

HR Law Hotline

April 06, 2017

AMENDMENT TO MATERNITY LAW: EXTENDED TIME TO EMPLOYERS TO PROVIDE CRÛCHE FACILITIES

- Maternity law in India recently amended enhancing maternity benefits
- Establishments having 50 or more employees to provide crèche facility
- The provisions of the amended maternity law have come into effect from April 1, 2017
- Corrigendum clarifying that the provision relating to crèche facilities shall come into effect from July 1, 2017

The Maternity Benefit Act, 1961 ("**Maternity Act**") has been recently amended *vide* the Maternity Benefit (Amendment) Act, 2017 ("**Maternity Amendment Act**"). Please refer to our legal analysis on the subject at [here](#).

The Gazette Notification¹ issued by the Indian government specified that the Maternity Amendment Act would come into effect on such date as the Central Government would by notification in the Official Gazette appoint². The Maternity Amendment Act also empowered the Central Government to appoint different effective dates for different provisions of the Maternity Amendment Act.

Accordingly, the Ministry of Labour and Employment ("**Labour Ministry**") had issued another Notification dated March 31, 2017 appointing April 1, 2017 as the effective date of most of the provisions of the Maternity Amendment Act ("**Effective Date Notification**"). As per the Effective Date Notification, the provision relating to employer allowing female employees to work from home after availing of maternity benefit, was to come into effect on July 1, 2017.

The Maternity Amendment Act requires establishments having 50 or more employees to have a crèche facility within the prescribed distance, either separately or along with other common facilities. The Maternity Amendment Act however does not provide any clarity on aspects pertaining to the crèche facility including (a) the structure of the crèche facility; (b) facilities that need to be provided in the crèche; (c) age of the children for which such facility needs to be provided; (d) the distance from the workplace within which the crèche facility needs to be provided; (e) the manner of financing such crèche facilities; (f) appointment of crèche staff etc., making it challenging for employers to comply with the provision. The Effective Date Notification led to some confusion amongst employers in the absence of additional guidance on crèche facility.

In view of the above, the Labour Ministry has issued a Corrigendum dated April 3, 2017 clarifying that the provision relating to crèche facilities will come into effect from July 1, 2017. It is to be noted that the remainder of the provisions of the Maternity Amendment Act including the provision on work from home have become effective as on April 1, 2017.

This clarification will allow the government additional time to specify the conditions in relation to crèche facility and in the interim, permit employers to arrange for such facilities.

– Preetha S, Ajay Solanki & Vikram Shroff

You can direct your queries or comments to the authors

¹ Dated March 28, 2017

² <http://egazette.nic.in/writereaddata/2017/175036.pdf>

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