

FORM K

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

1. No employer shall knowingly employ a woman in any establishment 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 any time during this period of six weeks for which she does not avail of leave of absence, any work which is of an arduous nature or which involves long hours of standing, or which in way is likely to interfere with her pregnancy or the normal development of the fetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

3. (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 and sixty days, in the twelve months immediately preceding the date of her expected delivery (including the days during which she was laid off, during the period of such twelve months), shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of her average daily wage, or ²⁶[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 delivery and for the six weeks immediately following that day:

Provided further that,-

- (i) where a woman dies during the period for which maternity benefit is payable to her, the benefit shall be payable only for the days up to and including the day of her death.
- (ii) where the woman having been delivered of a child, dies during her delivery or during the remaining 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 up to and including the day of the death of the child.

4. The amount of 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 from a registered medical practitioner in Form 2 appended to the Maharashtra Benefit Rules, 1961 (hereinafter referred to as "the Maternity Benefit Rules") in evidence of the fact that she is pregnant and expected to be delivered of a child within six weeks of the date on which the certificate is produced by her, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of a certificate in the aforesaid Form from a registered medical practitioner or of a certificate from a registered midwife in Form 3 appended to the maternity Benefit Rules or of a certified extract from any register of birth maintained under the provisions of any law for the time being in force relating to registration of births, in evidence of the fact that she has been delivered of a child.

5. (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 1 appended to the Maternity Benefit Rules to her employer, stating that her maternity benefit and any other amount to which she may be entitled under the 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 her delivery.

6. (1) Every woman entitled to maternity benefit under the Act shall also be entitled to receive from her employer a medical bonus of [amount is increased to Rs. 250/- from 19.1.1989], if no pre-natural confinement and post-natal care is provided for by the employer free of charge. The medical bonus shall be paid along with the second installment of the maternity benefit.

(2) In case of miscarriage, a woman shall, on production of a certificate from a registered medical practitioner in Form 2 appended to the Maternity Rules or of a certificate from the registered midwife in Form 3 appended to those rules 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 said wages shall be paid within forty-eight hours of production of the certificate in Form 2 or Form 3, as the case may be.

(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of a certificate from a registered medical practitioner in Form 2 appended to the Maternity Benefit Rules 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 forty-eight hours of production of such illness.

7. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of fifteen minutes' duration each for nursing the child until the child attains the age of fifteen months:

Provided that, having regard to the time reasonably required to a woman for reaching the crèche or the place where her child is kept by her while on duty and for coming back to the place of duty, the duration of each such break shall be extended by not less than five and not more than fifteen minutes, and where there is a dispute as regards the time reasonably required by a woman for the aforesaid purpose, each such break shall be extended by such time as may be determined by Competent Authority.

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

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

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

- (i) willfully destroying the goods or property of employer;
- (ii) assaulting superiors or colleagues at the place of duty;
- (iii) criminal offence involving moral turpitude resulting in conviction by a court of law;
- (iv) theft, fraud, or dishonesty in relation to the employer's business or in relation to the employer's property

at the premises where the woman is employed.

(v) willful failure to observe the safety measures or rules on that subject

(vi) willfully interfering with safety devices or 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 5 to the Maternity Benefit Rules to the Competent Authority and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, shall be final.

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

10. (1) Any woman or her nominee or legal representative claiming that maternity benefit or any other amount to which she is entitled under the Act has been improperly withheld may make a complaint to the Inspector in writing in Form 6 or as the case may be, Form 7 appended to the Maternity Benefit Rules.

(2) The Inspector may, of his own motion or on receipt of a complaint in Form 6 or 7 make an inquiry or cause an Enquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the Inspector may, within, thirty days from the date on which such decision is communicated to such person, appeal to the Competent Authority.

(4) The decision of the competent authority where an appeal has been referred to it or of the Inspector where no such appeal has been preferred shall be final.

11. (a) The employer shall supply to every woman employed by him at her request copies of all appended to the Maternity Benefit Rules other than Forms 9, 10 and 11.

(b) Where a notice, appeal or complaint has been received in a form other than the form prescribed under the Act, the person receiving such notice, appeal or complaint shall, within fifteen days of the receipt of such notice, appeal or complaint, require the woman to submit the notice, appeal or complaint, as the case may be in the prescribed form.

12. (a)(1) The employer of every factory in which women are employed shall prepare and maintain up-to-date a maternity benefit register in Form 10 appended to the Maternity Benefit Rules and shall enter therein particulars of all women workers in the factory.

(2) All entries in the register shall be made in ink and it shall always be available for inspection by the Inspector during working hours.

(3) The employer of every factor shall on or before the 15th day of January in each year submit to the competent authority a return in Form 11 appended to the maternity Benefit Rules.