

Madras Maternity Benefit Act, 1934

06 of 1935

[19 March 1935]

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PREAMBLE

An Act to prevent the employment of women in factories for some time before and some time after confinement and to provide for payment of maternity benefit to them.

Whereas it is expedient to prevent the employment of women in factories for some time before and some time after confinement and to provide, for the payment of maternity benefit to them;

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, See Fort St. George Gazette, Part IV, dated 15th August 1933, page 175; for Report of the Select Committee see *ibid*, dated 18th September 1934, pages 365-373; for Proceedings in Council, see Proceedings of the Madras Legislative Council, Volume LXVII, page 120, Volume LXIX, pages 148-151 and Volume LXXIII, pages 290-299.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

1. Short title :-

This Act may be called the Madras Maternity Benefit Act, 1934.

2. Commencement and extent :-

(1) It shall come into force on the first day of April 1935.

(2) It extends to the whole of the Presidency of Madras.

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

(a) employer includes an occupier of a factory as defined in the Factories Act, 1934 (Central Act XXV of 1934),¹ and the manager of a factory;

(b) the expressions factory, Inspector of Factories, seasonal factory and worker, shall have the same meanings as are respectively assigned to them by the Factories Act, 1934 (Central Act XXV of 1934)¹; and

(c) maternity benefit means the amount of money payable under the provisions of this Act to a woman worker in a factory.

1. See now the Factories Act, 1948 (Central Act LXIII of 1948).

4. Prohibition of employment of women in factories immediately after confinement :-

After this Act comes into operation, no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her confinement.

5. Right to maternity benefit of women workers in non-seasonal factories :-

(1) Subject to the provisions of this Act, every woman worker in a factory not being a seasonal factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day for the actual days of her absence during the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2):

¹[Provided that a woman shall not be entitled to maternity benefit unless she has been employed in any factory or factories of the employer from whom she claims maternity benefit, for not less than two hundred and forty days within a period of one year immediately preceding the date on which she gives notice under sub-section (1) of section 6.]

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be seven weeks, that is to say, three weeks up to and including the day of her confinement and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

1. This proviso was substituted for the original proviso by section 2 of the Madras Maternity Benefit (Amendment) Act, 1939 (Madras Act XVI of 1939).

6. Notice of claim of maternity benefit and payment thereof :-

(1) Any woman worker in a factory entitled to maternity benefit under the provisions of this Act may give notice in writing to her employer stating that her maternity benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman worker has not been confined, such notice shall state that she expects to be confined within one month from the date of the notice; if she has been confined, such notice shall be given within one week of her confinement.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory until the expiry of four weeks after the day of her confinement.

(3) The amount of maternity benefit for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof

as the ¹[State Government] may by rule prescribe that the woman has been confined. The amount due for the subsequent period shall be paid punctually each fortnight in arrear.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

7. Payment of maternity benefit in case of claimants death :-

If a woman worker entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due to the nominee mentioned in the notice given under sub-section (1) of section 6 and if there is no such nominee to her legal representative.

8. Prohibition of notice of dismissal to woman worker in certain cases :-

(1) When a woman worker absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman worker within a period of ¹[five months before her confinement] shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would on or before the date of her confinement have become, entitled under this Act.

(b) If any question arises as to whether any notice of dismissal given under clause (a) was or was not given for sufficient cause, it shall be referred to the Inspector of Factories whose decision shall be final.

(c) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

1. These words were substituted for the words "three months before her confinement, by section 3 of the Madras Maternity Benefit (Amendment) Act, 1939 (Madras Act XVI of 1939).

9. Forfeiture of maternity benefit :-

If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

10. Penalty for contravention of Act by employer :-

If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to two hundred and fifty rupees.

11. Jurisdiction of Courts :-

(1) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector of Factories.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

12. Period of limitation for prosecutions under Act :-

No. Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid, the time, if any taken for the purpose of obtaining the previous sanction of the Inspector of Factories under sub-section (1) of section 11 shall be excluded.

13. Rules :-

(1) The ¹[State Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories for the purposes of this Act by Inspectors of Factories;

(c) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act; and

(d) the method of payment of maternity benefit in so far as

provision has not been made therefor in this Act.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

14. Copy of Act and rules to be exhibited in factories employing women :-

A copy of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous place by the employer in every factory in which women are employed.