

SENATE OF PAKISTAN

REPORT NO.21 OF 2019



House of the Federation

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE AND ECONOMIC AFFAIRS

ON

THE MATERNITY AND PATERNITY LEAVE BILL, 2018,
INTRODUCED BY SENATOR QURATULAIN MARRI,
ON 12ND NOVEMBER, 2018

PRESENTED BY:

SENATOR FAROOQ HAMID NAEK

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE, AND ECONOMIC AFFAIRS ON THE MATERNITY AND PATERNITY LEAVE BILL, 2018

I, Senator Farooq Hamid Naek, Chairman, Standing Committee on Finance, Revenue and Economic Affairs, have the honour to present, on behalf of the Committee, this report on a Private Member's Bill to provide for the facility of maternity and paternity leave to the employees of public and private establishments, [The Maternity and Paternity Leave Bill, 2018], introduced by Senator Quratulain Marri, on 12th November, 2018, and referred to the Committee for consideration and report.

2. The composition of the Standing Committee is given as under: -

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Syed Shibili Faraz	Member
(3)	Senator Ayesha Raza Farooq	Member
(4)	Senator Mushahid Ullah Khan	Member
(5)	Senator Musadik Masood Malik	Member
(6)	Senator Dilawar Khan	Member
(7)	Senator Muhammad Akram	Member
(8)	Senator Muhammad Talha Mahmood	Member
(9)	Senator Imam-ud-Din Shouqeen	Member
(10)	Senator Mohsin Aziz	Member
(11)	Senator Mian Muhammad Ateeq Shaikh	Member
(12)	Senator Anwar ul Haq Kakar	Member
(13)	Senator Sherry Rehman	Member
(14)	Advisor the Prime Minister for Finance and Revenue	Ex-Officio Member

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3. The Committee considered the said matter in its meetings held on 2nd January, 13th March, 9th & 17th April, 30th May, 26th August, 10th & 29th October, and 12th December, 2019, at Parliament House, Islamabad. The last meeting of the Committee was attended by the following:-

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Syed Shibli Faraz	Member
(3)	Senator Mian Muhammad Ateeq Shaikh	Member
(4)	Senator Anwar ul Haq Kakar	Member
(5)	Senator Dilawar Khan	Member
(6)	Senator Mushahid Ullah Khan	Member
(7)	Senator Muhammad Akram	Member
(8)	Senator Muhammad Talha Mahmood	Member
(9)	Senator Quratulain Marri	Mover

4. The Committee considered the Maternity and Paternity Leave Bill, 2018, and proposed the following amendments therein which were finalized by the Member-in-Charge and Senator Musadik Masood Malik, in consultation with the M/o of Finance and M/o Law and Justice, as per direction of the Committee:-

LONG TITLE

- (I) that in the long title of the Bill, after the word, "establishment", the words, **"under administrative control of the Federal Government"**, shall be added.

PREAMBLE

- (II) that in the preamble of the Bill, after the word, "establishments", the words, **"under administrative control of the Federal Government"**, shall be inserted.

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CLAUSE 1

- (III) that in Clause 1, for sub-clause (2), the following shall be substituted, namely:-

"(2) It shall apply to all public and private establishments under administrative control of the Federal Government wherever they may be."

CLAUSE 2

- (IV) that for Clause 2, the following shall be substituted, namely:-

"2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

- (a) **"child" for the purposes of this Act, means a child in the womb of a pregnant employee or wife of the male employee and includes a stillborn;**
- (b) **"employee" means any natural person who has for pay, wages or other benefits entered into, or works under, a contract of service or apprenticeship on regular basis without limit of period with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is expressed or implied, oral or in writing;**
- (c) **"establishment" means any ministry, division, attached department, subordinate office, executive department, public or private organization, firm, corporation, autonomous or semi-autonomous body, body corporate, enterprise, company, industry, factory or such other office or institution, by whatever name called for and under administrative control of the Federal Government;**
- (d) **"employer" includes Federal Government or any ministry or division or department or office of the Federal Government or anybody of persons whether incorporated or not, any managing agent of an employer and the legal representatives of a deceased employer and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship and such other person having employed a workman working for him; and**
- (e) **"prescribed" means prescribed by rules made under this Act."**

CLAUSE 3

(V) that for Clause 3, the following shall be substituted, namely:-

"3. Right to maternity leave.— (1) Maternity leave shall in the prescribed manner be granted on full pay outside the leave account to a female employee on her option to the extent of one hundred and eighty days on first birth, one hundred and twenty days on second birth and ninety days on third birth from the date of commencement thereof.

(2) Such maternity leave may not be granted for more than three times in the entire service of the female employee except when such leave is granted within her leave account due and admissible to her or as an extra ordinary leave without pay."

CLAUSE 4

(VI) that for Clause 4, the following shall be substituted, namely:-

"4. Paternity leave.— (1) A male employee expecting his wife to give birth to a child shall, at his option, be granted paternity leave on full pay not exceeding thirty days outside his leave account from the date of its commencement.

(2) Such paternity leave may not be granted for more than three times in the entire service of the male employee except when such leave is granted within his leave account due and admissible to him or as an extra ordinary leave without pay."

CLAUSE 5

(VII) that for Clause 5, the following shall be substituted, namely:-

"5. Offence and punishment.— A person who contravenes any provision of this Act shall be deemed to have committed an offence punishable with imprisonment of either description for a term which may extend to six months or a fine which may extend to one hundred thousand rupees or with both."

CLAUSE 6

(VIII) that for Clause 6, the following shall be substituted, namely:-

"6. Act to override other laws.— The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force."

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INSERTION OF NEW CLAUSES 7 & 8


- (IX) that after Clause 6, the following new clauses 7 & 8 shall be inserted, namely:-

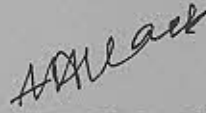
"7. Power to make rules.— The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

8. Removal of difficulty.— If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order not inconsistent with the provisions of this Act as may be necessary to remove the difficulty."

6. After due deliberation and satisfaction expressed by Member-in-Charge, the Committee unanimously recommended that the Bill, as reported by the Committee, may be passed by the House and also gave approval for presentation of this report to the House.

7. The Bill as reported by the Committee is at Annex-A and the Bill as introduced is at Annex-B.


(**MUHAMMAD TAHIR KHAN**)
Secretary (Committee)


(**SENATOR FAROOQ HAMID NAEK**)
Chairman (Committee)

Islamabad, the
12th December, 2019

[As reported by the Committee]

A

BILL

*to provide for the facility of maternity and paternity leave to the employees of public and private establishments **under administrative control of the Federal Government;***

WHEREAS it is expedient to provide for the facility of maternity and paternity leave to the employees of public and private establishments **under administrative control of the Federal Government** and for the matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, application and commencement.**— (1) This Act shall be called the Maternity and Paternity Leave Act, 2019.

(2) It shall apply to all public and private establishments under administrative control of the Federal Government wherever they may be.

(3) It shall come into force at once.

2. **Definitions.**- In this Act, unless there is anything repugnant in the subject or context,-

- (a) “child” for the purposes of this Act, means a child in the womb of a pregnant employee or wife of the male employee and includes a stillborn;
- (b) “employee” means any natural person who has for pay, wages or other benefits entered into, or works under, a contract of service or apprenticeship on regular basis without limit of period with an employer whether by way of manual labour, clerical work or otherwise and whether the contract is expressed or implied, oral or in writing;
- (c) “establishment” means any ministry, division, attached department, subordinate office, executive department, public or private organization, firm, corporation, autonomous or semi-autonomous body, body corporate, enterprise, company, industry, factory or such other office or institution, by whatever name called for and under administrative control of the Federal Government;

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- (d) "employer" includes Federal Government or any ministry or division or department or office of the Federal Government or anybody of persons whether incorporated or not, any managing agent of an employer and the legal representatives of a deceased employer and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship and such other person having employed a workman working for him; and
- (e) "prescribed" means prescribed by rules made under this Act.

3. Right to maternity leave.— (1) Maternity leave shall in the prescribed manner be granted on full pay outside the leave account to a female employee on her option to the extent of one hundred and eighty days on first birth, one hundred and twenty days on second birth and ninety days on third birth from the date of commencement thereof.

(2) Such maternity leave may not be granted for more than three times in the entire service of the female employee except when such leave is granted within her leave account due and admissible to her or as an extra ordinary leave without pay.

4. Paternity leave.— (1) A male employee expecting his wife to give birth to a child shall, at his option, be granted paternity leave on full pay not exceeding thirty days outside his leave account from the date of its commencement.

(2) Such paternity leave may not be granted for more than three times in the entire service of the male employee except when such leave is granted within his leave account due and admissible to him or as an extra ordinary leave without pay.

5. Offence and punishment.— A person who contravenes any provision of this Act shall be deemed to have committed an offence punishable with imprisonment of either description for a term which may extend to six months or a fine which may extend to one hundred thousand rupees or with both.

6. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

7. Power to make rules.— The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

8. Removal of difficulty.— If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order not inconsistent with the provisions of this Act as may be necessary to remove the difficulty.

STATEMENT OF OBJECTS AND REASONS

Working women are a growing reality in Pakistan. In order to facilitate women to fulfill the obligations of motherhood without having to compromise on their professional growth, Article 37 (e) of the Constitution of Pakistan provides the maternity benefits to women and entitles them to leave. This Bill aims to provide expectant mothers maximum required leave in order to facilitate them. On the other hand, the law does not mandate the provision of paternity leave for male employees, where the need for the institutionalization of such support structure is no different. Research suggests that enabling fathers to look after their new born children has positive knock-on effects. The early close relationship between father and child has long-term implications. This Bill seeks to provide fathers the opportunity to be there at a crucial time without the added responsibility of the workplace.

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SENATOR QURATULAIN MARRI
Member-in-Charge

Introduced on 12.11.2018

[AS INTRODUCED IN THE SENATE]

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BILL

to provide for the facility of maternity and paternity leave to the employees of public and private establishments

WHEREAS it is expedient to provide for the facility of maternity and paternity leave to the employees of public and private establishments and for the matters connected therewith and ancillary thereto;

In addition to and not in derogation of any other law for the time being in force, it is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Maternity and Paternity Leave Act, 2018.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless the context otherwise requires,-

(a) "Employee" means any person who is employed in any of the public or private establishment;

(b) "Establishment" means any public, private organization, corporation, autonomous, semi-autonomous, body corporate or enterprise; and

(c) "leave account" means the account of the earned leave of every employee.

3. Provision of maternity and paternity leave.- (1) The employees of every establishment shall be provided six months paid maternity and three months paternity leave as and when applied by employees, separately from their leave account, commencing from the date as applied by the applicant in the application and supported by a medical certificate.

(2) The employees shall also be provided with an additional three months optional unpaid maternity and one month paternity leave, separately from their leave account, if required by employee.

4. Further extension not allowed.- There shall be no further extension granted to any of the leaves aforementioned in section 3 of this Act.

5. Commencement of leave.- The leave may commence from the day following the day on which an employee hands over the charge of his post and may end on the day preceding that on which (s) he resumes duty.

6. Termination on seeking leave not allowed.- The employer shall not be allowed to terminate the services of an employee merely on seeking leave under the provisions of this Act. In case the employee violates the discipline and commits misconduct including extension of the leave without prior permission of the competent authority, the employer take disciplinary action as may be prescribed.

STATEMENT OF OBJECTS AND REASONS

Working women are a growing reality in Pakistan. In order to facilitate women to fulfil the obligations of motherhood without having to compromise on their professional growth, Article 37 (e) of the Constitution of Pakistan provides the maternity benefits to women and entitles them to leave. This Bill aims to provide expectant mothers maximum required leave in order to facilitate them. On the other hand, the law does not mandate the provision of paternity leave for male employees, where the need for the institutionalization of such support structure is no different. Research suggests that enabling fathers to look after their new born children has positive knock-on effects. The early close relationship between father and child has long-term implications. This Bill seeks to provide fathers the opportunity to be there at a crucial time without the added responsibility of the workplace.

SENATOR QURATULAIN MARRI
Member-in-Charge