संयुक्त सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

CORRIGENDUM

New Delhi, the 3rd April, 2017

**S.O. 1049(E).**—In the Government of India, Ministry of Labour and Employment notification No.914 dated 31<sup>st</sup> March,2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1026 (E) dated the 31<sup>st</sup> March, 2016,—for the words and figures 'sub-section (5) of section 3', the words and figures 'sub-section (1) of section 4' may be read at both the places.

[F.No.S-36012/03/2015-SS-1]

MANISH KUMAR GUPTA, Jt. Secy.

1876 GI/2017

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and Published by the Controller of Publications, Delhi-110054.

ALOK  
KUMAR

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by ALOK KUMAR  
Date: 2017.04.05  
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**13 October 2006**

**Ref No: E109/18/06**

**Circular 31/06: Implementation of the Regulations of the Maternity Protection (Amendment) Act 2004**

**A Dhuine Uasail,**

### **Maternity Protection**

**1.** I am directed by the Minister for Finance to refer to the Maternity Protection (Amendment) Act 2004 and to say that the arrangements applying to civil servants in relation to maternity leave are, in general, as specified in that Act and the earlier Maternity Protection Act 1994. This Circular provides a summary of the main provisions of the Maternity Protection Act 1994 and the Maternity Protection (Amendment) Act 2004 and the relevant Regulations as they apply to civil servants. It is not intended as a legal interpretation of the various Acts, and Departments should acquaint themselves with the legal provisions of the appropriate legislation.

### **General**

**2.** The Maternity Protection (Amendment) Act 2004, other than section 24, came into effect on 18 October, 2004. (Section 24 refers to the Redundancy Payments Act).

The Maternity Protection (Amendment) Act 2004 (**the Act**) and its related Statutory Instruments (listed below) amend and extend the Maternity Protection Act 1994 (**the Principal Act**):

S.I. No. 652 of 2004 Maternity Protection (Amendment) Act 2004 (Commencement) Order 2004

S.I. No. 653 of 2004 Maternity Protection (Time off for Ante-Natal Classes) Regulations 2004

S.I. No. 654 of 2004 Maternity Protection (Protection of Mothers who are Breastfeeding) Regulations 2004

S.I. No. 655 of 2004 Maternity Protection (Postponement of Leave) Regulations 2004

S.I. No. 131 of 2005 Maternity Protection (Amendment) Act 2004 (Commencement) Order 2005

The Maternity Protection (Amendment) Act 2004 should be read in conjunction with the Maternity Protection Act 1994 Act (the Principal Act) and its related Statutory Instruments which include:

S.I. No. 16 of 1995 Maternity Protection Act, 1994 (Commencement) Order, 1995

S.I. No. 17 of 1995 Maternity Protection (Disputes and Appeals) Regulations, 1995

S.I. No. 18 of 1995 Maternity Protection (Time off for Ante-Natal and Post-Natal Care) Regulations, 1995

S.I. No 51 of 2006 Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2006

**TO/All Departments\* etc**

**[\*Department should be read as Department/Office throughout this Circular]**

### **Maternity Leave**

**3.** Subject to the conditions outlined at (a) – (g) below, maternity leave is available to all pregnant civil servants except where the birth occurs before 24 weeks of pregnancy and the child is stillborn.

On the 1<sup>st</sup> February 2006 the Maternity Protection Acts 1994 and 2004 were amended by Order so as to bring into effect increases in maternity leave as announced in the context of Budget 2006. The new entitlements as they apply to civil servants are as follows:

From **1<sup>st</sup> March 2006** the period of paid maternity leave has been increased from 18 consecutive weeks to 22 consecutive weeks. The new arrangements apply to employees commencing maternity leave on or after this date. For paid maternity leave commencing on or after **1<sup>st</sup> March 2007** the new entitlement will be 26 weeks.

### **Summary of Maternity Leave entitlements**

<b>Maternity Leave commencing on or before 28<sup>th</sup> February 2006</b>	<b>18 weeks</b>
<b>Maternity Leave commencing on or after 1<sup>st</sup> March 2006</b>	<b>22 weeks</b>
<b>Maternity Leave commencing on or after 1<sup>st</sup> March 2007</b>	<b>26 weeks</b>

- (a) The granting of maternity leave is conditional on a woman who intends to go on maternity leave submitting to the Personnel Officer, at least 4 weeks before the date on which she intends to go on maternity leave, a medical certificate confirming pregnancy and stating the expected date of confinement.
- (b) The compulsory pre-confinement period of maternity leave is reduced from 4 weeks to 2 weeks. Accordingly, maternity leave will begin on such day as the woman selects, being not later than 2 weeks before the end of the expected week of confinement (note: for these purposes, Saturday is regarded as the end of a week) and will end on such day as the woman selects, being not earlier than 4 weeks after the end of the expected week of confinement.
- (c) If the date of confinement occurs in a week that is 2 weeks or more before the expected date of confinement and the woman had not yet commenced her maternity leave, the date of confinement will be regarded as the first day of maternity leave.
- (d) If the date of confinement occurs in a week after the expected date of confinement and is such that less than 4 weeks of maternity leave are remaining, then maternity leave will be extended by the number of weeks

between the expected date of confinement and the actual date of confinement, subject to a maximum of 4 weeks, such that at least 4 weeks of maternity leave will have been taken after the confinement.

- (e) Subject to paragraph (g) below, while on maternity leave, a woman shall be deemed for all purposes (other than remuneration and superannuation) to have been in employment. Maternity leave and additional maternity leave (which was increased from 4 consecutive weeks to 8 consecutive weeks in Circular 09/01) is fully reckonable for service, seniority and annual leave entitlement. See paragraph 4 below.
- (f) A woman on maternity leave and additional maternity leave should be given the benefit of any public holiday or privilege day falling within the period of maternity leave or additional maternity leave by having it granted immediately after maternity leave or additional maternity leave.
- (g) In the case of a woman who is on probation at the commencement of maternity leave, the period of probation will stand suspended during maternity leave (and during additional maternity leave) and will be completed by the woman on her return to work.

#### **Additional maternity leave**

4. At the end of maternity leave, a woman is entitled to take further leave, known as “additional maternity leave” (unpaid maternity leave) immediately following maternity leave. The granting of additional maternity leave is conditional on a woman who intends to avail of such leave notifying the Personnel Officer at least 4 weeks before the date on which maternity leave is due to end.

With effect from 1<sup>st</sup> March 2006 the period of additional maternity leave has been increased from 8 consecutive weeks to 12 consecutive weeks. The new arrangements only apply to employees whose additional maternity leave is commencing on or after 1 March, 2006. For additional maternity leave commencing on or after 1<sup>st</sup> March 2007 the new entitlement will be 16 weeks unpaid maternity leave.

#### **Summary of Additional Maternity Leave entitlements**

<b>Additional Maternity Leave commencing on or before 28<sup>th</sup> February 2006</b>	<b>8 weeks</b>
<b>Additional Maternity Leave commencing on or after 1<sup>st</sup> March 2006</b>	<b>12 weeks</b>
<b>Additional Maternity Leave commencing on or after 1<sup>st</sup> March 2007</b>	<b>16 weeks</b>

#### **Additional Maternity Leave and service for promotion and increment purposes**

Following agreement at the Equality sub-committee of General Council it was decided that with effect from 1<sup>st</sup> January 2000 additional maternity leave as provided for under Circular 35/95 was counted as service for promotion and increment purposes. In addition an Order dated 8<sup>th</sup> February 2001 extended the period of additional maternity leave to 8 weeks and it has been agreed that the extra 4 weeks are

also covered by the agreement made at the Equality sub-committee of General Council.

### **Protection of employment rights on additional maternity leave**

The Maternity Protection (Amendment) Act 2004 extended further the protection of employment rights while on additional maternity leave with the effect that additional maternity leave counted for all employment rights associated with the employment (with the exception of remuneration and superannuation benefits) such as seniority, annual leave and public holidays. This change came into effect in respect of additional maternity leave commencing on or after 18<sup>th</sup> October 2004 as well as to staff already on additional maternity leave on that date.

Employees may seek to have additional maternity leave terminated in the event of illness (and go on to sick leave) provided that the employer agrees to such an arrangement. It should be noted that, where an employee applies to terminate the additional maternity leave and go on to sick leave with the employer's agreement, the balance of untaken additional maternity leave is forfeit.

### **Postponement of maternity leave**

5. Employees may postpone the period of maternity leave/additional maternity leave (subject to the agreement of the employer) in the event of the hospitalisation of the child. Such leave may only be postponed after 14 weeks maternity leave has been taken and the maximum period of postponement of such leave is 6 months. If so requested by the employer, the employee must furnish a document from the hospital in which the child is hospitalised confirming the hospitalisation and a letter must issue from the hospital confirming the date of the child's discharge from hospital.

### **Attendance at ante-natal and post-natal clinics and ante-natal classes**

6. Section 8 of the Maternity Protection (Amendment) Act provides for an amendment to Section 15 of the Maternity Protection Act regarding the entitlement to time off from work to attend ante-natal classes. Pregnant employees shall be entitled to such time off from work, without loss of pay, as is necessary for the purpose of attending one set of ante-natal classes (other than the last three in such a set) and those classes may be attended by her during one or more pregnancy. Entitlement to time off from work shall be subject to the woman notifying her employer of the dates and times of such classes. Documentary evidence should be provided of the dates and times of classes if requested by the woman's employer.

Attendance at post-natal classes is covered only during the fourteen weeks immediately following confinement. The conditions governing such absence are laid down by regulation issued by the Minister for Equality and Law Reform (S.I. No. 18 of 1995).

Section 8 of the Maternity Protection (Amendment) Act 2004 provides for a once-off right for fathers to paid time off from duty to attend the two ante-natal classes immediately prior to the birth. An expectant father shall be entitled once only to time off from his work, without loss of pay, for the purpose of attending the last two ante-natal classes in a set of such classes attended by the expectant mother before the birth

of the child. Evidence of attendance will be required, as is currently required for mothers.

### **Payment while on Maternity Leave**

7. Subject to paragraph 8 below, a woman on maternity leave is entitled to full pay, except where she has been appointed for a fixed term of less than 26 weeks. A woman who has been appointed for a fixed term of less than 26 weeks is entitled to the same rate of pay that she would receive if she were absent on sick leave; as the entitlement to payment (if any) may vary according to the length of continuous service given, it would be advisable to check with the Personnel Section with regard to entitlements.

8. A woman who is (or was) fully insured under the Social Welfare Acts and who fulfils certain contribution conditions may be entitled to maternity benefit from the Department of Social and Family Affairs. Information about this allowance is available from Personnel Units in Departments/Offices. A woman on maternity leave who is entitled to maternity benefit from the Department of Social and Family Affairs, is entitled to payment by her Department on the basis provided for in paragraph 7 above or of an amount equivalent to the full rate of benefit to which she is entitled, whichever is the greater, provided she:

- a) signs a mandate authorising the Department of Social and Family Affairs to pay any benefit due to her under the social insurance system directly to her employing Department;
- b) makes the necessary claims for social insurance benefit to the Department of Social and Family Affairs within the required time limits and complies with whatever requirements are laid down by that Department as a condition of claiming benefit.

Maternity leave must not be treated as part of any other leave (including sick or annual leave) to which the employee is entitled. Therefore, a woman who has gone onto sick leave at half pay or unpaid sick leave immediately prior to going on maternity leave will resume full pay upon commencement of maternity leave subject to the terms of paragraphs 7-8 above.

Similarly, a woman working full-time but taking parental leave who subsequently goes on maternity leave will be paid at a full-time rate while on maternity leave.

### **Breastfeeding Breaks**

9. Recommendations contained in the Government's policy statement on breastfeeding, 'Breastfeeding in Ireland' A Five-Year Strategic Action Plan, published in October 2005 by the Department of Health and Children state that mothers should continue to breastfeed their children up to the age of two years, to maximise the potential health benefits for themselves and their children. This is in accordance with the guidelines issued by the World Health Organisation.

In line with Government policy on this issue it is proposed that entitlement to breastfeeding or 'lactation' breaks for Civil Servants be extended to when the child who is being breastfed reaches the age of 2. Therefore a mother who is breastfeeding

her child/children is entitled to, without loss of pay until the child is 2 years of age, either an adjustment of working hours or where breastfeeding facilities are provided by the employer, breastfeeding breaks. Where such facilities are provided, breaks may be taken in the form of one break of 60 minutes, two breaks of 30 minutes each, three breaks of 20 minutes each, or in such other manner as to number and duration of breaks as may be agreed by her and her employer.

An employee who is breastfeeding is entitled, if preferred, to the option outlined above and without loss of pay, to have her working hours reduced by 1 hour each day. That reduction may comprise one period of 60 minutes, two periods of 30 minutes, 3 periods of 20 minutes each or such other periods as may be agreed by her and her employer.

Time off from work or a reduction in working hours should be calculated on a *pro rata* basis for worksharing staff. Employees who wish to exercise this entitlement in either the form of breastfeeding breaks or reduced hours must notify her employer in writing of her intention to do so and should furnish, if so requested by her employer, the birth certificate of the child concerned.

### **Leave for father after the birth of a child**

**10.** Section 10 of the Maternity Protection (Amendment) Act 2004 amends Section 16 of the Principal Act by the substitution of a new subsection for subsection (1). This section deals with the entitlement of an employed father to leave on the death of the mother. Under certain circumstances, if the mother of the child dies during a specific period of time following of her confinement, the father of the child may be entitled to leave. The conditions governing such leave with effect from 1<sup>st</sup> March 2006 and 1<sup>st</sup> March 2007 are as outlined below:

With effect from **1<sup>st</sup> March 2006** if a woman who has been delivered of a living child (in this section referred to as ‘the mother’) dies at any time before the expiry of the thirty-second week following the week of her confinement, the father of the child (if he is employed under a contract of employment) shall be entitled to paid leave from his employment for a period ending as follows—

(a) if the mother dies before the expiry of the twentieth week following the week of her confinement, the period ends, subject to section 16B of the Principal Act, which deals with the postponement of leave in the event of hospitalisation of the child, at the end of that twentieth week, and

(b) if the mother dies at any time after the expiry of that twentieth week, the period ends, subject to section 16A of the Principal Act, which deals with the termination of leave in the event of the sickness of the father and 16B, which deals with the postponement of leave in the event of hospitalisation of the child, at the end of the thirty-second week following the week of her confinement.

Additionally a father who has taken leave as outlined above shall, if he so wishes be entitled to further unpaid leave from his employment for a maximum period of –

- a) 12 consecutive weeks commencing immediately after the end of the leave, or



- b) 12 weeks, all or part of which is postponed in accordance with section 16B, commencing either in accordance with that section or immediately after the above leave,

as may be appropriate.

With effect from **1<sup>st</sup> March 2007** if a woman who has been delivered of a living child (in this section referred to as 'the mother') dies at any time before the expiry of the fortieth week following the week of her confinement, the father of the child (if he is employed under a contract of employment) shall be entitled to paid leave from his employment for a period ending as follows—

(a) if the mother dies before the expiry of the twenty-fourth week following the week of her confinement, the period ends, subject to section 16B, which deals with the postponement of leave in the event of hospitalisation of the child, at the end of that twenty-fourth week, and

(b) if the mother dies at any time after the expiry of that twenty-fourth week, the period ends, subject to sections 16A, which deals with the termination of leave in the event of the sickness of the father and 16B, which deals with the postponement of leave in the event of hospitalisation of the child, at the end of the fortieth week following the week of her confinement.

Additionally a father who has taken leave as outlined above shall, if he so wishes be entitled to further unpaid leave from his employment for a maximum period of –

- c) 16 consecutive weeks commencing immediately after the end of the leave, or
- d) 16 weeks, all or part of which is postponed in accordance with section 16B, commencing either in accordance with that section or immediately after the above leave,

as may be appropriate.

### **Leave for fathers upon the birth of a child (provisions outside of Maternity Protection Acts)**

It should also be noted that, in accordance with Circular 32/99 (Paternity Leave), fathers employed in the Civil Service are entitled to 3 days paid paternity leave in respect of each child (i.e. 3 days for a single birth, 6 days for twins etc.). This entitlement comes into effect from the end of the 24<sup>th</sup> week of pregnancy, and applies whether the child is live born or stillborn. This leave must be availed of within 4 weeks after the birth of the child(ren). Furthermore, in order to ensure consistency with maternity provisions, Agreed General Council Report Number 1423 allows bereavement leave of 5 days to fathers in the event of a stillborn or pre-natal death of a child after 24 weeks of pregnancy. Finally, should either parent require additional time off from work in order to cope with difficulties arising from the death of the child, special leave without pay for up to six months may also be granted under Annex 1 of Department of Finance Circular 22/98 – Parental Leave.

## **Summary of Main Provisions**

In summary the following are the main changes that impact on maternity leave arrangements for civil servants, together with their application in the civil service.

### **(A) Compulsory pre-confinement period reduced to 2 weeks**

The compulsory pre-confinement period of maternity leave is reduced from four weeks to two weeks. There is no change to the 4 week notification requirement.

### **(B) Protection of employment rights on additional maternity leave**

An officer on additional maternity leave is deemed for all purposes (other than the right to remuneration and superannuation benefits) to be in employment. The absence will therefore count as service and will reckon as qualifying service for annual leave, seniority, public holidays and privilege days. This change came into effect on 18 October 2004 and applies to additional maternity leave commencing on or after 18 October 2004, as well as to staff already on additional maternity leave on that date. This change gave the same protection of employment rights to staff on additional maternity leave as applies currently to parental leave.

### **(C) Time off for fathers for ante-natal classes**

There is a 'once only' right for fathers to paid time off from duty to attend the last two ante-natal classes before the birth. Evidence of attendance will be required, as currently required for mothers.

### **(D) Termination of additional maternity leave in the event of illness of mother**

Employees may seek to have additional maternity leave terminated in the event of illness, subject to the agreement of the employer. The balance of untaken additional maternity leave is forfeit if this entitlement is exercised.

Requests to terminate the leave and move to sick leave must be made in writing and be accompanied by medical evidence supporting the request, and should be dealt with in the same way as other applications for sick leave. This sick leave is treated in the same way as any other sick leave.

### **(E) Postponement of leave due to hospitalisation of the child**

Employees may postpone the period of maternity leave/additional maternity leave in the event of hospitalisation of the child, subject to the agreement of the employer. Leave may only be postponed after 14 weeks maternity leave has been taken. Leave may be postponed for a maximum of 6 months.

Requests to postpone the leave must be made in writing and be accompanied by evidence from the hospital of the child's hospitalisation. The leave may be resumed not later than 7 days after the discharge of the child from hospital – evidence of the discharge will also be required.

## **(F) Breastfeeding breaks**

A mother who is breastfeeding her child is entitled, without loss of pay, to either:

- 1) one hour off from work each day as a breastfeeding break, where breastfeeding facilities are provided by the employer, or
- 2) a reduction of her working hours of one hour each day,

until that child is 2 years old. Time off from work or a reduction in working hours should be calculated on a *pro rata* basis for worksharing staff.

Requests to avail of breastfeeding breaks or a reduction of hours must be notified in writing at the time of the notification of the date of return to work and should be accompanied by the birth certificate of the child concerned.

Employers are not required to provide facilities for breastfeeding in the workplace, if the provision of such facilities would give rise to a cost, other than a nominal cost, to the employer.

Pending a decision on the provision of such facilities generally, Departments and Offices are requested to offer a reduction of working hours, where breastfeeding facilities are not already available. Where staff have already returned to work, requests should also be accommodated.

## **(G) Leave Entitlements**

### **Maternity Leave**

<b>Maternity Leave commencing on or before 28<sup>th</sup> February 2006</b>	<b>18 weeks</b>
<b>Maternity Leave commencing on or after 1<sup>st</sup> March 2006</b>	<b>22 weeks</b>
<b>Maternity Leave commencing on or after 1<sup>st</sup> March 2007</b>	<b>26 weeks</b>

### **Additional Maternity Leave**

<b>Additional Maternity Leave commencing on or before 28<sup>th</sup> February 2006</b>	<b>8 weeks</b>
<b>Additional Maternity Leave commencing on or after 1<sup>st</sup> March 2006</b>	<b>12 weeks</b>
<b>Additional Maternity Leave commencing on or after 1<sup>st</sup> March 2007</b>	<b>16 weeks</b>

## **Resolution of disputes**

Any dispute in relation to entitlements under the Act may be referred to the parent Department in the first instance, who may in turn refer the matter to this Department. In addition, the Act provides for referral of a dispute in relation to entitlements under

the Act to a Rights Commissioner (Sections 30 - 37 of the Principal Act refer). Where appropriate, however, the grievance procedure may also be used for the resolution of such disputes.

### **Confidentiality**

Departments are asked to ensure that all matters relating to maternity leave are treated in strict confidence and that, as far as possible, routine aspects of these matters are handled by only one officer.

### **Information whilst on Maternity / Additional Maternity Leave**

Personnel Officers should ensure that Office Notices and general Circulars are brought to the attention of all officers on Maternity Leave, and that notices of Open and/or Confined Competitions are brought to the attention of officers on Maternity Leave who may be eligible for these competitions.

### **Queries**

Queries in relation to this Circular should be addressed to the Personnel Section of your Department.

*Mise le meas*

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Michael Errity  
Assistant Secretary