

**Bill No. LXIV of 2023**

THE MATERNITY BENEFIT FOR WOMEN IN THE UNORGANISED  
SECTOR BILL, 2023

A

BILL

*to provide state-sponsored maternity benefits to women working in the unorganised sector by  
establishing a National Maternity Benefit Welfare Board, Maternity Benefit Fund etc.,  
and for matters connected therewith and incidental thereto.*

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

1. (1) This Act may be called the Maternity Benefit for Women in the Unorganised Sector Act, 2023.

Short title, and  
commencement.

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

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2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the Government governing the territory in which the woman undergoes her delivery, miscarriage or medical termination of pregnancy which shall be in the case of a State, the Government of that State; in the case of a Union Territory, the Union Territory Administration and in all other cases, the Central Government;

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- (b) “Board” means the National Maternity Benefit Welfare Board established under section 10 of the Act;
- (c) “child” includes a still-born child;
- (d) “delivery” means the birth of a child;
- (e) “employer” means a person or an association of persons, who has engaged or employed a woman to work at a workplace either directly or otherwise for remuneration; 5
- (f) “Fund” means the Maternity Benefit Fund established under section 12 of the Act;
- (g) “maternity benefit” means the payment referred to in section 4 of the Act; 10
- (h) “medical termination of pregnancy” means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971; 34 of 1971.
- (i) “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; 15 45 of 1860.
- (j) “prescribed” means prescribed by rules made under this Act; 29 of 2019.
- (k) “unorganised sector” shall have the same meaning as assigned to it in the Code on Wages, 2019. 20
- (l) “wages” means all remuneration paid or payable in cash to a woman working at a workplace, in respect of her employment or engagement or of work done in such employment or engagement and includes:
- (i) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to; 25
  - (ii) incentive bonus; and
  - (iii) the money value of the concessional supply of food grains and other articles,
- but does not include:
- (i) any bonus other than incentive bonus; 30
  - (ii) over-time earnings and any deduction or payment made on account of fines; and
  - (iii) any gratuity payable on the termination of service; 29 of 2019.
- (m) “woman” means a woman self-employed or employed, whether directly or through any agency and entitled for wages at any workplace in the unorganised sector including a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to Code on Wages, 2019; 35

5 (n) “work” means any physical or other labour performed by a woman contributing to the economy at any given point of time, including but not limited to subsidiary status activity, seasonal economic activity, engagement in informal establishments, and self-employed roles such as tailoring, processing agricultural produce, livestock care, and domestic labour; and

(o) “workplace” means any place where women engage in work at any given point of time.

10 3. (1) No woman shall be knowingly engaged at any workplace during the six weeks immediately following the day of her delivery, miscarriage, or medical termination of pregnancy.

Prohibition of employment or engagement of women at any workplace during certain periods of maternity.

(2) No woman, already employed or engaged at any work place, shall work during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

15 (3) No pregnant woman shall, on a request being made by her in this behalf, be required to do during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or in the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

20 (4) The period referred to in sub-section (3) shall be:

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the period of six weeks for which the pregnant woman does not avail leave of absence.

25 *Explanation.* — For the purposes of this section, the expression “any work of arduous nature” shall mean any work which involves or requires strenuous physical or mental effort or is difficult and tiring in nature.

29 of 2019.

30 4. (1) **Every woman working at a workplace, and registered under this Act as per the provisions of section 9, shall be entitled to the payment of maternity benefit from the appropriate Government, at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day:**

Right to payment of maternity benefit.

35 *Explanation.-* For the purpose of this sub-section, the “average daily wage” means the average of the woman’s wages payable to her for the days on which she has worked during the period of two calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage fixed or revised under the Code on Wages, 2019, whichever is the highest.

40 (2) No woman shall be entitled to maternity benefit unless she has worked at a workplace for a period of not less than thirty days in the twelve months

immediately preceding the date of her expected delivery:

*Explanation.*- For the purpose of this sub-section, the days on which a woman has actually worked at a workplace, the days for which she has been laid off or was absent from duty during holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the date of her expected delivery, shall be taken into account. 5

Notice of claim for maternity benefit and payment thereof.

5. (1) Any woman working at a workplace and entitled to maternity benefit under section 4 of the Act, may give notice, in writing at any hospital, wholly or partially managed by the appropriate Government, or Anganwadi Centre 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 at any workplace during the period for which she receives maternity benefit. 10

(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 eight weeks from the date of her expected delivery. 15

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

(4) On receipt of the notice, the appropriate Government, through a nodal agency, as may be established by the appropriate Government in such manner as may be prescribed, shall disburse the amount of maternity benefit within seventy-two hours of production of the said notice: 20

Provided that a woman who has given the notice has also produced her Maternity Benefit Card, as provided under sub-section (2) of section 9, to avail the requisite payment. 25

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

6. **If a woman entitled to maternity benefit under section 4, dies before receiving such maternity benefit, the appropriate Government shall pay such benefit to the person nominated by the woman in the notice given under sub-section (1) of section 5 and in case there is no such nominee, to the caregiver of the child born to such woman.** 30

Crèche facility

7. Every woman shall have the right to avail common crèche facility run by the appropriate Government, and municipality in the vicinity of their workplace.

Dismissal for absence during pregnancy.

8. When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or thereafter on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service. 35

Registration for availing maternity benefit.

9. (1) Every woman shall be required to be registered for the purpose of availing benefits under the Act. 40

(2) A woman shall make an application for registration along with an identity proof in such form and manner, as may be prescribed by the Central Government, and such worker shall be provided with a unique Maternity Benefit Card, which may be produced at any nodal agency in the country, as

defined under sub-section (4) of section 5:

Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self-registration by any such worker in such manner as may be prescribed by the Central Government.

(3) A registered woman shall be eligible to avail the benefits under the Act.

**10. (1) The Central Government shall, by notification in the Official Gazette, establish a National Maternity Benefit Welfare Board, for the purposes of carrying out the welfare measures under the Act.**

National  
Maternity  
Benefit Welfare  
Board.

**(2) The National Maternity Benefit Welfare Board shall be the nodal authority,-**

**(a) to collect and to expend the proceeds of contribution collected under Maternity Benefit Fund, as provided under section 12 of the Act;**

**(b) to take any relevant measures for effective implementation of the Act; and**

**(c) responsible for any other duty as may be assigned to it by the Central Government, from time to time.**

**(3) The Board shall be comprised of a Chairperson and such number of members, as may be prescribed.**

**(4) The qualifications and experience, term of office, salaries, remuneration and other allowances payable to, and other terms and conditions of service of the Chairperson and members of the Board, shall be such as may be prescribed.**

**(5) The Board shall have its head office in New Delhi with offices in the capital city of each State and Union Territory, as may be prescribed.**

**(6) The Board may appoint such other officers and employees, as it considers necessary, for the efficient discharge of its functions under this Act.**

**(7) The qualifications and experience, terms and conditions of service including salary and allowances of the officers and employees of the Board shall be such as may be prescribed.**

**11. (1) The appropriate Government shall set up a toll-free call centre or helpline or such facilitation centres as may be considered necessary, from time to time, to perform any or more of the following functions, namely:—**

Helpline,  
facilitation  
centre, etc., and  
awareness  
measures.

**(a) to disseminate information on the available maternity benefits under the Act, and other available social security schemes for women;**

**(b) to facilitate filing, processing and forwarding of application forms for registration of women;**

**(c) to assist beneficiaries under the Act in the registration process;**

(d) to facilitate enrolment of the registered beneficiaries;

(e) to assist beneficiaries in submission of notice of claim for maternity benefit and obtaining the requisite amount.

(2) The appropriate Government shall promote awareness of the benefits available under the Act by conducting education and information campaigns to raise awareness of maternity benefits amongst the targeted beneficiaries. 5

(3) The appropriate Government shall publish information in public domain, annually, regarding:

(a) the number of beneficiaries under the Act;

(b) the number of registered women under the Act; 10

(c) the data on the condition of physical infrastructure of the appropriate Government for supporting the beneficiaries;

(d) the total amounts disbursed by the appropriate Government under the Act; and

(e) the total number of complaints instituted, pending, resolved, and withdrawn before courts, under the Act. 15

Maternity  
Benefit Fund.

**12. (1) The Central Government shall, by notification in the Official Gazette, establish a Fund to be called the Maternity Benefit Fund, for the purposes of implementing the provisions of this Act.**

**(2) The Central Government, shall from time to time, after due appropriation made by Parliament by law in this behalf, contribute such sums of money and/or funds, as may be necessary, to the Fund for carrying out the purposes of this Act.** 20

18 of 2013.

**(3) The Fund shall be under the control of the Central Government and there shall be credited thereto such contributions in the form of 1 per cent. of the average net profits from companies incorporated under the Companies Act, 2013, which engage in the provision of healthcare and pharmaceutical goods and services, and fulfill any of the following conditions in the preceding financial year:** 25

**(a) has a net worth of more than Rupees 500 crores;** 30

**(b) turnover of more than Rupees 1000 crores;**

**(c) net profit of more than Rupees 5 crores.**

Act not in  
derogation of  
any other law.

**13.** The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Protection of  
action taken in  
good faith.

**14.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder. 35

**15.** (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

5 (2) Every rule and every regulation made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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 regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that 10 any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15 (3) Every rule and every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

## STATEMENT OF OBJECTS AND REASONS

In India, maternity provisions encompass the rights of biological, commissioning, and surrogate mothers and are protected by labour laws and associated programs. The Constitution of India acknowledges maternity entitlements as part of its Directive Principles of State Policy, with a commitment to ensure maternity relief. The Maternity Benefit Act, 1961 (amended in 2017) provides various benefits, such as 26 weeks of paid leave for childbirth, crèches at workplaces, nursing breaks, paid leave for abortion/miscarriage, and paid leave for commissioning mothers and women adopting a child under three months. The law also prohibits termination of employment due to pregnancy.

However, the 2017 amendment mainly benefits women in formal employment and overlooks those in the informal sector. Eligibility criteria, such as working for a specific employer for a certain duration, exclude many women, even with formal employment, due to precarious work arrangements. The requirement has been reduced to 80 days in the 2020 Social Security Code, but it still doesn't fully address the challenges faced by women workers employed in various sectors. Unfortunately, there is no available data on how many women utilize the provisions of the amended Maternity Benefit Act of 2017, and there is a lack of information about the functioning of worksite crèches provided under this Act. A 2019 study on IT/ITES companies revealed that many employers were unaware of the 2017 amendment, and a significant number lacked worksite crèche facilities despite having more than 50 employees.

Various other labour legislations in India are linked to maternity benefits. However, it excludes many women, especially those in the informal sector, due to strict eligibility criteria. Sectoral labor laws like the Factories Act, 1948 and the Plantation Labour Act, 1951 are related to maternity benefits. Some other labor laws, such as the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, and the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, offer consolidated maternity benefits, but the amounts vary across States. Implementation of these benefits is hindered by poor awareness, improper worker registration, and lack of government monitoring.

The Unorganised Sector Workers Social Security Act, 2008 provides limited maternity benefits, primarily through the *Janani Suraksha Yojana* (JSY) scheme, which focuses on incentivizing institutional deliveries and does not offer wage compensation. While the JSY reaches many women, it has limitations and doesn't align with the goals of a comprehensive maternity benefit scheme. The National Food Security Act, 2013, mandates cash provisions for pregnant women, but the *Pradhan Mantri Matru Vandana Yojana* (PMMVY), the scheme under this Act, has restrictions and offers a lower amount than specified. The newly passed Social Security Code, 2020, replaces the Maternity Benefit Act, 1961, and other labour laws. While it offers progressive provisions for women in the formal sector, it doesn't adequately address the needs of women in the informal sector, leaving it up to the Central and State Governments to notify and implement schemes with no clear commitments for these women. NFHS 5 data reveals a correlation between women's education and declining fertility rates. Women with no schooling have more children on an average than those with 12 or more years of schooling. Economic betterment is associated with lower fertility rates. However, government schemes for maternal welfare in the unorganised sector, relying on meager cash transfers conditional on institutional deliveries for



the first child only, seem incongruent with the higher fertility rates among unorganised sector women, as indicated by public data. This discrepancy raises questions about the effectiveness of current maternal welfare initiatives. Complex paperwork, limited eligibility criteria, and a focus on women in established workplaces further restrict the scheme's reach. This approach contradicts WHO guidelines for a six-month period of exclusive breastfeeding, leading to difficult choices for women in the unorganised sector, and contributing to high infant mortality rates during the first birth.

In India, there is a pressing need to address the issue of maternity provisions for women in the informal workforce. While states like Telangana brilliantly set an example by providing maternity benefits of Rupees 30,000 for registered women workers, wives of registered male workers, and two daughters of the registered worker up to two deliveries, a lack of centralized legislation has put the onus on uneven schemes disbursed by different States. Over 90 per cent. of women workers in the country are excluded from accessing wage-linked maternity benefits despite national and international commitments. To tackle this problem, the bill takes into account several key considerations:

1. **Recognizing Unpaid Work:** Women's work, particularly in household activities like tailoring, fuel collection, agricultural processing, and care work, often goes unrecognized and unpaid. Maternity provisions should be universally defined to include all women, acknowledging their productive but unpaid contributions. The Bill defines work and workplace to encompass any physical work that a woman does which contributes to the economy.
2. **Inclusion of Informal Workers:** Many women in the labour force work in informal jobs with low pay, irregular employment, and play multiple roles. Improved registration and social security coverage are needed to include these women in maternity provisions.
3. **Redefining the Employer-Employee Relationship:** The traditional employer-employee relationship doesn't adequately apply to the informal workforce. The State should take primary responsibility for ensuring maternity provisions for all women and develop mechanisms for collecting employer contributions. A centralized maternity and childcare welfare fund has been suggested for this purpose.
4. **Uniform Wage-Linked Provisions:** A consistent principle of providing wage-linked maternity provisions for at least six months should be applied to all women. In the formal sector, this means six months of paid leave, while in the informal sector, it should be linked to minimum wages for six months.
5. **Registration:** The provision of social security benefits relies on workers being officially enrolled in the program. It is crucial to assign local authorities, including labour boards, health departments, *Anganwadi* centers, district officers, and ASHA workers, with the responsibility of raising awareness, actively identifying eligible women, and assisting them in the registration process as mandated by the law. The Bill advocates for a unique Maternity Benefit Card upon registration, which is valid across States to address the issue of exclusionary measures that arise from migration.

6. Decentralized Distribution: The maternity benefit amount needs to be substantial and regularly reviewed, moving away from tokenistic approaches. Integration with other laws, such as the National Food Security Act 2013, should be considered, and a unified system for distributing maternity benefits from various sources must be established. Decentralizing the distribution system is crucial to ensure that benefits effectively reach women at the grassroots level.

Mary Wollstonecraft, an 18<sup>th</sup>-century feminist, presents two paths for women's citizenship: one emphasizing equality in the workforce, overlooking inherent differences, and the other recognizing the value of unpaid domestic work. Despite policy advancements, women are often relegated to the private sphere, perpetuating their status as the "second sex." Contemporary feminist perspectives highlight marginalized women rejecting the stigma around their work and asserting empowerment by preserving their valued skills. However, conditional cash transfer schemes may push women back to the private sphere during pregnancy or compel them to merge private and public labor. The Bill advocates for celebrating pregnancy for women of all backgrounds and occupations, emphasizing the need to recognize women's dual roles as both careerists and mothers and their diverse contributions to the economy.

The Bill seeks to achieve the above-said objectives.

K.R. SURESH REDDY

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the payment of maternity benefits to the registered beneficiaries. Clause 6 provides for payment of maternity benefit in case of death of a woman before receipt of maternity benefit. Clause 10 provides for establishment of the National Maternity Benefit Welfare Board and appointment of a Chairperson and Members therein along with other officers and employees as may be required. Clause 12 provides for the establishment of the Maternity Benefit Fund. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the actual expenditure likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.



RAJYA SABHA

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*to provide state-sponsored maternity benefits to women working in the unorganised sector by establishing a National Maternity Benefit Welfare Board, Maternity Benefit Fund etc., and for matters connected therewith and incidental thereto.*

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*(Shri K.R. Suresh Reddy, M.P.)*