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India: Karnataka Maternity Benefit (Amendment) Rules, 2019

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In March 2017, the Government of India had amended The Maternity Benefit Act to *inter alia* require any establishment with 50 or more employees to set up a crèche facility. Employers were expected to comply with the crèche facility requirement from July 2017, which proved to be a logistical hurdle for several companies, as the Government had not issued rules or guidelines in relation to the actual setting up and running of such a crèche.

Over two years after the amendment, on August 8, 2019, the Government of Karnataka notified the Karnataka Maternity Benefit (Amendment) Rules, 2019 ("**Amendment Rules**") pertaining to crèche facilities. An employer has to provide and maintain a crèche for children of all employees - permanent, temporary, regular, daily wage, contract, etc. - who are below 6 years of age, with one crèche being provided for every 30 children.

Key provisions of the standards for a crèche under the Amendment Rules are summarized below:

1. **Location** - The crèche has to be located within the premises of the establishment or within 500 meters from the entrance gate of the establishment. It needs to be conveniently accessible to the mothers or parents of the children accommodated in workplace and cannot be situated near establishment where obnoxious fumes, dust or odours are given off or in which excessively noisy processes are carried on. There should not be any unsafe places like open drains or pits near the crèche.

2. **Operating hours** - The crèche shall be kept open at all times both by day and night, to correspond to the working hours of the mother or parents of the child admitted to the crèche. Shift working of the crèche may need to be implemented, if required.
3. **Building** – The Amendment Rules provide standards for the construction of the crèche building. The building has to be constructed out of heat resisting materials and be waterproof. In towns, the crèche has to be built out of brick walls with cement or lime plaster, with flooring and walls up to a height of 5 feet having a cement surface and being well painted. Room height must be at least 9 feet from the floor to the lowest part of the roof, with adequate light and ventilation. Periodic building inspections by the regulatory authorities will be conducted to check if adequate safety standards are implemented. At least 5 square feet of floor area per child has to be available at the crèche.
4. **Facilities** – The crèche has to have an attached kitchen and washrooms. Bathrooms should have a ratio of one for every 20 children, with separate bathrooms for the use of the mothers and the crèche staff at a closer distance of the crèche. A washroom for washing and drying soiled clothes as well as for the washing of the children and changing their clothes should adjoin the crèche. At least 5 gallons of water per child per day should be arranged, with an adequate supply of towels, soap, and oil for each child while it is in the crèche. A suitably fenced, shady and safe exclusive playground has to be provided. If children use public playgrounds or parks, the employer has to take reasonable safety and security steps for the children.
5. **Drinking water, milk, food** – Safe drinking water has to be provided through a dedicated water purifier. At least 250 ml of hygienic pure milk needs to be made available for each child every day. Mothers shall be allowed to visit the crèche four times a day to feed the child. Children above 2 years of age shall also be provided with an adequate supply of wholesome refreshment.
6. **Clothes** - The crèche staff and each child have to be provided with suitable clean clothes / uniform to wear at the crèche.
7. **Display and teaching material** - The crèche should have bright, cheerful and child accessible displays of essential play and teaching-learning material, daily schedule, child safety and essential norms.
8. **Equipment** – These include cradles or cots, beds or mattresses, cotton sheets and bed linen, rubber sheets for children below 3 years, feeding utensils, toys or play materials and a medicine kit.
9. **Staff** - A professionally qualified crèche-in-charge to look after children during the absence of their mothers as a teacher-cum-warden has to be appointed. A woman with midwifery qualification or training will be appointed as a crèche attendant. If the number of children exceeds 10, the crèche attendant will be assisted by female ayahs and required personnel at the rate of (a) 1 ayah for every 10 children up to 3 years of age: and (b) 1 ayah for every 15 children of over 3 years of age.
10. **Medical Records** - Every child has to be medically examined before admission to the crèche, with periodic check-ups every two months and Body-Mass Index recording once a month. These details have to be maintained by the crèche.
11. **Compliance with Government standards** – An employer has to adhere to standards and norms fixed by Central and State Governments or their official agencies for a crèche, such as the National Minimum Guidelines for setting up

and running crèche

(<https://wcd.nic.in/sites/default/files/National%20Minimum%20Guidelines.pdf>).

The notification of the Amendment Rules in Karnataka provides long overdue guidance to companies in India's IT hub to comply with a key social welfare benefit for employees and their children.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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