**THE MATERNITY BENEFIT ACT, 1961**

Prior to the enactment of the Maternity Benefit Act, of 1961 there were in force several central and State Maternity Benefit Acts in the country. But there was no uniformity in their provisions for all women workers in the country. It is true that its object was achieved by the enactment of the [Employees' State Insurance Act of 1948](http://www.excelconsultancyservices.co.in/EmployeesStateInsurance.htm), which superseded the provisions of several Maternity Benefit Acts. But the [Employees' State Insurance Act](http://www.excelconsultancyservices.co.in/EmployeesStateInsurance.htm) did not cover all women workers in the country. The Maternity Benefit Act of 1961 was therefore passed to provide uniform maternity benefit for women workers in certain industries not covered by the [Employees' State Insurance Act](http://www.excelconsultancyservices.co.in/EmployeesStateInsurance.htm).

**Note**: The Act is amended by the Amendment Act No. 29 of 1995. The Amendment Act has come into force with effect from 1st Feb 1996.

**CHECK LIST**

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| **Object of the Act**    To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working. |  | **Coverage of the Act**    Upon all women employees either employed directly or through [contractor](http://www.excelconsultancyservices.co.in/Glossary.htm#gContractor) except domestic women employee employed in mines, factories, plantations and also in other [establishments](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) if the [State Government](http://www.excelconsultancyservices.co.in/Glossary.htm#gStateGovernment) so decides. Therefore, if the State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act. Bihar, Punjab Haryana, West Bengal, U.P., Orissa and Andhra have don so. |  | **Conditions for eligibility of benefits**    Women indulging temporary of unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately proceeding the date of her expected delivery {Section 5} |
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| **Cash Benefits**   * Leave with average pay for six weeks before the delivery * Leave with average pay for six weeks after the delivery * A medical bonus of Rs. 25 if the employer does not provide free medical care to the woman * An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage or premature birth * In case of miscarriage, six weeks leave with average pay from the date of miscarriage   **Non Cash Benefits/Privilege**   * Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it * Two nursing breaks in the course of her daily work until the child is 15 months old * No discharge or dismissal while she is on maternity leave * No change to her disadvantage in any of the conditions of her employment while on maternity leave * Pregnant women discharged or dismissed may still claim maternity benefit from the employer   **Exception**: Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit | | |  | **Conditions for eligibility of benefits**   * Ten weeks before the date of her expected delivery, she may ask the employer to give her light work for a month.  At that time she should produce a certificate that she is pregnant * She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also name the person to whom payment will be made in case she cannot take it herself * She should take the payment for the first six weeks before she goes on leave * She will get payment for the six weeks after child-birth within 48 hours of giving proof that she has had a child * She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work till her child is fifteen months old * Her employer cannot discharge her or change her conditions of service while she is on maternity leave {Section 5} |
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| **Leave for Miscarriage**  **& Tubectomy Operation**   * Leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or her medical termination of pregnancy * Entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation |  | **Leave for illness arising out of pregnancy etc.**    A woman suffering from illness arising our of pregnancy, delivery, premature birth of child (Miscarriage, medical termination of pregnancy or tubectomy operation) be entitled, in addition to the period of absence allowed to her leave with wages at the rate of maternity benefit for a maximum period of one month. {Section 10} |  |
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| **Prohibition of dismissal during absence of pregnancy**   * Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to vary her disadvantage * Discharge or dismissal 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 * At the time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus, etc * Not barred in case of dismissal for cross misconduct | | | | |
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| **Failure to Display** [**Abstract of Act**](http://www.excelconsultancyservices.co.in/MaternityBenefit/Abstract.htm)    **Imprisonment may extend to one year or fine.** |  | **Forfeiture of maternity benefit**    If permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.    For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will find, but not exceeding Rs.5000.00 {Section 18} | | |

No. MBA-1063-Lab-III, -In exercise of the powers conferred by section 28 of the [Maternity Benefit Act, 1961](http://www.excelconsultancyservices.co.in/MaternityBenefit.htm) (53 of 1961), the [Government of Maharashtra](http://www.excelconsultancyservices.co.in/Glossary.htm#gCentralGovernment) hereby makes the following Rules, the same having been previously published as required by sub-section (1) of the said section 28 of the Act:

1. **Short title and commencement**.-

(1) These rules may be called Maharashtra Maternity Benefit Rules, 1965.

(2) They shall come into force on such date as the [State Government](http://www.excelconsultancyservices.co.in/Glossary.htm#gStateGovernment) may appoint in this behalf.

1. **Short title and commencement**.- In these rules, unless the context otherwise requires,-
   1. "Act" means the [Maternity Benefit Act, 1961](http://www.excelconsultancyservices.co.in/MaternityBenefit.htm);
   2. "Competent Authority" means the chief [inspector](http://www.excelconsultancyservices.co.in/Glossary.htm#gInspection) appointed under section 8 of the Factories Act, 1948;
   3. "Form" means a form appended to these rules;
   4. "Registered medical practitioner" means a person registered under any law for the time being in force relating to [registration](http://www.excelconsultancyservices.co.in/Glossary.htm#gRegistration) of medical practitioners;
   5. "Registered midwife" means a midwife registered under any law for the time being in force relating to [registration](http://www.excelconsultancyservices.co.in/Glossary.htm#gRegistration) of midwives;
   6. "Section" means a section of the Act.
2. **Form of notice under section 6**.- The notice to be given by a woman entitled to maternity benefit under the provisions of the Act shall be in Form 1.

1. **Method of payment of maternity benefit and other benefits**.-

(1) The medical bonus payable to a woman under section 8 shall be paid along with the amount of maternity benefit payable in respect of the period of six weeks immediately following the date of her delivery.

(2) The wages payable to a woman in respect of leave for miscarriage under section 9 or leave for illness arising out of pregnancy, delivery, premature birth of a child or miscarriage under section 10 shall be paid within forty-eight hours of production of proof of such miscarriage or illness.

1. **Proof of Pregnancy death, etc**.-

(1) The production of a certificate in Form 2 from a registered medical practitioner certifying the pregnancy, delivery, miscarriage or illness arising out of pregnancy, delivery, premature birth of child or miscarriage of a woman shall, for the purpose of the Act and these rules, be proof of such pregnancy, delivery, miscarriage or, as the case may be, illness:

* 1. a certificate from a registered midwife in Form 3 in evidence of the confinement or miscarriage of a woman, or
  2. a certificate from a police patil or a certified extract from a register of birth maintained under the provisions of any law for the time being in force relating to [registration](http://www.excelconsultancyservices.co.in/Glossary.htm#gRegistration) of births, in evidence of the confinement or a woman, shall also be proof of the confinement or, as the case may be, miscarriage of a woman.

(2) The production of certificate in Form 4 from a registered medical practitioner or of a certified extract from any register of deaths maintained under the provisions of any law for the long time being in force, relating to [registration](http://www.excelconsultancyservices.co.in/Glossary.htm#gRegistration) of deaths certifying the death of a woman of of a child shall, for the purposes of the Act and these rules, be proof of such death.

1. **Duration of breaks allowed under section 11**.- Each of the two breaks allowed to a woman under section 11 shall be of fifteen minutes duration:

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 the Competent Authority.

1. **Acts constituting gross misconduct**.- The following acts shall, for the purpose of the proviso to clause (a) of sub-section (2) of section 12, constitute gross misconduct, namely:

(a) willfully destroying goods or property of the employer;

(b) assaulting superiors or colleagues at the place of duty;

(c) criminal offence involving moral turpitude resulting in conviction by a court of law;

(d) 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;

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

(f) willfully interfering with safety devices or fire fighting equipment.

1. **Appeal under Section 12**.-

(1) Every appeal under clause (b) of sub-section (2) of section 12 shall be made to the Competent Authority as early as may be in Form 5. It shall be handed over to the Competent Authority personally, or sent to it by registered post.

(2) After the appeal is received, the Competent Authority shall furnish a copy thereof to the employer and serve a notice on him calling upon him to send his reply to the appeal and product such documents relating to the appeal as may be specified in the notice, on or before the date specified in the notice. The notice shall also state that if the employer fails to send his reply or produce the documents on or before the date specified in the notice, the appeal shall be decided exparte.

(3) After considering the facts presented to it by the appellant and the employer and after ascertaining them from the documents, if any, produced by the employer, the Competent Authority shall give its decision on the appeal. Where the employer fails to send his reply and produce documents as required by the notice served on him under sub-rule (2), the Competent Authority shall give its decision exparte.

1. **Complaint under section 17**.-

(1) Every complaint under section17 shall be made as early as may be in Form 6, where the complainant is a woman entitled to the benefits in respect of which the complaint is made and in Form 7, where the complainant is any person claiming such benefits under section 7.

(2) After a complaint is received under section 17, an Inspector shall, before issuing orders under sub-section (2) of that section, examine all records maintained by the employer which he considers to be relevant for making inquiry into the complaint and examine any person employed by the employer and take down necessary statements from such person.

1. **Appeal under section 17**.-

 (1) Every appeal under sub-section (3) of section 17 shall be made to the Competent Authority as early as may be in Form 8:

Provided that, where the appeal is against the decision of the Competent Authority itself, the appeal shall be made to the [State Government](http://www.excelconsultancyservices.co.in/Glossary.htm#gStateGovernment)  or to such other authority as the State Government may appoint in that behalf in the form of a memorandum setting forth concisely the grounds of objection to the decision.

(2) Where the appeal is received by the Competent Authority, the Competent Authority shall on receipt of the appeal, call upon the Inspector against whose decision the appeal is made to furnish before a specified date all records relevant to the appeal, record statements of the appellant and the Inspector, if necessary, take info account the documents and evidence produced before it and the facts as presented to it or as ascertained by it and then give its decision.

1. **Form of abstracts to exhibited under section 19**.- The abstracts of the provision of the Act and the rules made thereunder to be exhibited under section 19 shall be in Form 9.

1. **Maternity benefit register**.-

(1) Every employer of [factory](http://www.excelconsultancyservices.co.in/Glossary.htm#gFactory) wherein women are employed shall prepare and maintain up-to-date a maternity benefit register in Form 10.

(2) All entries in the register shall be made in ink and the register shall be kept open for [inspection](http://www.excelconsultancyservices.co.in/Glossary.htm#gInspection) by the Inspector during working hours.

(3) It shall be lawful for the employer to enter such particulars in the register as he may consider to be necessary for the purpose of the Act.

1. **Supply of forms.**- Every employer shall, on an application made by a woman, supply her with copies of any of the Form other than Form 9, 10 and 11.

1. **Failure to submit notice etc, in prescribed forms**.- Where any notice, appeal or complaint is not given or made as early as may be in the form in which it is required to be given or made under these rules, the person receiving such notice, appeal or as the case may be, complaint shall, within fifteen days of the receipt of such notice, appeal or complaint, require the person giving such notice, appeal or complaint to give it in the form in which it is required to be given under these rules and the said person shall thereupon give the notice in the prescribed form with one month.

1. **Return**.- Every employer shall furnish to the Competent Authority by the 15th day of January each each year a return in Form 11.

1. **Records**.- All records kept as required by the provisions of the Act and these rules shall be preserved for a period of three years commencing form the date of the last entry made therein.
2. No employer shall knowingly employ a woman in any [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) 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.

1. No pregnant woman shall, on a request being made by her 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 at 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 any way is likely to interfere with her miscarriage or otherwise to adversely affect her health.

1. (1) Subject to the provisions of the Act, every woman who has actually worked in an established 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 {one rupee a day, whichever is higher, for the period of her actual absence on exceeding six weeks immediately preceding and including the day of her delivery and for the six weeks immediately following that day :

          Provided that:

(i)  Where a woman dies during the period of which maternity benefit is payable to her, the benefit shall be 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 have been delivered of a child, dies during her delivery or during the 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 delivery but if the child also dies during the said period, then for days up to and including the day of the death of the child.

1. The amount of the 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 Maternity Benefit Rules, 1961](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) (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 with forty-eight hours of production of a certificate in the aforesaid Form from a registered medical practitioner or of a certificate from a registered mid wife in Form 3 appended to the maternity Benefit Rules or of any law for the time being in force relating to [registration](http://www.excelconsultancyservices.co.in/Glossary.htm#gRegistration) of births, in evidence of the fact that she has been delivered of a child.

1. (1) Any woman employed in an [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) and entitled to maternity benefit under the provisions of the Act may give notice in writing in Form 1 appended to the [Maternity Benefit Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) to her employer, stating that her maternity benefit and any other amount to which she may be entitled under the ct 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](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) until the expiry of six weeks after the day of the delivery.

1. (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 from 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 Benefit Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) or of a certificate from a registered midwife in Form 3 appended to those rules to 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 of 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](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) 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 the wages at the rate or maternity benefit for a maximum period of the month.  The wages for the leave period shall be paid within the forty-eight hours of production of proof of such illness.

1. Every woman delivered of a child who return 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 dispute as regard 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.

1. (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 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 such discharged or dismissal would have been entitled to maternity benefit or medical bonus shall not the effect of depriving her of the maternity benefit or medical bonus:

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

1. Willfully destroying the goods or property of the employer;
2. Assaulting superiors or colleagues at the place of duty;
3. Criminal offence involving moral turpitude resulting in conviction by a court of law;
4. 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;
5. Willful failure to observe the safety measures of the rules on that subject;

(2)(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 appended to the [Maternity Benefit Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) 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.

1. If a woman work in any [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) 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.

1. (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 with held 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](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm).

(2) The [Inspector](http://www.excelconsultancyservices.co.in/Glossary.htm#gInspection) may, of his own motion or on receipt of a complaint in Form 6 or 7 make an inquiry or cause an inquiry to be made and if satisfied the payment has been wrongly withheld, may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the [inspector](http://www.excelconsultancyservices.co.in/Glossary.htm#gInspection) may, within thirty days from the date on which such decisions is communicated to such person, appeal to the Competent Authority.

(4) The decisions 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.

1. (a) The employer shall supply to every woman employed by him at her request copies of all Form appended to the [Maternity Benefit Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) other than Forms 9, 10 and 11.

(b) Where a notice, appeal or complaint has been received in 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, as the case may be, in the prescribed form.

1. (1) The employer of every [factory](http://www.excelconsultancyservices.co.in/Glossary.htm#gFactory) in which woman are employed shall prepare and maintain up to date a maternity benefit register in Form 10 appended to the [Maternity Benefit Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) 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](http://www.excelconsultancyservices.co.in/Glossary.htm#gInspection) by the inspector during working hours.

(3) The employer of every [factory](http://www.excelconsultancyservices.co.in/Glossary.htm#gFactory) 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](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm).

| [Brief](http://www.excelconsultancyservices.co.in/MaternityBenefit.htm) | [Rules](http://www.excelconsultancyservices.co.in/MaternityBenefit/Rules.htm) | [Abstract](http://www.excelconsultancyservices.co.in/MaternityBenefit/Abstract.htm) | FAQs |**THE MATERNITY BENEFIT ACT, 1961**

**The object of the Maternity Benefit Act, 1961**: The Object of the Act is (1) to provide for maternity benefit to women workers in certain [establishments](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment); (2) to regulate the employment of women workers in such establishments for certain period before and after child birth.

**Establishments are covered by the Act**: The Act applies to (1) every [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) being a [factory](http://www.excelconsultancyservices.co.in/Glossary.htm#gFactory), mine, plantation or circus; (2) every shop in which 10 or more persons are employed; (3) any other establishment to which the Act is applied by the [State Government](http://www.excelconsultancyservices.co.in/Glossary.htm#gStateGovernment) under the proviso to Section 2(1)

**Note**: (1) The Act applies to a [factory](http://www.excelconsultancyservices.co.in/Glossary.htm#gFactory), mine or plantation belonging to Government. (2) The Act does not apply to any factory or other [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) to which the provisions of the [Employees' State Insurance Act](http://www.excelconsultancyservices.co.in/EmployeesStateInsurance.htm) apply. {Section 2}

**Is there any justification for denying the benefits of the** [**Maternity Benefit Act**](http://www.excelconsultancyservices.co.in/MaternityBenefit.htm) **to women workers on the ground that they are not regular employees but they are on the muster roll?**: The Supreme Court, in Municipal Corporation of Delhi v. Female workers (Muster Roll) & Anr. (2000 I C.I.R. 879) has said; "We have scanned the different provisions of the Act, but we do not find anything contained in the Act which entitles only regular woman employees to the benefit of maternity leave and not those who are engaged on casual basis or on muster roll on daily wage basis."

**Restrictions placed by the Act on the employment of women**: The restrictions placed by the Act on the employment of women are as follows:

1. The employer is prohibited from knowingly employing a woman in any [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) during the six weeks immediately following the day of her delivery or her miscarriage;
2. A woman also, on her part, is required to abstain from working in any establishment during the said period;
3. A pregnant woman can also request her employer not to give her any work which is of an arduous nature or which involves long hours of standing, etc. during the period of one month immediately preceding the period of six weeks, before the date of her expected delivery or any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence, under the Act. On such a request being made by her, the employer shall not give her such work during such period. {Section 4}

**To whom maternity benefit is payable in case of death of a woman?**: If a woman entitled to maternity benefit dies before receiving such benefit, the employer shall pay such benefit to the person nominated by the woman and in case there is no such nominee, to her legal representative. {Section 7}

**Restrictions placed by the Act on the termination of employment of a woman**: 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. {Section 12}

**Time for payment of maternity benefit**: The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance to the woman on production of proof that the woman is pregnant and the amount due for the subsequent period shall be paid to the woman within 48 hours of production of proof that the woman has been delivered of a child. {Section 6}

**Period for which a woman is entitled to maternity benefit and the rate of the benefit**: (i) The maximum period for which any woman shall be entitled to maternity benefit shall be 12 weeks of which not more than 6 weeks shall precede the date of her expected delivery. 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. If a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable to the maternity benefit for the entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

(ii) But no woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than 80 days in the 12 months immediately proceeding the date of her expected delivery.

For the purpose of calculating the days on which a woman has actually worked in the [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment), the days for which she has been laid off or was on holidays declared under any law to be holidays with wages during the period of 12 months immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. For the purpose of this provision, 'the average daily wage' means the average of the woman's wages payable to her for the days on which she has worked during the period of 3 calendar months immediately preceding the date from which she absents herself on account of maternity, or the minimum rate of wage fixed or revised or under the [Minimum Wages Act, 1948](http://www.excelconsultancyservices.co.in/MinimumWages.htm) or 10 rupees, whichever is the highest. {Section 5}

**Is a woman entitled to maternity benefit, also entitled to any medical bonus?**: A woman entitled to maternity benefit under the Act shall also be entitled to receive from her employer a medical bonus of 250 rupees, if no pre-natal confinement and postnatal 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. {Section 8 & Rule 5}

**Can a woman claim the maternity benefit from her employer if she works elsewhere during the period for which she has been permitted to absent herself under the provisions of the Act?**: If a woman works in any [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) 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. {Section 18}

**Is it permissible under the Act to exempt any establishment for the provisions of the Act?**: The appropriate Government can exempt any [establishment](http://www.excelconsultancyservices.co.in/Glossary.htm#gEstablishment) from the operation of all or any of the provisions of the Act or of any rule made under the Act if the benefits provided by the establishment are not less favourable that those provided in the Act. {Section 26}

**Is a woman entitled to any leave with wages for illness in addition to the period of absence allowed to her under the provisions of the Act?**: A woman suffering from illness arising out of pregnancy delivery, premature birth of child or miscarriage shall be entitled, in addition to the period of absence allowed to her under the provisions of the Act, to leave with wages at the rate of maternity benefit for a maximum period of one month. {Section 10}

**Is a woman entitled to any leave with wages for miscarriage?**: In case of miscarriage, a woman shall be entitled to leave with wages at the rage of maternity benefit, for a period of 6 weeks immediately following the day of her miscarriage. {Section 9}

**Is it necessary for a woman claiming leave with wages for miscarriage to satisfy the condition that she had worked for a period of not less than 80 days in the 12 months immediately preceding the date of miscarriage?**: Such condition has to be satisfied for claiming Maternity Benefit under Section 5 of the Act. There is no condition of any sort to be satisfied for claiming leave wages for miscarriage under Section 9 of the Act.

**What are the other obligations of the employer under the Act?**: Under the Act the employer is required: (a) to exhibit the abstract of the provisions of the Act and the rules made thereunder in a conspicuous place in every part of the establishment in which women are employed {Section 19 & Rule 5}; (b) to maintain a muster roll in the prescribed form {Rule 3}; (c) to submit annual returns in the four prescribed forms. {Rule 16}

**What is the punishment for the contravention of the provisions of the Act?**: (1) If any employer fails to pay any amount of maternity benefit to a woman entitled under the Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of the Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees. The Court may, however, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment. (2) If any employer contravenes the provisions of the Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under the Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both. Where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the Court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled hereto. {Section 21}