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BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.

Dated Quetta, the 29th April, 2022.

No.PAB/Legis:V(16)/2022/ 8183. The Balochistan Maternity Benefit Bill, 2022 (Bill No.16 of 2022), having been passed by the Provincial Assembly of Balochistan on 26th April, 2022 and assented to by the Governor Balochistan, on 27th April, 2022 is hereby published as an Act of the Balochistan Provincial Assembly.

The Balochistan Maternity Benefit Act, 2022, Act No. XIII 2022

AN
ACT

to provide safeguards to working women during maternity, cash maternity benefits, and employment security in establishment in the Balochistan Province.

Preamble. *Whereas in pursuance of 18th Constitutional Amendment, it is expedient to consolidate and rationalize the law pertaining to the employment of women and to provide safeguards to working women during maternity, cash maternity benefits, maintain employment security and matters ancillary thereto;*

It is here by enacted as follows:

Short title, extent, application and commencement.

1. (1) This Act may be called the **Balochistan Maternity Benefits Act, 2022**.

(2) It extends to the whole of Balochistan Province.

(3) It shall apply to women workers, under certain natural conditions, employed in establishments in the Balochistan Province.

(4) It shall come into force at once.

Definitions.

2. (1) In this Act, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say, -

(a) **"Act"** means the Balochistan Maternity Benefits Act, 2022;

(b) **"child"** includes a still-born child for the purpose of this Act;

(c) **"Court"** means the Labour Court established under the Government of Balochistan Industrial Relations Act, for the time being in force;

(d) **"Director General Labour"** means the head of the Directorate of

Labour Welfare of the Balochistan Province;

(e) **"Employer"** means any person, who has ultimate control over the appointment of a woman;

(f) **"Establishment"** means an organization, whether industrial establishment or commercial establishment as defined in the Industrial and Commercial Employment (Standing Orders) Act in force in Balochistan;

(g) **"Government"** means the Government of Balochistan;

(h) **"Inspector"** means a person appointed as Inspector under section 8 of this Act;

(i) **"Maternity benefit"** means the amount payable under the provisions of this Act to a woman employed in an establishment, under certain natural conditions associated with a woman;

(j) **"Medical practitioner"** means a registered medical practitioner nominated for the purposes of this Act by the employer with the approval of the Inspector;

(k) **"Prescribed"** means prescribed by rules made under this Act;

(l) **"Province"** means the Balochistan Province;

(m) **"Still-born child"** means any child who dies, after 28 weeks of pregnancy, before or during delivery;

(n) **"Wages"** means all remuneration, capable of being expressed in terms of money, which would, if the terms of contract of employment, expressed or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behavior of the person employed or otherwise, to a person employed in respect of her employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of her employment, but does not include-

(i) The value of any house accommodation, supply of light, water, medical attendance or other maternity, or of any service excluded by general or special order of Government;

(ii) Any contribution paid by the employer to any pension fund or provident fund;

(iii) Any travelling allowance or the value of travelling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

(o) "Woman" means a woman worker.

(2) Expressions used in this Act but not defined herein shall have the meaning respectively assigned to them in other labour laws.

Employment of, or work by women in factories prohibited during certain periods.

3. (1) No employer shall knowingly employ a woman and no woman shall engage in employment in establishment during the six weeks following the day on which she is delivered of a child.

(2) No employer shall ask any employed woman to do any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health, as certified by a medical practitioner, for a period of one month immediately; -

(a) Preceding the period of six weeks, before the date of her expected delivery; and;

(b) Succeeding the period of eight weeks after the date of her delivery.

(3) A pregnant or nursing woman shall not be obliged to perform night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

Right to and liability for payment of maternity benefit.

4. (1) Subject to the provisions of this Act, every woman employed in an establishment shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of her wages last paid during the following periods:

(a) six weeks immediately preceding and including the day on which she delivers the child;

(b) eight weeks immediately following the day she delivers of the child;

(c) four weeks' additional leave in the case of any other medical complications in cases where the life of mother or child is at risk, as certified by a medical practitioner; and

(d) four weeks in the event of miscarriage or medical termination of pregnancy, as certified by a medical practitioner.

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the establishment of the employer from whom she claims maternity benefit for a period of not less than four months immediately preceding the day on which she delivers the child.

Provided further that in the event of premature birth, all un-availed pre-natal leave shall transfer to the post-natal period. In the event of post-mature birth, the post-natal leave period, in no way, shall be less than six weeks. In case of post mature births, the pre-natal leave period shall be extended accordingly.

Nursing Breaks.

5. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two paid breaks of thirty minutes each, for nursing the child until the child attains the age of twelve months.

Provided that such paid nursing breaks shall be available only when suitable daycare facilities exist at or near workplace.

Procedure regarding payment of maternity benefit.

6. (1) Any woman entitled to maternity benefit-

(a) who is pregnant, may give notice either orally, in person or in writing in the prescribed form to the employer that she expects to be confined within six weeks next following and may therein nominate a person for the purposes of section 7; and

(b) who has not given the notice referred to in clause (a) and has been delivered of a child, shall within seven days of delivery, give similar notice that she has been delivered of a child.

(2) When such notice is received, the employer shall permit the woman to absent herself from the day following the date of notice in the case mentioned in clause (a) of sub-section (1) and from the day of delivery in the case mentioned in clause (b) thereof, until eight weeks after the day of delivery.

(3) An employer shall pay maternity benefit for fourteen weeks to a woman entitled there to in any of the following ways selected by the woman, namely-

(i) For six weeks before delivery within forty-eight hours of the production of a certificate signed by the medical practitioner stating that the woman is expected to be confined within six-weeks of the date of the certificate, and for the remainder of the period for which she is entitled to maternity benefit within forty-eight hours of the production of the proof that she has been delivered of a child; or

(ii) for the period of six weeks before delivery and including the day of delivery, within forty-eight hours of the production of proof that she has been delivered of a child and, for the remainder of the period, within six weeks of the production of such proof; or

(iii) for the whole of the said period of fourteen weeks, within forty-eight hours of the production of proof that she has been delivered of a child:

Provided that a woman shall not been entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of proof under this sub-section that she has been delivered of a child, unless such proof is produced within six months of the delivery.

(4) The proof required to be produced under sub-section (3), shall be either a certified extract from a birth register or a certificate signed by the medical practitioner or such other proof as may be accepted by the employer.

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

7. (1) If a woman entitled to maternity benefit under this Act dies on the day she is delivered of a child or during the period there after for which she is entitled to the maternity benefit, the employer's liability under sub-section (1) of section 4 shall not, by reason of her death be discharged and he shall pay the amount of maternity benefit due to the person nominated by her under sub-section (1) of section 6 for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives.

(2) If a woman dies during the period for which she is entitled to maternity benefit but before she is delivered of a child, the employer shall be liable only for the period up to and including the day of her death, provided that any sums already paid to her in excess of such liability under clause (i) of sub-section (3) of section 6 shall not be recoverable from her legal representative and any amount due at the woman's death shall be paid to the person nominated by her under sub-section (1) of section 6, for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives.

Protection from Dismissals.

8. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Section 4 or during a period of four months following her return to work, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.

Appointment of Inspector.

9. The Labour & Manpower Department may appoint Inspector for the purposes of this Act through notification in the official Gazette and their territorial jurisdiction be determined therein.

Penalty for working for payment during permitted period of absence.

10. If a woman does any work in any establishment for which she receives payment in cash or kind after she has been permitted by her employer to absent herself under the provisions of section 5, she shall be liable to a fine not exceeding five thousand rupees.

Penalty for contravention of this Act by an employer. and application of fine in payment of compensation.

11. (1) If any employer contravenes any provision of this Act, he shall be liable to a fine which may extend to twenty-five thousand rupees.

(2) Whenever a Court imposes a fine under this section or confirms in appeal, revision or otherwise such a sentence, it may, when passing judgment, order the whole or any part of the fine recovered to be applied in the payment of compensation to the woman concerned for any loss or damage caused to her.

Cognizance of offences.

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Inspector and no such prosecution shall be instituted until expiry of the period of appeal under sub-section (2) or, if such an appeal is preferred, unless the Director General Labour by his order thereon, sanctions a prosecution.

(2) Where the Inspector decides either to institute a prosecution under this Act or to grant sanction thereto, he shall forthwith communicate his order to the person complained against, who may, within thirty days of the date of the said order, appeal to the Director Labour against such decision and the decision of the Director Labour on such appeal, shall be final and shall not be liable to be contested by suit or otherwise.

(3) No Court inferior to that of a Magistrate of the first class shall try any offence against this Act or any rule made thereunder.

Appeal against refusal to prosecute or grant sanction thereto.

13. Where, on an application by an employer or a woman or the person nominated by her or any of her legal representatives, the Inspector refuses either to institute a prosecution under this Act, or to grant sanction thereto, he shall without delay communicate to the applicant his/her order of refusal and an applicant aggrieved by such order may, within thirty days of the date thereto appeal to the Director Labour against such order, and the decision of the Director Labour on such appeal which shall be taken after affording to the applicant an opportunity of being heard, shall be final.

Limitation.

14. No Court shall take cognizance of any offence under this Act or rules made thereunder unless complaint thereof has been made to the Inspector within six months of the date on which the offence is alleged to have been committed.

Protection against discrimination.

15. No discrimination shall be made on the basis of religion, sect, colour, caste, creed, ethnic background in considering and disposing of issues relating to the enforcement of this Act.

Powers to make rules.

16. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for_

(a) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the

particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under relevant section of the Balochistan Factories Act, for the time being in force;

(b) the inspection of establishments for the purposes of this Act by the Inspector;

(c) the exercise of powers and the performance of duties by the Inspector for the purposes of this Act;

(d) the method of payment of maternity benefit in so far as provision has not been made in this Act;

(e) the forms of notice under clause(a) and clause (b) of sub-section (1) of section 6; and

(f) procedure to be observed in the disposal of appeals under sub-section (2) of section 12 or section 13.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees.

Exhibition of abstract.

17. An abstract of the provisions of this Act and the rules made thereunder in the regional language shall be exhibited in a conspicuous manner by the employer of the establishment in which women are employed.

Removal of difficulties.

18. If any difficulty arises, in giving effect to any provisions of this Act, the Labour & Manpower Department with prior approval of the Government may, by notification in the Official Gazette, make such order, not in consistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

Repeal.

19. The West Pakistan Maternity Benefits Ordinance, 1958 (Ordinance No. XXXII of 1958) is hereby repealed in its application to the Balochistan Province.

Savings.

20. (1) Notwithstanding the repeal, anything done, action taken, rule made, and notification or order issued under the repealed Ordinance, shall, so far as it is not in consistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.

(2) Any document referring to the repealed Ordinance shall be construed as referring to the corresponding provisions of this Act.

(TAHIR SHAH KAKAR)
Secretary.

No.PAB/Legis:V(16)/2022/8183. **Dated Quetta, the 29th April, 2022.**

A copy is forwarded to the Chief Controller, Government Printing Press, Balochistan, Quetta for favour of publication in the next issue of Balochistan Gazette. Before final printing, a copy thereof be sent to this Secretariat for proof reading. Fifty copies of the Act may please be supplied to this Secretariat for record.

(ABDUL REHMAN)
Special Secretary (Legis:)

No.PAB/Legis:V(16)/2022/8183. **Dated Quetta, the 29th April, 2022.**

A Copy is forwarded for information and necessary action:-

1. The Principal Secretary to Governor Balochistan, Quetta.
2. The Principal Secretary to Chief Minister Balochistan, Quetta.
3. The Secretary Government of Balochistan, Labour and Manpower Department, Quetta.
4. The Secretary, Government of Balochistan, Law and Parliamentary Affairs Department, Quetta.
5. The Director General, Public Relations, Balochistan, Quetta.
6. The System Analyst, Balochistan Provincial Assembly.
7. P.S. to Secretary, Balochistan Provincial Assembly.

29/04/22

Special Secretary (Legis:)