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DRAFT KARNATAKA MATERNITY BENEFIT (AMENDMENT) RULES, 2018

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Introduction

The Maternity Benefit Act, 1961 (MB Act) was amended vide the Maternity Benefit (Amendment) Act, 2017 (2017 Amendment) to grant certain additional benefits to eligible women employees. As part of the 2017 Amendment, the provision of a crèche facility was made effective from 1 July 2017 as a mandatory requirement for every establishment with 50 or more employees. However, several aspects concerning the provision of such crèche facility (e.g. facilities to be provided therein, distance of facility from the place of establishment etc) were not addressed as no rules or guidelines were notified in this regard.

The Government of Karnataka (Government) vide notification dated 21 July 2018 published the draft Karnataka Maternity Benefit (Amendment) Rules, 2018 (Draft Rules) to address such concerns and has invited public comments for the same.

Key Highlights of the Draft Rules

According to the Draft Rules, every establishment with 50 or more employees, shall provide and maintain a crèche for the use of children who are below the age of 6 years in accordance with the following standards:

➤ **Location:**

There shall be one crèche for every 30 children located within the premises of the establishment or within 500 meters from the entrance gate of the establishment. The crèche shall not be situated in close proximity to establishments where obnoxious fumes, dust or odours are given off or in which expressly noisy processes are carried on.

➤ **Building:**

The following standards are to be complied with while building a crèche:

- The crèche building shall be constructed out of heat resisting materials and shall be at the ground floor. There shall be not less than 5 sq. ft. of floor area for each child to be accommodated in a crèche.

- In towns, the crèche shall be built out of brick walls with cement or lime plaster, while in rural areas, it may be built of mud wall with mud plaster. However, in both the cases, the flooring and the walls up to a height of 5ft shall have decent cement surface. The height of the rooms shall not be less than 10ft from the floor to the lowest part of the roof.
- The building shall be periodically inspected to check if adequate safety standards are being implemented and shall be kept open all times both during the day and night, when women employees are working. All the health and safety legislations in this regard must be complied with by the employer.
- The crèche shall have an attached kitchen along with necessary utensils in addition to a suitable bathroom. Wash-basins shall be provided at the rate of one for every 10 children. Also, there shall be arrangements of water supply at the rate of at least 5gallons per child in a day.
- There shall be a lavatory adjoining the bathroom, for exclusive use of children in the crèche. The number of seats in the latrine shall be at the rate of one for every 15 children. Separate lavatories shall be maintained for the use of mothers and crèche staff at not less than 100ft from the crèche.
- There shall be a fenced and shady open-air playground.

➤ **Facilities:**

The employer shall provide certain equipment for the children in the crèche such as cots, beds, mattresses, cotton sheets, rubber sheets (*for children below 3 years*), blankets, pillows and first aid kit.

➤ **Staff:**

A woman having government approved or recognized qualification and training in "Early Childhood Care and Education" or "Teachers Course Higher" or equivalent qualification shall be appointed as the in charge of the crèche. Additionally, a woman trained as a midwife shall be appointed as the crèche attendant. In case the number of children exceeds 10, women ayahs shall also be appointed at the rate of one ayah:

- for every 5 children up to 1 year of age;
- for every 10 children up to 3 years of age; and
- for every 15 children of over 3 years of age.

The ayahs shall not be less than 30 years of age and shall have knowledge in handling children.

➤ **Working Hours:**

The working hours of the crèche shall correspond to the working hours of the mothers. It shall work in two or more shifts. If women are employed in two or more shifts, the spread over shall not exceed 8 hours a day.

➤ **Medical Records:**

Every child shall be medically examined before admission. There shall be medical check-up of the children once in a month and their body mass index shall also be recorded every month. Record of periodical medical check-up and weightment shall be maintained for every child in the crèche.

➤ **Refreshments:**

At least 250ml of pure milk shall be made available per child on every day. Mothers shall be allowed to visit the crèche four time a day, to feed the child.

➤ **Supply of clothes, soap and oil:**

The children as well as the staff of the crèche shall be provided with suitable and clean uniforms to wear at the crèche. Adequate supply of clean clothes, soap and oil shall be made available for each child in the crèche.

➤ **Outdoor Play Facilities:**

Employer shall ensure that the outdoor play space shall be 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 reasonable steps to ensure safety and security of the children.

Comment

While the Draft Rules have clarified many aspects around the implementation of the crèche facility at establishments, they do seem to impose a large burden on employers. The requirements around having outdoor play facilities as well as the requirements around the location of the crèche will result in a large financial burden being placed on many small and mid-sized companies who may have more than 50 employees. The Draft Rules also do not provide any clarity on whether multiple establishments may utilise the facilities of a common crèche and this should ideally be clarified in the Draft Rules.

While the Draft Rules will only be applicable to establishments in Karnataka, it does give employers having establishments in other states, some perspective on the type of Rules that state governments could potentially implement in this regard.

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