

# ASSAM ACT I OF 1944

## THE ASSAM MATERNITY BENEFIT ACT, 1944

(Passed by the Assam Legislature)

(Received the assent of the Governor on the 14th January 1944.)

[Published in the Assam Gazette of the 19th January 1944.]

An

Act

to regulate and to provide for maternity benefits to women workers in certain classes of employment.

### Preamble.

WHEREAS it is expedient to regulate the employment of women workers on a wage or salary basis in factories, plantations and any other establishments which the Provincial Government may notify in this behalf for certain periods before and after childbirth and to provide for the grant to them of maternity benefits ;

It is hereby enacted as follows :—

### Short title, extent and commencement.

1. (1) This Act may be called the Assam Maternity Benefit Act, 1944.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, direct.

(4) It shall apply to factories and plantations, and to such other establishments, not being mines or oilfields, as the Provincial Government may in the Official Gazette notify in this behalf.

### Definitions.

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

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

(b) "Delivery" means the birth of a child ;

(c) "Employer" includes the owner and any person charged with the management of any factory, plantation or other establishment to which the Act applies or may be extended ;

(d) "Factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 ;

(e) "Inspector" means an Inspector appointed under section 13 of this Act ;

(f) "Maternity benefit" means the sum of money payable under the provisions of this Act to a woman employed by an employer ;

[Price annas 3 or 4d.]

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(g) "Medical practitioner" means a practitioner registered under the Assam Medical Act, 1916, or a medical practitioner who has been employed on plantations in Assam for not less than five years before this Act comes into force and is approved by the Provincial Government ;

Assam Act  
1 of 1916.

(h) "Medical treatment and attendance" means the provision of proper and sufficient medicines, and medical and surgical appliances for the treatment of, women in confinement, and the treatment of, and medical attendance on, such women ;

(i) "Plantation" means any estate which is maintained for the purpose of growing tea or any other agricultural produce notified in this behalf by Government, and in which ten or more women have been employed at any time during the year preceding the date on which a claim arises under the Act ;

(j) "Wages" means wages as defined in clause (vi) IV of 1936 of section 2 of the Payment of Wages Act, 1936 ; and

(k) "Woman" means a woman worker.

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tain period.

### 3. After this Act comes into force—

(1) no employer shall knowingly employ a woman in any employment during the four weeks immediately preceding the day of her delivery save upon such suitable light work as may be recommended by the medical practitioner ;

(2) no employer shall knowingly employ a woman in any employment during the eight weeks immediately following the day of her delivery ;

(3) no woman in receipt of maternity benefit shall work under any employer during the eight weeks immediately following the day of her delivery ;

(4) if a woman works in any employment for which she receives wages or remuneration during the period of eight weeks following the date of delivery she shall be liable on conviction to a fine not exceeding ten rupees :

Inserted by  
Amending  
Act of 1951  
(Assam Act  
XVII of  
1951).

Provided that in case of plantations, each of the periods prescribed in sub-sections (2), (3) and (4) of this section will be eight weeks.

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4. (1) Subject to the provisions of this Act, a woman who is employed during the period of four weeks immediately preceding or any period following the four weeks (immediately following the date of delivery) over which the maternity benefit may be spread, shall receive the maternity benefit due under this Act in respect of such periods in addition to her earnings, if any.

(2) Subject to the provisions of this Act maternity benefit shall be granted,—

(a) on plantations, at the rate of Re.0-11-6 a day.

*during the  
period prescribed.*



in sub-section (1) in addition to usual food concession and such payments should be made weekly,

(b) otherwise than in plantations, for the total period provided in the next following sub-section at the average rate of wage or salary earned during the twelve weeks immediately preceding the date on which notice of absence is given under the next following section, such rate being payable weekly and calculated at one-twelfth of the wage or salary so earned, subject to a minimum of rupees two per week.

(3) Save in plantations, the maximum period for which any woman shall be entitled to the payment of maternity benefit shall be eight weeks, that is, four weeks up to and including the day of her delivery, and four weeks immediately following that day.

(4) If a woman dies within the period for which maternity benefit is payable under this Act, and no child survives from the confinement, maternity benefit shall be payable proportionately for the period preceding her death. If a child survive the mother from the confinement, the amount of maternity benefit which would have been admissible to the mother had she survived shall be payable to the person in whose custody the child remains.

(5) The employer of any woman entitled to maternity benefit under this Act shall be liable to pay such benefit.

Procedure  
regarding  
payment of  
maternity  
benefit.

5. (1) Any woman entitled to maternity benefit under this Act may at any time give notice to her employer stating that she expects to be confined. Such notice shall be reduced to writing by the employer, and in order to ascertain the probable day of delivery he may require her to be medically examined.

(2) The employer shall, not later than four week before the day when it is expected that the woman will be confined, subject to the provisions of sub-section (1) of section 4, permits such woman to absent herself from the employment until the expiry of four weeks and in the case of plantations eight weeks from the day of her delivery.

(3) Save in plantations, the payment of maternity benefit shall be regulated after consideration of the wishes of the woman in any one of the following three ways, namely :—

(i) for four weeks, within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within four weeks next following ; and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (3) of section 4, within forty-eight hours of the production of proof that the woman has given birth to a child ; or



(ii) for the period up to and including the day of delivery, within forty-eight hours of the production of proof that the woman has given birth to a child, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (2) of section 4, within a period of four weeks from the date of furnishing such proof; or

(iii) for the entire period for which the woman is entitled to maternity benefit under section (2) of section 4, within forty-eight hours of the production of a certified extract from birth register stating that she has given birth to a child.

Qualifying period to entitle maternity benefit.

6. (1) No woman shall be entitled to maternity benefit under this Act unless she has worked directly under the employer from whom she claims such benefit for a total of one hundred and fifty days during the period of twelve months immediately preceding the date on which notice is given. No qualifying period shall be required in respect of an immigrant woman who was pregnant when she first arrived in Assam.

2. (i) No woman shall be entitled to maternity benefit under this Act in respect of a pregnancy which in the opinion of the medical practitioner does not exceed a period of 3 months.

(ii) No woman shall be entitled to maternity benefit under this Act in respect of any miscarriage which is illegal within the meaning of section 312 of the Indian Penal Code (Act XLV of 1860).

Proof of birth of child.

7. When proof is required that a woman has given birth to a child it shall be either a certified extract from a birth register under the Assam Births and Deaths Registration Act, 1935, or a certificate signed or countersigned by a medical practitioner, or such other proof as may be accepted by the employer, and such proof shall be produced within twelve months from the date of delivery.

Assam Act  
II of 1935.

Inserted by amending Act of 1951. (Assam Act XVII of 1951)



Medical treatment and attendance during period of maternity benefit.

8. Subject to the provisions of this Act, every woman shall be entitled to medical treatment and attendance during pregnancy and at and after confinement.

Free Medical attendance during period of maternity benefit.

9. The employer shall either himself provide upon the premises to which the Act applies free medical treatment and attendance for every woman entitled to maternity benefit or shall make such arrangements with a medical practitioner to provide such treatment and attendance as are approved by the Civil Surgeon of the district either generally or specially, subject to the control of the Inspector-General of Civil Hospitals.

Payment of maternity benefit in case of a woman's death.

10. If a woman entitled to maternity benefit under this Act dies during the period for which she would have been entitled to maternity benefit, the amount of benefit due shall be payable, subject to the provisions of sub-section (4) of section 4, to any person nominated by the woman at the time of giving notice under sub-section (1) of section 5 or, if no such nomination has been made to her legal representative.

No notice of dismissal to be given to a woman during the period of maternity benefit.

11. (1) When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) No notice of dismissal given without sufficient cause by an employer within a period of six months before her delivery shall have the effect of depriving her of any maternity benefit to which, but for such notice, she may have become entitled under this Act.

Penalty for contravention of the Act by an employer.

12. (1) If any employer contravenes any of the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

(2) Whenever a Court imposes a fine under this section or confirms an appeal, revision or otherwise such a sentence, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied in the payment of compensation to the woman concerned for any loss or damage caused to her by the contravention of a provision of this Act on account of which the fine has been imposed.

Inspectors.

13. The Provincial Government may by notification in the Official Gazette appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively. Where medical officers are appointed as Inspectors, they shall be of a rank not less than that of Assistant Surgeon.



Cognizance  
of offence.

14. (1) No prosecution under this Act shall be instituted except on the complaint of an Inspector appointed under this Act.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation  
of prosecu-  
tions.

15. No Court shall take cognizance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

16. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act after previous publication.

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

- (a) The preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 41 of the Factories Act, 1934, or under any other law in force in Assam ;
- (b) the inspection of places of employment for the purpose of this Act by the Inspectors ;
- (c) the exercise of power and the performance of duties by the Inspectors for the purpose of this Act ;
- (d) the method of payment of maternity benefit in so far as provision has not been made in this Act ;
- (e) the inspection by medical officers of the medical treatment and attendance provided, and the manner in which medical certificates shall be granted ; and
- (f) the manner in which a complaint of an offence shall be made by an Inspector.

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

Abstract of  
this Act and  
the rules  
thereunder  
to be exhi-  
bited.

17. An abstract of the provisions of this Act and the rules thereunder in the local vernacular, as prescribed by Government, shall be exhibited in a conspicuous manner by the employer in every part of a place or area in which women are employed.