

Information on OCCUPATIONAL HEALTH AND SAFETY

5 PREGNANT AND NURSING EMPLOYEES

Introduction

The purpose of Part II of the *Canada Labour Code* is to prevent employment injuries and illnesses in sectors to which the Part applies. Prevention is a significant factor provided for in the *Code* in order to ensure the health and safety of employees and to eliminate risks.

Pregnant and nursing employees may remove themselves from possible danger until a medical certificate has been obtained. This provision applies in the case of a risk to the health of the employee, the foetus or the nursing child. An employee may cease to perform her job if, by reason of the pregnancy or nursing, she believes that some or all of her duties constitute a risk.

1. When can this right be exercised?

From the beginning of the pregnancy until the employee is no longer nursing.

2. How can an employee exercise this right?

By informing her employer and consulting with a medical practitioner of her choice to establish that there is a risk.

3. Who must the employer notify?

With the employee's consent, the employer will notify the work place health and safety committee or the health and safety representative.



4. Can the employer assign the employee to another job?

Yes. In consultation with the employee, the employer may assign her to another job that does not pose a risk to her or to the foetus or child.

5. During the assignment to another job, does the employee receive the same wages and benefits?

An employee must not suffer any financial or other loss as a result of exercising this right regarding the protection of her health and that of the foetus or child. The employee's duties and work schedule may change, but the wages and benefits do not.

6. When must the employee establish that there is a risk?

As soon as possible, the employee must have a qualified medical practitioner establish that there is a risk. The medical practitioner will determine whether there is a risk and provide a medical certificate.

7. What happens after the medical practitioner has made a decision?

Once the medical practitioner has made a decision as to whether or not there is a risk, the employee may no longer cease to perform her job under the special provision.

8. What must the employee do if the medical practitioner confirms that there is a risk?

The employee must refer to the current collective agreement or to Part III of the *Canada Labour Code*. If the employer cannot assign her to another job, she is entitled to leave without pay. The employee could receive some compensation under the current collective agreement, the *Employment Insurance Act* or the employer's private insurance plan.

9. If there is no risk, may the employee still cease to perform her job?

A pregnant or nursing employee may no longer cease to perform her duties after a medical practitioner has established that there is not reasonably any risk.

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Sections 132.(1), (2), (3), (4) and (5) *Canada Labour Code, Part II*

An employee may cease to perform her job if she believes that it may pose a risk. The employer, with the consent of the employee, shall notify the work place committee or the health and safety representative. **132.(1)**

The employee must consult with a qualified medical practitioner of her choice as soon as possible to establish whether continuing any of her current job functions poses a risk. **132.(2)**

The employer may, in consultation with the employee, reassign her to another job that would not pose a risk. **132.(4)**

The employee, whether or not she has been reassigned to another job, is deemed to continue to hold the same job and shall continue to receive the wages and benefits that are attached to that job. **132.(5)**

Once the medical practitioner has established whether there is a risk, the employee may no longer cease to perform her job under subsection (1). (If there is a risk, the employee must follow the procedure described in the collective agreement or in Part III of the *Code*, section 204.) **132.(3)**