

Pregnancy and maternity

This fact sheet contains the most important information on “Pregnancy and maternity”. You will learn what to look out for and how to proceed according to applicable law if a learner becomes pregnant.



If a learner becomes pregnant or gives birth to a child during her apprenticeship, they are subject to **special legal protection**. As a vocational trainer, you are responsible for ensuring that she is given this protection. The most important thing is:

- A pregnancy is no reason to give up vocational education and training. Women can still successfully complete their apprenticeship if they receive help from within or outside the family.
- Pregnancy alone is not a reason to terminate the apprenticeship. However, the priority is on achieving the learning and performance objectives so as to guarantee professional training.
- Vocational trainers and employers must take the health of the pregnant woman or mother and that of the child into consideration (short breaks, light work, etc.).
- Pregnant or breastfeeding learners have the right to work during the day rather than in the evening or at night.
- They must be given the time they need for breastfeeding.
- Salaries will be paid in the event of incapacity to work the same as in case of illness.
- The learner is entitled to 14 weeks of maternity leave (in accordance with the Loss of Earnings Compensation Act, EOG).
- Dangerous or strenuous work may only be carried out if protective measures have been defined by professionally competent persons.

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Legal situation

Various laws protect learners during their pregnancy, but also during their time as a woman who has recently given birth or as a breastfeeding mother.

Employment Act and associated implementing ordinances (EmpA Art. 35 et seq.)

This law protects the health of pregnant women, (unborn) children, women who have recently given birth and breastfeeding mothers. It describes the conditions for employment. However, the Employment Act does not cover all companies and therefore not all employees. Companies that are excluded from this are named in Art. 1-4 of the Employment Act.

Please check with your cantonal labour inspectorate to be sure what applies to your business. The provisions of the employment act are mandatory. These are officially monitored and enforced by the cantonal and federal labour inspectorates. If necessary, learners and employees can file a complaint with these authorities if the company does not comply with the requirements of employment act.

Swiss Code of Obligations (CO Art. 344 et seq.)

This law protects pregnant women and women who have recently given birth primarily from an economic perspective (continued payment of wages) and in the event of a notice of termination. It applies to all employment relationships under private law, including the working relationship. As a rule, female employees in the public sector are not protected by the Swiss Code of Obligations (CO), but by special laws. Disputes concerning the application of these provisions shall be decided by the civil court or employment tribunal.

Loss of Earnings Compensation Act and associated ordinances (EOG Art. 16b et seq. and EOV Art. 23 et seq.)

Working women are entitled to 14 weeks' compensation during maternity (pregnancy, childbirth and recovery period).

In principle, all women who were compulsorily insured with the OASI for at least five months during the nine months prior to the birth of their child are entitled to maternity compensation for 14 weeks.

Gender Equality Act (GEA)

This law prohibits discrimination against women, in particular in the case of an existing, future or past pregnancy.

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What to do as a vocational trainer in specific cases?

Supporting the learners

Support the learners and show understanding for their situation. The fact that she is going to be a mother will change her life dramatically. Be patient and show understanding for any fears she may have. Make it clear that the learner can contact you at any time. If your learner is pregnant and a successful completion of vocational education and training is at risk, please contact the cantonal VET office for further information.

Implementing legal protection

Your most important job as a vocational trainer is to **protect learners as required by law** and as dictated by the course of the pregnancy and the postnatal period. Pregnancy, childbirth and the postnatal period are very individual experiences. Many questions only arise in a specific situation.

During pregnancy

During pregnancy, women are more sensitive to injury and stress at work.

Hazardous work (X-rays, chemical substances, biological factors, etc.) is prohibited – unless the protective measures defined by professionally competent persons are implemented – as is **strenuous work** (heavy loads, inappropriate working hours, etc.) (EmpA Art. 35 Para. 1, EmpO 1 Art. 62, Maternity Health and Safety Ordinance).

Pregnant women who mainly work standing up are entitled to **longer rest periods** and longer or more frequent breaks (EmpO 1 Art. 61).

Up to the seventh month, a pregnant woman who works between 8 p.m. and 6 a.m. may request to be assigned to equivalent daily work (EmpA Art. 35b para. 1). **From the eighth week before the birth, a pregnant learner may no longer be employed between 8 p.m. and 6 a.m.** (EmpA Art. 35a para. 4).

A pregnant woman may stay away from work or leave work after simply notifying her employer (EmpA Art. 35a para. 2). However, the salary is not owed in the absence of a doctor's certificate.

After childbirth

Shortly after giving birth, women are still more sensitive to injury and stress at work.

Following the birth of their child, the learner is entitled to **at least 14 weeks of maternity leave** (CO Art. 329 f).

Women who have recently given birth may not be employed for eight weeks after the birth of their child (EmpA Art. 35 a para. 3). Once the restriction on employment expires, breastfeeding mothers must give their consent to return to work.

If a young woman is unable to work full-time in the first few months after giving birth, she can have this confirmed by a doctor's certificate. In this case, she may not be assigned tasks that exceeds her capacity to work (EmpO 1 Art. 64 Para. 2).

Evening and night work may be refused by young mothers until the 16th week (EmpA Art. 35b).

During the nursing period

As long as a mother is breastfeeding her child, she may not perform hazardous or strenuous work without implementing the protective measures defined by professionally competent persons (EmpA Art. 35 Para. 2, Maternity Ordinance).

Mothers must be given the time they need for breastfeeding (EmpA Art. 35a para. 2). The following applies during the first year of life: Breastfeeding mothers who work up to four hours a day are entitled to at least 30 minutes of breastfeeding time. This entitlement increases with higher workloads: to at least 60 minutes for up to 7 hours of work and to at least 90 minutes for even higher workloads (EmpO 1 Art. 60 para. 2). Breastfeeding times can be taken consecutively or spread out. If the child requires longer periods of breastfeeding, the breastfeeding mother may also be absent from work for longer; this time no longer counts as working hours (see also EmpA Art. 35a).

Child's illness

If a child falls ill, the employer is obliged to grant the parents up to **three days off per case of illness** upon presentation of a doctor's certificate so that they can care for their child. This time is considered as inability to work due to illness; the salary must continue to be paid unless the entitlement has already been exhausted. Both the mother and the father can claim this entitlement. The duration of the obligation to continue paying wages is governed by CO Art. 324a. This varies depending on the number of years the pregnant woman has been employed and the employer's insurance.

Termination of the working relationship

Whenever possible, every effort should be made to ensure that the vocational education and training is successfully completed. Although pregnancy does not generally constitute grounds for termination, an apprenticeship contract can be terminated in exceptional cases – in particular if the learning and performance objectives cannot be achieved within the specified period. As a rule, termination should be settled through an amicable agreement between the learner and the host company with the VET office.

Prohibition of discrimination

It is forbidden to discriminate against pregnant women, women who have recently given birth or (breastfeeding) mothers (in terms of salary, notice of termination, non-recruitment, etc.) (GEA Art. 3 para. 1, Art. 5, 6 and 8).

Consequences of terminating an apprenticeship contract

If a pregnant learner hands in her notice, she is not entitled to unemployment benefits. Only persons who are eligible for placement are entitled to this benefit.

The learner is entitled to unemployment benefits if they have paid contributions for twelve months within the last two years (i.e. have worked for 12 months) or have not been in employment for more than twelve months because they were exempt from the contribution period. If the learner is on sick leave as a result of her pregnancy, she is only entitled to unemployment benefit for 30 days.

After these 30 days, there is no entitlement to daily allowances unless the insured person is fit for work. If the learner is between 50 and 75 per cent fit for work, they will continue to receive half a daily allowance; over 75 per cent, they will receive a full daily allowance. After the birth, the daily unemployment benefits already being paid will be replaced by maternity benefits. Maternity benefits are also paid in the event of illness. Unemployed women must claim their entitlement from the OASI office themselves.

Fairness pays off

If a host company supports a young woman who becomes pregnant or gives birth during vocational education and training, this strengthens the company's image both internally and externally. It pays to treat pregnant women or mothers fairly and support them on their path to completing their apprenticeship. It is important for the young woman to complete her vocational education and training despite her pregnancy and motherhood in order to have good prospects later in her professional life.



Legal basis

CO Art. 324a para. 3, Art. 329f, Art. 336c para. 1 lit. c, Swiss Code of Obligations (Federal Act of 30 March 1911 on the Amendment to the Swiss Civil Code – Part Five: Swiss Code of Obligations, SR 220)

EmpA Art. 35 to 35b, Employment Act (Federal Act of 13 March 1964 on Employment in Industry, Trade and Commerce, SR 822.11)

EmpO 1 Art. 60 to 65, (Ordinance 1 to the Employment Act of 10 May 2000, SR 822.111)

Maternity Health and Safety Ordinance, (of 20 March 2001, SR 822.11.52)

Ordinance of the EAER on Exceptions to the Prohibition of Night and Sunday Work during Vocational Education and Training, SR 822.115.4

EOG Art. 16b et seq., Loss of Earnings Compensation Act (Federal Act of 25 September 1952 on Compensation for Loss of Earnings for Persons on Military Service or Maternity Leave, SR 834.1)

EOV Art. 23 et seq., (Ordinance of 24 November on the Loss of Earnings Compensation Act, SR 834.11)

GEA Art. 3 para. 1, Art. 5, 6 and 8 of the Gender Equality Act (Federal Act of 24 March 1995 on Gender Equality, SR 151.1)

(Laws can be accessed with SR numbers at: → fedlex.admin.ch)



Important links

→ vocationaleducation.ch/addresses

List of cantonal VET offices. Point of contact for initial information and referral to specialist units.

→ vocationaleducation.ch/glossary

All important VET terms are described in short and informative texts.

→ bsv.admin.ch

Federal Social Insurance Office. Up-to-date information on loss of earnings compensation and paid maternity leave.

→ equality.ch

Swiss Conference of Cantonal Gender Equality Officers. Access to cantonal or local Offices for Gender Equality, which offer information and, in some cases, advice.

→ gewerkschaftsjugend.ch

Youth Commission of the Swiss Trade Union Federation. Learners' rights from A to Z.

→ iva-ch.ch

Up-to-date information on the Employment Act.

→ muetterberatung.ch

Joint website of the Counselling Service for Mothers and Fathers (MVB), the Employers' Association for Counselling Services for Mothers and Fathers in Switzerland and the Principality of Liechtenstein (AG-VM) and the Swiss Association of Counsellors (SVM). Information is generally only provided to association members.

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Further literature

→ seco.admin.ch

For further reading: Brochure on maternity leave – Information for pregnant women, breastfeeding women and women who have recently given birth in an employment relationship.

Produced with the brochure: Maternity leave – information for pregnant women, breastfeeding women and women who have recently given birth (SECO) → seco.admin.ch

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This and other fact sheets can be found at:

→ vocationaleducation.ch/factsheets

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