

BARBADOS
EMPLOYMENT OF WOMEN (MATERNITY LEAVE)
CHAPTER 345A

ARRANGEMENT OF SECTIONS

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An Act to provide for the grant of maternity leave to female employees and for the protection of the employment Of those employees during such leave. [1976-16.]

Commencement: [19th July, 1976]

Short title.

1. This Act may be cited as the Employment of Women (Maternity Leave) Act.

Interpretation.

2. (1) For the purposes of this Act-

“confinement” means labour resulting in the issue of a living child or labour after twenty-eight weeks of pregnancy resulting in the issue of a child whether alive or dead;

“maternity leave” means leave granted to an employee arising from or in contemplation of her confinement and includes additional leave granted under section 5;

“medical practitioner” has the meaning assigned to it by section 2 of the Medical Registration Act; [Cap. 371.]

“midwife” has the meaning assigned to it by section 2 of the Nurses and Midwives (Registration) Act. [Cap. 372.]

2. (2) A reference in this Act to an employee shall be deemed to be a reference to a female employee.

Grant of maternity leave to employees

3. (1) Subject to subsection (3), every employee is, in addition to her annual holiday under the Holidays with Pay Act, entitled to maternity leave upon delivering to her employer-

(a) a certificate issued by a medical practitioner setting forth the expected date of her confinement; or

(b) a certificate issued by a medical practitioner or a midwife setting forth the actual date of her confinement.

3. (2) Notwithstanding subsection (1)) an employer may accept such other evidence in support of the entitlement of an employee to maternity leave as may be reasonable having regard to the circumstances of a particular case.

3.1 (3) An employee-

(a) must, in order to qualify for a grant of maternity leave, be employed for at least twelve months by the employer from whom she requests such leave; and

(b) is not entitled to maternity leave by the same employer on more than three occasions.

3. (4) For the purposes of paragraph (b) of subsection (3), an employee who ceased to be employed by an employer and is subsequently re-employed by that employer on the condition that her service is not continuous shall be deemed at the time of her re-employment not to have been previously granted maternity leave by that employer.

Duration of maternity leave.

4. (1) Except where an employee otherwise desires, maternity leave shall be of a period of not less than twelve weeks and shall be so arranged that the employee is allowed-

(a) such period, not exceeding six weeks, as she desires before the expected date of confinement; and

(b) a period of not less than six weeks from the date of confinement.

4. (2) Where-

(a) confinement takes place without an employee having been granted maternity leave ; or

(b) the period of maternity leave before her confinement amounts to less than six weeks,

the period of leave after confinement shall, if the employee so desires, be extended so that the total period of leave does not amount to less than twelve weeks.

4. (3) Where an employee has been granted maternity leave and the date of confinement is a later date than the date stated in the certificate issued pursuant to section 3 (1) as being the date on which confinement was expected, her maternity leave shall be extended to include the period that elapsed between those dates.

Additional leave.

5. An employee who, after confinement, suffers any illness arising out of such confinement shall be granted, in addition to the maternity leave to which she is entitled under section 4, such additional leave not exceeding six weeks as a medical practitioner recommends.

Protection of employment

6. (1) Subject to subsection (2), no employer shall-

(a) dismiss or give notice of dismissal to an employee at any time between the date of her delivery to him of a medical certificate under section 3 and the date of the expiration of her maternity leave or additional leave granted under section 5 ;

(b) give notice of dismissal to an employee so that it would expire during her maternity leave or additional leave granted under section 5 or dismiss her during such leave ;

(c) dismiss an employee or require an employee to resign on the ground that she is pregnant; or

(d) require an employee to resign during any of the times referred to in paragraph (a) or (b).

(2) Subsection (1) does not apply where-

(a) there has been serious default or gross negligence amounting to abandonment of duty on the part of an employee ;

(b) there has been an expressed contract of service for a fixed term between an employer and an employee which has expired; or

(c) the business in which an employee was engaged has ceased to exist.

Protection of seniority.

7. Where an employee has been granted maternity leave under this Act she is, on her resumption of work after such leave, entitled to-

(a) her seniority rights;

(b) re-instatement in her former work or equivalent work,

and she shall not by reason only of the fact that she went on maternity leave, be paid a smaller remuneration than she received before she went on maternity leave.

Exclusion of certain employees from scope of Act.

8. This Act does not apply to employees working at home for wages.

Offences.

9. Any employer who contravenes or fails to comply with any of the provisions of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding twelve months.

Civil liability.

10. Nothing in this Act deprives an employee of any civil remedy to which she may be entitled under any law for the time being in force in Barbados.

Binding of Crown.

11. This Act shall bind the Crown.