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MINISTRY OF WOMEN AND CHILD DEVELOPMENT ISSUES GUIDELINES FOR SETTING UP OF CRECHE FACILITIES

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Introduction

The Maternity Benefit Act 1961 (**MB Act**) was amended vide the Maternity Benefit (Amendment) Act 2017 (**2017 Amendment**). Under the 2017 Amendment, setting up a creche was made mandatory for all establishment employing 50 (fifty) or more employees. However, there was lack of clarity on the technical aspects and related requirements concerning setting up of creche and the facilities to be provided therein. The Karnataka Government on 21 July 2018 had issued the draft Karnataka Maternity (Amendment) Rules 2018 highlighting various aspects for administration of creche for comments. However, these are yet to come into force. Further, the Haryana Government has also issued a press release on 2 August 2018 stating that the Haryana Maternity Benefit Rules 1967 have been amended to include various aspects related to creche to be set up by covered establishment. These rules are not available in the public domain and as such do not have a national bearing.

In the absence of any clarity or guidelines on setting up of creche facilities, the Ministry of Women and Child Development, Government of India has issued National Minimum Guidelines for setting up and running Creches under Maternity Benefit Act, 2017 (**Creche Guidelines**) vide its office memorandum dated 2 November 2018.

Key highlights of the Creche Guidelines

- *Applicability of creche-* There should be one creche for every 30 (thirty) children which should be extended to children of age group of 6 (six) months to 6 (six) years of all employees including temporary, daily wage, consultant and contractual workers.
- *Location of creche-* The location of the creche facility should be at the workplace or within 500 (five hundred) meters from the premises of the establishment.
- *Number of workers in creche-* The Creche Guidelines provide for appointment of one creche personnel along with one helper for every 10 (ten) children under the age group of below 3 (three) years and for every 20 (twenty) children under the age group of 3 (three) to 6 (six) years. It also provides for appointment of a creche-in charge if the number of children in creche is more than 5 (five).

- *Creche timings-* The Creche Guidelines provide for streamlining the creche timings keeping in view the parents working hours/ timings/ shifts in an establishment (*assuming an 8 (eight) hours shift*).
- *Constitution of complaints committee-* Every establishment must adopt a child protection policy. The Creche Guidelines provide for a model child protection policy which can be adopted by establishments. The objective of this policy is to prevent child abuse in any form at establishment's workplace and within its operating hours. Such policy must provide for a complaints committee constituted by the establishment to receive complaints, conduct formal enquiries and recommend appropriate action for redressal and punishment.
- *Norms and standards of creche-* The Creche Guidelines also provide for the norms and standards required to be adhered for operation and functioning of a creche set up by the establishment. These norms and standards for a creche comprises the guidelines for creche environment, creche equipment/ material, safety/ protection at the creche, health practices, nutrition practices, hygiene and sanitation practices etc.
 - *Creche equipment/material-* The Creche Guidelines stipulate the materials to be procured by creche for its operations which includes certain non-recurring expenses such as furniture, appliances, etc. and certain recurring expenses such as eatables, stationary, etc. The complete descriptive list of materials under recurring and non-recurring expenses are mentioned in annexure to the Creche Guidelines.
 - *Nutrition and health practices-* The Creche Guidelines also provide sample immunization schedule, calorie requirement chart for different age group of children and the WHO standard growth monitoring chart to monitor the growth of the children in the creche. The sample meal charts for various age groups are also mentioned in annexure to the Creche Guidelines which could be adopted by the establishments setting up creche
 - *Creche transactions-* The Creche Guidelines provide for the activities to be organized for holistic development of children and provides for a curriculum depending on the age group of children in creche. The Creche Guidelines also outline activities to monitor the development of children in the creche depending on the age of children.
- *Selection criteria and training of workers of creche-* The Creche Guidelines specify that the preferred age of creche staff shall be between 20 to 40 years. Further, the workers are also required to undergo training and their appointments would be made on assessment of their skills, knowledge and attitude. Such training may be provided by different organizations who specialize in providing training of childcare workers. There is no specification on who can impart such training to the establishments.
- *Constitution of creche monitoring committee-* In order to monitor and supervise the functioning of creche, a creche monitoring committee is required to be set up by the establishments. The creche monitoring committee would constitute of 3 to 4 parents, creche worker, creche supervisor and human resource/ administrative officer.

Comment

In the absence of any other umbrella legislation or rules in this regard, the Creche Guidelines would be a good reference point for the employers and employees on technical and procedural aspects for operation and maintenance of creche. The Creche

Guidelines would serve as a model/ guiding note for all the States to appropriately incorporate these in their State specific maternity benefit rules.

The Creche Guidelines are silent on the aspect of outsourcing of creche facilities and cost sharing for these facilities between the employer and the employee, amongst others. While non-adherence of the Creche Guidelines would not trigger any penal consequences under the MB Act, establishments need to be mindful of these being the only guiding force in the absence of regulations in this regard at national level. At any point in time should the State Governments decide in favor of inclusion of these Creche Guidelines in State specific rules, penal consequences of non-compliance under MB Act would flow accordingly. It would be advisable for establishments to assess these requirements and draw up internal mechanisms to comply with the same.

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