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Shipping Guidance Notice – 176

Guidance - New or expectant mothers

To: Owners, Operators, & Masters

1. Summary

1.1. This Shipping Guidance Notice (SGN) provides guidance on health and safety as they relate to new and expectant mothers.

2. Introduction

2.1. Many women continue to work while they are pregnant and return to work while breastfeeding. Pregnancy should not be equated to ill health. It should be regarded as part of everyday life, and its health and safety implications can be adequately addressed by normal health and safety management procedures.

2.2. However, the particular demands of working on board ship can place pregnant workers at risk. Very few ships carry doctors, and in the event of problems developing during pregnancy, an equivalent level of care to that available to an expectant mother working ashore is unlikely. For example, sophisticated investigations for the slightest abnormality in a previously normal pregnancy, which may be needed fairly urgently, could not be duplicated even on a ship with medical facilities. In addition, ship turnaround in ports is often very rapid allowing no time for routine ante-natal care.

2.3. Account must also be taken of the fact that, should labour begin prematurely, access to medical facilities for the mother and new-born child in the event of premature birth might be delayed at least until the ship reaches port.

2.4. Shipowners and employers should take into account the safety and health of new or expectant workers when carrying out a risk assessment, in particular if the woman is required to do night work.

2.5. Subject to the findings of the risk assessment, and medical advice, a woman may continue to work at sea during pregnancy.

3. Application

3.1. The Gibraltar Protection of Pregnant Workers Regulations, 1996 *(additionally appended)* set out the National requirements in respect of health and safety as they relate to new and expectant mothers.

3.2. The Gibraltar Maritime Administration encourages owners, operators, and Masters of Gibraltar registered vessels to adopt the abovementioned regulations as part of on-board health and safety measures, with a view to safeguard the wellbeing and employment of new and expectant mothers serving on Gibraltar registered vessels.

Steve Gomez - Chief Surveyor
For & on behalf of the Maritime Administrator

Issue date: 06 October 2026

All notices are available through www.gibraltarship.com

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Subsidiary Legislation made under ss. 58 and 81.

Protection of Pregnant Workers Regulations, 1996

LN. 1996/012

Commencement **1.2.1996**

Amending enactments	Relevant current provisions	Commencement date
LN. 1996/017	*Notice of Corrigendum*	
2015/143	rr. 2, Sch.	4.9.2015

Transposing:
Directive 92/85/EEC

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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.

SCHEDULE

THIS SCHEDULE REPRODUCES ANNEXES I AND II OF DIRECTIVE 92/85/EEC

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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–

"Annex" means an annex to 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, which is reproduced for information purposes in the Schedule;

"Article" without more, means an article of Council Directive 92/85/EEC;

"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–

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

(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–

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(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.

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SCHEDULE

THIS SCHEDULE REPRODUCES ANNEXES I AND II OF DIRECTIVE 92/85/EEC

ANNEX I
NON-EXHAUSTIVE LIST OF AGENTS, PROCESSES AND WORKING CONDITIONS

referred to in Article 4 (1)

A. Agents

1. Physical agents where these are regarded as agents causing foetal lesions and/or likely to disrupt placental attachment, and in particular:

(a) shocks, vibration or movement;

(b) handling of loads entailing risks, particularly of a dorsolumbar nature;

(c) noise;

(d) ionizing radiation[1];

(e) non-ionizing radiation;

(f) extremes of cold or heat;

(g) movements and postures, travelling — either inside or outside the establishment — mental and physical fatigue and other physical burdens connected with the activity of the worker within the meaning of Article 2 of the Directive.

2. *Biological agents*

Biological agents of risk groups 2, 3 and 4 within the meaning of points 2, 3 and 4 of second paragraph of Article 2 of Directive 2000/54/EC of the European Parliament and of the Council (7), in so far as it is known that such agents or the therapeutic measures necessitated by them endanger the health of pregnant women and the unborn child, and in so far as they do not yet appear in Annex II.

[1]SEE DIRECTIVE 80/836/EURATOM (OJ NO L 246, 17.9.1980, P. 1).

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3. *Chemical agents*

The following chemical agents in so far as it is known that they endanger the health of pregnant women and the unborn child and in so far as they do not yet appear in Annex II:

(a) substances and mixtures which meet the criteria for classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([8]) in one or more of the following hazard classes and hazard categories with one or more of the following hazard statements, in so far as they do not yet appear in Annex II:

— germ cell mutagenicity, category 1A, 1B or 2 (H340, H341);

— carcinogenicity, category 1A, 1B or 2 (H350, H350i, H351);

— reproductive toxicity, category 1A, 1B or 2 or the additional category for effects on or via lactation (H360, H360D, H360FD, H360Fd, H360Df, H361, H361d, H361fd, H362);

— specific target organ toxicity after single exposure, category 1 or 2 (H370, H371);

(b) chemical agents in Annex I to Directive 2004/37/EC of the European Parliament and of the Council

B. **Processes**

Industrial processes listed in Annex I to Directive 2004/37/EC.

C. **Working conditions**

Underground mining work.

ANNEX II

NON-EXHAUSTIVE LIST OF AGENTS AND WORKING CONDITIONS

referred to in Article 6

A. Pregnant workers within the meaning of Article 2(a)

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1. *Agents*

(a) Physical agents

Work in hyperbaric atmosphere, e.g. pressurized enclosures and underwater diving.

(b) Biological agents

The following biological agents:

— toxoplasma,

— rubella virus,

unless the pregnant workers are proved to be adequately protected against such agents by immunization.

(c) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. *Working conditions*

Underground mining work.

B. Workers who are breastfeeding within the meaning of Article 2(c)

1. *Agents*

(a) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. *Working conditions*

Underground mining work.

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