

# Special Protections for Pregnant/Breastfeeding Workers – Know the Laws of your Province



Employers may have to temporarily reassign pregnant workers to less hazardous jobs.

The OHS regulations of many jurisdictions require employers to take special safety measures to protect workers who are pregnant, trying to get pregnant and, in some cases, breast-feeding, against work hazards that may endanger either the worker or her fetus or child. Such protections, which are triggered when workers notify employers of their condition, include reassignment to less hazardous work. In some cases, workers may be able to stop performing their dangerous job duties with no loss in pay or benefits until they're reassigned (or, where reassignment isn't possible, until the pregnancy ends). Employers must also ensure that pregnant and breast-feeding workers aren't exposed to dangerous levels or types of hazardous chemicals, biological substances and radiation. Here's a summary of the OHS pregnancy protection rules, if any, of each jurisdiction.

## Special OHS Protections for Workers

# Who Are Pregnant, Conceiving or Nursing

## FEDERAL

(1) Employee who's pregnant or nursing can stop doing her job if she believes that her current job functions may pose a health risk to herself or her fetus or child; (2) Upon being notified of the employee's decision, employer must notify the JHSC or health and safety rep; (3) Employee must consult with a health care practitioner of her choice as soon as possible to establish whether continuing any of her current job functions poses a health risk to her or the fetus or child; (4) Once the health care practitioner has established whether there's a risk, the employee may no longer cease to perform her job; (5) Employer may, in consultation with the employee, reassign the employee to another job not posing a health risk for the period during which the employee doesn't perform her job under Section (1) above; and (6) Regardless of whether she's reassigned to another job, the employee is deemed to continue to hold the job that she held when she ceased to perform her job functions and must keep the wages and benefits for that job for the period during which she doesn't perform it (*Canada Labour Code*, Sec. 132)

## ALBERTA

(1) If a worker may be exposed to ionizing radiation at a work site, an employer must, among other things, warn workers of potential reproductive hazards; and (2) If a worker tells the employer that she's pregnant, the employer must reassess and, if necessary, modify the worker's employment duties or training activities, where reasonable to do so, to ensure that the worker's effective dose of ionizing radiation doesn't exceed the maximum effective dose limits listed in Table 1 of Schedule 12 of the *OHS Code* (*OHS Act*, Sec. 291)

## BRITISH COLUMBIA

(1) At any worksite where a worker is exposed to an ACGIH reproductive toxin or ACGIH sensitizer, the employer must develop policy and procedures appropriate to the risk, which may include protective reassignment, and which inform workers about the reproductive toxin and identify ways to minimize exposure to the toxin for a worker who has advised the employer of pregnancy or intent to conceive a child (*OHS Regs.*, Sec. 5.18); (2) Similar provisions apply to any worksite where a worker is occupationally exposed to a cytotoxic drug that is a reproductive toxin (*OHS Regs.*, Sec. 6.49); (3) If a worker tells the employer that she's pregnant, the employer must limit her effective dose of ionizing radiation, for the remainder of the pregnancy, from external and internal sources, to the lesser of (a) 4 mSv, or (b) the dose limit specified for pregnant workers under the *Nuclear Safety and Control Act (Canada)* (*OHS Regs.*, Sec. 7.19); and (4) When a pregnant worker or worker intending to conceive a child requests it, the employer must make counselling on the reproductive hazards associated with exposure to ionizing radiation available to the worker (*OHS Regs.*, Sec. 7.21)

## MANITOBA

When a worker tells her employer that she's pregnant or nursing, the employer must: (a) inform the worker of any known or foreseeable risk that workplace conditions may pose to the health and safety of the worker or her unborn or nursing child; and (b) so far as reasonably practicable, (i) take steps to minimize the worker's exposure to the condition that creates the risk, or (ii) temporary assign the worker to alternate work that's less risky and that the worker is reasonably capable of performing without loss of pay or benefits, if such alternate work exists (*WSH Regs.*, Sec. 2.5)

## **NEW BRUNSWICK**

No special OHS protections for pregnant, conceiving or nursing workers

## **NEWFOUNDLAND**

(1) If a worker is exposed to a substance designated as a reproductive toxin or a sensitizer, the employer must develop policy and procedures appropriate to the risk, which may include protective reassignment, and which inform workers about the reproductive toxin and identify ways to minimize exposure to the toxin for a worker who's told the employer that she's pregnant or intends to conceive a child (*OHS Regs*, Sec. 42)

## **NOVA SCOTIA**

No special OHS protections for pregnant, conceiving or nursing workers

## **ONTARIO**

Health care employers must implement measures to protect workers from exposure to a biological, chemical or physical agent that is or may be a hazard to the reproductive capacity of a worker, the worker's pregnancy or the nursing of her child (*OHS Health Care & Residential Facilities Regs.*, Sec. 9(8))

## **PRINCE EDWARD ISLAND**

No special OHS protections for pregnant, conceiving or nursing workers

## **QUÉBEC**

(1) A pregnant worker may request reassignment to less dangerous duties that she's reasonably capable of performing,

as long as she gives her employer a certificate attesting that her working conditions may be physically dangerous to her or her unborn child due to pregnancy; (2) If a requested reassignment isn't made immediately, the pregnant worker may stop working until she's reassigned or until the date of delivery; (3) A worker who exercises the above rights must get all the benefits attached to her regular employment before her reassignment to other duties or before her work stoppage; (4) Employer must return worker to her regular employment at the end of her reassignment or work stoppage and grant her the benefits to which she'd have been entitled to had she remained in her regular employment; (4) A worker who's breast-feeding may request reassignment to less dangerous duties that she's reasonably capable of performing, as long as she gives her employer a certificate attesting that her working conditions may involve risks to the child she's nursing; and (5) If a requested reassignment isn't made immediately, the pregnant worker may stop working until she's reassigned or until the child is weaned (*OHS Act*, Secs. 40 – 48)

## **SASKATCHEWAN**

If a chemical or biological substance is present at a place of employment in a form and to an extent that may be harmful to a pregnant worker, employer must, as soon as is reasonably possible after the worker notifies the employer of her condition: (a) if reasonably practicable, take steps to minimize the exposure of the worker to the substance; or (b) on the worker's request, assign the worker to less hazardous alternate work if that work is available (*OHS Regs.*, Sec. 21-7)

## **NORTHWEST TERRITORIES & NUNAVUT**

If a chemical or biological substance is present at a place of employment in a form and to an extent that may be harmful to a pregnant worker, employer must, after being made aware of the

worker's condition: (a) if reasonably possible, take steps to minimize the exposure of the worker to the substance; or (b) on the worker's request, assign the worker to less hazardous alternate work if that work is available (*OHS Regs.*, Sec. 315); (2) Special protections (under *OHS Regs.*, Sec. 345) for "occupational workers," defined as those: (a) exposed to radiation, and (b) are likely to receive radiation exposure in excess of exposure levels or dose limits that are specified for members of the public; (3) Pregnant occupational workers must inform employers of their pregnancy, without delay, and employers of occupational workers must notify them of their duty to provide immediate notice of their pregnancy; and (4) Upon being informed by a pregnant occupational worker of a pregnancy, the employer must reassess and, if necessary, revise the worker's work so as not to expose her to ionizing radiation

## YUKON

(1) An x-ray worker, radiation technician in training or student who knows or suspects that she's pregnant, must report such fact or suspicion to her employer or person in charge of her training; (2) If a pregnant person wants to continue in employment or training, the employer together with the pregnant person, must reassess and revise her employment duties or educational activities, so that the maximum permissible dose of .1 rad per month during the remaining period of pregnancy is not exceeded; and (3) An owner of an x-ray machine or source may not employ a pregnant person as an x-ray worker, unless the owner limits the dose receivable in accordance with the table contained in Table 1, of the regulation (*Radiation Protection Regs.*, Secs. 12 and 19)