

Bill No. 249 of 2017

THE MENSTRUATION BENEFITS BILL, 2017

By

SHRI NINONG ERING, M.P.

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BILL

*to provide certain facilities to female employees during menstruation at work place
and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Menstruation Benefits Act, 2017.

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

Short title and
commencement.

Application
of the Act.

2. It applies, in the first instances,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to 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, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months: 5

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; 10

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

Definitions.

3. In this Act, unless the context otherwise requires,— 15

(a) "appropriate Government" means, in relation to an establishment being a mine, or an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, the Central Government and in relation to any other establishment, the State Government;

(b) "establishment" means— 20

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances; 25

(v) a shop or establishment; or

(vi) an establishment to which the provisions of this Act have been declared under section 2 to be applicable;

(c) "menstruation benefit" means the benefits referred to in section 4;

(d) "prescribed" means prescribed by rules made under this Act; 30

(e) "wages" means all remuneration paid or payable in cash to woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

(2) incentive bonus woman; and 35

(3) the money value of the concessional supply of foodgrains and other articles, but does not include—

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines; 40

(iii) any contribution paid or payable by the employer to any pension fund or provident fund of for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service; and

(f) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

4. Every woman—

(a) who is working as an employee in any establishment registered with the appropriate Government; or

(b) who is a student in or above Class VIII in any school recognized by the appropriate Government,

shall be entitled to paid leave or leave from the school, as the case may be, for four days during her menstruation:

10 Provided that if a woman employee undergoing menstruation opts to work instead of taking leave, she shall be paid overtime allowance at such rate and in such manner as may be prescribed.

15 5. Every woman employee working in the establishment during her menstruation shall be entitled to thirty minutes of rest period twice a day for not more than four days during menstruation in a month.

6. Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities.

7. Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under this Act.

20 8. Every woman shall have a right to self perception of her menstruation, in accordance with the provisions of this Act.

14 of 2013. 25 9. Notwithstanding anything contained in this Act, the Internal Complaints Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 or similar Grievance Redressal Committees constituted within the establishment shall address the grievance pertaining to menstrual leave within the establishment.

10. Whoever,—

(a) denies leave to a woman during her menstruation; or

(b) obstructs a female employee from entitlement of menstrual leave; or

30 (c) denies or discontinues prescribed rest and recreation facilities to the women during her menstruation,

shall be punishable with imprisonment for a term which shall not be less than one month but which may extend upto three months and with fine which shall not be less than ten thousand but which may extend to fifty thousand Rupees.

35 11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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, 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.

Right to Menstrual Leave.

Regulation of working hours during menstruation.

Establishment to have creche facility.

Duty of establishment to inform the benefits.

Recognition of Menstruation.

Redressal.

Punishment.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There have been frequent demands across India to further amend the Labour Laws in order to provide better working facilities to the female employees. The menstruation leave movement has gained momentum across the nation and there has been intense demand to entitle women with paid leave during menstruation. Besides, there have been demands to provide intermediate breaks during menstruation in the working days and facilities for rest at the workplace in India. A lot of women, media and civil society organizations have begun addressing the difficulties associated with menstruation and demanding paid leave. The success of several campaigns and petitions launched for menstrual leave asserts that the movement is gaining fast momentum in India.

History of paid menstrual leave dates back to a period as early as the World War II. Countries like Japan, South Korea, Indonesia and Taiwan have been far sighted regarding the issue and are entitling female employees with menstrual leave. Italy has also proposed a Bill on paid menstrual leave. Historically, Indian societies have been marked with the feature of vibrant liberalism. A girls school in the State of Kerala had granted its students menstrual leave as early as 1912. This financial year, a couple of companies in India have individually introduced the policy of paid menstrual leave for their female employees.

According to a research conducted at University College London, and published earlier this year revealed that period pain can be “as bad as having a heart attack”. Given the biological complexity of females and the intense pain they have to suffer, they shall have the right to be entitled with leave during menstruation. In addition, women are least productive in terms of job during the menstruation, specially on the first and the second day of the menstrual cycle due to unmanageable discomforts. Thus, it may not be much fruitful to the employers in terms of production. Therefore, with both the perspectives of the female employees as well as the employers, menstrual leave is desirable.

The Bill, therefore, seeks to entitle female employees with paid menstrual leave for two days. It also seeks to provide better facilities for rest at the workplace during menstruation.

Hence this Bill.

NEW DELHI;
November 27, 2017.

NINONG ERING

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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(Shri Ninong Ering, M.P.)