

MATERNITY LEAVE LEGISLATION

The following proposals are being considered for the introduction of Maternity Leave Legislation and are tabled for the information of the Honourable House.

- 1) The Act should apply to any female worker regardless of nationality and whether the worker is married or unmarried.
- 2) Definition of worker to also include workers employed by the Government: Police, Jamaica Defence Force.
- 3) Maternity leave shall not break the service of the worker.
- 4) The worker shall be entitled to maternity leave if during pregnancy she changes her employment within the same group of companies e.g. associated companies.
- 5) Subject to the provisions of the Act the worker shall not lose her job after pregnancy.
- 6) The worker shall be entitled to twelve (12) weeks maternity leave, eight (8) weeks of which shall be paid leave.
- 7) In cases of illness arising out of pregnancy and childbirth and subject to the production of a medical certificate by the worker's doctor, the period of twelve weeks may be extended for a period of four weeks. Should it become necessary for a further extension, such extension shall be for a period not exceeding ten (10) weeks (making a total of twenty-six (26) weeks for all paid and unpaid leave) after consultation between the worker's doctor and a doctor designated by the employer. Should there be a disagreement between both doctors, the issue shall be referred to the Chief Medical Officer of the Ministry of Health, or his nominees, for adjudication.
- 8) The worker shall be free to decide when she goes on leave and she may return before the expiry of the twelve weeks.
- 9) The worker shall not lose seniority or any benefit to which she was entitled before her leave, upon return to work.
- 10) The worker shall give the employer two weeks notice, in writing if the employer so requests, of her intention to proceed on maternity leave except in cases of emergency or unavoidable circumstances and of her intention to return to work.
- 11) The worker shall not be paid at a lower rate upon return to work.

- 12) Where applicable the worker shall be entitled to apply all or any portion of her sick or vacation leave with pay to which she may be entitled at the time of proceeding on maternity leave, towards payment of unpaid maternity leave.
- 13) A worker giving birth to a still-born child or a child who dies immediately after birth shall be entitled to the same benefits as any other mother.
- 14) A worker shall not be entitled to maternity leave with pay for any absence before the beginning of the eleventh week before the expected week of confinement.
- 15) If requested by the employer the worker shall produce for his inspection a certificate from a registered medical practitioner or a certified midwife stating the expected week of confinement.
- 16) It shall be an offence to dismiss a woman wholly or primarily because she is pregnant.
- 17) The qualifying period for maternity leave with pay shall be fifty-two (52) weeks of continuous service.
- 18) If a worker works for not less than eighteen (18) hours for an employer during any one week, that week shall count towards the qualifying period of 52 weeks.
- 19) Seasonal workers to qualify under the following conditions:
 - (a) she works for not less than 90 days during any one season, or
 - (b) where the days of work cannot be reckoned, she has earned as normal wages a sum equivalent to or greater than 90 times the established daily rate for the category in the area concerned, or
 - (c) where there is no established daily rate, her name appears on not less than 16 weekly pay bills.
- 20) There shall be a limit of three paid maternity leave periods for employment with each employer.
- 21) Once the worker qualifies for paid maternity leave, there shall be no restrictions as to the period between pregnancies paid for.
- 22) Workers who have not worked the qualifying period of 52 weeks, shall nevertheless be entitled to maternity leave, but this leave shall not be paid for.
- 23) Each individual employer will be required to make maternity leave payments to his workers.

- 24) Where an employer is on the list of the Certified Exporters Scheme he may apply to the Ministry of Social Security (NIS) for a subsidy of not more than two (2) weeks maternity pay subject to the following conditions:
- (a) he must produce evidence that he qualifies for the Certified Exporters Scheme;
 - (b) the percentage of women amongst his entire labour force shall not be less than 75%;
 - (c) he must produce particulars in respect of each pregnancy, showing eligibility, number of pregnancies, evidence of payment, rate of wages.
- 25) Household workers who qualify will be paid their eight (8) weeks maternity leave from N.I.S funds to the level of the existing National Minimum Wage. Household workers who are paid by a company will qualify for payment of maternity leave by the company concerned.
- 26) Maternity wage to be paid shall be normal wage and defined as in the Holidays With Pay Order, i.e. it shall not include overtime, or any premium or special allowance paid as a result of the conditions of work or as a result of any inconvenience suffered. Provision to be made for taking the average of pay where there is no fixed rate.
- 27) The provisions to be minimum and not to preclude the payment of higher rates.
- 28) The Court in hearing any case for non-payment, should be empowered to order the employer to pay the worker the maternity leave pay to which she is entitled.
- 29) The penalty proposed for failing to pay maternity leave is a fine not exceeding \$500 and in default, a term of imprisonment not exceeding six months. That for dismissing a woman for reason of pregnancy or for refusing to take her back on the job is a fine not exceeding \$1000 and a continuing fine of \$100 for each day on which the offence continues after conviction. In default there will be a term of imprisonment not exceeding six months. The Court will at the same time order the employer to pay the maternity leave pay where appropriate.

William Isaacs,
Minister of Labour.
June 28, 1979.