

## National Minimum Guidelines on Crèche Facility: Employers are you aware?

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### National Minimum Guidelines

Government of India brought into force The Maternity Benefit (Amendment) Act, 2017 (the “MBA 2017”) which was considered a progressive move ushering much needed labour reform. As per section 11A of the Maternity Benefit Act 1961 (“Act”), every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facility. Further, it was provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the interval for rest allowed to her. King Stubb and Kasiva had reviewed the draft rules<sup>[1]</sup> brought about by the Karnataka government, which was one of its kind in the absence of any guidelines on crèche facilities.<sup>[2]</sup> While the Karnataka draft rules are still waiting to see the daylight, Haryana Government vide a public release on August 2, 2018<sup>[3]</sup> stated that the government has notified the rules for providing crèche facilities and amenities. However, as the notifications and the rules are not present in the public domain for the purpose of implementation, same stands with no legal cogency. In order to provide minimum guidelines for the purpose of removing all existing ambiguity, the Ministry of Woman and Child Development has notified and formulated the “National Minimum Guidelines for setting up and running crèches under Maternity Benefit Act, 2017” (“Guidelines”).<sup>[4]</sup>

The National Minimum Guidelines lays down the following:

- **Applicability:** These Guidelines have its applicability in consonance with the Act, being applicable to any establishment having fifty or more employees. It is pertinent to note that the employees for this purpose would include all employees including but not being limited to regular, temporary, daily wage, consultant, contractual and other such personnel. Every establishment that qualifies the abovementioned criteria has been mandated to maintain crèche for the use of the children of age group of 6 months to 6 years.
- **Location:** The crèches facility should be near/at the work place site or within the neighbourhood of the employees which shall mean within 500 metres from the establishment or its premises.
- **Timings:** Crèche timings shall be flexible such as to match the timings of the parents. In case the establishment has day and night shifts, the crèche is also expected to run in shifts. Therefore, the timings are to be decided by the establishment. However, the focus should be the need of the parents and interest of the child.
- **Habitable environment:** Crèche should be built with a minimum space of 10 to 12 sq. ft. per child with proper light and ventilation, provision of safe and potable drinking water etc.
- **Human Resource:** The crèche unit should have up to 30 children. The Guidelines provides for appointment of one crèche-in-charge along with one helper for every 10 children under the age group of 3 years and for every 20 children in the age group of 3 to 6 years. However, in case the number of children is less than 5, a crèche-in-charge may not be appointed. A specified selection criterion, training schedule and role of each worker has been provided by the Guidelines.
- **Crèche Monitoring Committee:** The Guidelines provide for setting up of a committee having a representation from 3-4 parents, one crèche worker, crèche

in-charge/supervisor and one admin/HR person for the supervision and regulation of crèche facility.

- **Child Protection Policy:** The National Minimum Guidelines mandates every establishment to adopt child protection policy and provides for a prototypical policy as a guide. The policy is aimed at prohibiting child abuse. As per the policy, a complaints committee is required to be set up which shall take into cognizance all complaints as received under the policy and the redressal of the same.
- **Norms and Standards:** The National Minimum Guidelines provides for various norms and basic standards to be maintained by crèches in order to have smooth and efficient functioning. The establishments are required to ensure maintenance of nurturing, responsive and inclusive environment in the crèche. Daily schedule, child safety and essential norms, and other relevant material are required to be displayed on the walls of the crèche. Guidelines provide for the following:
- **Crèche equipment and material:** The National Minimum Guidelines provide for a suggestive list of equipment and material required by establishment to be maintained at the crèche facility. The materials include both recurring material such as furniture, utensils etc., and non-recurring material (Annually/bi-annually/monthly /quarterly) such as eatables, stationery and clothes.
- **Health practices:** The National Minimum Guidelines mandates regular check-up for children preferably on a monthly basis. The Guidelines also provide for a sample immunization schedule as is used under Indradhanush programme of Ministry of Health and Family Welfare.
- **Nutrition Practices:** three meals are required by the Guidelines to be served in a day. The guideline provides for three sample meal chart, calorie requirement chart for different age group of children and the WHO standard growth monitoring chart as a suggestive start to the establishments.
- **Crèche Transactions:** Every crèche is required to conduct such activities as required for each group of children to ensure their holistic development. Guidelines also provide for a suggestive list of activities for the children.
- **Hygiene and Sanitation Practices:** The Guidelines provide for adequate measures to be taken by the establishment to ensure hygiene and sanitation of the crèche facility are maintained. Toys and other such items are required to be sanitized regularly.

Conclusion

With the

growing urbanisation and both parent having to work, it is apt that the government has promulgated guidelines for crèches in India. It is pertinent to

note that these are guidelines and do not carry any penal consequences as of now. Further, there is no mandate as to when should this be brought under state

rules therefore providing clear absence of any time frame for its compliance. As already stated in our analysis of Karnataka draft rules, National Minimum Guidelines as well remains silent on whether the obligations of the Crèche Facility could be passed on to a third party service provider and if it does how the responsibilities are divided between them. Further, the Guidelines fail to provide whether the cost of crèche facility should be divided between the employer and employee or to be solely borne by the employer.

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[1]

<http://labour.kar.nic.in/labour/Maternity%20benifit%20act%20Rules%20Amendment.pdf>

[3]

<https://www.prharyana.gov.in/en/the-haryana-government-has-framed-and-notified-rules-under-the-maternity-benefit-amended-act-2017>

[4]

<http://www.wcd.nic.in/sites/default/files/National%20Minimum%20Guidelines.pdf>

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