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THE MINES MATERNITY BENEFIT ACT, 1941

ACT No. XIX OF 1941

[26th November, 1941]

An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Mines Maternity Benefit Act, 1941.

1[(2) It extends to the whole of Pakistan. ]

(3) It shall come into force on such date? as the >[Federal Government] may, by notification in the official Gazette, appoint.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,—

(al) Ape \* \* \* \* \*

(a) "child" includes a still-born child;

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(b) "Chief Inspector", "Inspector", "employed", "mine" and "owner" have the meanings assigned, respectively, to these expressions in section 3 of the Mines Act, 1923 (IV of 1923);

(c) "manager" means the manager of the mine appointed in accordance with the provisions of the Mines Act, 1923 (IV of 1923);

(d) "maternity benefit" means the payment referred to in section 5;

(e) "prescribed" means prescribed by rules made under this Act.

5[3. Prohibition of employment of, and work by women during certain period.— (1)] No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the °[six weeks] following the day on which she is delivered of a child.

'Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch.

\*Brought into force with effect from the 28th December 1942, see Gazette of India, 1943, Pt. I, p. 32.

3Subs. by the Federal Adaptation of laws Order, 1975 (P. O. No. 4 of 1975), Art. 2 and Table.

4Omitted by the Central Adaptation of Laws Order, 1964 (P. O No. 1 of 1964), Art. 2 and Sch.

5Re-numbered by Act No. X of 1945, s. 2.

Subs. by Act No. XXI of 1950, s. 2.

1[(2) No owner or manager of a mine shall employ any woman below ground in the mine—

(a) if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;

(b) if she has to the knowledge of the management been delivered of a child within the preceding twenty-six weeks;

(o) during the period of ten weeks following the twenty six weeks referred to in

clause (b)—

(i) for more than four hours in a day unless a creche is provided at the mine;

(ii) in any case, for more than four hours at any one time :

Provided that where the woman informs the management that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement. ]

4. Right to obtain leave of absence in pregnancy and after delivery.—(1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within [one and a half months] from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave:

Provided that '[except in the case of a woman employed below ground in the mine] the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within \*[one and a half months], he may refuse such permission.

1[(2) If any woman employed below ground in a mine gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within ten weeks from the date of such notice, the manager may, on undertaking to defray the cost of such examination, require the woman to be examined within three days by a qualified medical practitioner or midwife, and shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the woman is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination, up to the day of her delivery, and such absence shall be treated as a period of authorised absence on leave.

(3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the woman so desires, be carried out by a woman.

(4) The absence of a women in the period during which she is entitled to maternity benefit under this Act shall be treated as authorised absence on leave.]

'Added and subs. by Act No. X of 1945, s. 2-3.

Subs. by Act No. XXI of 1950, s. 3.

115. Right to and liability for payment of maternity benefit—(1) Every woman [other than a woman to whom the provisions of sub-section (2) apply] employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of [twelve annas] a day for every day [\* \* \*] during the >[six weeks] immediately preceding and including the day of her delivery and for each day of the >[six weeks] following her delivery:

\*[Provided that no such payment shall be made for any day on which she attends work and receives payment there for during the 3[six weeks] preceding her delivery.]

1[(2) Every woman who has worked below ground in a mine or mines of the same owner for not less than ninety days in all during a period not exceeding six months immediately preceding the date on which clause (a) of sub-section (2) of section 3 becomes applicable to her case shall, if she complies with the other conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of six rupees a week for the ten weeks immediately preceding her delivery and for the six weeks following her delivery. ]

Explanation.— Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

6. Payment of bonus.—(1) The “[Provincial Government] may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees:

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the Provincial Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

7. Notice of delivery to be given to manager. A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) \*[or sub-section (2), as the case may be] of section 4, shall on being delivered of a child give notice of her delivery in the prescribed manner to the manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery:

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

'Re-numbered, subs and added by Act No. X of 1954, s. 4.

Omitted and added by Act No. XVIII of 1943, s. 2.

Subs. by Act No. XXI of 1950, s. 4.

4Subs. by the Central Adaptation of Laws Order, 1964 (P. O No. 1 of 1964), Art. 2 and Sch.

'Ins. by Act No. X of 1945, s. 5.



8. Payment of maternity benefit—(1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work up to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for [six weeks] in advance.

211A) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (2) of section 4, the manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate that she is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination. ]

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7, —

(a) if she has received an advance payment under sub-section (1) \*[or sub-section (1A)] be paid the balance of the maternity benefit due to her at the end of the 'sixth week] from the date of her delivery or within three days of the furnishing of proof, whichever date is later;

(b) if she has received no such advance payment,—

(i) if the proof is furnished, before the end of the '[sixth week] from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said '[sixth week];

(ii) if the proof is furnished after the end of the '[sixth week] from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

9. Disposal of maternity benefit in case of death of women entitled to receive it.— (1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) [or sub-section (1A)] of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) 7\*[or sub-section (1A)] of section 8 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of the child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section 7 or if she has made no such nomination to the legal representative of the deceased woman.

<sup>1</sup>Subs. by Act No. XXI of 1950, s. 5.

<sup>2</sup>Ins. by Act No. X of 1945, ss. 6-7.

10. Prohibition of dismissal during or on account of absence from work owing to confinement.— (1) When a woman absents herself from work in accordance with '[sub-section (1) of section 3 or in circumstances under which in accordance with this Act the absence is to be treated as authorised absence on leave] it shall be unlawful for the manager to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a women at any time within six months before she is delivered of a child, if the women but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

11. Power of Chief Inspector or Inspector to direct payments to be made.— (1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any inspector '[or any other officer authorised in this behalf by the 7[Provincial Government]].

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector '[or other officer] may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

12. Penalty for contravention of Act by a woman. Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of [subsection (1) of section 3], shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act shall forfeit her right to any maternity benefit not already paid to her.

13. Penalty for contravention of Act by owner or manager.—(1) Any owner or manager of a mine, who contravenes any provision of this Act for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

14. Cognizance of cases.— (1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector ![or of an officer authorised in this behalf by the 7[Provincial Government]].

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder.

<sup>1</sup>Subs. added and ins. by Act No. X of 1945, ss. 8-11.

<sup>2</sup>Subs. by the Central Adaptation of Laws Order, 1964 (P. O No. 1 of 1964), Art. 2 and Sch.

(3) No Court shall take cognizance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that in computing the said period of six months any time spent in obtaining the sanction [\* \* \*] required by sub-section (1) shall be excluded.

15. Power of Provincial Government to make rules.— (1) The [Provincial Government] may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) require the maintenance of registers and records for the purposes of this Act and prescribe the form thereof;

(b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers;

(c) regulate the examination of women [referred to in] section 4, and the grant of the certificates therein referred to;

(da) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9;

(e) regulate the manner of applying for and paying maternity benefit;

) assign duties, to, and regulate the powers of, the Chief Inspector and Inspectors, [and the officers authorised by the 7[Provincial Government] referred to in section 11 and sub-section (1) of section 14] for the purposes of this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

16. Abstract of this Act and the rules made thereunder to be exhibited in mines.— (1) The manager of every mine in which women are employed shall cause an abstract in the local [\*] language of the provisions of this Act and of the rules made there under to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

17. Power of Provincial Government to exempt mines from operation of Act. The [Provincial Government] may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act.

18. Act binding on 4[Government]. The provisions of this Act shall be binding on the 4[Government].

'Omitted, subs. and ins. by Act No. X of 1945, ss. 11 and 12.

Subs. by the Central Adaptation of Laws Order, 1964 (P. O No. 1 of 1964), Art. 2 and Sch.

Omitted by the Central Adaptation of Central Acts & Ordinances Order, 1949 (Order No. 4 of 1949), Art. 3

