

The Maternity Benefit Act 1961

In order to protect the rights of women employees during pregnancy and after childbirth, Indian law makes it mandatory for most establishments to offer maternity benefits to women employees. Maternity benefit in India is mainly governed ~~it in India~~ by the Maternity Benefit Act, 1961 that applies to all shops and establishments with 10 or more employees. These women who work in factories with 10 or more workers are given maternity benefits as available under the Employees, State Insurance Act, 1948.

Remember that employers are required to inform women in writing and electronically about the Maternity Benefit Act upon their joining the workforce.

Given that women often feel left out or face biases during pregnancy or after childbirth in their workplace it is important for them to know the benefits they can avail of and the rights under the law.

The benefits women are entitled to and the rights they can claim maternity

wages and leaves

The Maternity Benefit Act provides that a woman will be paid maternity benefit at the rate of her average daily wage in the three months preceding her maternity leave. However, the woman needs to have worked for the employer for at least 80 days in the 12 months preceding the date of her expected delivery.

The Maternity Benefit Act originally provided maternity benefit of 12 weeks out of which up to six

weeks could be claimed before delivery. In 2017, the law was amended the period to 26 weeks out of the 26 weeks - upto eight weeks can be claimed before delivery. However, you need not structure your leaves in this manner you can instead take the entire 26 weeks of leave after the delivery. Also, these are maximum periods of claims and you can claim the benefit for a smaller period as well.

If the woman has more than two surviving children, the maternity benefit is for the 12 weeks only. The law was also amended to extend maternity benefits to commissioning and adoptive mothers who are now entitled to 12 weeks of leave from the date the mother receives the child.

women undergoing a tubectomy operation (a medical procedure to stop future pregnancies) get a paid leave of

Employee Rights

An employer cannot dismiss a woman for taking maternity leave and cannot serve a termination notice to a woman on maternity leave which expires before the maternity leave ends.

Also, an employer can't change the terms of service to the woman's disadvantage during her maternity leave.

Further, maternity benefit and medical bonus will have to be paid to a woman who is discharged or dismissed during pregnancy unless it is for misconduct.