Maternity Leave in India: 26 Weeks Paid Leave, Eligibility and Rules under the Code on Social Security

Description

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Quick summary

- A woman who has worked at least 80 days in the 12 months before her expected delivery date is entitled to paid maternity leave at the average daily wage of the three calendar months before she goes on leave.
- Leave is 26 weeks (not more than 8 weeks before delivery) and 12 weeks for a woman who already has two or more surviving children.
- Adoptive and commissioning mothers get 12 weeks from the day the child is handed over (child below three months).
- The Maternity Benefit Act, 1961 stands repealed and its rules now sit in sections 59 to 72 of the Code on Social Security, 2020 (Chapter VI), in force from 21/11/2025.

For decades maternity leave was governed by the Maternity Benefit Act, 1961. From 21/11/2025 the Code on Social Security, 2020 came into force and its Chapter VI now carries the maternity benefit provisions. The headline entitlements did not change: 26 weeks of paid leave, job protection, a crèche and the option of working from home.

Who is eligible?

A woman who has worked for at least **80 days** in the 12 months immediately before her expected date of delivery (section 60(2)). Days of lay-off and holidays with wages declared by law count towards the 80 days.

How much leave?

Situation	Paid leave

First or second child	26 weeks (not more than 8 weeks before the expected delivery)
Woman with two or more surviving children	12 weeks (not more than 6 weeks before the expected delivery)
Tubectomy operation	2 weeks from the day of the operation (section 65(2))
Adoptive mother (child below three months)	12 weeks from the date the child is handed over
Commissioning mother	12 weeks from the date the child is handed over
Miscarriage or medical termination of pregnancy	6 weeks from the day of the miscarriage or termination

An employer cannot make a woman work during the six weeks immediately after delivery, miscarriage or termination.

What is paid?

Leave is paid at the **average daily wage** for the period of actual absence: the average of her wages for the days worked in the three calendar months before she goes on leave, subject to the minimum wage (section 60(1)). Every woman entitled to maternity benefit also gets a **medical bonus** of Rs 3,500, or the amount the Central Government notifies, if the employer does not provide pre-natal confinement and post-natal care free of charge (section 64).

Other rights

- **Job protection:** it is unlawful to dismiss her, or to change her conditions of service to her disadvantage, because of absence under this Chapter. Dismissal during pregnancy does not take away the benefit, except for gross misconduct as prescribed. She can appeal within 60 days (section 68).
- **Extra leave for illness:** up to one month more on proof of illness arising out of pregnancy, delivery, premature birth, miscarriage or termination (section 65(3)).
- **Nursing breaks:** two breaks a day, in addition to the rest interval, until the child is 15 months old (section 66).
- **Work from home:** where the nature of work allows, the employer may let her work from home after the leave, on terms agreed with her.
- **Crèche:** an establishment with 50 or more employees (or the number prescribed) must provide a crèche within the prescribed distance, which may be shared with other establishments. The mother may make four visits a day, including her rest interval (section 67).
- **Light work:** on her request, a pregnant woman cannot be given arduous work or work needing long hours of standing in the month before the last six weeks before delivery, nor during any part of those six weeks she does not take as leave (section 59).
- **Notice and payment:** she gives written notice stating the date from which she will be absent. Failure to give notice does not take away the benefit. The amount for the period before delivery is paid in advance on proof of pregnancy, and the balance within 48 hours of proof of delivery (section 62).

Does it apply to every employer?

Under the First Schedule to the Code, Chapter VI applies to every factory, mine and plantation (including those of Government), to every shop or establishment in which ten or more employees are employed, or were employed on any day of the preceding twelve months, and to other shops or establishments notified by the appropriate Government.

What employers should do

- Display an abstract of Chapter VI and the rules, in the local language, where women are employed (section 71).
- Tell every woman in writing and electronically, when she is first appointed, about every benefit under the Chapter (section 67(2)).
- Keep a record of days worked, lay-off and paid holidays for the 80 day test.
- Make no deduction from wages for nursing breaks or because a pregnant woman is given lighter work (section 69).

Frequently asked questions

How many weeks of maternity leave is a woman entitled to?

26 weeks for the first two children, of which not more than 8 weeks can be taken before the expected delivery. For a third or later child it is 12 weeks.

Who is eligible?

A woman who has actually worked for at least 80 days in the 12 months immediately before her expected date of delivery.

How much is paid during maternity leave?

The average daily wage for the period of absence, which is worked out on the wages of the period before the leave begins.

What is the maternity leave for adoption?

12 weeks from the date the child is handed over, for a woman who lawfully adopts a child below three months and for a commissioning mother.

What leave is given for a miscarriage?

Six weeks of paid leave from the day of the miscarriage or medical termination of pregnancy, on proof.

Is a crèche compulsory?

An establishment with 50 or more employees must provide a crèche within the prescribed distance, and the mother may visit it four times a day, including the rest interval.

Does the Act apply to small establishments?

The maternity benefit chapter applies to establishments with 10 or more employees on any day of the previous 12 months, and to factories, mines and plantations as listed in the Code.

Official sources

- Ministry of Labour and Employment
- India Code: The Code on Social Security, 2020

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