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## CUBA 5

### Decree: Employment of Women before and after Childbirth

*Decreto-Ley núm. 781 [sobre empleo de mujeres antes y después del parto]. 28 de diciembre de 1934. (Gaceta Oficial, 29 de diciembre de 1934, año XXXII, tomo VI, núm. 151, pág. 11454.)*

**Legislative Decree no. 781 [concerning the employment of women before and after childbirth]. Dated 28th December, 1934.**

I. It shall not be lawful for a woman to be employed during the six weeks following her confinement by any individual or in any public or private industrial or commercial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed on their own account.

II. A pregnant woman shall have the right to leave her work if she produces a medical certificate stating that her confinement will probably take place within six weeks. Notwithstanding any mistake on the part of the medical practitioner in estimating the date of confinement, the woman shall be entitled to receive benefit from the date of the medical certificate up to the date on which the confinement actually takes place, provided that the error in the estimate does not exceed three weeks.

III. While absent from her work in pursuance of the provisions of the preceding sections, a woman shall be paid benefit sufficient for the full and healthy maintenance of herself and her child, and as an additional benefit shall be entitled to attendance by a medical practitioner or certified midwife, who shall be paid by the maternity fund concerned. The amount of the benefit shall not in any case be less than the wage previously received by the woman, and shall be paid by an insurance system to which the State, the employers and all wage-earning and salaried employees irrespective of sex shall contribute compulsorily in the following manner and proportions:—

- (a) the State shall pay ten pesos with respect to each confinement;
- (b) the employers shall pay monthly a sum equivalent to one-half of one per cent. ( $\frac{1}{2}$  of 1%) of the amount which they pay by way of wages and salaries on all their staff lists;
- (c) salaried and wage-earning employees shall pay a monthly contribution equal to one-fourth of one per cent. ( $\frac{1}{4}$  of 1%) [of their salaries and wages].

The contributions mentioned under (b) and (c) shall be deducted by the employers and deposited with the competent finance office during the first fortnight of the next month on pain of liability at civil and criminal law.

IV. If the mother dies, the benefit shall continue to be paid to the person responsible for the maintenance of the child to which she has given birth.

V. Payment of the benefit shall be subject to the condition that the mother does not engage in employment for remuneration while in receipt of benefit.

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VI. A woman nursing her child shall be allowed half an hour twice a day during the hours of work for this purpose, unless in accordance with a prescription of a medical practitioner she must nurse the child more frequently or for longer periods. The time spent by a mother in nursing her child shall not be deducted from her wages, whatever the method of remuneration may be, and the mother shall not be entitled to waive her right to such breaks for nursing.

VII. Confinement shall not constitute a reason for the dismissal of a woman; she shall be entitled while absent from her work for the reasons and during the periods laid down in this Legislative Decree to have her post kept open for her. If the confinement involves illness incapacitating her for work, the employer shall not be entitled to dismiss her or give her notice that she will be dismissed if she fails to return within a certain time limit.

It shall not be lawful to dismiss her until her absence exceeds the maximum period fixed in view of the circumstances by the Ministry of Labour.

VIII. It shall not be lawful to give notice of dismissal to a pregnant woman, except for sufficient reason. The fact that a woman as a result of her pregnancy does not perform her work with the same efficiency as before shall not be deemed to constitute a sufficient reason. The condition of pregnancy shall be deemed to be proved on production of a duly authenticated medical certificate.

IX. Pregnant women shall not be employed on work which is beyond their strength or which is performed standing for long periods in one place or which may give rise to shocks to the nervous system, or in general any work likely to cause miscarriage or affect the normal development of the foetus.

X. In establishments where fifty or more women are employed, the industrial or commercial undertaking concerned, whether public or private, shall equip a room where the children under two years of age of the women workers may remain in safety during the hours of work. The said room, which shall comply with the conditions of hygiene required by the Ministry of Labour, shall be inspected periodically by a medical officer of the Ministry and placed under the charge of a certified female nurse appointed by the Ministry of Labour and paid by the maternity fund.

XI. The term "industrial undertaking" (empresa industrial) shall mean in particular:—

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship-building, and the generation, transformation and transmission of electricity or motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, telegraphic or telephonic installation, electrical under-

taking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundation of any such work or structure;

- (d) transport of passengers or goods by road, rail, sea or inland waterway, including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand.

XII. For the purposes of this Decree the term "commercial establishment" (establecimiento comercial) shall mean any place where commercial transactions are effected.

XIII. For the purposes of this Legislative Decree "woman" (mujer) shall mean any female person not less than eighteen nor more than forty years of age, irrespective of race, nationality and civil status. "Child" (niño) shall mean any child born in Cuba, irrespective of race, nationality and the civil status of its parents.

XIV. Every salaried or wage-earning employee who has contributed for not less than ten months to the fund may enter in the register thereof the name of his wife or of the woman with whom he is living in marital relationship if she is not less than eighteen nor more than forty years of age, with a view to her receiving in every case a special bonus of 25 pesos for each confinement.

XV. An executive committee of the maternity fund shall be set up in the chief town of each province for the management and distribution of the benefits and other grants mentioned in this Legislative Decree; the said committee shall consist of (a) the head of the provincial labour inspectorate, who shall be chairman; (b) a woman instructor of the teachers' training college, elected by the board of governors concerned for a term of three years, and (c) a medical practitioner appointed for the same period by the College of Medicine at Havana.

The members of the committee shall also include two representatives of the employers' organisations and two representatives of the employees' organisations registered at the Ministry of Labour, who shall be elected for the same period by a majority of the votes cast at a meeting or appointed by the Minister of Labour in the event of failure to hold the elections in due time.

In Havana the committee mentioned in the preceding paragraphs shall also include the Minister of Labour or the person appointed by him, who shall be chairman, and the heads of the Social Welfare Office and the Women's and Children's Labour Inspection Office of the said Ministry.

XVI. Every contravention of this Legislative Decree shall be punished by a fine of 30 pesos for the first offence, 100 pesos for the second offence and 500 pesos for every subsequent offence.

XVII. The criminal magistrate of the place where the contravention was committed shall be competent in every case to impose the penalties mentioned in the preceding section.

XVIII. The proceeds of the fines imposed for contraventions of this Legislative Decree shall be deposited with the competent finance office for transmission to the maternity fund concerned.

XIX. Industrial and commercial establishments which employ women shall affix a copy of this Legislative Decree in a conspicuous place.

XX. Any person shall be entitled to report any contravention of which he may become aware to the competent criminal magistrate.

XXI. Legislative Decree no. 152<sup>1</sup> is hereby repealed, together with all other provisions contrary to this Legislative Decree.

XXII. This Legislative Decree shall come into operation on the date of its publication in the *Gaceta Oficial* of the Republic.

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<sup>1</sup> Gaceta oficial, 20th April, 1934, vol. XXXII, part IV, no. 93, p. 6066.

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