

## Key Amendments to the Act

### The Maternity Benefit (Amendment) Act, 2017

The Maternity Benefit (Amendment) Act, 2017 (“**Amendment Act**”) received the assent of the President on March 27, 2017 for which the Ministry of Labour and Employment, Government of India (“**Ministry of India**”) Official Gazette Notification dated March 31, 2017 has appointed April 1, 2017 as the date on which the Amendment Act has come into force.. However , the sub section 5 of section 3 that is the “work from home” option will come into effect from July 01, 2017.

Some of the important amendments to the Maternity Benefit Act, 1961 (“**Principal Act**”) are as follows:

**1. Inclusion of definition of Commissioning Mother:**

In the Principal Act, in Section 3, after clause (b), the following clause shall be added:

‘(ba) “commissioning mother” means a biological mother who uses her egg to create an embryo implanted in any other woman;’

**2. Increase in Maternity Leave from 12 weeks to 26 weeks and maternity benefits extended to commissioning mother as well as to woman to woman who adopts a child**

Amended in Section 5

A. - in sub section 3

The Principal Act states:

- i. *“the maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks, that is to say, six weeks upto and including the day of her delivery and six weeks immediately following that day”*

The Amendment Act states that:

*“the maximum period for which any woman*

*shall be entitled to maternity benefit shall be **twenty six weeks of which not more than eight weeks** and including the day of her delivery and six weeks immediately following that day”*

- ii. In the Principal Act, after sub section (3) of Section 5 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 be precede the date of her expected delivery”*

- B. After sub section (3) of Section 5, 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 as signed 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.”

3. Mandatory provision of crèche facility where 50 or more employees are employed (w.e.f. from July 1, 2017)

Addition of new section

In the Principal Act, after Section 11, the following section shall be inserted, namely:-

“11A. Crèche facility—(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 crèche 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.”

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