FAQ: Maternity Benefit Act, 1961

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Q1. Eligibility for Maternity Benefit: For a woman to be eligible to claim Maternity Benefit does the date of delivery have to be minimum 12 months after the date of joining? i.e., Is she required to have a minimum of 80 working days in 12 months of service. Or is she required to have minimum 80 days of service?

Minimum 80 days she has to work during preceding 12 months for claiming the benefit.

Q2. Period of maternity benefit?

26 weeks paid leave for first two children and 12 weeks thereafter.

Q3. Miscarriage: On submission of proof of a natural miscarriage, is the staff member entitled to 42 days of paid Maternity Leave?

As per Section 6 women are entitled for benefits of 26 weeks of which not more than 8 weeks shall precede the date of her expected delivery.

Section 9: In case of miscarriage on production of such proof, be entitled to leave with wages for a period of 6 weeks immediately following the day of her miscarriage.

Section 10: Women will be entitled to the benefits in addition to the period of absence allowed u/s. 6 or as the case may be u/s. 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

Q4. Proof to be submitted: Is a doctor’s certificate confirming the pregnancy and expected date of delivery sufficient? Is there any other form to be submitted?

Rule 5 where Form Nos. 2, 3, and 4 are required forms and proof required for the same.

Q5. Payment of Maternity Benefit: Are we supposed to pay Maternity Benefit like monthly salary or only after submission of the certificate confirming the date of delivery?

As per Section 6(5), the amount of benefits for the period preceding the date of her expected delivery shall be paid in advance and for the subsequent period shall be paid within 48 hours of production of such proof as may be prescribed.

Q6. Work From Home: Will it be made applicable only from July 1, 2017?

Effective from the date of notification.

Q7. Crèche Facility applicable from July 1, 2017? Does the crèche facility apply to the 50 employees in each branch or company as a whole?

Company as a whole – not a branch. Every establishment having fifty or more employees shall have the facility of créche within such distance as may be prescribed, either separately or along

with common facilities.

Q8. Resignation after claiming Maternity Benefit: What are the rights of the employer in the event that a staff member does not resume work after the completion of 26 weeks of Maternity Leave and the option to work from home is not applicable?

There is no restriction about resignation immediately after enjoying the benefits.

Q9.Resignation after realising that she is not eligible to claim Maternity Benefit: Will the employer be held responsible for the independent decision of a woman to resign if she is pregnant but not eligible to claim maternity benefit?

In case of resignation employer is not responsible.

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