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THE ASSAM MATERNITY BENEFIT RULES, 1956

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THE ASSAM MATERNITY BENEFIT RULES, 1956.

The 20th December 1965

No.GLR.634/64/42.—In exercise of the powers conferred by section 28 of the Maternity Benefit Act, 1961 (Act 53 of 1961), the Governor of Assam is pleased to make the following Rules, the same having been previously published under Government Notification No.GLR.634/64/26, dated 17th April 1965.

THE ASSAM MATERNITY BENEFIT RULES, 1965

1. Short title and commencement.—(1) This rules may be called the Assam Maternity Benefit Rules, 1965

(2) They shall come into force on such date as Government may, by notification in the official Gazette, appoint.

2. Definitions—In these rules, unless the context otherwise requires—

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

(b) "certifying surgeon" means a registered medical practitioner who has been appointed to be certifying surgeon under the Factories Act, 1948 or the Plantations Labour Act, 1951 ;

(c) "competent authority" means the Labour Commissioner-*cum*-Chief Inspector of plantation, Assam ;

(d) "Form" means a form appended to these rules;

(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 here in after but not defined herein shall have the same meaning as respectively assigned to them in the Act.

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

effect from a Registered Medical Practitioner or from a certifying surgeon:

Provided that if the employers so desire they may get the claimant for maternity leave for illness examined by their own Medical Officers.

The certificate shall be in Form 'A'.

(ii) 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 midwife.

(iii) The fact that a woman has undergone miscarriage may also be proved by the production of a certificate signed by a registered midwife.

(iv) The fact of death of a woman or a child may be proved by the production of a certificate in Form "B" from the authority mentioned in sub-rule (i) 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.

(v) The certificate from a registered midwife shall be in Form "C".

4. **Payment of maternity and other benefit.**—(i) the notice required under section 6 shall be in Form "D".

(ii) Where the claims admitted, the employer shall make payment of the maternity benefit and any other amount due under the Act to the woman concerned, or to the person nominated, or to her legal representative, as the case may be, and the payments so made shall be duly receipted.

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

(iv) 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.

(v) The wages payable under section 9 shall be paid to the woman entitled to receive such wages within forty-eight hours of the production of her certificate in form 'A' or 'C':

Provided that such wages shall be paid to the workers in plantations on the next pay day which however shall not be later than seven days from the date of production of the certificates in form 'A' or 'C'.

(vi) The wages payable under section 10 shall be paid within forty-eight hours of the expiry of the period of leave referred to in that section.

(vii) Wherever the employer rejects or disputes any claim to maternity benefit or any other amount due under the Act, he shall communicate within seven days the fact of such rejection or dispute together with a statement of the circumstances of the case to the nearest Inspector who shall report the fact to the competent authority.

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5. **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 the journey to and from the creche or the place where the children are lefe by women while on duty. If any dispute arises regarding such extra period, the matter shall be referred to the competent authority for decision.

6. **Duties and powers of competent authority and Inpectors.**—(1) The competent authority shall be responsible for the administration of these rules throughout the State.

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

(3) Every Inspector shall at each inspection see—

(a) Whether due action has been taken, on every notice given under section 6 ;

(b) whether the register and records prescribed under the rules are correctly maintained ;

(c) whether there have been cases of discharge or dismissal or notice 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-section (5) and (6) of section 6, Sections 8, 9, 10, 11, 13 and 19 have been complied with and whether amounts due have been paid within the prescribed time ;

(e) whether there have been any cases of deprival 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 ;

(g) when an Inspector observes any irregularities; he shall issue orders in writing to the employer to rectify the said irregularities within a specified period and to report compliance to the Inspector.

7. **Acts which constitute gross misconduct.**—The following acts shall constitute gross misconduct for the purpose of section 12, viz.,

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

(b) Assaulting any superior or co-worker within the precincts of the Employer's Establishment.

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

(d) theft, fraud, or dishonesty in connection 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.

8. **Appeal under section 12.**—(I) An appeal under clause (b) of sub-section (2) of section 12 shall be preferred to the competent authority in form E., and the appeal shall be handed over personally or sent under a registered cover to the competent authority.

(ii) The competent authority shall furnish a copy of the memorandum of appeal to the employer, call for his reply thereto and ask him to produce documents connected with the issue of the appeal by a fixed date. The competent authority may ascertain further details from the employer as well as from the woman before giving 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*.

9. **Complain and Appeal under section 17.**—(i) A complaint under sub-section (I) of section 17 may be made verbally or in writing.

(ii) An appeal against the decision of an Inspector under section 17(2) shall lie to the competent authority and the aggrieved person shall prefer the appeal in writing and file other supporting documents.

10. **Supply of forms.**—The employer shall supply to every woman employed by him at her request free of cost copies of forms that may be required for the purposes of these rules.

11. **Non-submission of notices, appeals or complaints in the prescribed forms.**—Nothing in these rules 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.

12. **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.

13. **Abstract.**—The abstract of the provisions of the Act and these rules required to be exhibited under section 19 of the Act shall be in form F and shall be exhibited in such manner as the competent authority may require.

14. **Muster roll.**—(1) Every employer shall maintain a muster roll ei Form G and shall enter all particulars specified in the form in inspect of all women workers employed by him

(ii) All entries in the muster roll shall be made in ink and maintained up-to-date, and it shall be made available for inspection by the Inspector at any time during working hours.

15. Annual returns.—(i) Every employer shall, on or before the 21st day of January in each year, submit to the competent authority and the Inspector for the locality a return in form H giving information as to the particulars specified in respect of the preceding calendar year.

(ii) If any employer of any establishment sells, abandons, or discontinues of the working of the establishment, he shall, within one month of the date of sale or abandonment or four months of the discontinuance, as the case may be, submit to the competent authority and the Inspectors for the locality a further return in the aforesaid form in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

FORM A

[*See* rule 3 (i)]

This is to certify that I examined ..... wife/daughter of ..... a woman employee in..... (name of establishment) on..... ... (date) and found/cannot discover that she is pregnant and is expected to be delivered of a child within (month and days) from the above mentioned date/has undergone miscarriage/has been delivered of a child on .....(date) or is suffering from .....(date) from illness arising out of pregnancy/delivery/ premature birth of child or miscarriage.

Date..... Signature, qualification and designation of the Medical Officer concerned.

Definitions of "child" and "miscarriage" as in the Maternity Benifit Act, 1961.....

1. "Child" includes a still-born child.

2. "Miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code.

FORM B

[*See* rule 3 (iv)]

This is to certify that Smti.....wife/daughter of.....employed in.....—... (name of establishment) expired on..... .....before/during/after confinement. The child died on.....survives her.

Date..... Signature, qualification and designation of the Medical Officer concerned.

FORM C

[*See* rule 3 (v)]

This is to certify that I examined.....wife/daughter of..... a woman employee in.....(name of establishment) and found that she has been delivered of a child/has undergone miscarriage on..... (date).

Date..... Signature of registered midwife.

Definition of "child" and "miscarriage" as in the Maternity Benefit Act, 1961..... (*See* under Form 'A').

FORM D

[*See* rule 4(i)]

Notice under section 6 of the Maternity Benefit Act, 1961 .....(name of establishment).

I,.....(name of woman) wife/daughter of..... employed as..... .....at .... (name of establishment), hereby give notice that I expect to be confined within six weeks next following from the date of this notice/have given birth to a child on..... .. ..(date) and shall be absent from work from .....(date). I shall not work in any establishment during the period for which I receive maternity benefit.

2. For the purpose of Section 7, I hereby nominate.....(here enter the name and address of nominee) to receive maternity benefit and/or any other amount due to me under the Act in case of my death.

Signature of an Attestor in case woman affixes thumb impression.

Signature/thumb impression of woman.

Date.....

FORM E

[*See* rule 8 (i)]

To

The competent authority appointed under the Maternity Benefit Act, 1961.

....(Address).

Sir,

I,... .. . .the undersigned woman employee of .....(name of establishment with full address) having been wrongfully deprived by the employer of maternity benifit or medical bonus or both (strike out unnecessary portion) prefer this appeal under sub-section (2) of Section 12 and request that the said employer be ordered to pay the abovementioned amount to me. A copy of the order of the employer in this behalf is enclosed.

Signature or thumb impression of the woman.

Signature of an Attestor in case the woman is unable to sign full Address of nominee/legal representative.

Date.....

FORM F

(*See* rule 13)

(Abstract of the Maternity Benefit Act, and the rules made thereunder)

1. No employer shall knowingly employ a woman during the eight weeks immediately following the date of her delivery or miscarriage and no woman shall work in any establishment during the said period.

2. No pregnant woman shall on a request being made by her in this behalf, be required by her employer to do during the period of one month immediately preceding the period of eight weeks before the date of her expected delivery and also for any period during this period of eight weeks for which she does not avail of leave of absence, any work which is of an arduous nature or which involves long hours of standing, or which in way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

3 (1) Subject to the provisions of the Act, every woman who has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than one hundred and fifty days, including the days during which she was laid off, shall be entitled to, and her employer shall be liable for, the Payment of maternity benefit at the rate of her average daily wages, or one rupee a day, whichever is higher for the period of her actual absence not exceeding four weeks immediately preceding and including the day of her delivery and for the eight weeks immediately following that day :

Provided that the qualifying period of one hundred and fifty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of immigration :

Provided further that where a woman dies during the period for which maternity benefit is payable to her, the benefit shall be payable only for the days upto and including the day of her death. However, where the woman having been delivered of child, dies during her delivery or during the period of eight weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the payment of maternity benefit for the entire period of eight weeks immediately following the date of her delivery but if the child also dies during the said period then, for the days upto and including the day of the death of the child.

3. (2) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of a certificate in form 'A' stating that she is pregant and is expected to be delivered of a child within six weeks of the date of production of the certificate, and the amount due for the subsequent period shall be paid by the employer

to the woman within forty-eight hours of production of the certificate in form 'A' or form 'C' stating that she has been delivered of a child or production of a certified extract from a birth register maintained under the provisions of any law for the time being in force.

4. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in form 'D' to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

4. (2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

4. (3) Any woman who has not given the notice, when she was pregnant may give such notice, as soon as possible after the deliverys

4. (4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment until the expiry of eight weeks after the date of her delivery.

5. (1) Every woman entitled to maternity benefit under the Act. shall also be entitled to receive from her employer a medical bonu, of twenty-five rupees, if no pre-natal, confinement and post-natal care is provided for by the employer free of charge. The medical bonus shall be paid along with the second instalment of the maternity benefit.

5. (2) In case of miscarriage. a woman shall, on production of a certificate in Form 'A' or 'C', be entitled to leave with wages at the rate of maternity benefit, for a period of eight weeks immediately following the date of her miscarriage. The wages shall be paid within 48 hours of production of the certificate in Form 'A' or Form 'C'.

5. (3) A woman suffering from illness, arising out of Pregnancy, delivery, premature birth of child or miscarriage shall on production of a certificate in Form 'A' be entitled in addition to the period of absence allowed to her on account of maternity or miscarriage as the case may be, to leave with wages at the rate of maternity benefit for a maximum period of one month. The wages for the leave period shall be paid 48 hours of the expiry of that period.

6. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of 15 minutes duration for nursing the child until the child attains the age of fifteen months. An extra sufficient period depending upon the distance to be covered, shall be allowed for the purpose of the journey to and from the creche or the place where the children are left by woman while on duty.

7. (1) When a woman absent herself from work in accordance with the provisions of the Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absent or to give notice, of discharge or dismisal on such a date that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus shall not have the effect of depriving her of the maternity benefit or medical bonus :

Provided that where the dismissal is for one or more of the following acts the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both,—

(i) wilful destruction of employer's goods or property,

(ii) assaulting any superior or co-employee at the place of work ;

(iii) criminal offence involving moral turpitude resulting in conviction in a court of law ;

(iv) theft, fraud, or dishonesty, in connection with the employer's business or property ; and

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

(b) Any woman deprived of maternity benefit or medical-bonus or both may, within sixty days from the date on which the order of such deprivation is communicated to her ; appeal in Form "E" to the competent authority and the decision of the said authority shall be final.

8. If a woman works in any establishment after she has been permitted by her employer or absent herself under the provision of the Act, she shall forfeit her claim to the maternity benefit for such period.

9. (1) Any woman claiming that maternity benefit or any other amount to which she is entitled, under the Act and any person claiming that payment due has been improperly withheld may make a complaint to the Inspector either verbally or in writing.

(2) The Inspector may, on his own motion or on receipt of a complaint make an enquiry or cause an enquiry to be made and if satisfied that any payment has been wrongfully withheld, he may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the Inspector may within thirty days from the date on which such decision is communicated to such person, appeal to the competent authority, whose decision shall be final.

If no such appeal is preferred, the decision of the Inspector shall hold good.

10. (a) The employer shall supply to every woman employed by him at her request, free of cost, copies of Forms 'A', 'B', 'C', 'D and 'E'.

(b) The failure to submit a notice, appeal or complaint in the prescribed from will not effect the right of a woman entitled to receive maternity benefit or any other amount due under the Act.

11. (a) (1) The employer of every establishment in which women are employed shall prepare and maintain a muster roll in Form 'G' and shall enter therein particulars of all women workers in the establishment.

(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.

(b) The employer of every establishment shall on or before the 21st day of January, each year submit to the competent authority, Assam and the local Inspector a return in Form 'H' giving information as to the particulars specified in respect of the preceding year.

FORM G. [*See* rule 14 (i)]

Muster Roll

Name of establishment.....Address.....

Serial	Name of Woman	Name of husband/ father	Nature of work	Date of appoint-ment	Date with month and year in which she is employed, laid-off and not employed.			
					Month	No. of days em-ployed	No. of days laid-off	No. of days employed
1	2	3	4	5	6(a)	6(b)	6(c)	6(d)

Date on which the woman gives notice under section 6	Date of discharge or dismissal, if any	Date of production of proof of pregnancy	Date of birth of child	Date of production of proof of delivery/mis-carriage/death	Date of production of proof of illness referred to in section 10
7	8	9	10	11	12

FORM G. [*See* rule 14(i)]

Muster Roll

Name of establishment..... Address.....

Date of payment and the amounts paid in respect of maternity benefit. bonus, or wages on account of leave under section 9 or under section 10 as the case may be.

Dates of payment	Amount paid	To whom paid	Signature or thumb impression of payee	Remarks indicating the nature of payment, whether maternity benefit, bonus, or leave wages as the case may be.	Name of person nominated under section 6.	If the woman dies, the date of death	If the child date of death	Signature of employer authenticating the entries made	Remarks (for use by the Inspector)
13(a)	13(b)	13(c)	13(d)	13(e)	14	15	16	17	18

FORM H

[*See* **rule 15(i)**]

Annual return under the Maternity Benefit Act, 1961 for the year ending 31st December, 19.....

(To be furnished to the competent authority and the local Inspector on or before the 21st January)

(1) Name and full address of establishment.

(2) Name of the employer whether proprietor, Manager, Managing Director, or partners as the case may be and address.....

(3) Name of the pre-natal confinement, and post-natal care provided for by the employer free of charge (give particulars of medical Staff engaged, amount spent on deit and medicine, and hospitalisation facilities made available.....

(4) Total number of women employed during the year, whether permanently or temporarily... .. ..

(5) Number of women who worked for not less than 150 days during the twelve months immediately preceding the date of confinement .... (The days worked include the days laid off).

(6) Number of women who gave notice under section 6.....

(7) Number of women who were granted permission to absent on receipt of notice of confinement .....

(8) Number of claims for maternity benefit paid—(a) in part.....
(b) in full.....

(9) Number of claims for maternity benefit rejected.....

(10) Number of cases where pre-natal confinement and post-natal care was provided by the management free of charge.....

(11) Number of claims for medical bonus paid.....

(12) Number of claims for medical bonus rejected.....

(13) Number of cases in which leave for miscarriage was granted..... .....

(14) Number of cases in which leave for miscarriage was applied for but was rejected.....

(15) Number of cases in which additional leave for illness under section 10 was granted.....

(16) Number of cases in which additional leave for illness under section 10 was applied for but was rejected.....

(17) Number of women who died—(a) before delivery.....
(b) after delivery.....

(18) Number of cases in which payment was made to persons other than the woman concerned.....

(19) Number of expectant woman discharged or dismissed while working .....

(20) Number of women deprived of maternity benefit and/or medical bonus under proviso to sub-section (2) of section 12.....
.....

(21) Number of cases in which payment was made on the order of the competent authority or Inspector.....

(22) Total amount paid as ;—

(a) Maternity benefit.....

(b) Medical bonus.....

(c) Wages for leave for miscarriage sanctioned under section 9 .....

(d) Wages for additional leave sanctioned under section 10 .....

(23) Remarks.....
.....

N. B.—Full particulars of each case and reasons for the action taken under serials 9, 12, 14, 16, 19 and 20, should be given in an appendix.

S. J. DAS,
Secy. to the Govt. of Assam,
Labour Department.

AGP. (Gau) F. No. 191/77 Copy—1--4—1977.