

INTERNATIONAL LABOUR OFFICE

(GENEVA, SWITZERLAND)

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SPAIN

DECREE: EMPLOYMENT OF WOMEN AND CHILDREN

Real Decreto reformando el artículo 9º de la ley de 13 de Marzo de 1900 sobre el trabajo de las mujeres y los niños. 21 de agosto de 1923. (Gaceta de Madrid, 23 de agosto de 1923, núm. 235, p. 811.)

Decree amending section 9 of the Act of 13th March, 1900, respecting the employment of women and children. Dated 21st August, 1923.

1. In virtue of the authorisation contained in sections 2 and 3 of the Act of 13th July, 1922¹, section 9 of the Act of 13th March, 1900, respecting the employment of women and children, as amended by the Act of 8th January, 1907², shall be amended to read as follows:—

“9. The following measures shall be introduced in favour of all women wage-earners, irrespective of age, nationality and marital status:—

(1) (A) A woman shall not be employed during the six weeks following her confinement.

(B) A woman in the eighth month of pregnancy shall be entitled to leave her work on production of a medical certificate stating that her confinement will probably take place within six weeks.

(C) In either or both of the cases referred to in the preceding paragraphs, the employer shall keep her employment open for the woman worker during the period when she is compelled or authorised to leave her work.

(D) This obligation shall continue to be binding on the employer for a period not exceeding twenty weeks, where a woman leaves her work or remains absent therefrom for periods exceeding those specified in paragraphs (A) and (B) on the ground of an illness which is medically certified to be due to pregnancy or confinement and which renders her unfit for work.

(E) A mistake of the doctor or midwife in calculating the date of the confinement shall not prejudice the rights already accorded to women workers during pregnancy or on their confinement.

¹ Act authorising the Government to ratify the Draft Convention concerning the employment of women before and after childbirth, adopted by the First Session of the International Labour Conference (Washington, 1919), and to institute compulsory maternity insurance. For English translation, see International Labour Office, Official Bulletin, 14th February, 1923, Vol. VII, pp. 71 and 72.

² Bulletin of the International Labour Office (Basle), Vol. II, 1907, p. 220.

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(2) Nursing mothers shall be entitled to one hour's rest in the day during working hours for the purpose of nursing their children, to be taken in two breaks of half an hour each.

The said half-hour breaks shall be taken whenever the mothers think fit, with no other formality than notification of the manager on beginning work of the times which they have chosen. No deduction of any kind shall be made from wages in respect of the hour's break for nursing.

(3) During the period when women workers are absent from work in conformity with paragraphs (A) and (B) of subsection (1) of this section, they shall be entitled to free attendance by a doctor or midwife and to a daily benefit sufficient for the healthy maintenance of the mother herself and of her child."

2. With a view to giving effect to the rights conferred by subsection (3) of the preceding section, the Minister of Labour, Commerce and Industry, after consulting the National Provident Institute, shall, before 31st March, 1925, issue regulations for the establishment of a compulsory insurance fund system with a State subsidy, and shall, dispose of the sums set apart annually for this purpose in the general budget of the State.

3. Provisionally, and pending the establishment of the compulsory maternity insurance fund referred to in the preceding section (the scheme for which is to be examined by the National Provident Institute), a system of maternity relief for women workers on confinement shall be set up in conformity with the following provisions:—

(A) An allowance of fifty pesetas shall be paid by the State through the medium of the bodies specified in this Royal Decree.

The said allowance shall be granted to defray the cost of proper attendance at the confinement and for the maintenance of the mother and child during a minimum period of compulsory rest necessary in the interests of their health after the confinement.

(B) All women wage-earning and salaried employees shall be entitled to the above allowance on confinement, provided that they fulfil the following conditions:

- (1) that they are covered by the compulsory workers' pension system;
- (2) that they do not abandon the new-born infant;
- (3) that they refrain from all work for a fortnight.

(C) The National Provident Institute shall be responsible for the administration of the "Initial Maternity Fund" set up to provide the said allowances. The Institute shall administer the fund in conformity with the provisions of its statutes on the basis of collaboration with regional and provincial funds.

(D) For the payment of the allowances, the aforesaid bodies shall in turn avail themselves of the local maternity mutual benefit societies, and in default thereof of mutual benefit societies or welfare institutions (montepios) to which the women in question belong, and which in the opinion of the bodies concerned provide sufficient security.

The Institute and the funds collaborating with it shall encourage the establishment of maternity mutual benefit societies.

(E) Applications for the allowances shall be made in writing on unstamped paper, within a period of three months reckoned from the date of the confinement, to the competent collaborating fund, or, in default thereof, to the National Provident Institute itself, and shall be accompanied by the following documents:—

(1) In order to establish proof of the fulfilment of condition (1) of paragraph (B), a statement giving the date of the workers' pension register on which the name of the woman in question was entered, and also the name of the body with which she was insured.

(2) To establish fulfilment of conditions (2) and (3) of the same paragraph, a written statement by the doctor, midwife, assistant doctor (practicante), or mayor of the locality.

(3) An official certificate (issued in conformity with section 32 of the Act of 27th February, 1908³, of the registration of the birth of the child on the civil register of births.

(F) The application, together with the accompanying documents, may be drawn up by the applicant herself. In localities where there is a maternity mutual benefit society to which the applicant belongs or might belong, or, in default thereof, a welfare institution or mutual benefit society of which she is a member, these bodies shall draw up the statement on behalf of the woman concerned.

(G) The credit of 100,000 pesetas authorised by section 32 of the Finance Act now in force shall forthwith be utilised for the payment of the above allowances, which are the first step towards the application in Spain of the International Convention for the protection of women workers before and after childbirth.

(H) The rights conferred by this Decree shall come into operation on 15th October, 1923.

4. This Decree shall be communicated to the Cortes.

³ Bulletin of the International Labour Office (Basle), Vol. IV, 1909, p. 354.

