

# Women's Guide to Pregnancy on the Job

in Canada

**I**n Canada, the law protects the rights of working women who are pregnant and those who have or plan to have children.

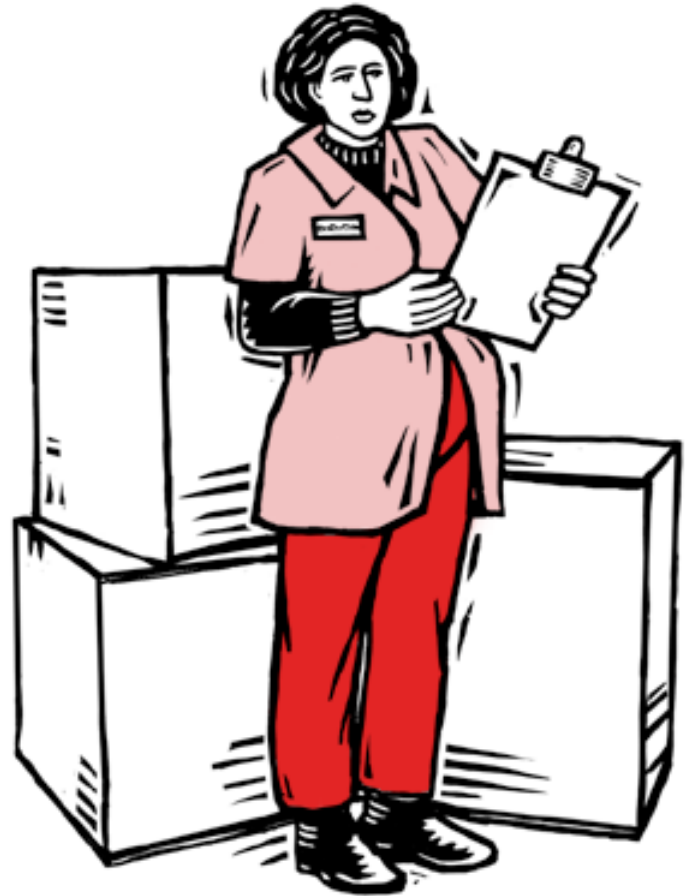
In all provinces and territories, there are human rights laws that make it illegal for an employer to fire, mistreat or refuse to hire any worker because she is pregnant. Workers are protected regardless of their immigration status.

## Applying for and keeping a job during pregnancy

- It is against the law in Canada for an employer to refuse to hire a woman because she is pregnant if she is able to perform the “essential duties” of the job.
- If you are pregnant when you apply for a job, you do not have to tell the employer that you are pregnant.
- An employer may not ask you whether you are pregnant or plan to become pregnant in the future.
- Your employer cannot force you to take a pregnancy test or any kind of medical exam unless the test will be used to determine your ability to do your job or to determine any health risks related to your employment.

## How long may I work during my pregnancy?

- In most jurisdictions, you have the right to keep working during your pregnancy as long as you are able to perform the essential or main duties of your job.
- Your employer may not penalize you (like firing you, forcing you to take a lower paying job, or forcing you to take leave) simply because you are pregnant.



## What can I do if my employer discriminates against me because I am pregnant?

- The federal government and all provinces have human rights commissions that handle complaints of employment discrimination, including discrimination on the basis of pregnancy. Employment and labour standards laws in many jurisdictions also prohibit employers from discriminating against pregnant employees.
- If you have been the victim of pregnancy discrimination, you can file a complaint with your local human rights commission or labour/employment standards office.

For more information about how to file a complaint, see *Guide to Employment Discrimination Laws in Canada*.

### **What if I become sick and can no longer work during my pregnancy?**

- **First:** You can use up any sick leave time that your employer provides, which will normally allow you to receive 100 percent of your normal pay. In some jurisdictions, you are entitled to job protection for a certain period of time while you are on sick leave.
- **Second:** Your employer may provide insurance for workers with temporary disabilities (including pregnancy-related illnesses), which may pay a portion of your wages while you are too sick to work.
- **HOWEVER,** the law allows your employer to insist that you apply for your Employment Insurance benefits instead, if both benefits would be about the same amount.

### **What is Employment Insurance?**

In Canada, if you meet certain eligibility requirements, you can get Employment Insurance (EI) benefits if you:

- are pregnant;
- have recently given birth;
- are adopting a child; or
- are caring for your newborn baby.

Your partner may also be entitled to parental benefits.

- You can get maternity benefits while you are not working during pregnancy and/or right after a delivery and parental benefits while you are at home caring for your newborn or adopted child.
- In some cases, you may also be entitled to sickness benefits if you are too ill to work.

### **How do I qualify for EI maternity and parental benefits?**

You are entitled to Employment Insurance benefits if you meet these requirements.

- You must apply.
- You must have paid into the EI account (through premiums taken out of your pay).
- You must have done at least 600 hours of insured work within the last 52 weeks or since the start of your last claim (whichever is shorter), or roughly 12 hours a week for the past year.
- “Insured” work means any work for which EI premiums were deducted from your pay.

### **When can I receive EI maternity benefits?**

- You can start collecting maternity benefits up to eight weeks before you are scheduled to give birth.
- You can collect up to 15 weeks of maternity benefits.
- You and your partner can share up to 35 weeks of parental leave after the day your child is born or comes into your care for the first time. You can receive parental benefits only within the first year (52 weeks) after childbirth or adoption.
- You can collect up to 15 weeks of sickness benefits.
- You can combine maternity, parental and sickness benefits up to a maximum of 65 weeks.
- There is a two-week waiting period before benefits are paid (only one waiting period needs to be served for each birth or adoption). Some employers provide payments to their employees to cover this period.

### **Employment Insurance for migrant and seasonal farm workers**

- You do not have to be a citizen of Canada to get Employment Insurance benefits, if you are authorized to work in Canada.
- Migrant and seasonal farm workers and other foreign temporary workers can receive EI maternity and parental benefits as long as they have worked the hours they need to qualify.
- Because most migrant farm workers work in Canada for only a portion of the year, they may not work enough hours to receive EI benefits.
- Foreign workers without a valid permit may not receive Employment Insurance.

### **Safety of pregnant workers**

- Federal and provincial laws require employers to maintain a healthy and safe work environment for all workers, not just pregnant workers.
- Your employer cannot force you to work in an environment that is a danger to your health and safety.
- For more information, see *Guide to On-the-Job Safety and Health in Canada*.

### **What can I do if my work is unsafe for my unborn child?**

- If you or your doctor believes that your work may be dangerous for your unborn child, the law gives you the right to ask for a “reasonable accommodation.”
- This means that your employer must remove any threats to your pregnancy by making temporary changes in your job duties or work area.
- The law says that your employer must make accommodations for pregnant workers as long as it does not place “undue hardship” on your employer.
- Under the labour standards laws of Quebec and the federal government, your employer may be required to give you another position or offer you a special leave. In Quebec, you can receive financial compensation from the Commission de la sécurité et de la santé du travail while you are on this special leave.

### **Can my employer stop me from working out of concern for my pregnancy?**

In most cases, your employer can force you to start your maternity leave only if you are no longer able to reasonably do your job.

Under Quebec’s law, your employer is also required to transfer you to another job if your working conditions are dangerous for you or for your unborn child. You may refuse such a transfer only if you have a medical certificate proving that the conditions are not dangerous.

### **Does my employer have to give me my job back after maternity and parental leave?**

- Normally, federal and provincial law requires your employer to place you in the same job when you return to work.
- If your job has been given to someone else or is not available, you must be given another job that is similar in duties, pay and benefits, etc.
- In a number of jurisdictions, the employer must maintain your benefits during your leave.

### **What is a reasonable accommodation?**

- You have the right to ask for a temporary transfer to another job or to have dangerous duties temporarily stopped or changed.
- It is your responsibility to explain exactly what kind of help you need.
- Your employer must accommodate you even if you are pregnant when applying for the job.

### **What about prenatal health care?**

In Canada, each province provides health insurance for its residents. If you are covered under a provincial health plan, then your prenatal care will be covered as well.



### Health care for foreign temporary workers

To get health insurance under a provincial plan, you must be a resident of that province.

“Resident” usually means that:

- you are a Canadian citizen or a lawful permanent resident who makes his or her home in the province; and
- you are present in that province for at least some part of the year (usually six months or more).

Many foreign temporary workers, including farm workers, do not meet the residency requirements of most provinces, BUT...

- if you are a temporary worker in Manitoba, you may enroll in the health plan if you have an Employment Authorization that is valid for at least 12 months.

### CCMSAWP workers:

If you are a migrant farm worker in Canada under the Commonwealth Caribbean and Mexican Seasonal Agricultural Worker Program (CCMSAWP), you have the right to health insurance under the employment agreement that you signed when you began working.

Employers of other migrant and seasonal workers working under private labour contracts are not required to provide health insurance for their workers.

### Migrant farm workers: Tips for a safe and healthy pregnancy

#### Pesticides

- Being around pesticides while you are pregnant can be very dangerous to both you and your unborn baby. Make sure you read and follow all pesticide labels and warning signs.
- Wash your hands each time you use the bathroom and before eating to avoid getting germs or pesticides inside your mouth.
- For more information on how to protect yourself from pesticides, see [Guide to Pesticide Safety in Canada](#).

#### Dehydration

- Dehydration can be dangerous to the health of your unborn child, especially if you work with pesticides.
- Dehydration is a loss of water and other important fluids in the body. Half of a woman's weight is made of water. The body needs to maintain a certain amount of water to work properly.
- Working outside in the sun for long periods of time without drinking water can easily cause dehydration.
- You must drink plenty of water throughout the day for a healthy pregnancy.



#### Diet

- Remember to eat a well-balanced diet, especially foods that have a lot of iron in them.
- Make sure you take the iron tablets that your doctor gives you. This will help you feel less tired.

#### Prenatal Care

- It is important to visit the doctor often during your pregnancy.



Commission for Labor Cooperation