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 wholetime 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

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

Amendment of section 25 of the principal 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"; and

(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, sohowever 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

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