L.N. 72 of 1996

OCCUPATIONAL HEALTH AND SAFETY (PROMOTION) ACT, 1994 (ACT NO. VII OF 1994)

Work Place (Protection of Maternity) Regulations, 1996

IN exercise of the powers conferred by sections 6 and 16 of the Occupational Health and Safety (Promotion) Act, 1994, the Minister of Education and Human Resources, in consultation with the Commission for the Promotion of Occupational Health and Safety, has made the following regulations:–

Citation and commencement.

1. (1) These regulations may be cited as the Work Place (Protection of Maternity) Regulations, 1996.

(2) These regulations shall come into force on the 1st October, 1996.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires –

"child'' includes an unborn infant, and any child under three years of age;

"conditions of employment" has the same meaning assigned to it under the Conditions of Employment (Regulation) Act or any other law substituting it;

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"female" includes a pregnant woman and a mother;

"mother'' means a female who has recently given birth to a child and who informs her employer of such an event by means of a certificate issued by a medical practitioner or by a midwife, and any such female shall continue to remain considered as such until the child is six months old;

"pregnant woman" means a female who informs her employer of her condition by means of a certificate issued by a medical practitioner or by a midwife.

(2) In these regulations, words and expressions shall have the same meaning as defined in section 19 of the Occupational Health and Safety (Promotion) Act, 1994, hereinafter in these regulations called "the Act", and the terms "mother", "pregnant woman" and "female" in these regulations shall be interpretated in the same manner as the term "worker" in the Act.

Employment of females.

3. No pregnant woman or mother shall be required by any employer to perform any work which may endanger her health and safety or the health of her child.

Employer's responsibilities.

4. (1) An employer shall assess the nature, degree and duration of any hazard present at his workplace before he assigns work to a pregnant woman or a mother.

(2) An employer shall under no circumstance require a pregnant woman to perform duties for which the assessment has revealed a risk of exposure to the agents listed in the First Schedule to these regulations, or when so directed by the Director of Labour in the interests of health and safety.

(3) An employer shall not require a mother to perform duties for which the assessment has revealed a risk of exposure to the agents listed in the Second Schedule to these regulations, or when so directed by the Director of Labour in the interests of health and safety.

Risk assessment results.

5. The employer shall inform the female workers referred to in regulation 3 of these regulations, or their representatives at the place of work, of the results of the risk assessments referred to in regulation 4 of these regulations and of all the measures taken, or that are to be taken, concerning health and safety at the place of work.

Remedy to an existing risk.

6. (1) If the results of the assessment referred to in regulation 4 of these regulations reveal a risk to health or safety, or on the pregnancy, or on the unborn child, the employer shall take the necessary steps to remove the female from such exposures, either by temporarily adjusting the working conditions, and/or the working hours, or by assigning the female concerned to another job under conditions of employment that are not less favourable than those already enjoyed by her.

(2) An employer shall not terminate the employment of a female on the grounds that the employer is unable to comply with the provisions of paragraph (1) of this regulation.

7. (1) No pregnant woman or mother shall be required by any employer to perform any night work if the female concerned submits to the employer a medical certificate which states that night work can have harmful effects on the pregnancy, or on the mother, or on the child, as the case may be: Night work.

Provided that the employer may require his own medical officer to verify the certificate.

(2) An employer shall transfer a female referred to in paragraph (1) of this regulation to daytime work under conditions of employment that are not less favourable to her.

(3) An employer shall under no circumstance require a female to perform night work during a period of at least twenty-one weeks, such period commencing on the eighth week immediately preceding the expected date of delivery and terminating not earlier than the end of the twenty-first week after such commencement.

(4) An employer shall not terminate the employment of a female on the grounds that the employer is unable to comply with the provisions of this regulation.

8. A pregnant woman shall be entitled to time off, without loss of pay or any other benefit, in order to attend ante-natal examinations, if such examinations have to take place during working hours: Ante-natal examinations.

Provided that the employer may request documentation which shows the appointment times for such examinations.

FIRST SCHEDULE

Regulation 4(2)

Agents to which a pregnant woman cannot be exposed

1. (a) Physical agents.

Work in hyperbaric atmosphere, including pressurised enclosures and underwater diving.

(b) Biological agents.

Toxoplasma and Rubella virus, unless the workers are proved to be adequately protected against such agents by immunization.

(c) Chemical agents.

Lead and compounds of lead.

2. Any other physical, biological or chemical agent regarded by the Director of Labour, acting on the advice of the Commission for the Promotion of Occupational Health and Safety, as causing foetal lesions, and/or is likely to disrupt placental attachment, and/or is likely to cause serious disease to a pregnant woman or an unborn child.

SECOND SCHEDULE

Regulation 4(3)

Agents to which a mother cannot be exposed

1. Chemical agents:

Lead and compounds of lead.

2. Any other physical, biological or chemical agent regarded by the Director of Labour, acting on the advice of the Commission for the Promotion of Occupational Health and Safety, as causing serious disease to a nursing mother or to a breast-feeding child.

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