

Appendix-XXIV
Resolution No. 50



दिल्ली विश्वविधालय
UNIVERSITY OF DELHI

स्थापना शाखा-१
Establishment Branch-I
Room No. 114, old Examination Block
दिल्ली- ११०००७
Delhi-110007
Tel. No.-27001167 Ext. 1167.

Ref. No. Estab.I/Mat. Leave/Contract/2019

25th January, 2021

NOTIFICATION

The Competent Authority has constituted a Committee consisting of the following members to decide & suggest on the issue of "Grant of Maternity Leave to the contractual women employees working in the University/Colleges of the University."

1. Prof. (Dr.) Kamala Shankaran, Campus Law Centre, Faculty of Law, University of Delhi.
2. Prof. Neera Agnimitra, Department of Social Work, University of Delhi.
3. Mrs. Raj Bhatia, Assistant Registrar (Finance), University of Delhi.
4. Mrs. Meenakshi Sahay, Joint Registrar (Recruitment), University of Delhi.
5. Sh. Jay Chanda, Joint Registrar (Academics) & FAA, University of Delhi.


Joint Registrar-Estab. (N/T)

stab-I
2288
1/2/21

UNIVERSITY OF DELHI

**REPORT OF THE COMMITTEE FOR THE GRANT OF MATERNITY
LEAVE TO WOMEN EMPLOYEES WORKING ON AD-HOC/
CONTRACT BASIS**

1. The University of Delhi through a notification No. Estab.I/Mat.Leave/Contract/2019 dated 25th January, 2021 constituted a Committee "to decide and suggest on the issue of 'Grant of Maternity Leave to the contractual women employees working in the University/ Colleges of the University'"
2. The Committee consisted of the following members:-
 1. Prof. Kamala Sankaran, Campus Law Centre, Faculty of Law.
 2. Prof. Neera Agnimitra, Department of Social Work.
 3. Sh. Jay Chanda, Joint Registrar (Academic) & FAA.
 4. Mrs. Meenakshi Sahay, Joint Registrar (Recruitment).
 5. Mrs. Raj Bhatia, Assistant Registrar (Finance).

Sh. K.C. Meena, Assistant Registrar (Establishment Non-Teaching) assisted the Committee in its deliberation.

The meetings of the Committee took place on February 17, March 1, March 5, March 31 and September 9, 2021. The Report below contains the deliberations and recommendations of the Committee:

For the purpose of this report, the term 'contractual women employees' includes ad-hoc/contractual women teaching and non-teaching employees, but does not include guest teachers, outsourced personnel of the University/Colleges.

3. Maternity leave for different categories of employees and outsourced personnel

- **Permanent teaching employees:** The Committee perused the Leave Rules adopted by the Executive Council of the University for teaching employees (based on the UGC Regulations on Minimum Qualification for appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education 2018) and noted that these are applicable to permanent teaching employees of the University.

M. Sankaran

R. Bhatia

N. Agnimitra

Kamala Sankaran

- **Permanent non-teaching employees:** The Committee also perused the *University Non-Teaching Employees (Terms and Conditions of Service) Rules, 2013* framed under Ordinance XXII-D of the University (vide Rule 3) and noted that these Rules were expressly made inapplicable to persons appointed on contract, daily wage and ad-hoc basis and such other employees as may be specifically exempted by the Executive Council.
- **Outsourced personnel:** The Committee also noted that outsourced personnel engaged through a contractor for providing sanitation, security and other services, are not employees of the University. These outsourced personnel are employed directly by a contractor who is covered under the Employees' State Insurance Act, 1948 (ESI Act). Thus, such outsourced personnel are entitled to maternity benefits provided under the ESI Act.
- **Ad hoc/Contractual women employees:** The Committee notes that there is no provision for granting paid maternity leave for ad hoc/contractual women teaching and non-teaching employees at present.

4. *Applicability of maternity leave in the University*

The Committee noted that permanent teaching and non-teaching employees are granted paid maternity leave as per the Rules of the University. Similarly, outsourced personnel, as employees of the establishment of the contractor, are provided maternity benefit under the provisions of the ESI Act, 1948. Ad hoc/contractual women teaching and non-teaching employees alone are not granted paid maternity leave at present.

The Committee further noted that in response to a query by the University regarding the extension of maternity leave to contractual employees, the UGC in its letter F.43-6/2012 (CU) dated 18th December, 2015 (**Annexure A**) had informed the University that as per the UGC Regulation of 2010 for teaching and non-teaching employees there was no provision to grant maternity leave benefits to contractual employees of the University/Colleges.

However, the latest communication from the University Grants Commission (UGC) to the Registrar, University of Delhi (Letter F.25-4/2007 (CU)Pt. file-I dated 12 September, 2018 (**Annexure B**) that the University may follow the orders issued by the Ministry of Labour and Employment dated 12th April, 2017 (**Annexure B-1**) and 28th August 2017 (**Annexure B-2**) in respect of contractual women employees of the University under the provisions of the Maternity Benefit Act, 1961.

2 of 3

[Signature]

N. Aggarwal

[Signature] : Kamala Samraan

5. Recommendations of the Committee:

On the basis of the facts and circumstances noted above, and after due deliberations, the Committee recommends the following:

- Recognizing the fact that availing maternity leave is a basic and vital necessity for the physical and emotional well-being of the mother and the child, the Committee recommends that paid maternity leave may be granted to ad hoc/contractual women teaching and non-teaching employees working in the University/ Colleges of the University.
- The Committee notes that ad hoc/contractual women teaching and non-teaching employees are engaged for a fixed term, paid maternity leave may be granted to such women employees by the University/Colleges for a maximum period of 26 weeks within the specified period of such fixed term engagement. In line with the letter from the UGC to the University dated September 12, 2018 (**Annexure B**) asking for compliance with the letters from the Ministry of Labour and Employment (**Annexure B-1** and **Annexure B-2**), the eligibility for maternity leave may be made available for women with less than two surviving children.
- The Committee envisages that the requirement of contractual engagement is a temporary phenomenon, until the time regular recruitment is carried out. The Committee, having recognised the possible financial implications of its recommendations, suggests that such financial issues, if any, may be addressed by the University/Colleges, as the case may be, with the appropriate Authorities.

<i>Kamala Sankaran</i> 9/9/2021 Prof. (Dr.) Kamala Sankaran	<i>N. Agnimitra</i> Prof. (Dr.) Neera Agnimitra
Sh. Jay Chanda <i>JC</i>	Mrs. Meenakshi Sahay <i>MS</i>
Mrs. Raj Bhatia <i>RJB</i> 09/03/2021	

Annexure B



University Grants Commission
मानव संसाधन विकास मंत्रालय, भारत सरकार
(Ministry of Human Resource Development, Govt. of India)
बहादुरशाह जफर मार्ग नई दिल्ली - 110 002
Bahadurshah Zafar Marg, New Delhi-110002
Phone : 011-23604309,



F.25-4/2007(CU) Pt.file-I

September, 2018.

The Registrar,
University of Delhi
Delhi-110007

12 SEP 2018

Sub: Regarding Implementation of Maternity Benefit Act (Amendment) 2017-reg.

Sir,

The undersigned is directed to refer the above subject, and to inform you that the University may follow the orders issued by Ministry of Labour & Employment dated 12.08.2017 & 28.08.2017 (copies enclosed) in respect of contractual or consultant women employees of your University.

Your faithfully,

Encl: as above

(Kulvinder Kaur)
Under Secretary

Copy to :

1. Sh. P. K. Singh, Under Secretary, Govt. of India, Ministry of Human Resource Development Department of Higher Education, Shastri Bhawan, New Delhi-110001 with reference to your letter No. 63-1/2018 CU-II dated 06.08.2018.
2. Smt. Champa Negi Mehra, Block-B, H.No.661, Street No.23, Sant Nagar (Burari), Delhi- 110 084.
3. SO(RIA Cell) with reference letter No. 1-4032/2018(RIA) dated 04.09.2018.



(Kulvinder Kaur)
Under Secretary

Innecure B-1

No. S-36012/03/2015-SS-I

Government of India/भारत सरकार

Ministry of Labour & Employment/श्रम और रोजगार मंत्रालय

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated 12th April, 2017

To,

The Labour Department,
All States/Union Territories

Sub: The Maternity Benefit (Amendment) Act, 2017 – reg.

Sir/Madam,

In line with recommendations of the 44th, 45th & 46th Session of Indian Labour Conference (ILC) and demands from various quarters, the Government has recently enacted the Maternity Benefit (Amendment) Act, 2017. Through this Amendment Act, following provisions have been added to the Maternity Benefit Act, 1961:-

- Increase in the maternity leave from existing 12 to 26 weeks for working women with less than two surviving children.
- Provisions for work from home for nursing mothers.
- Mandatory provisions for establishments having fifty or more employees to have the facility of crèche.
- Extension of twelve weeks of maternity benefit to the 'commissioning mother' and the 'adopting mother' from the date the child is handed over.

Provisions of the Amendment Act have come into force w.e.f. 1st April, 2017, except those relating to crèche facility (Section 4(1)) which would come into force from 01.07.2017.

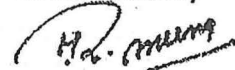
2. After the enactment of the said Act, the Ministry has been receiving numerous queries relating the revised provisions of the Act. The Ministry has examined such queries in consultation with Chief Labour Commissioner (Central) and the same are clarified as below :-

S No.	Query	Clarification
1.	Applicability of the Act to contractual or consultant women employees.	Since there is no amendment in Sec. 2 of the Act, hence the original provision will prevail.

		The Act is applicable to all women who are employed in any capacity directly or through any agency i.e. either on contractual or as consultant.
2.	Whether enhanced maternity benefit, as modified by the Maternity Benefit (Amendment) bill, 2016 can be extended to women who are already under maternity leave at the time of enforcement of this Amendment Act?	Yes.
3.	Whether enhance maternity benefit can be extended to those women who have joined after availing 12 weeks of the maternity leave?	Those women employee who had already availed 12 weeks of maternity leave before enforcement of the Maternity Benefit (Amendment) Act, 2017 i.e. 1 st April, 2017, shall not be entitled to avail the extended benefit of the 26 weeks leave.
4.	Protection of women in case she is fired by the employer after learning her pregnancy?	Under Section 12 of the M.B. Act, 1961 it is emphasized that any dismissal or discharge of a women during the pregnancy is unlawful and such employer can be punished under Section 21 of the Act.
5.	Whether benefits of this Act can be extended to the employed women in the unorganized Sector	The Maternity Benefit Act is applicable to all mines, plantations, shops and establishments and factories. Mines, plantations, shop and establishments could be either in organized sector or unorganized sector. Also, clarification at SL. No. 1 may be seen.

3. It is requested that these clarifications may be noted for compliance and also circulated widely so as to make the pregnant working women aware of their rights.

Yours faithfully



(H.L. Meena)
Director (SS)
011-23710954

Copy to:

1. Chief Labour Commissioner (Central), M/o Labour & Employment, New Delhi
2. Website of the Ministry of Labour & Employment
3. Media Cell, Ministry of Labour & Employment

Annexure B-2

By Speed Post

F.No-S-36012/03/2015-SS-I
Government of India
Ministry of Labour & Employment

Sharam Shakti Bhawan, New Delhi

28 August, 2017

To

The Secretary,
Labour Department,
All State Governments/UT Administrators

Subject: The Maternity Benefit (Amendment) Act, 2017

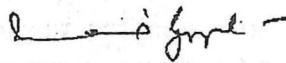
Sir/Madam,

Kind reference is invited to Ministry of Labour & Employment's earlier letter number S-36012/03/2015-SS-I dated 12.04.2017 (copy enclosed) highlighting the recent amendments made to the Maternity Benefit Act, 1961. The Ministry had also clarified therein certain points of doubts to facilitate smooth implementation of the provisions of the said Act, specially in respect of coverage of contractual workers under the Act.

2. This Ministry in the recent past have been receiving a number of complaints and grievances from working women stating non-implementation of the provisions of the M.B. Act, including alleged dismissal of few women by the employers in violation of section 12 of the said Act, non coverage of contractual employees, etc. The Hon'ble National Commission for Women has also taken serious view of such denial of rights of working women.

3. This Ministry would, therefore, urge all the State/UT Labour Commissioners (which is the implementing authority under the M.B. Act) to effectively enforce the provisions of M.B. Act, and take strict punitive action against defaulting employers and ensure that the provisions of the statute are implemented in true spirit and letter to protect the rights of working women enshrined in the Act.

Yours faithfully


(Manish Kumar Gupta)
Joint Secretary, Govt of India

Copy to:

1. Chief Labour Commissioner(Central), M/o Labour & Employment, New Delhi
2. Ms. Rekha Sharma, Hon'ble Member, National Commission for Women, Plot No-21, FC-33, Jasola Institutional Area, New Delhi for information.
3. Website of the Ministry of L&E