



Pregnancy at Work



Introduction

This section seeks to give practical advice to employers on complying with the Protection of Pregnant, Post Natal and Breastfeeding Employees Regulations, which form part of the Safety, Health and Welfare at Work (General Application) Regulations 2007 – 2023.

By complying with the regulations, you ensure that the workplace does not pose a risk to the health of a pregnant employee or her developing child.

The risk assessment is the basis for deciding if there are articles or substances in the workplace that could impact on both and the measures to be taken to avoid any injury or ill health.

When do these regulations apply?

The Protection of Pregnant, Post Natal and Breastfeeding Employees Regulations, apply from the time an employee informs you that she is pregnant, has recently given birth or is breastfeeding and provides an appropriate medical certificate. As the earliest stages of pregnancy are the most critical for the developing child, it is in the employee's best interest to let you know as soon as possible that she is pregnant, and employers should encourage early notification for this reason.

What other legislation provides protection during this period?

The Maternity Protection Acts 1994 and 2004 give details on

- ❖ Entitlements to maternity leave.
- ❖ Entitlements to clinic visits.
- ❖ Maintenance of job security.
- ❖ Health and safety leave.
- ❖ Health and safety benefits.
- ❖ Provisions to encourage breastfeeding

The Work Life Balance and Miscellaneous Provisions Act 2023

Extends the period during which there is an entitlement to breastfeeding breaks from 26 weeks to 104 weeks and provides for the extension of breastfeeding breaks.

What should I do when I become aware that an employee is pregnant?

Please see Section 2 of this Toolkit on the five-step risk assessment process.

On becoming aware that an employee is pregnant, you must assess the specific risks from the employment to that employee and take action to ensure that she is not exposed to anything that would damage her health or that of her developing child. A pregnancy risk assessment template is available on the HSA BeSmart website in the learn more-templates section.

What are the main hazards for a pregnant or breastfeeding employee?

General hazards include:

- ❖ Physical shocks, including direct blows to the abdomen.
- ❖ Vibration of the whole body; there are guidelines on vibration.
- ❖ Handling a load; there are guidelines on handling loads.
- ❖ Noise: there are guidelines on noise.
- ❖ Excessive heat or cold.
- ❖ Movement and postures that are abrupt or severe or give rise to excessive fatigue.
- ❖ Ionising radiation.
- ❖ Non-ionising radiation.
- ❖ Biological agents, including viruses, bacteria etc.
- ❖ Chemicals, including substances that cause cancer, mercury, anti-cancer drugs and carbon monoxide.
- ❖ Stress and/or bullying.

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Unless the risk assessment indicates that there will be no injury to the employee or the developing child, pregnant employees must not work in or with:

- ❖ Pressurisation chambers.
- ❖ Rubella virus – unless adequately immunised.
- ❖ Toxoplasma.
- ❖ Lead and lead substances.
- ❖ Underground mine work.
- ❖ Certain physically demanding tasks, such as heavy lifting.

Can noise be a risk?

High noise levels can affect the hearing of the pregnant employee and possibly the developing baby's hearing. In addition, prolonged exposure to high noise level can lead to increased blood pressure and tiredness for the pregnant employee. Therefore, high noise levels should be avoided when pregnant.

Compliance with the Safety, Health and Welfare at Work (General Applications) Regulations 2007; Chapter 1 of Part 5, Control of Noise at Work Regulations 2007, should be sufficient to meet the needs of new or expectant mothers; where noise levels exceed the action values employers should reduce exposure through the use of engineering, organisational or administrative controls.

What are the risks from radioactive (ionising radiation) sources?

Significant exposure to ionising radiation is harmful to the developing child. If a pregnant or breastfeeding employee works with ionising radiation sources, these can cause exposure to the developing child through ingestion or via contamination of the mother's skin and transfer across the placenta or by breastfeeding to the baby. Work procedures should be designed to keep exposure as low as reasonably practicable and certainly below the statutory dose limit for a pregnant woman. Pregnant or breastfeeding women should not be engaged employed in work activities where the risk of such contamination is high.

For information on statutory dose limits, contact the Environmental Protection Agency (EPA), which enforces legislation on ionising radiation.

What are the risks from non-ionising sources?

Pregnant or breastfeeding women are at no greater risk than other employees when working with optical radiation. Exposure when working with electromagnetic fields and waves within current recommendations is not known to cause harm to the mother or the developing child.

However, extreme over-exposure to radio-frequency radiation can raise body temperature making the pregnant employee uncomfortable.

Can extremes of cold or heat affect pregnant employees?

When pregnant, women tolerate heat less well and may be liable to heat stress and faint easily. Breastfeeding may be impaired by heat dehydration. No specific problems arise from working in extreme cold but warm clothing should be provided. Pregnant women are more likely to get heat exhaustion or heat stroke sooner than a non-pregnant worker. Pregnant employees should take great care when exposed to prolonged heat at work, more frequent breaks, avoiding strenuous work, rest facilities and access to drinking water should be available.

What biological agents are harmful to pregnant employees?

Certain occupations may have higher risk of exposure to biological agents, some of which may be harmful to pregnancy. A number of biological agents are known to cause abortion of the foetus, or physical and neurological damage. The employer should assess the risk of exposure to group 2, 3 and 4 biological agents some of which may be harmful to the pregnant employees. The 2020 Biological Agents Code of Practice lists biological agents within these groups.

Many biological agents within these three risk groups can affect the developing child if the employee becomes infected during pregnancy.

Examples of biological agents that causes diseases, such as Rubella (German measles), the hepatitis B Virus, Human immunodeficiency virus (HIV), Cytomegalovirus (herpes), Mycobacterium tuberculosis (TB), the bacterium that causes syphilis, Varicella-zoster virus (chickenpox) and the bacterium that causes typhoid.

What are hazard groups 2, 3 and 4?

A 'group 2 biological agent' is one which can cause human disease, might be a hazard to employees although it is unlikely to spread to the community and in respect of these there is usually effective treatment available.

A 'group 3 biological agent' is one which can cause severe human disease, presents a serious hazard to employees and may present a risk of spreading to the community, although there is usually effective prophylaxis or treatment available.

A 'group 4 biological agent' is one which causes severe human disease, is a serious hazard to employees, may present a high risk of spreading to the community and in respect of which there is usually no effective prophylaxis or treatment available.

How can a pregnant employee avoid the risks associated with these hazard groups?

The risk assessment will take account of the nature of the agent, how likely contact is and what control measures are in place. Control measures may include physical containment, hygiene measures or the use of available vaccination which is carried out by or under the supervision of a responsible medical practitioner who will know when vaccination is advisable. If there is a known risk of high exposure to a highly infectious agent, then the pregnant employee should avoid exposure altogether.

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Am I responsible for carrying out a risk assessment of all biological agents?

Yes. It is the duty of an employer to assess any risk to the health and safety of employees resulting from any activity in the workplace likely to involve a risk of exposure of any employee to a biological agent. You must determine the nature, degree and duration of any employee's exposure to a biological agent and lay down the measures to be taken to ensure the safety and health of such employees. In some workplaces such as healthcare, agriculture, veterinary, waste or laboratory facilities, there will be a higher risk of exposure to biological agents.

What chemical agents have the potential to endanger the health of pregnant employees and their unborn child?

The risk assessment will determine the presence of a particular substance in the workplace. It is your responsibility as an employer to assess the health risks to employees arising from working with hazardous substances. The following health hazard statements are known to endanger the health of the pregnant employee or their developing baby. Reviewing the risk assessment, the labels and safety data sheets can help identify the chemicals or mixtures with the below health hazard statement.

Additional research may be needed to identify and assess other chemicals which may not be labelled for example, Carbon Monoxide. The risk assessment must consider if employees are working with Human Medicinal Products (HMP) for example, antimitotic (cytotoxic) drugs. The employer should also look at processes in the workplace that can emit hazardous substances, for example welding.

The health hazard statements meaning:

- ❖ H340: may cause genetic effects
- ❖ H341: suspected of causing genetic effects
- ❖ H350: may cause cancer
- ❖ H350i: may cause cancer by inhalation
- ❖ H351: suspected of causing cancer
- ❖ H360: may damage fertility or the unborn child
- ❖ H360D: may damage the unborn child
- ❖ H360FD: may damage fertility, may damage the unborn child
- ❖ H360Fd: may damage fertility, suspected of damaging the unborn child
- ❖ H360Df: may damage the unborn child, suspected of damaging fertility
- ❖ H361: suspected of damaging fertility or the unborn child
- ❖ H361d: suspected of damaging the unborn child
- ❖ H361fd: suspected of damaging fertility, suspected of damaging the unborn child
- ❖ H362: may cause harm to breastfed children.
- ❖ H370: causes damage to organs
- ❖ H371: may cause damage to organs

Do pregnant employees need to stop working at a display screen?

Pregnant women do not need to stop working with display screen equipment (DSE). If an employee is working remotely a remote working assessment must be carried out also.

Is working in pressurised enclosures a risk to pregnant employees?

Pregnant employees should not work in compressed air. People who work in compressed air are at risk of developing compression illness due to free bubbles of gas entering into the blood circulation

It is not clear whether pregnant women are more at risk than any other employee engaged in this work, but such gas bubbles could seriously harm the developing child. For those who have recently given birth there is a small increase in this risk. There is no physiological reason why a breastfeeding mother should not work in compressed air.

What about diving while pregnant?

Pregnant employees are advised not to dive at all during pregnancy due to the possible effects of exposure to a hyperbaric environment on the developing child. Pregnancy is viewed as a medical reason not to dive.

What happens if a risk cannot be removed?

- ❖ If the risk assessment reveals a risk to the pregnant employee, the developing or breastfeeding child, and it is not practical to ensure the safety or health of the employee through protective or preventive measures, you must adjust the employee's working conditions or hours of work or both.
- ❖ If this is not possible, you must provide suitable alternative work.
- ❖ If you cannot provide suitable work, you should facilitate granting the employee health and safety leave under Section 18 of the Maternity Protection Act 1994 (see over).

Are there restrictions on night work for pregnant employees?

If an employee during pregnancy and the fourteen weeks immediately following childbirth is regularly involved in night work for a period of at least three hours between 11.00 p.m. and 6.00 a.m. or at least 25 per cent of her monthly working time is performed in that period, and she has a medical certificate stating that this may damage her health, she must be found alternative daytime work.

If this is not possible you must grant the employee leave including health and safety leave (see below) or extend the period of maternity leave.

What are the requirements in relation to breastfeeding employees in the workplace?

The Maternity Protection (Amendment) Act 2004 provides that breastfeeding mothers will be entitled to paid time off for the purposes of breastfeeding or expressing milk in the workplace, where you have provided facilities, or a reduction in working hours (on full pay) to facilitate breastfeeding where you have not provided facilities. You will be required to provide facilities where this does not give rise to more than a nominal cost. These are measures to encourage breastfeeding and not health and safety provisions.

The Work Life Balance and Miscellaneous Provisions Act 2023 entitles breastfeeding employees to take 1 hour off work (with pay) each day as a breastfeeding break for up to 2 years (104 weeks) after birth.

Should I provide a rest room?

You are required to ensure that pregnant, post-natal and breastfeeding employees are able to lie down to rest in appropriate conditions.

What is health and safety leave?

Health and safety leave arises where the risk to the pregnant employee or developing child cannot be eliminated and the employee cannot be provided with suitable alternative employment. In such circumstances the employee must be granted health and safety leave in accordance with Section 18 of the Maternity Protection Act 1994.

During health and safety leave, you must pay the employee her normal wages for the first three weeks, after which health and safety benefit will be paid by the Department of Social Protection.

Where can I get information on maternity leave?

Maternity leave information can be obtained from the Irish Human Rights and Equality Commission.

Where can I get information on maternity benefit payments?

Enquiries regarding maternity benefit payments should be made to the Maternity Benefit Section of the Department of Social Protection.

What is the HSA's role when dealing with pregnancy at work?

The HSA is responsible for enforcement of the Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work (General Application) Regulations 2007 as amended or 2007 to 2023. Employers are advised that, in producing their safety statement, they should consider the possibility of pregnancy among employees. The HSA also provides information on safety, health and welfare protection for employees who are pregnant, have recently given birth or are breastfeeding while working.

Lo-call: 0818 289 389 or email contactus@hsa.ie

The HSA may take complaints from employees if an employer has not undertaken a risk assessment or provided a safety statement.

The HSA may intervene by advising the employer of the guidelines on implementing the Protection of Pregnant, Post Natal and Breastfeeding Employees Regulations or by an inspection visit, verbal or written advice or the issuing of an enforcement notice on the employer.

Contacts/References

See the HSA's website (www.hsa.ie) for copies of:

- ❖ Guide to the Safety, Health and Welfare at Work (General Application) Regulations 2007 Chapter 2 of Part 6: Protection of Pregnant, Post Natal and Breastfeeding Employee.
- ❖ Safety Toolkit and Short Guide to General Application Regulations 2007, Small Business Edition.
- ❖ A Pregnancy Risk Assessment Template form is available in the Learn More section of the Health and Safety Authority BeSMART.ie. Risk Assessment Tool.
- ❖ Health and Safety Authority 2020 Biological Agents Code of Practice.
- ❖ Health and Safety Authority Occupational safety and health guidance on remote working.

Further information is available from:

Irish Human Rights and Equality Commission
Telephone: 01 858 9601.
Website: <http://www.ihrec.ie>
Email: info@ihrec.ie

Citizen Information
Telephone: 0818 07 4000
Website: <https://www.citizensinformation.ie/en/>

Maternity Benefit Section, Department of Social Protection

Telephone: 0818 690690 / 01 471 5898.
Email: maternityben@welfare.ie

Health and Safety Benefit, Department of Social and Family Affairs

Telephone: 0818 690690 / 01 4715898.
Email: HandSBenefit@welfare.ie

HSE Breastfeeding Live Chat

Website: www2.hse.ie/services/ask-our-breastfeeding-expert

Environmental Protection Agency

Telephone: 0818 335 599 / 053 916 0600.
Website: www.epa.ie