

MALTA

ATT Nru. XI ta' l-1981

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex ikompli jemenda l-Att ta' l-1952 li Jirregola l-Kondizzjonijiet ta' l-Impieg.

ACT No. XI of 1981

AN ACT enacted by the Parliament of Malta.

AN ACT further to amend the Conditions of Employment (Regulation) Act, 1952.

Nagħti l-kunsens tiegħi.

(L.S.)

ANTON BUTTIGIEG
President

10 ta' April, 1981

ATT Nru. XI ta' l-1981

ATT biex ikompli jemenda l-Att ta' l-1952 li Jirregola l-Kondizzjonijiet ta' l-Impieg.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, fareg b'liġi dan li ġej: —

Titolu fil-qosor
u bidu fis-sehħ.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1981 li jemenda l-Att li Jirregola l-Kondizzjonijiet ta' l-Impieg, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-1952 li Jirregola l-Kondizzjonijiet ta' l-Impieg, hawnhekk iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

(2) Dan l-Att għandu jkollu effett mill-1 ta' Jannar, 1981.

Emenda ta'
l-artikolu 2
ta' l-Att
prinċipali.

2. Is-subartikolu (1) ta' l-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara t-tifsira ta' "kondizzjonijiet ta' l-impieg" għandu jżiddied dan li ġej:

“ "ħlas" tfisser it-twelid ta' tarbija ħajja jew it-twelid ta' tarbija sew ħajja jew mejta wara seba' xhur tqala;"; u

(b) minnufih wara t-tifsira ta' "Malta" għandu jżiddied dan li ġej:

“ "leave għal maternità" tfisser assenza mix-xogħol minħabba tqala u ħlas għal perijodu mhux interrott għal mhux iktar minn tlettax-il ġimgħa, li ħamsa minnhom ikunu wara d-data tal-ħlas;".

3. Minnufih wara l-artikolu 15B ta' l-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid 15C ma' l-Att prinċipali.

“Leave għal maternità.

15C. (1) Meta fit-tleltax jew wara t-tleltax ta' April, 1981, il-ħlas ta' impjegata *whole-time* ikun mistenni matul l-impieg tagħha, dik l-impjegata jkollha jedd għal *leave* għal maternità b'paga sħiħa jekk, għall-inqas tliet ġimgħat qabel ma jibda dak il-*leave*, jew, jekk dan ma jkunx b'mod xieraq prattikabbli, kemm jista' jkun malajr, tagħti avviż bil-miktub lill-prinċipal tagħha li hi se tkun assenti mix-xogħol minħabba dak il-ħlas, u, flimkien ma' dak l-avviż tippoduċi ċertifikat mediku iffirmat li juri d-data li fiha jkun mistenni l-ħlas:

Iżda jekk ma jingħatax avviż fiż-żmien imsemmi f'dan is-subartikolu, l-impjegata jkollha jedd biss għal dik il-parti tal-*leave* għal maternità li jinkludi d-data tal-ħlas u l-perijodu ta' ħames ġimgħat wara dik id-data.

(2) Il-*leave* għal maternità li għalih jirreferi dan l-artikolu ma jistax jittiehed qabel ma l-impjegata tkun laħqet it-tmien xahar tat-tqala.

(3) Perijodu ta' ħames ġimgħat tal-*leave* għal maternità għandu fil-każijiet kollha jittiehed wara d-data tal-ħlas.

(4) Meta ma jkunx hemm il-ħlas fi żmien tmien ġimgħat mill-ġum li fih jibda l-*leave* għal maternità, l-impjegata li jkollha l-jedd għal dak l-*leave* għal maternità ma tkunx obbligata li terġa' tibda x-xogħol qabel ma jgħaddu ħames ġimgħat wara d-data tal-ħlas iżda l-impjegata f'dak il-każ ikollha jedd għall-paga dwar perijodu ta' mhux iżjed minn tleltax il-ġimgħa.

(5) Għall-finijiet ta' dan l-artikolu u ta' l-artikolu 25 ta' dan l-att, “impjegata *whole-time*” tfisser kull impjegata li titqies bħala mpjegata *whole-time* skond xi kondizzjoni ta' impieg magħrufa kif imfisser fl-artikolu 10 ta' dan l-Att u tinkludi kull impjegata oħra li tkun fl-impieg ta' xi prinċipal partikolari għal mhux inqas minn 35 siegħa f'xi ġimgħa waħda.”.

4. Is-subartikolu (1) ta' l-artikolu 18 ta' l-Att prinċipali għandu jiġi emendat biż-zieda tal-paragrafu li ġej fit-tarf tiegħu:

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

“Kemm-il darba ma jkunx espressament provdut b'dan jew taħt dan l-Att jew xi Att ieħor, prinċipal ma jistax jikkalkola bħala parti mill-paga ta' mpjegat xi beneficiċċju jew dħul ieħor, ukoll jekk jingħata jew jithallas mill-prinċipal, li jithallas minħabba xi kawża oħra li ma tkunx il-kuntratt tas-servizz.”.

5. Il-proviso li ġej għandu jiżdied ma' l-artikolu 23 ta' l-Att prinċipali:

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

“Iżda meta l-impjegat ikun inżamm fl-impieg wara d-data tat-tmien ta' kuntratt ta' servizz għal żmien speċifikat jew ikun reġa' ġie impjegat minn prinċipal fi żmien sena mid-data tat-tmien ta' kuntratt ta' servizz għal żmien speċifikat, il-kondizzjonijiet ta' l-impieg ma għandhomx ikunu anqas favorevoli minn dawk li kienu jkunu japplikaw jekk kemm-il darba l-kuntratt ta' servizz ikun għal żmien bla limitu u ż-żmien totali ta' prova ta' l-impjegat ma għandu jkun f'ebda każ iṭwal minn dak li hemm provdut f'dan l-Att.”.

Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

6. L-artikolu 25 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-proviso li ġej għandu jiżdied mas-subartikolu (3) tiegħu:

“Iżda l-avviż tat-temm ta' impieg ma jistax jingħata matul il-*leave* għal maternità jew matul il-perijodu ta' inkapaċità għax-xogħol li għalih jirreferi l-paragrafu (a) tas-subartikolu (12) ta' dan l-artikolu.”;

(b) fil-proviso għas-subartikolu (10) tiegħu —

(i) minflok il-kliem “il-fiduċja tal-prinċipal.” għandhom jidhru l-kliem “il-fiduċja tal-prinċipal; jew”; u

(ii) minnufih wara l-paragrafu (b) tiegħu għandu jiżdied dan li ġej:

“(ċ) illi l-impjegat ikun iżżewweġ; jew

(d) illi mpjegata tkun tqila b'tarbija.”; u

(ċ) minnufih wara s-subartikolu (11) tiegħu għandu jiżdied dan li ġej:

“(12) (a) Impjegata *whole-time* ma tistax tintbagħat mill-prinċipal matul il-perijodu tal-*leave* għal maternità tagħha jew il-perijodu ta' ħames ġimgħat wara dak il-*leave* li matulu ma tkunx tista' taħdem minħabba kondizzjoni patoloġika li tinqala' mill-ħlas.

(b) Kull perijodu ta' inkapaċità għax-xogħol imsemmi fil-paragrafu (a) ta' dan is-subartikolu għandu jitnaqqas mill-perijodu ta' *leave* għal mard li għalih l-impjegata jkollha jedd fiż-żmien ta' dik l-inkapaċità, hekk iżda li l-perijodu ta' inkapaċità li jkun iżjed mill-imsemmi *leave* għal mard jitqies li hu *leave* ta' assenza mingħajr jedd għall-paga:

Iżda l-prinċipal jista' jeħtieġ lill-impjegata li tipproduċi prova ta' dik l-inkapaċità għax-xogħol u jista' jeħtieġ li t-tabib tiegħu iżur lil dik l-impjegata u jirrapportalu fuq il-kondizzjoni ta' saħħitha.

(13) L-impjegata jkollha, meta jintemm il-*leave* għal maternità li għalih għandha jedd taħt id-disposizzjonijiet ta' dan l-Att jew il-perijodu ta' inkapaċità tagħha għax-xogħol li għalih jirreferi l-paragrafu (a) tas-subartikolu (12) ta' dan l-artikolu, jedd li terġa' tidhol għax-xogħol fil-post li kienet tokkupa meta beda l-*leave* għal maternità tagħha, jew f'post analogu jekk fiż-żmien meta hekk ikollha l-jedd il-post li qabel kienet tokkupa ma jkunx għadu disponibbli.

(14) Meta impjegata ma terġax tidhol għax-xogħol kif provdut fis-subartikolu ta' qabel dan, jew, wara li tkun hekk reġgħet bdiet ix-xogħol, tabbanduna s-servizz tal-prinċipal tagħha, mingħajr raġuni tajba u biżżejjed fi żmien sitt xhur mid-data li fiha tkun hekk reġgħet bdiet, din tkun obligata, bla ħsara għal kull obbligu ieħor taħt dan l-Att, li tħallas lill-prinċipal somma li tkun daqs il-pagi li rċeviet matul il-*leave* għal maternità.”.

7. Minnufih wara l-artikolu 26 ta' l-Att prinċipali għandu jiżded l-artikolu li ġej:

Zieda ta' artikolu ġdid 26A ma' l-Att prinċipali.

“26A. Kull kondizzjoni f'kuntratt ta' servizz li tagħti s-setgħa lil prinċipal li jtemm l-impieg ta' impjegata meta tiżzewweġ jew meta ssir tqila b'tarbija tkun mingħajr effett.”.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 488 tas-7 ta' April, 1981.

C. MIFSUD
Skrivan tal-Kamra tad-Deputati

C. AGIUS
Speaker

I assent.

(L.S.)

ANTON BUTTIGIEG
President

10th April, 1981

ACT No. XI of 1981

AN ACT further to amend the Conditions of Employment (Regulation) Act, 1952.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and
commencement.

1. (1) This Act may be cited as the Conditions of Employment (Regulation) (Amendment) Act, 1981, and shall be read and construed as one with the Conditions of Employment (Regulation) Act, 1952, hereinafter referred to as “the principal Act”.

(2) This Act shall have effect from the 1st day of January, 1981.

Amendment of
section 2 of
the principal
Act.

2. Subsection (1) of section 2 of the principal Act shall be amended as follows:

(a) immediately after the definition of “conditions of employment” there shall be added the following:

“ “confinement” means the birth of a living child or the birth of a child whether living or dead after seven months of pregnancy;”, and

(b) immediately after the definition of “Malta” there shall be added the following:

“ “maternity leave” means absence from work because of pregnancy and confinement for an uninterrupted period of not more than thirteen weeks, five of which follow the date of confinement;”.

3. Immediately after section 15B of the principal Act there shall be added the following new section:

Addition of new section 15C to the principal Act.

“Maternity leave.

15C. (1) Where, on or after the thirteenth day of April, 1981, a confinement of a whole-time employee is due to occur during her employment, such employee shall be entitled to maternity leave with payment of full wages if, at least three weeks before such leave begins, or, if that is not reasonably practicable as soon as practicable, she gives notice in writing to her employer that she will be absent from work because of such confinement, and, together with such notice she produces a signed medical certificate in which is indicated the expected date of confinement:

Provided that if notice is not given within the time referred to in this subsection, the employee shall be entitled only to that part of maternity leave which includes the date in which the confinement occurs and the period of five weeks which follow such date.

(2) The maternity leave to which this section refers shall not be availed of before the employee has entered the eighth month of pregnancy.

(3) A period of five weeks of the maternity leave shall in all cases be availed of after the date of confinement.

(4) Where confinement does not occur within eight weeks from the day on which the maternity leave commences, the employee entitled to such maternity leave shall not be liable to resume work before the lapse of five weeks after the date of confinement but the employee shall in that case be entitled to wages in respect of a period not exceeding thirteen weeks.

(5) For the purposes of this section, and of section 25 of this Act, “whole-time employee” means any employee who is deemed to be a whole-time employee in accordance with any recognised condition of employment as defined in section 10 of this Act and includes any other employee who is in employment with any particular employer for not less than 35 hours in any one week.”.

4. Subsection (1) of section 18 of the principal Act shall be amended by the addition of the following paragraph at the end thereof:

Amendment of section 18 of the principal Act.

“Unless expressly provided by or under this Act or any other Act, an employer shall not compute as part of the wages of an employee any other benefit or income, even though granted or paid by the employer, which is payable on account of any cause other than the contract of service.”.

5. The following proviso shall be added to section 23 of the principal Act:

Amendment of section 23 of the principal Act.

“Provided that where the employee has been retained in employment after the date of termination of a contract of service for a specified time or has been re-employed by the employer within one year from the date of termination of a contract of service for a specified time, the conditions of employment shall not be less favourable than those which would have been applicable had the contract of service been for an indefinite time and the

3. Immediately after section 15B of the principal Act there shall be added the following new section:

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Provided that if notice is not given within the time referred to in this subsection, the employee shall be entitled only to that part of maternity leave which includes the date in which the confinement occurs and the period of five weeks which follow such date.

(2) The maternity leave to which this section refers shall not be availed of before the employee has entered the eighth month of pregnancy.

(3) A period of five weeks of the maternity leave shall in all cases be availed of after the date of confinement.

(4) Where confinement does not occur within eight weeks from the day on which the maternity leave commences, the employee entitled to such maternity leave shall not be liable to resume work before the lapse of five weeks after the date of confinement but the employee shall in that case be entitled to wages in respect of a period not exceeding thirteen weeks.

(5) For the purposes of this section, and of section 25 of this Act, “whole-time employee” means any employee who is deemed to be a whole-time employee in accordance with any recognised condition of employment as defined in section 10 of this Act and includes any other employee who is in employment with any particular employer for not less than 35 hours in any one week.”.

4. Subsection (1) of section 18 of the principal Act shall be amended by the addition of the following paragraph at the end thereof:

Amendment of section 18 of the principal Act.

“Unless expressly provided by or under this Act or any other Act, an employer shall not compute as part of the wages of an employee any other benefit or income, even though granted or paid by the employer, which is payable on account of any cause other than the contract of service.”.

5. The following proviso shall be added to section 23 of the principal Act:

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“Provided that where the employee has been retained in employment after the date of termination of a contract of service for a specified time or has been re-employed by the employer within one year from the date of termination of a contract of service for a specified time, the conditions of employment shall not be less favourable than those which would have been applicable had the contract of service been for an indefinite time and the

Amendment of
section 25
of the principal
Act.

aggregate probationary period shall in no case be longer than that provided for under this Act.”.

6. Section 25 of the principal Act shall be amended as follows:

(a) the following proviso shall be added to subsection (3) thereof:

“Provided that notice of termination of employment may not be given during maternity leave or during the period of incapacity for work to which paragraph (a) of subsection (12) of this section refers.”;

(b) in the proviso to subsection (10) thereof ---

(i) for the words “the employer’s confidence.” there shall be substituted the words “the employer’s confidence; or”;

(ii) immediately after paragraph (b) thereof there shall be added the following:

“(c) that the employee contracts marriage; or

(d) that a female employee is pregnant with child.”;

and

(c) immediately after subsection (11) thereof there shall be added the following:

“(12) (a) A whole-time female employee shall not be dismissed by the employer during the period of her maternity leave or the period of five weeks following such leave in which she is incapable for work owing to a pathological condition arising out of confinement.

(b) Any period of incapacity for work referred to in paragraph (a) of this subsection shall be deducted from the period of sick leave to which the employee is entitled at the time of such incapacity, so however that the period of incapacity which exceeds such entitlement shall be deemed to be leave of absence without entitlement to wages:

Provided that the employer may require the employee to produce evidence of such incapacity for work and may require his own doctor to visit such employee and to report to him on the condition of her health.

(13) The employee shall, at the termination of maternity leave to which she is entitled under the provisions of this Act or of the period of her incapacity for work to which paragraph (a) of subsection (12) of this section refers, be entitled to resume work in the post she occupied on the commencement of her maternity leave, or in an analogous post if at the time when she becomes so entitled the post she formerly occupied is no longer available.

(14) Where a female employee does not resume work as provided in the preceding subsection, or, after having so resumed work, abandons the service of her employer without good and sufficient cause within six months from the date of such resumption, she shall be liable, without prejudice to any other liability under this Act, to pay the employer a sum equivalent to the wages she received during the maternity leave.”.

7. Immediately after section 26 of the principal Act there shall be added the following section:

Addition of
new section
26A to the
principal Act.

“26A. Any condition in a contract of service which empowers the employer to terminate the employment of a female employee on her contracting marriage or becoming pregnant with child shall be without effect.”

Passed by the House of Representatives at Sitting No. 488 of the 7th April, 1981.

C. AGIUS
Speaker

C. MIFSUD
Clerk to the House of Representatives