

Bill No. 205 of 2017

THE PAYMENT OF GRATUITY (AMENDMENT) BILL, 2017

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BILL

further to amend the Payment of Gratuity Act, 1972.

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 Payment of Gratuity (Amendment) Act, 2017.

Short title and commencement.

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

39 of 1972

2. In the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in section 2, for clause (k), the following clause shall be substituted, namely:—

Amendment of section 2.

'(k) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;'

10 3. In section 2A of the principal Act, in sub-section (2), in the *Explanation*, in clause (iv), for the words "twelve weeks", the words "such period as may be notified by the Central Government from time to time" shall be substituted.

Amendment of section 2A.

15 4. In section 4 of the principal Act, in sub-section (3), for the words "ten lakh rupees", the words "such amount as may be notified by the Central Government from time to time" shall be substituted.

Amendment of section 4.

STATEMENT OF OBJECTS AND REASONS

The Payment of Gratuity Act, 1972 (the Act) was enacted to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments who have rendered a minimum five years of continuous service with the establishment employing ten or more persons. The calculation of gratuity amount is based on a formula, which is fifteen days of wages for each year of completed service, subject to a ceiling. The present ceiling, as provided under section 4 of the Act is rupees ten lakhs which was fixed in the year 2010.

2. The period of twelve weeks of maximum maternity leave presently provided in section 2A of the Act for the purpose of calculating continuous service under the Act is on the basis of period of maximum maternity leave as provided in the Maternity Benefit Act, 1961. The maximum maternity leave under the Maternity Benefit Act, 1961 has been enhanced from twelve weeks to twenty-six weeks by the Maternity Benefit (Amendment) Act, 2017. It is therefore proposed to empower the Central Government to enhance the period of existing twelve weeks to such period as may be notified by it.

3. The provisions contained in the Central Civil Services (Pension) Rules, 1972 for Central Government employees with regard to gratuity are similar to the provisions contained in the Act. After implementation of the 7th Central Pay Commission, the ceiling of gratuity for Central Government employees has been enhanced from rupees ten lakhs to rupees twenty lakhs. In the past, the ceiling amount of gratuity under the Act has followed the Central Pay Commission recommendations. Therefore, considering the inflation and wage increase even in case of employees engaged in private and public sector, the entitlement of gratuity is also required to be revised for employees who are covered under the Act. It has also been proposed to empower the Central Government to notify the ceiling proposed, instead of amending the said Act, so that the limit can be revised from time to time keeping in view the increase in wage and inflation, and future Pay Commissions.

4. The Payment of Gratuity (Amendment) Bill, 2017, *inter alia*, proposes to amend—

(a) section 2A of the Act so as to empower the Central Government to notify the period of maternity leave in case of female employee as deemed to be in continuous service in place of existing twelve weeks;

(b) section 4 of the Act to substitute the words "ten lakh rupees" with the words "such amount as may be notified by the Central Government from time to time".

5. The Bill seeks to achieve the above objects.

NEW DELHI;

SANTOSH KUMAR GANGWAR

Dated, the 23rd October, 2017.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend the provision relating to calculation of “continuous service” for the purpose of gratuity in case of a female employee who has been on maternity leave. It empowers the Central Government to notify the period of paid maternity leave for the purposes of counting of “continuous service” under the Payment of Gratuity Act, 1972 by notification in the Official Gazette, from time to time.

2. Clause 4 of the Bill seeks to amend sub-section (3) of section 4 of the Act to substitute the words “ten lakh rupees” with “such amount as may be notified by the Central Government from time to time” which empowers the Central Government to notify the maximum amount of gratuity admissible under the Act by notification in the Official Gazette from time to time.

3. The matters in respect of which notification may be issued by the Central Government are matters of procedure or administrative details and it is not practicable to provide for this in the Bill itself. The delegation of legislation is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE PAYMENT OF GRATUITY ACT, 1972

(39 OF 1972)

	*	*	*	*	*
Definitions.	2.	In this Act, unless the context otherwise requires,—			
	*	*	*	*	*
		(k) "notification" means a notification published in the Official Gazettee;			
	*	*	*	*	*
Continuous service.	2A.	For the purposes of this Act,—			
	*	*	*	*	*
		(2) Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—			
	*	*	*	*	*
		<i>Explanation.</i> —For the purposes of clause (2), the number of days on which an employee has actually worked under an employer shall include the days on which—			
		(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;	20 of 1946.		14 of 1947.
		(ii) he has been on leave with full wages, earned in the previous year;			
		(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and			
		(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.			
	*	*	*	*	*
Payment of gratuity.	4.	(1) *	*	*	*
		(3) The amount of gratuity payable to an employee shall not exceed ten lakh rupees.			
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BILL

further to amend the Payment of Gratuity Act, 1972.

(Shri Santosh Kumar Gangwar, Minister of State for Labour and Employment)

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