

## Legislation

# Pregnancy and Protective Reassignment

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## Are employers required to provide protections to pregnant workers?

Most individuals can continue to work safely throughout their [pregnancy](#); however, most jurisdictions in Canada specify protections in specific situations for workers who are pregnant, may become pregnant or are nursing. These protections extend to workers who may be exposed to chemical, biological or physical agents, as well as to ionizing and non-ionizing radiation, that may affect themselves or their fetus (unborn baby). While there are variations in the legislative protections between jurisdictions, there are many common elements, such as:

- The employer's duty to inform workers of their right to protective reassignment
- The worker's duty to notify the employer they are pregnant, considering having a baby or are nursing
- The employer's responsibility to assess the worker's employment duties or training activities and the impact it could have on their pregnancy and reproductive capacity
- The responsibility of both parties (employer and pregnant worker) to discuss options available to the worker and, where reasonable to do so, modify the duties or activities of the employee

Where there is no specific legislation related to the protection of pregnant workers, employers are still bound by the "general duty [clause](#)" of the occupational health and safety legislation that requires employers to take all reasonable precautions to ensure the safety of workers.

NOTE: Disclosing your pregnancy is your choice; however, from an occupational health and safety perspective, informing your [employer](#) depends on the type of work and the potential hazards in your industry. As soon as you find out you are pregnant, speak with your healthcare provider about your job and the tasks you perform. You have the right to know about the hazards in your workplace, and some hazards may have an increased risk when pregnant. For example, workers exposed to radiation as part of their job (e.g., x-ray equipment, nuclear industry, etc.) have lower radiation dose limits that may apply once the worker informs their employer of the pregnancy.

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## Does human rights legislation also cover pregnancy and health-related issues?

Yes. The Human Rights Acts across Canada do not allow discrimination based on sex. Where the grounds of discrimination are pregnancy or childbirth, the discrimination is deemed to be on the grounds of sex. Workplace health and safety should be balanced with the right of a pregnant employee to participate fully in the workplace. When a pregnant worker has concerns about the nature of their work or the health and safety impact it may have on them or their baby, the worker should raise any concerns with their employer at the earliest opportunity.

To [accommodate](#) a worker, the employer may request additional information from the worker and their healthcare provider to determine how best to accommodate the individual. A pregnant worker should speak with their employer about ways to reduce or eliminate sources of harm or find temporary options to avoid health risks during the pregnancy or afterwards, if needed. Accommodations may include modifying the worker's job, temporarily reassigning the worker to another position or area, or in some cases, taking a temporary leave of absence.

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## What are the sources of legislation regarding pregnancy and protective reassignment?

Below is a table for guidance purposes that lists the relevant legislation, along with a general summary of aspects of the protective reassignment of pregnant and nursing workers or those considering having a baby.

NOTE that other requirements may be listed in other sections, regulations, Codes, or Acts that are not listed in this table. For more details, please consult the legislation directly.

Always consult the legislation that applies to your situation and your [occupational health and safety jurisdiction](#) or [employment and human rights authorities](#) for complete information.

Table 1: Summary of Canadian Legislation for Protective Reassignment of Pregnant and Nursing Workers or Those Considering Having a Baby

| Jurisdiction | Legislation   | Summary  |
|--------------|---|--|
| Canada       | Canada Labour Code, Part III, Division VII, Sec. 204 Maternity-Related Reassignment and Leave               | <p>Pregnant and nursing employees may request the employer modify their job functions or be reassigned to another job during the period from the beginning of the pregnancy to the end of the twenty-fourth week following the birth if the job poses a risk to the health of the employee, their fetus, or child. An employee's request must be accompanied by a certificate from their healthcare provider.</p> <p>See <a href="#">Pregnant and nursing employees</a>.</p>   |
|              | Canada Occupational Health and Safety Regulations, SOR/86-304; Sections 10.4 (1) and (2), 10.26 (1) to (3). | <p>If the health or safety of an employee is likely to be endangered by exposure to a hazardous substance, the employer shall appoint a qualified person to carry out an investigation. The investigation shall consider various factors, including whether the level of an airborne chemical agent, or ionizing or non-ionizing radiation is likely to exceed 50 percent of the values referred to in subsections 10.19(1) or 10.26(3) of the Regulations.</p> <p>Where a device that is capable of producing and emitting ionizing or non-ionizing radiation is present, the employer shall implement the relevant Health Canada <a href="#">Radiation Safety Code</a>, as specified in section 10.26(2) of the Regulations.</p> <p>If an employee may be exposed to a radiation-emitting device, the employer shall ensure that the exposure does not exceed the radiation dose limits set out in the <a href="#">Radiation Protection Regulations</a>.</p> |

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|                | <p>Radiation Protection Regulations, SOR/2000-203; 7(1) and (2), 11(1), 13(1), Table</p>                                    | <p>A licensee of a nuclear device, substance or activity, as defined in the Regulation (s.26), must inform each female nuclear energy worker, who is pregnant or breastfeeding, in writing, of the risks associated with the exposure of embryos and fetuses to radiation, and the risks to breastfed infants from the intake of nuclear substances.</p> <p>A licensee must also inform pregnant and breastfeeding workers of their rights, and of the applicable effective dose exposure limit.</p> <p>A licensee must, upon being informed by a nuclear energy worker, that the worker is pregnant or breastfeeding, make any accommodation to the working conditions of the worker, up to the point of undue hardship for the employer. Pregnant and breastfeeding workers are encouraged to inform the licensee as soon as possible of their status.</p> |
| <p>Alberta</p> | <p>Occupational Health and Safety Code, Alta. Reg. 191/2021, Sections 291, 291.2, and 291.6, and Table 1 of Schedule 12</p> | <p>Workers must be informed of reproductive hazards from ionizing radiation, and the precautions taken to protect them. The employer must reassess the worker's employment duties or training activities and modify the duties or activities, where reasonable to do so, to make sure the worker's exposure to ionizing radiation does not exceed specified effective dose limits.</p> <p>An employer must ensure that the use of x-ray equipment complies with the relevant Health Canada, <a href="#">Radiation Safety Codes</a>, as cited in Section 291.2 of the Regulation.</p>   |

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| British Columbia          | Occupational Health and Safety Regulation, B.C. Reg. 296/97, Sections 5.58, 6.49 and 7.19  | Protections are required when a worker is exposed to a substance <b>identified</b> by the American Conference of Governmental Industrial Hygienists (ACGIH) as a reproductive toxin or sensitizer, cytotoxic drugs that are reproductive toxins, or ionizing radiation. These protections include developing an exposure control plan, with policies and procedures on how to eliminate or minimize exposure that could include protective reassignment.   |
| Manitoba                  | Workplace Safety and Health Regulation, Man. Reg. 217/2006; Part 2 General Duties, Sec. 2.5  | When a worker informs the employer that they are pregnant or nursing, the employer must inform the employee of any known or foreseeable risk of any conditions at the workplace that pose or may pose a health and safety risk to the employee or their unborn or nursing child. As far as is reasonably practicable, the employer must take steps to minimize the worker's exposure to conditions that create a risk, or if alternate work is available where there is no or less risk, and the worker is reasonably capable of performing that work, assign the employee temporarily to that alternate work without loss of pay or benefits. |
|                           | X-Ray Safety Regulation, 341/88R   | Dose rates apply to workers who are known to be pregnant, and to workers who are not pregnant, but who are within childbearing years.  |
| New Brunswick             | No specific OHS protections for pregnant workers   | _____  |
| Newfoundland and Labrador | Occupational Health and Safety Regulations, 2012 N.L.R. 5/12; Part VI Occupational Health and Safety Requirements, Sec. 42 (10), (12)(a) | An employer shall develop policy and procedures appropriate to the risk, which may include protective reassignment, where a worker is exposed to a substance which is designated as a reproductive toxin or a sensitizer.  |

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|                              |   | <p>The policy and procedures required by subsection 42 (10) shall include informing workers about the reproductive toxin and identifying ways to minimize exposure to the toxin for a worker who has advised the employer of pregnancy or their intent to conceive a child.</p>   |
|                              | <p>Radiation Health and Safety Regulations under the Radiation Health and Safety Act (O.C. 96-479), Sec. 13 (1-5), Sec. 15 (1-2), Schedule Part I</p> | <p>Radiation workers shall not be exposed to ionizing radiation, in excess of the maximum permissible dose as set out in the Schedule, Parts I and II.</p> <p>A radiation worker, a medical radiation technologist in training or a student who is pregnant or who suspects she is pregnant, shall not receive a dose to the abdomen in excess of 500 millirems during the remaining period of pregnancy.</p> <p><b>Procedure in case of pregnancy</b></p> <p>A radiation worker, a medical radiation technologist in training or a student who knows or suspects that she is pregnant shall report those facts or suspicion to her employer or the person in charge of her training. Where the pregnant person desires to continue in employment or training, the employer or person in charge of her employment or training may, together with the pregnant person, reassess and revise as indicated, the employment duties or training activities to ensure the maximum permissible dose for a pregnant person is not exceeded.</p> <p>See the full text of the regulations for details on radiation dose exposure limits for workers exposed to ionizing radiation and situations where the Atomic Energy Control Regulations apply to atomic energy workers.</p> |
| <p>Northwest Territories</p> | <p>Occupational Health and Safety Regulations</p>   | <p><b>Protection of certain workers</b></p>   |

(R-039-2015) Sec. 315 (1-2), Sec. 340 (1-4), Sec. 345 (1-3), Schedule U

If a chemical or biological substance is present at a work site in a form and to an extent that could be harmful to a worker who:

- (a) has become sensitized to the substance;
- (b) is unusually responsive to the substance; or
- (c) is pregnant.

An employer shall, after being made aware of a worker's condition, take steps to minimize the exposure of the worker to the substance, if reasonably possible; or on the worker's request, assign the worker to less hazardous alternate work, if that work is available.

#### **Dose limits**

An employer who requires or permits the use of ionizing radiation equipment shall ensure that the effective dose exposure for an individual is as low as is reasonably achievable and does not exceed the effective dose set out in column 3 and 4 of Schedule U of the regulations. Where the effective dose of a worker exceeds 20 mSv in a year the employer must notify and submit a written report to the Chief Safety Officer.

#### **Pregnancy of occupational worker**

A pregnant worker shall, without delay, inform the employer of the pregnancy. An employer shall inform workers or trainees of this obligation. On being informed by a pregnant occupational worker of a pregnancy, the employer shall, in order to comply with the regulations, reassess and, if necessary, revise the work of the worker so as not to expose the worker to ionizing radiation.

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| Nova Scotia | Workplace Health and Safety Regulations, N.S. Reg. 52/2013, Sec. 2.1 and 2.3 (h)                                    | There are no specific OHS protections mentioning pregnant workers in the Regulations; however, the Regulations do require employers to comply with the threshold limit values for exposure to physical agents, established by the ACGIH, which includes exposure limits to ionizing radiation by pregnant workers.   |
| Nunavut     | Occupational Health and Safety Regulations (R-003-2016), Sec. 315 (1-2), Sec. 340 (1-4), Sec. 345 (1-3), Schedule U | <p><b>Protection of certain workers</b></p> <p>If a chemical or biological substance is present at a work site in a form and to an extent that could be harmful to a worker who:</p> <ul style="list-style-type: none"> <li>(a) has become sensitized to the substance;</li> <li>(b) is unusually responsive to the substance; or</li> <li>(c) is pregnant.</li> </ul> <p>An employer shall, after being made aware of a worker's condition, take steps to minimize the exposure of the worker to the substance, if reasonably possible; or on the worker's request, assign the worker to less hazardous alternate work, if that work is available.</p> <p><b>Dose limits</b></p> <p>An employer who requires or permits the use of ionizing radiation equipment shall ensure that the effective dose exposure for an individual is as low as is reasonably achievable and does not exceed the effective dose set out in column 3 and 4 of Schedule U of the regulations. Where the effective dose of a worker exceeds 20 mSv in a year the employer must notify and submit a written report to the Chief Safety Officer.</p> <p><b>Pregnancy of occupational worker</b></p> |



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|                      |   | <p>A pregnant worker shall, without delay, inform the employer of the pregnancy. An employer shall inform workers or trainees of this obligation. On being informed by a pregnant occupational worker of a pregnancy, the employer shall, in order to comply with the regulations, reassess and, if necessary, revise the work of the worker so as not to expose the worker to ionizing radiation.</p>  |
| Ontario              | <p>Health Care and Residential Facilities, O. Reg. 67/93, Sec. 8 and 9, General Duty to Establish Measures and Procedures</p> | <p>Every employer shall develop, and put into effect measures and procedures to protect a workers health and safety from exposure to a biological, chemical or physical agent that is or may be a hazard to the reproductive capacity of a worker, the pregnancy of a worker, or the nursing of a child of a worker.</p> <p>These measures and procedures will be established in consultation with the joint health and safety committee or health and safety representative, if any.</p> |
|                      | <p>X-Ray Safety, O. Reg. 861, Sec. 9 (1)(c), 10 (2)</p>   | <p>An employer who employs a person as an X-ray worker shall, at the time that employment begins, if the worker is female, inform them of the dose equivalent limit in Section 10 (2) of the X-Ray Safety Regulation.</p> <p>An employer shall take every precaution reasonable in the circumstances to ensure that the mean dose equivalent received by the abdomen of a pregnant X-ray worker does not exceed 5 millisieverts during the pregnancy.</p>                                 |
| Prince Edward Island | <p>Radiation Safety Regulations PEI Reg. EC547/84 (Chapter P-30), Sec. 11 (1) to (3). Enabling Act: Public Health Act</p>     | <p>A radiation worker, radiation technologist or radiation student who knows that <b>she</b> is pregnant, shall notify the employer, or person in charge of her training, that she is pregnant.</p>   |

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|        |  | <p>If a pregnant person wishes to continue working or training, the employer together with the pregnant person will assess, and revise as indicated, the employment duties or training activities of the individual, to ensure the maximum permissible dose for a pregnant person is not exceeded. If reassignment of the person is not possible, but wishes to continue working, will acknowledge in writing that she has been informed by a radiologist of the risks involved and has accordingly accepted those risks.</p> <p>No woman shall be denied employment, by virtue of the fact that she is pregnant, unless there is evidence that she has exceeded the maximum permissible dose for a pregnant person.</p>  |
| Quebec | <p>Act respecting occupational health and safety, S-2.1, Chapter III, Division 1, Sec. 40<br/>Re-assignment of a Pregnant Worker</p> | <p><b>Re-assignment of a pregnant worker</b></p> <p>A pregnant worker who provides her employer with the certificate prescribed by the Commission (CNESST), attesting that her working conditions may be physically dangerous to her unborn child, or to herself by reason of her pregnancy, may request to be re-assigned to other duties involving no such danger that she is reasonably capable of performing.</p> <p>The worker's health care provider will assess the worker's pregnancy in accordance with the protocols developed under section 48.1 of the Act, and provide the worker with a certificate, certifying that the working conditions of the pregnant worker may be physically dangerous to her unborn child, or to herself by reason of her pregnancy.</p> |

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|              |   | Pregnant or breastfeeding workers can apply for the <a href="#">For a Safe Maternity Experience Program</a> if their job involves physical hazards to their health or that of their child.   |
| Saskatchewan | Occupational Health and Safety Regulations, RRS c. S-15.1 Reg 10. Sec. 21-7   | A worker's exposure to harmful chemical or biological substances should be minimized, or if the worker requests, assigned to less hazardous work, if available.  |
|              | Saskatchewan Employment Act, SS 2013, c. S-15.1; Subdivision 11, Sec. 2-49 (4),(5)                                    | An employer shall modify an employee's duties or reassign the employee to other duties, without a decrease in wages or benefits, to accommodate a pregnancy if the duties or pregnancy would be unreasonably interfered with, if reasonably practicable to make the accommodation.<br><br>An employer may require an employee to begin maternity leave early, but not more than 13 weeks before the estimated date of birth, if the pregnancy would unreasonably interfere with the performance of the employee's duties; and no opportunity exists to modify the employee's duties or to reassign the employee to other duties. |
|              | Radiation Health and Safety Regulations, 2005, c.R-1.1, R.2; Sec. 8 (1)-(3), Table 6                                  | When a worker becomes aware that they are pregnant, they must immediately inform the owner or operator of the ionizing radiation equipment or installation. The owner or operator must reassess, and if necessary, revise the employment duties or educational activities of the worker.   |
| Yukon        | Radiation Protection Regulations O.I.C. 1986/164; Enabling Statute: Occupational Health and Safety Act, Sec. 12 (1-2) | An x-ray worker, radiation technician in training or student who knows or suspects that she is pregnant shall report such fact or suspicion to her employer or the person in charge of her training.   |

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|  |  | If a pregnant person wants to continue in employment or training, the employer together with the pregnant person, shall reassess and revise as indicated the employment duties or educational activities, as the case may be, so that the maximum permissible dose of .1 rad per month during the remaining period of pregnancy is not exceeded. |
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## Disclaimer

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