

MATERNITY BENEFIT (MINES) RULES, 1963

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MATERNITY BENEFIT (MINES) RULES, 1963

G.S.R. 1642. dated 5th October, 1963. -In exercise of the powers conferred by Sec. 28 of the Maternity Benefit Act. 1961 (53 of 1961), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :

1. Short title and commencement :-

(1) These rules may be called the Maternity Benefit (Mines) Rules, 1963 .

(2) They shall come into force on the 1st November. 1963.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) the "Act" means the Maternity Benefit Act. 1961 (53 of 1961);

1 [(aa) "Circus" means an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other

performances:]

2 [(b) "competent authority" means-

(i) in relation to a coal mine, the Coal Mines Welfare Commissioner:

(ii) in relation to any other mine, the Chief Inspector of Mines: and

(iii) In relation to a circus, the Chief Labour Commissioner (Central):]

(c) "form" means a form appended to these rules:

(d) "muster-roll" means a muster-roll maintained under rule 3:

(e) "registered medical practitioner" means a medical practitioner whose name has been enrolled In a register maintained under any law for the time being in force regulating the registration of practitioners of medicine:

(f) "section" means a section of the Act:

(g) all other words and expressions used 0hereinafter but not defined herein shall have the same meaning as respectively assigned to them In the Act.

1. Ins. by G.S.R. 59 (E). dated 27th February, 1975 (w.e.f. 1st March, 1975).

2. Subs. by G.S.R. 59 (E). dated 27th February, 1975.

3. Muster-roll :-

(1) The employer of ¹[every mine or circus] in which women are employed shall prepare and maintain a muster roll in Form "A" and shall enter therein particulars of all women workers in ¹ the mine or circus].

(2) All entries in the muster-roll shall be made in ink and maintained up-to- date and it shall always be available for inspection by the Inspector during working hours

.

(3) The employer may enter In the muster-roll such other particulars as may be required for any other purpose of the Act.

1. Subs. by G.S.R. 59 (E). dated 27th February, 1975.

4. Proof :-

(1) The fact that a woman is pregnant or has been delivered of child or has undergone miscarriage or is suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall be proved by the production of a certificate to that effect,-

(a) from a Medical Officer of a regional hospital or dispensary set up under the Coal Mines Welfare Organization: or

(b) where there is a Mines Board of Health within whose jurisdiction '[the mine or circus] is situated, from the Medical Officer of that Board: or

(c) from a registered medical practitioner. The certificate shall be in Form "B".

(2) the fact that a woman has been confined may also be proved by the production of a certified extract from a birth register maintained under the provisions of any law for the time being in force or a certificate signed by a registered mid-wife.

(3) The fact that a woman has undergone miscarriage may also be proved by the production of a certificate signed by a registered mid-wife.

(4) The fact of death of a woman or a child may be proved by the production of a certificate to that effect In Form "C" from any of the authorities referred to in sub-rule (1) or by the production of a certified extract from a death register maintained under the provisions of any law for the time being in force.

(5) The certificate from a registered mid;wife shall be in Form "D".

5. Payment of maternity and other benefit :-

(1) A woman employed In a mine and entitled to maternity benefit shall give notice to her employer in Form "E" and the employer shall make payment of the maternity benefit and any other amount due under the Act to the woman concerned, or, in case of her death before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of Section 5 , to the person nominated by the woman In her notice In Form "E" and in case there is no such nominee to her legal representative.

(2) 'n case of doubt, the maternity benefit or other amount due to

a woman ¹ [a mine or circus) shall be deposited by the employer, within two months of the date of death of the woman concerned with the competent authority, who shall, after making necessary enquiries, pay it to the person who, in his opinion, is entitled to receive it.

(3) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the employer in Form "F" from the person to whom the payment is made. In cases falling under sub-rule (2), a receipt shall be given to the employer by the competent authority.

(4) The medical bonus shall be paid along with the second instalment of the maternity benefit.

(5) The maternity benefit or any other amount payable under Section 7 shall be paid within two months of the date of death of the woman entitled to receive such benefit or amount.

(6) The wages payable under Section 9 shall be paid to the woman entitled to receive such wages within forty-eight hours of production by her of the certificate in Form "B" or Form "D",

(7) The wages payable under Section 10 shall be paid to the woman entitled to receive such wages within forty-eight hours of the expiry of the period of leave referred to in that section.

1. Subs. by G.S.R. 59 (E). dated 27th February, 1975.

6. Break for nursing child :-

Each of the two breaks mentioned in Section 11 shall be of 15 minutes' duration. An extra-sufficient period depending upon the distance to be covered, shall be allowed for the purpose of journey to and from the creche or the place where the children are left by women while on duty, provided that such extra period shall not be of less than 5 minutes' and more than 15 minutes' duration. If any dispute arises regarding such extra period, the matter shall be referred to the competent authority for decision.

7. Duties and powers of the competent authority and Inspectors :-

(1) The competent authority shall be responsible for the administration of these rules throughout the territories to which they extend.

(2) Every Inspector shall discharge his duties within the area assigned to him by the Central Government and shall act under the supervision and control of the competent authority

.

(3) Every Inspector shall at each inspection of a-

(a) whether due action has been taken on every notice given under Section 6 ;

(b) whether the muster-roll prescribed under rule 3 is correctly maintained:

(c) whether there have been any cases of discharge or dismissal or notices of discharge or dismissal in contravention of the provisions of Section 12 since the last inspection:

(d) whether the provisions of sub-section (1) of Section 4 , sub-sections (5) and (6) of Section 5 , Secs. rule 8,rule 9, rule 10, Section 11 , Section 13 , and Section 19 have been complied with and whether amounts due have been paid within the prescribed time

(e) whether there have been any cases of deprivation of maternity benefit or medical bonus in contravention of sub-section (2) of Section 12 : and

(f) how far the irregularities pointed out at previous inspections have been remedied and how far orders previously Issued have been complied with.

(4) Where an Inspector observes irregularities against the Act or these rules, he shall issue orders in writing to the employer asking the latter to rectify the irregularities within a specified period and to report compliance to the Inspector.

8. Acts which constitute gross misconduct :-

The following acts constitute gross misconduct for purpose of Section 12 , namely :

(a) wilful destruction of employer's goods or property:

(b) assaulting any superior or co-employee at the place of work:

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

(d) theft, fraud, or dishonesty in connexion with the employer's business or property: and'

(e) wilful non-observance of safety measures or rules on the subject or wilful interference with safety devices or with fire-fighting equipment.

9. Appeal under Sec. 12 :-

(1) An appeal under Cl. (b) of sub-section (2) of Section 12 shall be preferred to the competent authority in Form "G".

(2) The appeal may be made in writing and either handed over personally or sent under a registered cover to the competent authority

.

(3) When an appeal is received, the competent authority shall furnish a copy of the memorandum of appeal to the employer, call for his reply thereto and also ask him to produce documents connected with the issue of the appeal by a fixed date. The competent authority may ascertain further details. If necessary, from the employer as well as from the woman. On considering the facts presented to him and ascertained by him the competent authority shall give his decision. In case the employer fails to submit his reply or produce the required documents within the specified period, the competent authority may give his decision ex parte.

10. Complaint under Sec. 17 :-

(1) A complaint under sub-section (1) of Section 17 shall be made in writing in Form "H" or "I", as the case may be.

(2) When a complaint referred to in Section 17 is received by an Inspector, he shall examine the relevant records maintained by the employer in this behalf, examine any person employed in ¹ [the mine or circus) and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under Section 7 , as the case may be, immediately or within a specified period.

1. Subs. by G.S.R. 59 (E). dated 27th February, 1975.

11. Appeal under Sec. 17 :-

(1) An appeal against the decision of the Inspector under sub-section (2) of Section 17 , shall lie to the competent authority.

(2) The aggrieved person shall prefer an appeal in writing to the competent authority in Form "J" and file other supporting documents.

(3) When an appeal is received, the competent authority" shall call from the Inspector before a fixed date, the record of the case. The competent authority shall, if necessary, also record the statements of the aggrieved person, and of the Inspector and seek clarification, if any, is required.

(4) Taking into account the documents, the evidence produced before him and the facts presented to him or ascertained by him, the competent authority shall give his decision.

12. Supply of forms :-

The employer shall supply to every woman employed by him at her request free of cost copies of Forms "B". "C", "D", "E". "F", "G", "H". and "I".

13. Non-submission of notices, appeals or complaints in the prescribed forms :-

Nothing in rule 5, rule 9 and rule 10 shall affect the right of a woman entitled to receive maternity benefit or any other amount due under the Act if she fails to submit a notice, appeal or complaint under the said rules, as the case may be. In a prescribed form: Provided that where a notice, appeal or complaint under the said rules has been submitted by a woman entitled to receive maternity benefit or any other amount due under the Act In a form other than the prescribed form, the authority concerned may, within 15 days of the receipt of such notice, appeal or complaint, require the woman to submit the notice, appeal, or complaint, as the case may be, in the prescribed form.

14. Records :-

Records kept under the provisions of the Act and these rules shall be preserved for a period of two years from the date of their preparation.

15. Abstract :-

The abstract of the provisions of the Act and these rules required to

be exhibited under Section 19 shall be In Form "K" and shall be exhibited in such manner as the competent authority may require.

16. Annual returns :-

(1) The employer of ¹[every mine or circus] shall on or before the 21st day of January in each year submit to the competent authority return In each of the Forms "L", "M". "N" and "O" giving information as other particulars specified in respect of the preceding year.

(2) If the employer of ¹[a mine or circus] to which the Act applies sells. abandons or discontinues the working of ¹ [the mine or circus], he shall, within one month of the date of sale or abandonment or four months of the date of discontinuance, as the case may be, submit to the competent authority a further return in each of the said forms In respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

1. Subs. by G.S.R. 59 (E). dated 27th Februnry, 1975.