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The Maternity Benefit (Amendment) Act, 2017

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Before 2017, a working mother in India got 12 weeks of paid leave. That ended long before the baby was ready to be left.

Parliament changed this with the **Maternity Benefit (Amendment) Act, 2017**. It raised paid leave to 26 weeks and made crèches compulsory.

This lesson explains the numbers, who gets which number, and where these rules sit today.

The 2017 Act, at a glance

- **Leave:** 26 weeks for the first two children, of which up to 8 weeks come before delivery.
- **Third child:** 12 weeks, of which up to 6 weeks come before delivery.
- **Adoption and surrogacy:** 12 weeks.
- **Crèche:** compulsory at 50 or more employees, with four visits a day.
- **Today:** the rules sit in the Code on Social Security, 2020.





A State-run pre-school/creche facility in Coimbatore District, Tamil Nadu. Photo: Deadrat, Wikimedia Commons, CC BY-SA 4.0.

Why Was the Old 12-Week Leave Not Enough?

What was the law before 2017?

The first law was the **Maternity Benefit Act, 1961**. It covered factories, mines, plantations and shops.

It gave a woman 12 weeks of paid leave. Only six of those weeks could come before the birth.

Sources: indiankanoon.org

Why did that stop being enough?

More women were working in offices and factories. Doctors say a baby needs its mother most in the first six months.

Twelve weeks ends well before that. Many women quit their jobs after a birth because they had no choice.

Women's groups and health experts began to ask for longer leave. They also asked for day-care at work.

Sources: indiankanoon.org

What did Parliament do?

Parliament passed the **Maternity Benefit (Amendment) Act, 2017**. It changed the 1961 Act. It did not make a new law.

It came into force on 1 April 2017. The crèche rule started a little later, on 1 July 2017.

The Act applies to establishments with 10 or more employees.

Sources: indiankanoon.org

Who can claim the benefit, and how is it paid?

A woman must have worked at least **80 days** in the 12 months before her expected delivery.

The benefit is paid at the average daily wage. That is the average of her wages in the three months before she goes on leave.

The employer is liable to pay it. It is unlawful to dismiss a woman because she is absent on maternity leave.

Sources: indiankanoon.org

Remember: 12 weeks became 26 weeks. The 2017 Act is an amendment, not a fresh law.

How Do the 26 Weeks Work?

How are the 26 weeks split?

Many students think the leave is split evenly, with three months before and three months after. That is wrong.

The Act says the benefit is for a maximum of **26 weeks**. Not more than **8 weeks** of it may come before the expected delivery date.

The rest follows the birth. So the split is up to 8 weeks before and at least 18 weeks after, not 13 and 13.

Sources: indiankanoon.org

Why keep so much leave for after the birth?

That is when the baby needs care and feeding most. The mother is also still recovering.

The law protects this time. It does not force her to use all 8 weeks before the birth.

Sources: indiankanoon.org

> **Quick check 1.** The 2017 Act splits the 26 weeks evenly, with 13 weeks before and 13 weeks after the birth. *(True or False?)* See answer ↓

Think it through: why does the Act cap the leave before delivery at 8 weeks?

Show the answer

The cap keeps most of the leave for after the birth. That is when the baby needs the mother most. A woman who works until close to delivery also keeps more of the leave for the baby.

Who Gets What: Two Children, a Third, Adoption?

Does every child get 26 weeks?

No. The full 26 weeks apply to a woman's **first two children**.

A woman who already has two or more surviving children gets **12 weeks** instead. Of these, not more than 6 weeks may come before the birth.

This is the same as the old law, so nothing is lost for a third child.

Sources: indiankanoon.org

What about adopting mothers and surrogacy?

A woman who legally **adopts a child below three months** of age gets 12 weeks of benefit.

So does a **commissioning mother**. She is a biological mother whose egg is used to create an embryo carried by another woman.

The 12 weeks count from the day the child is handed over to her.

Before 2017, adoptive mothers had no such right. This was a real step forward.

Sources: indiankanoon.org

Case	Total leave	Before delivery
First two children	26 weeks	Up to 8 weeks
Third child onward	12 weeks	Up to 6 weeks
Adopting a child below 3 months	12 weeks	Counted from handover
Commissioning mother	12 weeks	Counted from handover

> **Quick check 2.** A woman expecting her third child gets 26 weeks of paid leave under the 2017 Act. *(True or False?)* See answer ↓

Remember: First two children: 26 weeks. Third child: 12 weeks. Adoption or surrogacy: 12 weeks.

Crèche, Nursing Breaks and Work From Home

What is the crèche rule?

Leave is only half of the problem. A mother who returns to work needs a safe place for her baby.

So the Act made a crèche compulsory in every establishment with **50 or more employees**.

The crèche can be separate or shared, within a prescribed distance. The mother may visit it **four times a day**, and this includes her normal rest interval.

Many aspirants wrongly remember six visits. The right number is four.

Sources: indiankanoon.org

Are there nursing breaks?

Yes. A woman who returns to work gets two nursing breaks a day until the child is 15 months old.

This rule is older than 2017. The 2017 Act kept it and added the crèche rule beside it.

Sources: indiankanoon.org

Can she work from home?

The Act lets an employer allow work from home after the leave ends. But this is not a right.

It depends on the nature of the work. Both sides must agree on the terms.

Every establishment must also tell each new woman employee about her benefits. This must be done in writing and electronically, at the time of appointment.

Sources: indiankanoon.org

> **Quick check 3.** Under the 2017 Act, an employer must always allow work from home after maternity leave. *(True or False?)* See answer ↓

Explain It Back: In your own words, say how the 26 weeks are split. Then name two things the Act gives a mother after she returns to work.

What Happened to the Act After 2017?

Is the 1961 Act still in force?

Not any more. India has merged 29 old labour laws into four codes.

The **Code on Social Security, 2020** came into force on 21 November 2025. It took in the Maternity Benefit Act, 1961 and many other laws.

The maternity rules now sit in a chapter of this Code.

Sources: indiankanoon.org

Did the Code keep the 2017 numbers?

Yes, the main promises were carried over.

The Code keeps the 26 weeks, with up to 8 weeks before delivery. It keeps 12 weeks for a woman with two or more surviving children, with up to 6 weeks before delivery.

It also keeps the crèche rule at 50 employees, with four visits a day, and the nursing breaks until 15 months.

Sources: indiankanoon.org

Why still study the 2017 Act?

Two reasons. First, the 2017 Act is where these rules began, and exam questions from earlier years ask about it.

Second, the numbers of the Code are close to it. If you know the 2017 numbers, you can answer a question on the Code too.

Sources: indiankanoon.org

> **Quick check 4.** The Code on Social Security, 2020 kept the 26-week maternity benefit. *(True or False?)* See answer ↓

How Do Exams Test This?

Asked before

PYQ 1 · UPSC CSP 2019, Q76

Which of the following statements is/are correct regarding the Maternity Benefit (Amendment) Act, 2017?

(a) 1 and 2 only
(b) 2 only
(c) 3 only
(d) 1, 2 and 3

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Must Know

- **26 weeks** for the first two children, with up to **8 weeks** before delivery.

- **12 weeks** from the third child, with up to 6 weeks before delivery.
- Crèche at **50 or more** employees, with **four** visits a day.

Good to Know

- Adoption of a child below 3 months, and surrogacy: **12 weeks** from handover.
- Work from home is **optional**, by mutual agreement.
- A woman must have worked **80 days** in the last 12 months.

Great to Know

- The rules now sit in the **Code on Social Security, 2020**, in force from 21 November 2025.
- The traps: “3 months before and 3 months after” and “six crèche visits” are both wrong.

Practice MCQs

1. What is the maximum maternity benefit period under the Maternity Benefit (Amendment) Act, 2017?

A. 24 weeks

B. 20 weeks

C. 26 weeks

D. 12 weeks

See answer ↓

2. Under the 2017 Act, not more than how many weeks of maternity benefit may precede the expected delivery date?

A. 6 weeks

B. 8 weeks

C. 13 weeks

D. 12 weeks

See answer ↓

3. A woman who already has two surviving children is entitled to how many weeks of maternity benefit?

A. 8 weeks

B. 26 weeks

C. 12 weeks

D. 16 weeks

See answer ↓

4. An establishment must provide a creche facility when it has at least how many employees?

A. 100

B. 50

C. 20

D. 30

See answer ↓

5. A woman who legally adopts a child below three months of age is entitled to maternity benefit of how long?

A. 26 weeks from the date of adoption

B. 6 weeks from the date of adoption

C. 12 weeks from the date the child is handed over

D. 12 weeks from the child's birth

See answer ↓

6. The maternity benefit rules of the 1961 Act now sit in which law?

A. Industrial Relations Code, 2020

B. Code on Social Security, 2020

C. Code on Wages, 2019

D. Occupational Safety, Health and Working Conditions Code, 2020

See answer ↓

Answer Key

1. **C.**
   The Act raised the maximum period from 12 to 26 weeks.
   ↑ Q1
2. **B.**
   Up to 8 weeks may come before delivery. The rest follows the birth.
   ↑ Q2
3. **C.**
   The 26 weeks are for the first two children. A third child brings 12 weeks.
   ↑ Q3
4. **B.**
   The Act makes a creche compulsory at 50 or more employees, with four visits a day.
   ↑ Q4
5. **C.**
   Adopting mothers and commissioning mothers get 12 weeks from handover of the child.
   ↑ Q5
6. **B.**
   The Code on Social Security, 2020 took in the Maternity Benefit Act, 1961.
   ↑ Q6

Quick-check answers

1. **False.** Not more than 8 weeks may come before the expected delivery. The rest follows the birth. ↑ 1
2. **False.** The 26 weeks are for the first two children. A third child brings 12 weeks.
   ↑ 2
3. **False.** Work from home is optional. It depends on the nature of the job and on what both sides agree. ↑ 3
4. **True.** The Code keeps 26 weeks, with up to 8 weeks before delivery. ↑ 4

Previous year answers

1. **(c) 3 only** The Act sets 26 weeks of total paid leave, not a simple 3-months-pre/3-months-post split — Statement 1 is false. Creche visits are mandated at four a day, not six — Statement 2 is false. A woman with two or more existing children does get a reduced 12-week entitlement for a further child — Statement 3 is true.

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