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KARNATAKA MATERNITY BENEFIT (AMENDMENT) RULES, 2019

27 August 2019

Introduction

The Karnataka Government (Government) vide its notification dated 8 August 2019 notified the Karnataka Maternity Benefit (Amendment) Rules, 2019 (Amendment Rules). The Amendment Rules address and clarify several key aspects concerning the provision and management of creche facilities which had not been previously addressed by the Maternity Benefit (Amendment) Act, 2017 (Amendment Act).

Key Amendments

The Amendment Rules prescribe for creation and management of creche facilities and amenities in establishments employing 50 or more employees (including all permanent, temporary and contract workers).

It requires the employer to provide and maintain a creche for the use of children who are below the age of 6 (six) years. The employer is required to establish one creche facility for every 30 (thirty) children below the age of 6 (six) years, in accordance with the standards that are summarized below:

- **Children to whom the facility is available:** Creche facility shall be available to children of all employees irrespective of their nature of employment, such as permanent, temporary, regular, daily wage, contract, etc.
- **Location of creche:** Creche shall be located within the premises of the establishment or within 500 (Five hundred) meters from the entrance gate of the establishment. Further, the creche shall not be situated in close proximity of the establishment where obnoxious fumes, dust or odors are given off or where excessively noisy processes are carried on. The employer is required to give careful consideration while deciding on the location of the creche and should avail advice from the state or national support agencies.
- **Construction of creche:** The Amendment Rules provide for sound, heat-resisting and waterproof construction of the building in which the creche is situated. It further provides for details with regards to area, surface, material to be used for construction of the creche, lime washing and painting, ventilation, lighting, washroom, bathrooms, etc. Further, the requirements specified under applicable planning, building control, fire safety, and health and safety legislation as well as requirements under all relevant legislations should also be complied with by the employer. Additionally, the overall ecosystem of the creche shall be clean, safe, secure and child friendly. There

should not be any unsafe places like open drains or pits or any dangers near the creche.

- **Opening and closing hours:** Creche shall always remain open, both by day and by night, when mother or parents are working at the establishment, as per statutory norms.
- **Amenities to be provided:** The Amendment Rules specify the amenities that are required to be provided by the employer in the creche. The prescribed amenities include attached kitchen with utensils and other facilities for boiling milk and preparing refreshments, etc., or alternatively hygienically prepared food / beverages made available to the children. Safe and portable drinking water at all times shall be provided through a dedicated water purifier. Further, first aid, medicine kit, cradles or cot, beds or mattresses, cotton sheets, utensils to feed children, sitting accommodation or furniture for use of mother for feeding and parents for attending to child, rubber sheets (for children below 3 (three) years), blankets, pillow with covers, toys or play materials and child-friendly furniture should also be provided. Additionally, the employer is required to ensure that creche has bright, cheerful and child accessible displays of essential play and teaching-learning material, daily schedule, child safety and essential norms.
- **Inspection:** The Amendment Rules mandate periodic inspection of the creche building to ensure that it is safe and is being maintained under sanitary and hygienic conditions, with decent decoration.
- **Uniforms:** The children as well as the staff of the creche shall be provided with suitable uniforms to wear at the creche. The creche staff shall be provided with suitable clean clothes for use while on duty in the creche. Further, an adequate supply of clean clothes, soap and oil shall be made available for each child while he / she is in the creche.
- **Area:** The Amendments Rules specifies that there shall not be less than 5 (five) sq. ft. of floor area for each child to be accommodated in a creche
- **Playground:** A suitably fenced and shady open-air playground shall be provided for the children. The employer shall ensure that children have access to outdoor play space, which is safe, secure, well-maintained, and exclusively available for the use of children during operating hours. Where children use public playgrounds or parks, the employer shall take all reasonable steps to provide outdoor play facilities and ensure the safety and security of children.
- **National Minimum Guidelines:** The Amendment Rules requires the employer to adhere to the standards and norms fixed by the central and state governments or their official agencies for creche, such as the National Minimum Guidelines for setting up and running creche, published by the Ministry of Women and Child Development, Government of India under the Maternity Benefit Act, 1961. The National Minimum Guidelines are available online at <https://wcd.nic.in/sites/default/files/National%20Minimum%20Guidelines.pdf>
- **Creche staffs:** The creche-in-charge shall be a woman who has Government approved or recognized qualification and training in 'Early Childhood Care and Education' (ECCA) or 'Teachers Course Higher' (TCH) or equivalent qualification, to look after children during the absence of their mothers as teacher-cum-warden. Along with teacher-cum-warden, a woman with mid-wife qualification or training shall work as creche attendant. Where the number of children exceeds 10 (ten), the creche attendant shall be assisted by female ayahs and required personnel at the rate of one ayah: (i) for every 10 (ten)

children up to 3 (three) years of age; and (ii) for every 15 (fifteen) children of over 3 (three) years of age.

- **Working hours:** The working hours of the creche shall correspond to the working hours of the mothers or parents of the children admitted in the creche. The creche shall be required to work in 2 (two) or more shifts if the women are employed in 2 (two) or more shifts as per statutory norms, spread over a period not exceeding 8 (eight) hours a day. The Amendment Rules further provides that where the creche works in shifts, different staff shall be employed to work in different shifts, depending upon the norms of working hours.
- **Medical examination:** The Amendment Rules provides for medical examination of every child before admission to the creche. Further, there shall be medical check-up of the children once in 2 (two) months and their Body-Mass Index (BMI) recorded once a month.
- **Basic medical records:** Record of medical examination conducted of each child before admission to the creche shall be maintained. Further, a record of the periodical medical check-up and weighment shall be entered in the record of medical examination of each child kept at the creche.
- **Supply of milk and refreshment:** At least 250 ml of hygienic pure milk shall be made available for each child every day. The children above 2 (two) years of age shall in addition be provided with an adequate supply of wholesome refreshment.
- **Number of visits to creche:** The Amendment Rules provides for a minimum of 4 (four) visits a day of sufficient time to the creche by the women employee for feeding the child.

Conclusion

While the Amendment Rules provide for an elaborate dos and don'ts with regards to creche facilities that the employers have been struggling with since the enforcement of the Amendment Act, it is still unclear whether the employers can engage third parties or outsource the day-to-day management of creche facilities and if yes, how would the responsibilities and compliance liabilities shall be allocated between the employers and the concerned third party service providers managing the creche on a day-to-day basis. This is a welcome step and the Amendment Rules have clarified and stipulated many parameters for standardization of creches. Having said that the Amendment Rules do not include stipulations for installation of modern-day security measures such as CCTV monitoring of creche the security officers of the employer and remote access to live camera feeds for parents.

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