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**PROTECTION OF PREGNANT WORKERS REGULATIONS, 1996**

*This version is out of date*

**Subsidiary  
1996/012**

Regulations made under ss. 58 and 81.

**PROTECTION OF PREGNANT WORKERS  
REGULATIONS, 1996**

**(LN. 1996/012)**

**1.2.1996**

Amending  
enactments

Relevant current  
provisions

Commencement  
date

LN. 1996/017    *Notice of Corrigendum*

**Transposing:**  
Directive 92/85/EEC

**1956-12**

## Factories

**Subsidiary  
1996/012**

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**ARRANGEMENT OF REGULATIONS.**

Regulation

1. Title and commencement.
2. Interpretation.
3. Women of child-bearing age.
4. Right to offer of alternative work.

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**Subsidiary  
1996/012**

*In exercise of the powers conferred on him by sections 58 and 81 of the Factories Act, and of all other enabling powers and for the purpose of transposing into the national law of Gibraltar Council Directive 92/85/EEC, the Governor has made the following regulations —*

**Title and commencement.**

1.(1) These Regulations may be cited as the Protection of Pregnant Workers Regulations, 1996 and, subject to subregulation (2), shall come into effect on the 1st day of February, 1996.

(2) Where on the effective date of these Regulations a person is an employer, who, by virtue of the Act or the Management of Health and Safety at Work Regulations, 1996, is to be treated as an employer for the purposes of these Regulations, to whom regulation 3(1) applies it shall be deemed sufficient compliance with that regulation by that person if he shall have complied with it by the 1st day of May, 1996.

**Interpretation.**

2.(1) In these Regulations—

“given birth” means delivered of a living child or, after twenty-four weeks of pregnancy, a still born child;

“new or expectant mother” means an employee who is pregnant, who has given birth within the previous six months, or who is breastfeeding;

“registered” in relation to a medical practitioner or midwife, means registered in accordance with the Medical and Health Act.

(2) Terms defined in the Management of Health and Safety at Work Regulations, 1996 shall in these Regulations bear the meaning given to them in those regulations.

(3) The provisions of these Regulations are relevant statutory provisions.

**Women of child-bearing age.**

3.(1) Where—

(a) the persons working in an undertaking include women of child-bearing age; and

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- (b) the work is of a kind which could involve risk, by reason of her condition, to the health and safety of a new or expectant mother, or to that of her baby, from any processes or working conditions, or physical, biological or chemical agents, including those specified in Annexes I and II of Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding,

the assessment required by regulation 7(1) of the Management of Health and Safety at Work Regulations, 1996 shall also include an assessment of such risk.

(2) Where, in the case of an individual employee, the taking of any other action the employer is required to take under the relevant statutory provisions would not avoid the risk referred to in subregulation (1) the employer shall, if it is reasonable to do so, and would avoid such risks, alter the working conditions or hours of work of that employee.

(3) If it is not reasonable to alter the working conditions or hours of work, or if it could not avoid such risk, the employer shall, subject to regulation 4, suspend the employee from work for so long as is necessary to avoid such risk.

(4) In subregulations (1) to (3) reference to risk, in relation to risk from any infectious or contagious disease, is reference to a level of risk at work which is in addition to the level to which a new or expectant mother may be expected to be exposed outside the workplace.

(5) Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the employer shall, subject to regulation 4, suspend her from work for so long as is necessary.

(6) Nothing in subregulation (2) or (3) shall require the employer to take any action in relation to an employee until she has notified the employer in writing that she is pregnant, has given birth within the previous six months, or is breastfeeding.

(7) Nothing in subregulation (2), (3) or (5) shall require the employer to maintain action taken in relation to an employee—

(a) in a case—

(i) to which subregulation (2) or (3) relates; and

(ii) where the employee has notified her employer that she is pregnant,

where she has failed, within a reasonable time of being requested to do so in writing by her employer, to produce for her employer's inspection a certificate from a registered medical practitioner or a registered midwife showing that she is pregnant;

(b) once the employer knows that she is no longer a new or expectant mother; or

(c) if the employer cannot establish whether she remains a new or expectant mother.

**Right to offer of alternative work.**

4.(1) Where an employer has available suitable alternative work for an employee that employee has a right to be offered to be provided with it before being suspended under regulation 3(3) or (5).

(2) For alternative work to be suitable for an employee for the purposes of this regulation—

(a) the work must be of a kind which is both suitable in relation to her and appropriate for her to do in the circumstances; and

(b) the terms and conditions applicable to her for performing the work, if they differ from the corresponding terms and conditions applicable to her for performing the work she normally performs under her contract of employment, must not be substantially less favourable to her than those corresponding terms and conditions.