

Bill No. 187 of 2024

THE MENSTRUAL LEAVE AND HYGIENE BILL, 2024

By

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A

BILL

to make provisions for securing the right to paid menstrual leave for working women and female students and also to provide the access to menstrual hygiene facilities and other health benefits during the period of menstruation and for matters connected therewith.

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Menstrual Leave and Hygiene Bill, 2024.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
- 10 (a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

Short title and commencement.

Definitions.

(b) “educational institutions” means a place where persons of different ages study to gain an education, that includes any secondary or higher secondary school, college or institution or University imparting higher education;

(c) “employee” means –

(i) in respect of an establishment, a person, including an apprentice engaged under the Apprentices Act, 1961, employed on wages by such establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied; 5
52 of 1961.

(ii) a person declared to be an employee by the appropriate Government; and 10

(iii) a worker including a gig-worker, home-based worker and wage worker but does not include any member of the Armed Forces of the Union:

Provided that notwithstanding anything contained in this clause, in case of a mine a person is said to be— employed in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not— 15

(a) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);

(b) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations; 20

(c) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine; 25

(d) in operations, within the premises of the mine, of loading for dispatch of minerals;

(e) in any office of the mine;

(f) in any welfare, health, sanitary or conservance services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations; 30

(d) “employer” means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority, is so specified the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,— 35

(i) in relation to an establishment which is a factory, the occupier of the factory; 40

(ii) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;

(iii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director; 45

(iv) Contractor; and

(v) legal representative of a deceased employer;

(e) “establishment” includes an office of the appropriate Government, quasi Government or department including telegraph office, post office, telephone exchange, a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school, college university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a women is employed for any work whatsoever;

(f) “menstruation” means the natural bodily process of releasing blood and associated matter from the uterus through the vagina as part of the menstrual cycle;

(g) “menstrual cycle” means the monthly process in shedding of the uterus lining occurs through menstruation which lasts for about twenty-eight days but which may vary between women and from month to month;

(h) “prescribed” means as prescribed by the rules under this Act;

(i) “workplace” means a workplace as referred to in Section 2(o) of the Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013;

(j) “woman” means individuals with a uterus who experiences menstruation, regardless of their gender; and

(k) “working woman” means a woman who is employed whether directly or indirectly through any agency or contractor, as the case may be, for wages and remuneration.

3. The Act shall be applicable,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to appropriate Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State:

Provided that the State Government may, with the approval of the Central Government, after giving not less than month’s notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise; and

(c) to every person who is self-employed or working in the unorganized sector or in establishments where less than ten persons are employed.

Application of
the Act.

CHAPTER II

RIGHTS OF WOMAN DURING MENSTRUATION

4. Every woman shall be entitled to the following rights,—

(a) in case of working woman Right to paid leave and absence from work for the prescribed number of days during her menstruation in any establishment registered with the appropriate Government;

(b) in case of students Right to leave of absence from educational institutions for the prescribed number of days during her menstruation; and

(c) right to free access to good quality and biodegradable menstrual health products and facilities free of cost.

5. (1) Every woman enrolled in an educational institution shall be entitled to have a menstrual leave of two days for each menstrual cycle.

Rights of
Woman.

Menstrual leave
for Students.

(2) The menstrual leave provided to the woman students shall not be counted for the purpose of determining the minimum percentage of attendance required or any other leave entitlements granted to students by the institutions under any rules, regulation and policies.

(3) Educational institutions may deny granting of menstrual leave to woman students during scheduled examinations:

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Provided that the menstrual leave may be granted for those examinations which can be rescheduled and where the student is hospitalised.

Menstrual leave
for Working
Woman.

6. (1) Every woman employee in an establishment, either private or public, shall be entitled to have two days of paid menstrual leave for each menstrual cycle.

(2) The menstrual leave shall be provided in addition to any other leave entitlements provided by the establishment or the employers under any other law, contract or policy.

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(3) The establishment may deny granting of menstrual leave to working woman in the following instances –

(a) where the presence of woman is deemed to be important to prevent any significant disruption to the functioning of the workplace; and

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(b) where the presence of woman is deemed critical:

Provided that in the above mentioned situation, the employer shall provide an alternative arrangement or working conditions to the women who are working during the period of menstruation:

Provided further that if the woman requires additional leave beyond the prescribed number of days due to any serious health condition directly related to menstruation, then an additional leave of two days shall be given to the woman:

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Provided also that the woman at the time of filing an application for claiming menstrual leave shall also attach a medical certificate from a certified medical practitioner:

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Provided also that if the woman requires additional leave beyond the prescribed number of days but the health conditions pertaining to menstruation are not so serious, then the woman may,–

(a) choose to work from home, with full payment on the permission of the employees and nature of work;

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(b) choose Half-day work, where the woman may receive salary for half a day at the discretion of the employer.

(4) Any absence beyond the period or prescribed under sub-section (2) shall be treated as unpaid leave:

Provided, upon the discretion of the employee, the additional unpaid leave shall be adjusted to the other forms of leave available to the working woman.

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CHAPTER III

PROCEDURE FOR APPLICATION OF LEAVE

Submission
of Medical
Certificates or
Menstrual Leave
Eligibility.

7. (1) Any woman entitled to menstrual leave under this Act shall submit an initial medical certificate from a registered medical practitioner to the designated officer in the establishment or educational institution, as the case may be except in cases where there is a significant variation in the menstruation cycle as mentioned in sub-section (3).

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(2) The medical certificate referred to in sub-section (1) shall specify the expected dates of menstrual cycle of the woman and the leave shall be granted by the employer or the head of the educational institution based on the dates indicated in the medical certificate:

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Provided that any variations in the expected dates of menstrual cycle up to seven days shall be acknowledged, and the initial medical certificate submitted to be utilised for granting menstrual leave.

5 (3) In cases where there is significant variation in the expected date of menstruation which is beyond seven days, then the woman shall be required to submit a new medical certificate from a certified medical practitioner along with the application for menstrual leave to the designated officer of the establishment or educational institution, as the case may be.

10 (4) Upon submission of the new medical certificate by the woman under sub-section (2) the expected dates of menstruation mentioned and indicated therein shall be considered by the designated officer.

(5) The designated officer shall ensure that all medical certificates are kept confidential and used solely for the purpose of processing menstrual leave.

15 (6) The certificates submitted by the woman shall be returned within seven days after review and the recording of the expected dates of menstruation.

8. (1) Any woman entitled to menstrual leave under this Act may, at her own discretion, choose to not avail the leave of absence provided to her during the days of her menstruation:

Working during
Menstrual
Period.

20 Provided that no employer shall coerce or otherwise, compel any woman to not avail the leave of absence during her menstruation, the choice made shall be done voluntarily by the woman.

(2) Any woman, entitled to menstrual leave under this Act, voluntarily decides to not avail the leave of absence during the designated leave period, shall waive the right to carry forward or to accumulate the unused leave to next month or for future use.

25 (3) The woman who voluntarily chooses to not avail the benefit of leave of absence during the menstrual period, shall receive the same benefits as applicable during the regular days.

9. (1) Any women enrolled in an educational institution or employed in an establishment shall be entitled to claim for menstrual leave for the prescribed number of days per menstrual cycle under the provisions of this Act, through the submission of an application form.

30 (2) The woman employee or the student shall submit a Menstrual Leave Application Form to the designated officer of the establishment or the educational institutions, as the case may be either in electronic form or physical form, within a period of seven days from the taking of menstrual leave.

(3) The application shall include the following information namely,–

35 (a) full name of the woman;

(b) specific dates for which menstrual leave is being claimed;

(c) details based on their position and status as an employee or student in the establishment and educational institution; and

40 (d) a declaration affirming that the leave requested has been taken on account of menstruation.

(4) Upon receipt of the application, the establishment or the educational institution shall review the specific dates claimed with the recorded dates for menstruation and satisfied, shall provide an acknowledgment for granting the menstrual leave within seven days from receipt of application.

45 (5) All applications submitted by the woman shall be recorded and stored by the establishment or the educational institution in a confidential manner.

CHAPTER IV

HEALTH FACILITIES

Facilities to
woman.

10. Every woman in her workplace or in the educational institution shall have access to good quality and biodegradable menstrual health products, including but not limited to sanitary napkins, menstrual cups, tampons and other necessary menstrual products free of cost. 5

Duties of
Establishment
and Educational
Institutions.

11. Every establishment or educational institution shall –

(a) ensure that good and biodegradable menstrual health products including but not limited to sanitary napkins, menstrual cups, tampons and other necessary menstrual products, be stored in easily accessible and hygienic restrooms within their premises; 10

(b) provide to all the woman, the menstrual health products referred in clause (a), free of charge;

(c) ensure the implementation of Guidelines on Menstrual Hygiene Management (MHM) issued by the Central Government under the Swachh Bharat Mission Guidelines (SBM-G); 15

(d) ensure there are adequate waste-baskets, dustbins, trash-cans and tissue papers, toilet rolls, bags, envelopes or newspapers for the safe, secure and easy disposal of menstrual discharge;

(e) intimate in writing and electronically to every woman, every benefit available to her under this Act; 20

(f) ensure that the menstrual health products provided to the woman are changed and restocked on a monthly basis, so as to guarantee their availability and quality at all times; and

(g) take such steps, as may be necessary, for creating awareness among the women employees and students on menstrual hygiene management and removing the stigma or taboo associated with menstruation. 25

CHAPTER V

GRIEVANCES AND REDRESSAL

12. (1) Every workplace and educational institution shall establish a Menstrual Leave Board to oversee, monitor, regulate, govern and address the issues relating to the implementation of menstrual leave for women employees and students, respectively. 30

(2) The Menstrual Leave Board shall consist of the following members to be nominated by the employer,–

(a) a woman employed at a senior level at workplace and educational institutions who shall be the Chairperson of the Board; and 35

(b) not less than two members from amongst the employees from the workplace and students from educational institutions.

(3) The Menstrual Leave Board shall,–

(a) grant or deny the Menstrual Leave Application Form;

(b) hear any complaint or grievances arising from the denial and misuse of menstrual leaves entitled to them; 40

(c) conduct inquiries and reports of any complaint;

(d) prepare Report on the number of leaves taken and not taken on the name of menstrual leave;

(e) maintain confidentiality of the menstrual leave matters; and

(f) maintain of the records pertaining to the menstrual leaves granted that must be submitted.

(4) The menstrual leave Board shall address the grievance pertaining to menstrual leave in an establishment and educational institution within fourteen days from the date of complaint being submitted.

CHAPTER VI

PENALTIES AND PROTECTIONS

13. Whoever,—

Punishments.

- 10 (a) denies leave to a woman during her menstruation; or
 (b) obstructs a woman from the entitlement of menstrual leave; or
 (c) makes a false claim or certificate for availing the benefits; or
 (d) contravenes any provision of this Act,

15 shall be liable for punishment in the form of fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees for the first offence and for any subsequent offence with fine which shall not be less than two lakh rupees but may extend to five lakh rupees, along with community services as may be prescribed by the Menstrual Leave Board.

20 14. No woman in an establishment or an educational institution shall face any form of discrimination on the reason of her availing menstrual leave.

Protection
against
Discrimination.

CHAPTER VII

MISCELLANEOUS

25 15. The Central Government shall, after due appropriation made by Parliament by law on this behalf, provide such sums of money named Menstrual Health Facilities Fund to the State Governments as it thinks necessary for carrying out the provisions of this Act.

Menstrual
Health Facilities
Fund.

30 16. The appropriate Government shall appoint, as many as officials as it thinks fit, for the purpose of reviewing the report maintained by the establishment and educational institutions on the granting of menstrual leave for the woman employees and students respectively:

Role of
Government
Officers.

Provided where there more than one officer is appointed for the purpose of reviewing the menstrual leave reports made by the establishments and education institutions, then the State Government shall designate one of such officers as the Chief Officer which shall be responsible for delegating the tasks to other officers as may be prescribed.

35 17. (1) The Central and State Governments may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

40 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament or the Legislative Assembly and the Legislative Council, as the case maybe, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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STATEMENT OF OBJECTS AND REASONS

Menstruation is a biological process that women experience every month, often accompanied by severe pain, discomfort, fatigue and strain. Menstruating women faces a lot of biological and physical challenges during their menstrual cycle. There is an urgent necessity of a legal framework pertaining to menstrual leave to address this issue, ensuring the protection and dignity of women in workplaces and educational institutions.

History of paid menstrual leave dates back to a period as early as World War II. Globally, several countries, including Japan, South Korea, Mexico, Taiwan, Indonesia and Italy have recognized the importance of menstrual leave and have enacted laws or introduced policies to provide women with paid leave during menstruation. Certain companies, schools and universities have already introduced menstrual leave. However, there remains a lack of a nationwide legislation to safeguard the rights of menstruating individuals. Moreover, a girls school in the State of Kerala has granted students with menstrual leave as early as 1912.

The concept of menstrual leave is an extension of scope of Article 21 of the Constitution of India, which mentions that one should not be expected to work while menstruating due to their discomfort and pains caused during that period. Inadequate sanitary facilities and lack of adequate menstruation alternatives, violate both the basic right and human right to health.

The proposed bill shall provide working women and students with the right to menstrual leave for two days during their menstrual cycle. The bill also mentions the procedure and guidelines for claiming menstrual leave through the submission of medical certificates and applications.

The bill prohibits any form of discrimination against women for availing the benefits of menstrual leave, ensuring that they are not unfairly treated or penalized. The bill also ensures mandatory and free access of women to good quality and biodegradable menstrual health products in workplaces and educational institutions. The bill is also provided with mechanisms to file grievances for misuse and denial of menstrual leave.

The proposed legislation thus seeks to entitle all menstruating women to two days of paid leave per menstrual cycle to safeguard their health, welfare and constitutional rights. The bill is enacted to create a progressive framework that supports the mental and physical well being of menstruating individuals.

Hence this Bill.

NEW DELHI;
November 13, 2024

SHAMBHAVI

FINANCIAL MEMORANDUM

Clause 15 of the Bill provides that Central Government shall, after due appropriation made by Parliament by law on this behalf, provide such sums of money named Menstrual Health Facilities Fund to the State Governments as it thinks necessary for carrying out the provisions of this Act. Clause 16 provides that the appropriate Government shall appoint, as many officials as it thinks fit, for the purpose of reviewing the report maintained by the establishment and educational institutions on the granting of menstrual leave for the woman employees and students respectively. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty crore would be involved from the Consolidated Fund of India per annum.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules and regulations will relate to matters of detail only, the delegation of legislative power, is therefore, of a normal character.

LOK SABHA

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BILL

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(Smt. Shambhavi, M.P.)