



Federal Ministry for
Family Affairs, Senior Citizens,
Women and Youth



Guide to Maternity Protection

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Introduction

1.1 What is maternity protection?

Pregnancy, childbirth and the first months of a baby's life are an emotionally intense and very sensitive period in the life of a family.

Around the time of birth, mother and child require special protection: maternity protection. Modern maternity protection combines various objectives:

Aims of
maternity
protection

- The aim is to protect the health of a pregnant and breastfeeding woman as well as that of her child while at the same time enabling her to continue to pursue gainful employment as far as is responsibly possible.
- The maternity protection regulations ensure that pregnant women are protected from unjustified dismissal and
- that their income is secured during the period in which they are not permitted to perform their work.
- The overall aim is to compensate for any disadvantages resulting from the implementation of maternity protection measures during pregnancy, after childbirth and during the breastfeeding period.

1.2 Which women are protected?

The Maternity Protection Act [*Mutterschutzgesetz* – MuSchG] applies to all pregnant and breastfeeding women **who are gainfully employed**. The key factor here is that the woman is in employment in the Federal Republic of Germany and the employment contract was concluded under German law. A woman within the meaning of the Maternity Protection Act is any person who is pregnant, has given birth to a child or is breastfeeding – **regardless of the sex indicated in their birth entry**. This means that you are protected by law if you are pregnant, have given birth or are breastfeeding, even if you do not feel like a woman. Neither nationality nor marital status are relevant.

Regardless of the nature of the employment contract, the Maternity Protection Act also applies to:

- women who are in vocational training;
- trainees within the meaning of Section 26 of the Vocational Training Act [*Berufsbildungsgesetz* – BBiG];
- women with disabilities who are employed in a workshop for disabled persons;
- women who are volunteers within the meaning of the Youth Volunteer Services Act [*Jugendfreiwilligendienstegesetz* – JFDG] or the Federal Volunteer Service Act [*Bundesfreiwilligendienstgesetz* – BFDG]; and
- women who are members of a religious cooperative, deaconesses or members of a comparable community who hold a permanent position or a position based on a secondment contract, also during a period of practical training.

For details of further protected groups of persons, see 1.2.2 f.



Important note

If you have any doubts as to your employee status, please contact the **clearing office of the national German pension organisation Deutsche Rentenversicherung Bund** (postal address: DRV Bund, Clearingstelle, 10704 Berlin) to seek clarification. This option is also open to your employer. The application form is also available for download along with others at:

http://www.deutsche-rentenversicherung.de/Allgemein/de/Inhalt/5_Services/04_formulare_und_antraege/01_versicherte/01_vor_der_rente/_DRV_Paket_Versicherung_Statusfeststellung.html

1.2.1 Employees in part-time jobs, mini-jobs and fixed-term employment, on probation and in vocational training

Women who are employed **part-time** enjoy full protection under the Maternity Protection Act in the same way as full-time employees.

The Maternity Protection Act also applies to women in low-income employment (so-called **mini-jobs**).

Women in **fixed-term employment**, for example for trial purposes or to replace other employees, are covered by the Maternity Protection Act during pregnancy and after childbirth for the same period as that of the fixed-term employment. In the event of pregnancy during the period of protection after childbirth and during parental leave, the fixed-term employment still ends on expiry of the agreed period or achievement of the purpose.



Important note

Maternity leave does not entitle you to the extension of a **fixed-term employment contract**. However, if your employer were to extend all your colleagues' fixed-term employment contracts of the same type and only invoke the expiry of the time limit in your case, this could potentially constitute a case of direct discrimination on the grounds of your pregnancy and therefore be inadmissible. For information on possible benefit entitlements in connection with fixed-term employment, see **4.1.3.2, 4.1.4 f.**

The Maternity Protection Act also applies without restriction during the **probationary period** in the case of an **employment contract** that was originally concluded as being of indefinite duration.

As a rule, **vocational training contracts** are temporary employment contracts. They end on expiry of the contractually agreed training period or – if the final examination is passed early – when the examination board announces the examination result. This also applies in the case of pregnancy. However, you can apply for an extension of your training period before the final examination if the extension is necessary in order for you to achieve the training objective as a result of absences due to pregnancy, for example. The body responsible for deciding on whether to approve the request is that which supervises implementation of the training programme – usually the local chamber of industry and commerce. If you do not pass the final examination, you can also request an extension until the next possible final examination, but the maximum extension period is one year. It is also possible to arrive at a mutual agreement with your employer regarding the extension of the training contract.

**Important note**

With regard to the extension of a training contract when taking parental leave, reference is made to the information brochure issued by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth entitled *Parental Allowance, Parental Allowance Plus and Parental Leave* (section: *Does parental leave increase the length of fixed-term employment contracts?*) The brochure can be ordered free of charge from publikationen@bundesregierung.de; see also:

www.bmfsfj.de/bmfsfj/service/publikationen/elterngeld--elterngeldplus-und-elternzeit-/73770

1.2.2 School pupils and university students

As of 1 January 2018, the Maternity Protection Act also applies to school pupils and university students insofar as the training organisation stipulates the place, time and structure of the training programme or an internship is being completed that forms a mandatory part of the individual's school or university education. Special maternity protection regulations apply to school pupils and university students. In particular, they can waive their right to the period of protection after childbirth (see also 2.5.2). The special maternity protection regulations concerning protection from dismissal and benefits are generally not applicable to school pupils and university students (see 3. and 4.).

1.2.3 Women in other forms of employment

The Maternity Protection Act also applies to the following, subject to restrictions:

- development workers (with the exception of the benefit regulations under Sections 18 to 22);
- women who work from home and those of equivalent status within the meaning of Section 1 Subsections 1 and 2 of the Home Work Act [*Heimarbeitsgesetz* – HAG], insofar as they work continuously, but subject to the requirement that Sections 10 and 14 do not apply to them and Section 9 Subsections 1 to 5 apply to them analogously (for details, see 2.5.3); and
- women who, due to their economic dependence, are to be regarded as persons with a status similar to that of an employee (with the exception of the benefit regulations under Section 18, Section 19 Subsection 2 and Section 20).

1.2.4 Women who are not covered by the Maternity Protection Act

The Maternity Protection Act does **not apply to self-employed persons** (exception: women who, due to their economic dependence, are to be regarded as having a status similar to that of an employee), members of governing bodies and managing directors of legal entities or businesses (insofar as they do not predominantly work as employees) and housewives. This is because these women are not subject to an employment contract, so they are not bound by instructions and are not integrated in an organisation in which instructions can be issued to them. As such, they do not have an employer who has a contractual duty of care towards a pregnant or breastfeeding woman and who is required to observe the statutory regulations on maternity protection.

Special regulations apply to **female civil servants, judges and soldiers** which are laid down in civil service legislation and in the Maternity Protection Ordinance for Female Soldiers [*Mutterschutzverordnung* – MuSchV]. By contrast, public sector employees are covered by the Maternity Protection Act.

Otherwise, **each individual case** has to be assessed **based on the agreement** under which the woman is employed as to whether the Maternity Protection Act applies. If there are groups of persons who cannot be subsumed under one of the circumstances set out in Section 1 Subsection 2 Sentence 2 of the Maternity Protection Act, standards under maternity protection law apply analogously, in particular **in the case of government action**.

Adoptive mothers are not covered by the Maternity Protection Act, as they do not fall within the scope of protection under maternity protection law, which relates specifically to pregnancy, childbirth and breastfeeding.

1.3 When does maternity protection start and how long does it last?

The Maternity Protection Act protects the health of women and their children at the place of work, training and study **during pregnancy, after childbirth and during breastfeeding**.

Duration of
maternity
protection

Maternity protection begins as soon as you are pregnant. It applies until after childbirth and during the breastfeeding period. However, your employer can only effectively protect your health and that of your child based on the necessary protective measures if you inform them of the fact that you are pregnant or breastfeeding. Special protection from dismissal applies from the beginning of the pregnancy, regardless of whether the employer is informed (see 3.1).

In the event of a **miscarriage or abortion**, maternity protection generally no longer applies when the pregnancy comes to an end. Your employer is still obliged to make allowances for your situation in such cases, however. You are also entitled to medical treatment and care, of course. If you suffer a miscarriage after the twelfth week of pregnancy, special protection from dismissal also applies to you for a period of four months (see 3.). In the event of a **stillbirth or the death of the child**, the protective provisions under maternity law generally apply in full (for special provisions regarding the period of protection after childbirth, see 2.3.3).

1.4 Who is responsible for implementing maternity protection?

Responsibility for ensuring your maternity protection lies with **your employer** (or, in the case of school pupils and university students, the body with which the training or internship contract has been concluded). Your employer is required to observe and implement the statutory maternity protection provisions relating to health protection, protection from dismissal and benefit entitlements.

After you have informed your employer of the fact that you are pregnant or breastfeeding, your employer must take the necessary protective measures for you and your (unborn) child based on a previously prepared risk assessment of your working conditions. In doing so, your employer can draw on the assistance of medical officers and occupational safety specialists.

Maternity protection requirements are based on the **typical needs of women and their children during pregnancy and breastfeeding**.

Your employer will need your help to ensure maternity protection is implemented effectively. Take the opportunity to **talk to your employer in person** about maternity protection. Your employer will offer you the opportunity to conduct this interview (see also 2.2.2 and 2.4). You are legally entitled to have your working conditions adapted in line with maternity protection requirements. Your doctor can certify any special individual impairments you may have (see also 2.2.5 and 2.4.2).

You should inform your employer of your pregnancy **as early as possible**. Apart from this, there is no other particular action you have to take. Your employer is **legally obliged** to comply with the maternity protection regulations and implement the necessary protective measures after you have informed them that you are pregnant or breastfeeding. Maternity protection does not have to be applied for and your consent is not required in order to secure it.

By the same token, this also means that **you cannot waive maternity protection**. However, certain exceptions exist for the period of protection before childbirth as well as for school pupils and university students (see 2.5.2).

Your employer must take appropriate steps to eliminate anything that might endanger your health or that of your child under the maternity protection regulations. As long as your health or that of your child is not at risk, however, there is no objection to you continuing to work. This ensures that maternity protection is implemented consistently throughout the company and avoids the protection of you and your child's health becoming a matter of individual negotiation between you and your employer. Providing health hazards are eliminated therefore, pregnant and breastfeeding women only have statutory rights of co-determination with regard to working hours (see 2.2.3 and 2.4.1).

1.5 Who can advise you if you have any questions or are unsure?

If you have any questions or are unsure about something, you can contact the following, depending on the subject:

- for matters relating to health protection and protection from dismissal: the supervisory authorities responsible for maternity protection (see also the information on counselling services under 2.6 and 3.5);
- for matters relating to your entitlement to benefits under maternity protection law: your statutory health insurance company (see also 4.2.1).

If you have any other questions, please call our support service:

Tel.: 030 20 179 130 or
Fax: 030 18 555-4400
Monday-Thursday: 9 am to 6 pm
Email: info@bmfsfjservice.bund.de

We would also be happy to hear any suggestions you might have regarding maternity protection!



Health and safety at
the workplace

2.1 Before your pregnancy

Responsibilities of the employer

Maternity protection begins even before you become pregnant. Even before a pregnancy is reported, your employer is required to assess the hazards to which a pregnant or breastfeeding woman or her child is or might be exposed as part of the general assessment of working conditions under occupational health and safety law. On this basis, the employer must determine whether protective measures are necessary under maternity protection law. You can obtain information from your employer at any time about activities your work involves that might be relevant to maternity protection. This will enable you to find out in advance about hazards that might be relevant during the first three months of a pregnancy.



Note for your employer

Your employer is required to identify and assess hazards relevant to maternity protection as part of a general occupational health and safety risk assessment – **regardless of whether or not they currently employ a pregnant or breastfeeding woman.**

In businesses and administrations where more than three women are regularly employed, the employer must display or post a copy of the Maternity Protection Act in a suitable place for viewing. This does not apply if the employer has made it accessible at all times to employees electronically.



Note for your employer

Under the Maternity Protection Act, the employer is required to consider the results of the risk assessment with regard to maternity protection and any protective measures that may be necessary, and also to inform the entire workforce. This can be done by providing detailed information to interested parties as appropriate at a suitable location. The employer is not required to share the risk assessment with employees.

2.2 During your pregnancy

2.2.1 Informing your employer of your pregnancy

You decide when to inform your employer of your pregnancy. Please bear in mind the following, however: there may be risks to your unborn child during the first three months of your pregnancy, so the earlier you inform your employer of your pregnancy, the better your employer will be able to ensure fully effective maternity protection.

Informing your employer



Important note

From the start of pregnancy you enjoy special protection from dismissal (see 3. f.).

2 Health and safety at the workplace

If your employer expressly requires a medical certificate because they do not feel verbal notification is sufficient, they must cover the cost of obtaining this certificate themselves. Your employer may not disclose the information about your pregnancy to third parties without being authorised to do so.

Applying for a job

If you apply for a job during your pregnancy, you are not required to disclose your pregnancy when asked at interview or during the course of the application process.



Note for your employer

Under the Maternity Protection Act, the employer is required to notify the supervisory authority responsible of your pregnancy (regional occupational health and safety office or trade inspectorate).

Employers who fail to comply with this requirement may be subject to a fine. When notifying the authorities, your employer should also provide information about the nature of your work. This saves the supervisory authority having to ask unnecessary questions. The supervisory authority also advises your employer on maternity protection issues.

2.2.2 Personal interview with your employer

Information and planning meeting

After you have informed your employer that you are pregnant, the employer must inform you of the results of the risk assessment and of any protective measures that have to be taken in your case; the employer is also required to offer you a personal interview to discuss any further adaptations of your working conditions to meet your needs during pregnancy or breastfeeding. Be sure to take advantage

of this opportunity. Describe your situation. This will make it easier for your employer to adapt your working conditions to your needs. It also gives you an early opportunity to talk about when you plan to return to work after maternity leave and parental leave and discuss your future working hours and work-life balance with your employer.



Important note

The information brochure *So sag ich's meinen Vorgesetzten* ('How to tell your superior') issued by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provides practical tips to help you arrive at sound solutions with your employer before, during and after parental leave, thereby facilitating your return to work and making it easier to organise your working life on a family-friendly basis. The brochure can be downloaded free of charge at:

<https://www.bmfsfj.de/bmfsfj/service/publikationen/so-sag-ich-s-meinen-vorgesetzten-/75702>.



Note for your employer

The platform '*Erfolgsfaktor Familie*' (Families as a Success Factor) is provided by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: it provides detailed information on the subject of family-friendly human resources policies for businesses.

Practical guides are provided for HR managers on issues such as flexible working hours and mobile work. For details, see:

www.erfolgsfaktor-familie.de

2.2.3 Permitted working hours

Occupational health and safety in connection with working hours

The aim of maternity protection is to make it easier for you to reconcile your employment with your particular situation during pregnancy and the special needs you have during this time. One important aspect here are the regulations regarding **occupational health and safety in connection with working hours**.

Medical check-ups

First of all, maternity protection ensures that you are able to take advantage of medical check-ups while you are working. These serve to protect your health and that of your child. Your employer is required to give you time off for this purpose. This only applies if the check-ups are necessary, however. You must arrange your appointments outside working hours as far as possible. In the case of **flexitime arrangements**, the time spent on a medical check-up is counted as working time if you cannot reasonably be expected to work before or after the time required for the check-up given the flexitime arrangements in question.

Which medical check-ups are required will depend on the **benefits catalogue** available to you **under your statutory health insurance**. This also applies even if you are not covered by statutory health insurance.



Important note

Any release time granted must not result in a **loss of pay** for you. You may not be required to make up release time, whether in advance or later. Nor may such time be counted towards breaks as stipulated in the Working Hours Act [*Arbeitszeitgesetz – ArbZG*] or other regulations.

The Maternity Protection Act also contains a number of provisions regarding **permissible working hours during pregnancy**. These are designed to protect you from physical overload and symptoms of exhaustion and mental stress. This is mainly achieved as follows:

Special regulations regarding permitted working hours

- by limiting the amount of additional work allowed;
- by setting a mandatory minimum rest period; and
- by stipulating times at which work is not permitted (between 8 pm and 10 pm, at night, on Sundays and public holidays).

There are a number of maximum working time limits your employer must observe during your pregnancy: your employer may not have you work for more than **a maximum of eight and a half hours a day** or more than 90 hours per fortnight. If you are **under the age of 18**, your employer may not have you work for more than eight hours a day or more than 80 hours per fortnight. Sundays are included in the fortnight period. Statutory rest breaks and travelling time (from home to your regular place of work) do not count as working hours. **In addition**, your employer may not have you work hours to an extent where the monthly average exceeds the **contractually agreed weekly working hours**.

Maximum working hours

This regulation is intended to preserve existing working time arrangements for pregnant women as far as possible so as to avoid any stress during pregnancy resulting from an unfamiliar work schedule. When determining the contractually agreed weekly working hours, the following must be observed:

2 Health and safety at the workplace

- **In connection with (qualified) flexitime arrangements**, too, pregnant and breastfeeding women are generally not allowed to reduce minus hours or build up overtime beyond the calendar month: this is because exceeding contractually agreed weekly working hours is not permitted for reasons of health protection, even in the case of flexitime agreements.
- The same applies during the **accumulation phase in connection with long-term or lifetime working time accounts**, where longer weekly working hours are contractually agreed for a limited period of time.
- **Work on call** is considered to be part of your contractually agreed working hours and not additional work.
- Insofar as the actual hours you have worked to date (**proof of established practice**) have regularly exceeded the working time set down in your written contract, the hours customarily worked may in individual cases be deemed to be the contractually agreed working hours, if this is in line with common practice in the industry, and therefore does **not actually** constitute **an additional burden** on a pregnant woman.



Example:

Based on the contract, there are 20 working hours per week. In order to complete a project, you agree with your employee, who is 18 years or older, that she will work 40 hours per week for two consecutive weeks. In principle, this is also permissible during pregnancy, providing the employee is given time off for the other two weeks of the month to compensate. This is because, in this case, her total working hours neither exceed the 90 hours maximum which are permissible in the two consecutive weeks nor 20 hours per week on average for the month as a whole. Furthermore, in the case of a pregnant employee, who is 18 years or older, working hours must not exceed eight and a half hours on any day.

- When calculating the monthly average working hours, the employer may take as a basis either the one-month period upon notification of pregnancy or the breastfeeding period, or they may consider calendar months. To ensure that all parties concerned have the same basis for assessment, the employer should determine for each and every pregnant woman individually which point in time should serve as the basis for calculating the monthly working time. Before changing from one calculation method to the other, it must be ensured that no irregularity occurs in either of the two calculation periods.
- If your employee works for **several employers**, the total working hours must be added together. Your employee must inform you of working hours with other employers. Priority should be given to reducing your employee's hours as you have agreed upon with the other employer, taking the woman's wishes into account. In individual cases, the supervisory authority may order the employers to apply the necessary reductions in working hours under Section 29 Subsection 3 Sentence 1 so as to meet their obligation under Section 4 Subsection 1 Sentence 5.

In addition, your employer must grant you an uninterrupted rest **period of at least eleven hours** after the end of each day's work.

Minimum rest periods



Example:

You worked until 8 pm You may start working again no earlier than at 7 am the following day.

Finally, there are various provisions in the Maternity Protection Act that regulate **the timing of your working hours**, in some instances giving you **statutory rights of co-determination**. Your employer may not have you work without your consent between 8 pm and 10 pm or on Sundays and public holidays – regardless of the industry in which you are employed. You are the best judge of whether and to what extent you need these periods for recovery purposes.

Timing of working hours and co-determination rights

2 Health and safety at the workplace

For this reason, your employer may only have you work at these times if you yourself agree to do so and providing all further special protection provisions are complied with. In general, pregnant or breastfeeding women may not work between 8 pm and 6 am or on Sundays or public holidays. If you do agree to work between 8 pm and 10 pm or on Sundays or public holidays, it should be possible for you to do so without any undue bureaucratic hurdles.



Note for your employer

The protective regulations on working between 8 pm and 10 pm and on Sundays and public holidays changed with the **entry into force of the new Maternity Protection Act on 1 January 2018**. The supervisory authorities responsible will be happy to advise you.

Work between 8 pm and 10 pm

Between 8 pm and 10 pm your employer may only have you work if

- you expressly agree to do so;
- there is no medically certified reason to stop you working until 10 pm; and
- in particular, any irresponsible risk to you or your child from **working alone** is ruled out (for an explanation of the term 'irresponsible risk', see 2.2.4). Working alone is when the employer has a woman work on premises within their area of responsibility without ensuring that she is able to freely leave the workplace or reach help at any time.

You can **withdraw** your consent at any time with effect for the future. Since the employment of pregnant women after 8 pm is not generally permitted, your employer must apply to the supervisory authority responsible if you are to work during this period (see 2.6). If your employer has submitted a complete application to this effect, they may have you work during these times until further notice. The supervisory authority will assess your employer's application and may not allow work during this period if the statutory requirements are not met.



Note for your employer

If the supervisory authority does not reject the application **within six weeks** of receiving the complete application, **the approval is deemed to have been granted**. This must be certified for the employer on request.

Work after 10 pm, on the other hand, is prohibited as a matter of principle and only permitted in special individual cases after prior approval by the supervisory authority responsible. The above-mentioned conditions (your explicit consent, medical certificate, exclusion of irresponsible risks) must also be met in the case of work after 10 pm.

Ban on night work



Note for your employer

Unlike work after 10 pm, which in many cases poses an irresponsible risk to the woman and her child and can therefore only be approved by the supervisory authority in individual cases, it is assumed that work between 8 pm and 10 pm can usually be approved by the supervisory authority. Only in individual cases will it be necessary to impose a temporary ban on work or reject an application for approval of work during this period. For this reason, a **simplified authorisation procedure for work between 8 pm and 10 pm** has been in force since 1 January 2018.

Work on Sundays and public holidays

Your employer may only have you work on **Sundays and public holidays** if

- you expressly agree to do so;
- an exception to the general ban on work on Sundays and public holidays under Section 10 of the Working Hours Act [*Arbeitszeitgesetz – ArbZG*] is approved;
- you are granted an alternative day of rest each week following an uninterrupted night's rest of at least eleven hours; and
- in particular, there is no irresponsible risk to you or your child from working alone.

You can withdraw your consent at any time with effect for the future.



Note for your employer

If your employer intends to have you work on Sundays or public holidays, they must **notify** the supervisory authority responsible. They can do this when they report your pregnancy.

2.2.4 Working conditions that comply with maternity protection requirements

The regulations on **workplace-related occupational health and safety** are another important component of maternity protection. Your employer must ensure your work activity and workplace are organised in such a way that you and your child are adequately protected from any health hazards.

Workplace-related occupational health and safety

Irrespective of your specific job, your employer must ensure that you are able to **interrupt your activity at your workplace briefly** at any time without this endangering you or third parties and without this interruption of the work process potentially exposing you to undue stress.

Interruption of work

In addition, your employer must ensure you are able to lie down, sit down and **rest** in appropriate conditions during breaks and work interruptions. These additional interruptions may not lead to a reduction in your earnings and do not have to be made up for by doing additional work.

Rest facilities

2 Health and safety at the workplace

Continuation of work

When arranging the conditions in which you work, your employer must implement all measures required based on the risk assessment in order to protect your **physical and mental health** and that of your child. The employer must also review the effectiveness of these measures and adapt them to changing circumstances if necessary. As far as is responsible according to the provisions of the Maternity Protection Act, your employer must also enable you to **continue to work** during pregnancy.

Elimination of irresponsible risks

In general, your employer is legally obliged to **eliminate irresponsible risks** to you and your child. A risk is defined as irresponsible if the likelihood of a health impairment occurring is unacceptable in view of its anticipated severity. As in occupational health and safety, a risk for the purpose of maternity protection is understood to be the possibility of health impairment without any specific requirements as to its extent or likelihood of occurrence.

Relevance to work activity

In principle, your employer only has to take into account risks that are **sufficiently relevant to the work you do** and the applicable working conditions. This does not include hazards outside the work environment that are not related to your work activity (ubiquitous hazards).

For example, the possibility of contracting an infection does not require any protective measures under maternity protection law, providing there is no greater likelihood of contracting the disease at the workplace than away from it (while shopping, for instance).

In such cases, the hazard is a **general risk of life** and its avoidance does not fundamentally lie with the employer. Sufficient relevance to the work activity requires there to be a recognisably increased likelihood that a health impairment will apply to women working in certain conditions as compared to women who are not exposed to these same conditions.

Finally, the risk must be sufficiently **relevant to pregnancy**. This means that the health of the pregnant woman or child could potentially be impaired in a way that is specific to maternity protection. A scientifically proven causal connection between the working conditions and the health impairment in question is not required. The specific link to maternity might derive from an increased likelihood of a health impairment to a woman who is pregnant (such as an increased risk of thrombosis as a result of long periods of standing, caused by the change in blood coagulation that occurs in pregnancy). However, it may also result from the fact that the type, extent and duration of any disease can have particularly severe effects during pregnancy (severe progression of a hepatitis E-type liver inflammation as a result of the woman's altered immune status during pregnancy, for example). If there is no specific link to maternity (the risk of getting one's hand caught, for instance), there is no need for special protection under maternity protection law. Here, the regulations of the Occupational Health and Safety Act [*Arbeitsschutzgesetz* – Arb-SchG] apply in the same way as they do to other women who are not pregnant.

Relevance to pregnancy

2 Health and safety at the workplace

Assessment of irresponsibility

The term '**irresponsibility**' describes the **risk threshold** at which the work activity no longer fulfils the requirements of maternity protection. When **assessing irresponsibility**, the following applies: the more severe the potential health impairment, the lower the likelihood of its occurrence is allowed to be. This means that the more severe a potential health impairment is, the more conscientiously your employer must review and enforce protective measures, if necessary even imposing a work ban. Due to the high priority attached to protection in this context, the threshold in terms of likelihood here is generally low.

Examples of health risks due to certain types of activity and hazardous substances

The Maternity Protection Act offers a number of examples of activities and working conditions that may pose an irresponsible risk. For example, your employer must not allow you to carry out activities or expose you to working conditions that pose an irresponsible risk to your **physical or mental health** or that of your child, which involve the following:

- Hazardous substances (chemical substances, such as substances that are harmful to fertility);
- Biological agents (viruses, bacteria, fungi);
- Physical impacts (ionising and non-ionising radiation, shocks, vibrations and noise as well as heat, cold and wet);
- A stressful working environment (in rooms with overpressure or with an oxygen-reduced atmosphere);
- Physical stress, mechanical impacts; or
- Activities that are subject to a prescribed pace of work.

When dealing with certain hazards, there are special regulations that serve to protect you and your child (see Appendix 5.5).

During pregnancy, you are **especially not permitted** to perform activities which involve you having to

Examples of activities that are not permitted

- lift, hold, move or transport loads weighing more than five kilograms by hand without mechanical aids on a regular basis or loads weighing more than ten kilograms by hand on an occasional basis, or do other work resulting in an equivalent physical strain that involves lifting, holding, moving or transporting loads by hand with mechanical aids;
- stand constantly while mainly remaining physically inactive, after the fifth month of pregnancy, where this type of work exceeds a period of four hours a day;
- stretch considerably, bend over, constantly squat, stoop or adopt other forced postures;
- be deployed on a means of transport if this poses an irresponsible risk to you or to your child;
- be exposed to a risk of accidents, especially slips, trips, falls or physical assaults that pose an irresponsible risk to you or your child;
- wear protective equipment that puts you under stress; or
- be exposed to a risk of an increase in pressure in the abdominal cavity, especially when performing activities that involve particular strain on the feet;

2 Health and safety at the workplace

- be deployed in rooms with overpressure within the meaning of Section 2 of the Compressed Air Ordinance [*Druckluftverordnung* – DruckLV], in rooms with an oxygen-reduced atmosphere or in underground mining;
- do piecework, assembly line work or timed work at a prescribed pace, if the type or pace of work poses an irresponsible risk to you or your child.



Note for your employer

If your employer has you carry out work **at a prescribed pace** during pregnancy, they must notify the supervisory authority responsible.

Enabling continued work

If your employer identifies irresponsible risks to you or your child, they must first try to **reorganise the working conditions at your workplace** so as to eliminate the hazards. If this cannot be achieved by changing your working conditions or if such a change cannot be reasonably expected because of the disproportionate effort it clearly involves, the employer must deploy you at **another suitable workplace**, providing this can be arranged and it is reasonable to expect you to work there.



Important note

You do not have to fear any loss of pay in such cases. **Your employer must continue to pay you in full** if you are transferred to another workplace for the purpose of avoiding irresponsible risks. For details, see 2.2.7.

If you have any questions about workplace-related occupational health and safety, you can also consult the company's medical officer. If necessary in a specific case, the **medical officer** may suggest a change of workplace for the duration of the pregnancy.



Example:

Screen work

Ask your company's medical officer about the **factors that are important in terms of healthy workplace design** (e.g. avoiding one-sided physical postures over long periods, monotonous activities and working under pressure of time). This type of strain can be reduced at VDU workstations by adapting work processes, for instance by alternating activities and arranging suitable breaks. Incidentally, scientific studies do not indicate any link between health disorders and the electric and magnetic fields created by modern screens.

2.2.5 Temporary work suspension under maternity protection regulations

A **temporary work suspension under maternity protection regulations** occurs when your employer is not allowed to employ you due to an occupational or medical work ban. In these cases, your employer is not allowed to have you perform your work. A work ban of this kind can be either partial or complete. You do not have any say in this decision.



Important note

You do not have to fear any loss of pay in such cases. **You are entitled to continued pay (maternity protection pay)** if your employer is no longer allowed to employ you due to a partial or complete work ban. For details, see **2.2.7** and **4.1**.



Note for your employer

In the event of a work ban under the Maternity Protection Act, your employer is **reimbursed 100 per cent** of your continued salary or the employer supplement (according to the so-called U2 procedure).

Occupational work ban

Under the Maternity Protection Act, a **work ban** only applies if your employer is unable to prevent irresponsible risks to you or your child by rearranging or changing your workplace. The employer must exhaust all possibilities to enable you to go on working. The work ban only applies to the extent necessary to prevent hazards to you or your child.

If you are in doubt, you can ask the supervisory authority responsible what options your employer is required to offer you to enable you to continue to work.

If your employer has not taken the necessary protective measures – because they have not yet updated the risk assessment with regard to the maternity protection requirements for your activities and your workplace, for instance – you may not continue to work until the necessary protective measures have been implemented (**so-called temporary work ban**). In these cases, you can contact your supervisory authority to clarify the matter. If necessary, your gynaecologist will certify that you are not allowed to work.

Temporary
work ban

A **medical work ban** applies if your doctor considers you or your child's health to be at risk if you continue to work based on your individual state of health. Your doctor may prohibit your employer from having you perform work, either wholly or in part. If this is the case, your employer may no longer have you perform work to the extent specified.

Medical work
ban

The requirement for such a work ban to be effective is a **medical certificate** to this effect. This can be issued by any doctor, i.e. not only a gynaecologist but also an orthopaedic specialist or a neurologist, for example. It should be addressed to your employer.

The medical certificate should contain information that is as precise and generally comprehensible as possible, in particular noting whether lighter work or reduced working hours remain permissible. It should be worded in such a way that your employer understands the nature and extent of the risk to you and your child if you continue to perform your work. The certificate should not contain justifications or medical diagnoses.



Important note

Your doctor must decide whether your symptoms are due to your pregnancy or the result of an illness. If your doctor finds that you have symptoms due to your pregnancy, they must check and decide from a medical point of view whether you are **unfit for work** due to other complications or **due to pregnancy** – without you actually being ill. The latter would mean that a work ban is required to protect the life or health of you or your child.

This distinction is important when it comes to determining the level of your continued pay and how much your employer is reimbursed:

- In the case of a pregnancy-related work ban, continued pay is unlimited in time. In this case, your employer is reimbursed 100 per cent of the salary paid (according to the so-called U2 procedure).
- In the event of work incapacity due to illness, you are entitled to continued pay for a period of up to six weeks.
- If your employer is obliged to participate in the so-called U1 apportionment procedure under the Expenditure Compensation Act [*Aufwendungsausgleichsgesetz – AAG*], they are reimbursed for part of their expenses for continued pay on application (at least 40 per cent, maximum 80 per cent). For those with statutory health insurance, the entitlement to sickness benefit is suspended during this period.

You can ask your doctor to explain this distinction to you.



Note for your employer

If your employer has reasonable doubts as to the accuracy of the medical certificate, they may request a follow-up examination. You have the right to choose the doctor, however: your employer is not allowed to require a specific doctor to carry out the follow-up examination. If your employer does require a follow-up examination, they must bear the cost.

2.2.6 Getting counselling from the supervisory authority

Feel free to contact the supervisory authority responsible for you at any time if you have any questions about how the regulations regarding the protection of your health and that of your child apply to you. For details of counselling options, see 2.6 of this brochure.

2.2.7 Continued pay in the event of a change of workplace or work ban under maternity protection regulations

You do not have to fear any financial disadvantages in connection with any of the above-mentioned measures under maternity protection law. Your employer must continue to pay you in full (**so-called maternity protection pay**) if they are no longer allowed to have you work outside the periods of protection before or after childbirth (see 2.3 on periods of protection) due to partial or complete work bans. Maternity protection pay is the average pay you received during the three calendar months prior to the start of pregnancy (see 4. for details of benefit entitlements).

2.3 Periods of protection before and after childbirth

Length of the periods of protection

The Maternity Protection Act protects women in particular during the period immediately before and after childbirth. As a rule, the periods of protection begin **six weeks** before delivery and end **eight weeks** after delivery; in the case of a medically premature birth, a multiple birth and, on application, in the case of the birth of a child with a disability, it ends **twelve weeks** after delivery. During this period, it is generally assumed that you can no longer perform your work.



Important note

One of the things you are entitled to under statutory health insurance is **midwife assistance**. You are also entitled to the parental allowance and parental leave. Be sure to find out about these family **support benefits** early on. You will find useful information on this online in the *'Familienportal'*.

2.3.1 Period of protection before childbirth

The **period of protection before childbirth** begins **six weeks** before the expected date of delivery. The expected date of delivery is shown on a certificate that you will receive from your gynaecologist, midwife or obstetric nurse (the so-called calculated date of delivery). If your child is not born on the expected date of delivery, the period of protection before childbirth is shortened or extended accordingly.

During this period of protection, your employer is generally not allowed to have you perform work. However, you are allowed to continue to work during the period of protection before childbirth **at your own request**. You can withdraw your request to continue to work at any time with effect for the future.

You may continue to work

2.3.2 Period of protection after childbirth

The **period of protection after childbirth** normally ends **eight weeks** after the birth of your child. During the period of protection after childbirth, **an absolute ban on work applies**. During this time, your employer may not have you perform work even if you are willing to do so. Exceptions here apply only in the case of stillbirth (see 2.3.3).

You may not continue to work



Note for your employer

If your employer does not observe a work ban, this infringement is prosecuted as a regulatory offence and can even be treated as a criminal offence.

The period of protection after childbirth can be **extended to twelve weeks**:

- in the event of a medically premature birth;
- in the event of a multiple birth; or
- if your child has been diagnosed with a disability within eight weeks of birth and you have applied for an extension of the period of protection.

2 Health and safety at the workplace

Whether or not a birth is medically **premature** is determined by the medical certificate. A premature birth is when the child is born weighing less than 2,500 grams or if the child requires significantly extended care due to not yet fully developed signs of maturity, in spite of a higher birth weight.

If the child has a **disability**, you can apply for an extended period of protection. This does not require **an official procedure to determine the disability**. In order to submit an application, it is sufficient to submit the medical certificate in due time, i.e. **within the first eight weeks after delivery**. An entitlement to the extension of the period of protection already applies if a disability within the meaning of Section 2 Subsection 1 Sentence 1 of the Ninth Book of the Social Code (SGB IX) is to be expected. **You can apply to your employer** for an extension of the period of protection. **If you are covered by statutory health insurance, it is sufficient to apply to your health insurance company.**

The period of protection after childbirth is **extended** in the event of premature childbirth by the amount it was shortened prior to the birth. If the calculated date of delivery is exceeded, the period of protection after childbirth is not **shortened**, but remains at eight or twelve weeks, as appropriate.

2.3.3 Special situations (miscarriage, stillbirth, abortion)

If a child is not born alive, this is always very distressing for those involved. Legally, a distinction is drawn in these cases between a stillbirth and a miscarriage, since the woman concerned requires different legal protection in the case of a miscarriage as compared to a stillbirth.

In the legal sense, a **miscarriage** is not a delivery. A miscarriage is when the child shows no vital signs outside the womb and has a weight of less than 500 grams. In the case of a miscarriage, maternity protection comes to an end when the pregnancy ends. As such, there is no period of protection after childbirth. The reason for this is that the need for physical regeneration that arises as a result of childbirth typically does not apply in the case of a miscarriage. This does not mean that you are unprotected in such a situation, however. You are entitled to medical care and treatment as well as extended protection from dismissal (see 3.3).

Miscarriage

In the case of **stillbirth (weight at birth of 500 grams or more)** or the **death of the child after birth**, the period of protection after delivery normally applies. Exceptions to this rule are stillbirths that are also multiple or premature births – in this case, the extended period of protection of twelve weeks applies (see 2.3.2). Your employer is generally not allowed to have you perform work during this period. Should you nevertheless wish to return to work earlier, you can do so from the third week after giving birth if there is no medically certified reason not to do so. You must explicitly express this wish to your employer, but you can withdraw it at any time. Your doctor will assess whether it is a miscarriage or a stillbirth and issue a **medical certificate** to this effect.

Stillbirth, death of the child

For women who have had an abortion, maternity protection likewise ends with the abortion (see 1.3).

i

Important note

If a miscarriage or abortion causes mental and physical stress that results in an incapacity to work, this must be certified by a doctor. Instead of the regulations on continued pay under maternity protection law (see 4.1.2), the **regulations on pay in the event of illness** apply, or those on sickness benefits under statutory health insurance.

2.3.4 Compensation during the periods of protection

During the periods of protection and for the day of childbirth, you are entitled to maternity benefits which essentially replace your full pay before pregnancy: **the maternity allowance plus the supplement to the maternity allowance (employer supplement)**, see 4.1.3 ff.

i

Note for your employer

Your employer **receives 100 per cent** of the employer supplement (according to the so-called U2 procedure).

2.4 After the birth of your child and during breastfeeding

After the end of the eight-week or twelve-week period of protection after childbirth, you can resume your work as before or go directly on parental leave (for details of parental leave, see our information brochure *Parental Allowance, Parental Allowance Plus and Parental Leave*; see also 4.1.5).

Breastfeeding women also enjoy special protection under the Maternity Protection Act. Breast milk is particularly beneficial for your child's nutrition because of the composition and digestibility of its ingredients. It also contains active ingredients that fight bacteria, reduce inflammation and strengthen the baby's immune system. For helpful advice on feeding your baby and breastfeeding as a mother, see the website *Gesund ins Leben* (www.gesund-ins-leben.de/) and the website of the National Breastfeeding Committee (www.bfr.bund.de/de/nationale_stillkommission-2404.html).



Important note

According to a recent study by the National Breastfeeding Committee (NSK) commissioned by the Federal Ministry of Food and Agriculture (BMEL), one in four people are ambivalent or negative about breastfeeding in public places, and six per cent of the population completely reject the idea of a woman breastfeeding her baby in public. However, as people learn more about the advantages of breastfeeding, general acceptance among the population will undoubtedly increase.

For this reason, the NSK has developed the following positive messages about breastfeeding in public:

- Breastfeeding is healthy.
- Breastfeeding is accepted everywhere.
- Breastfeeding cannot wait.

The aim now is to communicate these three messages as widely as possible so as to improve acceptance of breastfeeding and raise public awareness of the fact that breastfeeding is both beneficial and normal. Greater encouragement to breastfeed outside the home can be achieved by providing additional breastfeeding facilities that are uniformly labelled or can be found using a smartphone app, for example.

You may want to find out more about the facilities available for breastfeeding in public.

NSK link:

www.bfr.bund.de/de/nationale_stillkommission-2404.html

'Gesund ins Leben' network link:

www.gesund-ins-leben.de/meldung-stillen-in-der-oeffentlichkeit

If you return to work after the birth of your child while you are still breastfeeding (after the periods of protection or after parental leave), you should inform your employer. Only then can your employer guarantee that you will enjoy effective breastfeeding protection: after you have given birth and during the breastfeeding period, your employer must again have you perform your work and arrange your workplace in such a way that your health and that of your child are adequately protected. Your employer is also obliged to inform the supervisory authority of the fact that you are breastfeeding if they have not yet reported your pregnancy.

Return to the workplace



Important note

When you return to work, you have the right to continue to work according to the terms of your contract (see 4.3.2).

Once this has been done, your employer must offer you a personal interview about further adapting your working conditions. Make the most of this opportunity! Describe your situation. This will make it easier for your employer to adapt your working conditions to your needs. Your doctor can issue a certificate to confirm specific impairments.

Return and planning meeting

2.4.1 Permitted working hours

Health and safety relating to working hours

The Maternity Protection Act protects not just the health of a pregnant woman and her child but also the health of a woman who is breastfeeding. In order to make it easier for you to reconcile your work with your special needs in the period after childbirth while you are breastfeeding, the same health protection regulations essentially apply in relation to hours as they do to pregnant women (see *Permitted working hours during pregnancy*, 2.2.3).

After the birth, your employer must also **release you for medical check-ups** that are required in connection with statutory health insurance benefits during maternity. Any release time granted must **not result in a loss of pay** (see 2.2.3; the regulations described here apply in the same way).

Breastfeeding breaks

In addition, the Maternity Protection Act guarantees **breastfeeding time during the first twelve months** after childbirth: **at least half an hour twice a day or one hour once a day**. If you work for a continuous period of more than eight hours on end, you should be allowed to breastfeed twice for at least 45 minutes or, if there are no breastfeeding facilities near the workplace, once for at least 90 minutes. Working time is deemed to be continuous if it is not interrupted by a rest break of more than two hours.

These breastfeeding periods are **expressly intended as minimum requirements**. There may be a need for longer breastfeeding periods in individual cases, and additional breastfeeding breaks may also be necessary, especially for very young infants. The deciding factors here are the **age of the child** and your **breastfeeding habits to date**. Breastfeeding breaks do not include your **travel time between the workplace and the place of breastfeeding**.

All breastfeeding women to whom Section 1 Subsection 2 of the Maternity Protection Act applies may request time off for breastfeeding breaks. This means that school pupils and university students within the meaning of Section 1 Subsection 2 Sentence 2 Number 8 who wish to be released for a breastfeeding break while taking an

exam lasting several hours, for example, also benefit from the regulation.

At the employer's request, you can submit a breastfeeding certificate to your employer showing that you are breastfeeding. The cost of such a certificate requested by the employer has to be borne by the employer under Section 9 Subsection 6 Sentence 2.

Breastfeeding breaks at the beginning or end of working hours are considered working time if they are required as part of the working hours set by your employer.



Important note

The granting of time off for medical check-ups and breastfeeding breaks must not **result in a loss of pay** for you. Nor must you be required to make up for such time off, whether before or afterwards. Time off for medical check-ups or breastfeeding does not count towards the rest breaks stipulated in the Working Time Act [*Arbeitszeitgesetz – ArbZG*] or other regulations.

In the case of **flexitime arrangements**, breastfeeding breaks are to be counted as working time if, taking into account the respective flexitime framework, you cannot reasonably be expected to work earlier or later to make up for the time spent on breastfeeding.



Important note

The regulations on **occupational health and safety** in connection with working hours and the workplace also apply in full after the first twelve months after childbirth. Accordingly, the same applies to the **employer's entitlement to reimbursement** under the Act on Compensation of Employers for Continued Remuneration [*Gesetz über den Ausgleich der Arbeitgeberaufwendungen für Entgeltfortzahlung – AAG*].

2 Health and safety at the workplace

Timing of working hours and co-determination rights

The only aspects that are different for a breastfeeding woman here are the regulation regarding the timing of your working hours and the legal rights of co-determination granted in this regard. Your employer may only employ you between 8 pm and 10 pm, after 10 pm and on Sundays and public holidays (see also 2.2.3) if

- you expressly declare your willingness to do so and there is no medically certified reason for you not to work until 10 pm/after 10 pm;
- you expressly declare your willingness to do so, an exception to the general ban on work on Sundays and public holidays under Section 10 of the Working Hours Act [*Arbeitszeitgesetz* – ArbZG] is approved, and you are granted an alternative day of rest each week following an uninterrupted night's rest of at least eleven hours.

The requirement to eliminate an irresponsible risk to you or your child from **working alone** (see 2.2.3) only applies to pregnant women, not to breastfeeding women.

2.4.2 Working conditions that comply with maternity protection requirements

Workplace-related occupational health and safety

The regulations on workplace-related occupational health and safety described with regard to pregnancy (see 2.2.4) also apply in principle during the entire breastfeeding period after the birth of your child. While you are breastfeeding, your employer must also ensure your work activity and workplace are organised in such a way that you and your child are adequately protected from any health hazards. For more information, see the comments on 'Working conditions that comply with maternity protection requirements' under 2.2.4 and on 'Temporary work suspension under maternity protection regulations' under 2.2.5. The regulations described apply in the same way to breastfeeding women.



Important note

Your entitlement to release time during breastfeeding is limited to a period of twelve months after the birth of the child. This time limitation does not apply to health protection. Your employer must ensure that you and your child are not exposed to any risk during the entire breastfeeding period.

As such, the activities and working conditions listed under 2.2.4 which may pose an irresponsible risk also apply in principle to breastfeeding women. Your employer may therefore not allow you to carry out any activities or expose you to any working conditions that pose an irresponsible risk to your **physical or mental health**, for example:

- Hazardous substances (chemical substances, such as substances that are harmful to fertility);
- Biological agents (viruses, bacteria, fungi);
- Physical impacts (especially ionising and non-ionising radiation);
- A stressful working environment (for example in rooms with overpressure);
- Work at a prescribed pace (including piecework and assembly line work, and possibly other timed work at a prescribed pace).

Examples of health risks due to certain types of activity and hazardous substances

2 Health and safety at the workplace

However, the regulation on the inadmissible exercise of activities involving physical strain or mechanical impact (see points 1–7 in the list on page 37) no longer applies to breastfeeding women due to the lack of the need to protect the unborn child.



Note for your employer

If your employer intends to have you perform work at a prescribed pace during the breastfeeding period, they must notify the supervisory authority responsible.

Medical work ban

Your doctor can certify a (partial) work ban if you are not fully able to work in the first few months after giving birth. This reduced capacity must be maternity-related. In this case, too, you must submit a medical certificate which sets out in a way that is as precise and as generally comprehensible as possible the degree of reduced capacity, the type of permitted work and the duration of the work ban. Such **medical work bans** are generally possible up to a period of six months after birth. If you are unfit for work, on the other hand, your gynaecologist will issue you with a certificate of work incapacity (**'sick note'**).



Important note

You can contact the supervisory authority responsible at any time if you have any questions. For details of counselling options, see 2.6.

2.4.3 Continued pay in the event of a change of workplace or work ban due under maternity protection regulations

You do not have to fear any financial disadvantages in connection with any of the above-mentioned measures under maternity protection law. You are also entitled to **so-called maternity protection pay** after the period of protection following childbirth (see 2.2.7).

Maternity protection pay

2.5 Health and safety in connection with different types of legal status

Special health protection regulations apply to women who are not in employment.

2.5.1 Persons with a status similar to that of an employee

If you are a self-employed woman with a status similar to that of an employee due to economic dependence, the work ban is replaced by a **release from the contractually agreed obligation to perform work** vis-à-vis your contractual partner. However, you can declare to your contractual partner that you are willing to perform the contractually agreed work if you wish.

Self-employed women

This takes account of the fact that you are able to decide on the type and extent of social protection the same way as a self-employed woman. In view of this economic situation, you should also be free to decide whether or not you wish to continue your gainful employ-

ment. In these cases, your contractual partner may not require you to perform the contractually agreed work. If you do not perform the work, however, the contractual partner is not required to pay the agreed remuneration.



Important note

Women who have taken out private daily sickness benefit insurance (especially those who are self-employed) are better protected financially during the periods of protection under the Maternity Protection Act: due to changes in the Insurance Contract Act [Versicherungsvertragsgesetz – VVG], these women are entitled to payment of the agreed **daily sickness benefits** during the **periods of maternity protection** if they do not work or only work to a limited extent during this time. Where applicable, the contractually agreed waiting and deferment periods must be taken into account.

Check with your private health insurance company for details!

2.5.2 School pupils and university students

If you are a school pupil or a university student, the regulations on maternity protection only apply if your school or university stipulates the place, time and structure of the course or you are taking a mandatory internship that forms part of your school or university education. In addition, special provisions apply in the area of maternity protection regulations regarding working hours:

- for school pupils and university students, the **period of protection after childbirth** is **not mandatory** in the same way as it is for employees. Your school or university may allow you to continue your school or university education if you expressly request this.

However, you can withdraw this request at any time with effect for the future. During the period of protection before the birth, your school or university may also allow you to continue your activities if you expressly ask to do so.

- School pupils and university students may be active between 8 pm and 10 pm and on Sundays and public holidays if they agree to do so and this is necessary for educational purposes. No official approval procedure is required.



Important note

Once the period of maternity protection has come to an end, protection of your health and that of your child is still a high priority. If protective measures are required that adversely affect or delay your education, the school or college should make allowances for this.

Talk to your school or college about the options to **counteract disadvantages** in your education.



Note for your school/college

Your school or college must notify the supervisory authority responsible of your work or participation in courses between 8 pm and 10 pm

2.5.3 Women who work from home

For women who work from home and those of equivalent status within the meaning of Section 1 Subsection 1 Sentence 2 of the Home Work Act [*Heimarbeitsgesetz* – HAG], insofar as they work continuously, **the provisions regarding health protection apply only in part**. In contrast to women who work on their employer's premises, as a woman who works from home you are essentially responsible for the working conditions yourself and therefore also for your own health and safety, if the working conditions are not under the control of your employer. Unlike an employer, your contracting entity or intermediate superior is not obliged to prepare a risk assessment and provide information about the hazards identified.

This is not an exemption from the fundamental duty to protect your health and that of your child, however. For example, your contracting entity or intermediate superior must comply with the special working time regulations under Section 8.

In addition, they must organise your working conditions in such a way that hazards to you and your child are avoided as far as possible and any irresponsible risks are eliminated, if it is within their power to do so. The competent occupational health and safety authorities are available to answer any specific queries (see 2.6).

2.6 Who can advise you if you have any questions or are unsure? Where can you get help?

The German federal states are responsible for supervising implementation of the Maternity Protection Act. In some federal states, the trade inspectorates are responsible for maternity protection supervision; in other federal states this responsibility lies with the regional occupational health and safety offices. The respective state ministry responsible for maternity protection will be happy to inform you of which agencies are responsible. The addresses can also be found on the homepage of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (www.bmfsfj.de).

If there is any doubt, the supervisory authority in question will clarify whether the specific workplace and working conditions might constitute a hazard and which measures have to be taken.

If you have any questions about workplace-related occupational health and safety, you can also talk to your employer to be sure.



Important note

Failure to comply with the provisions of the Maternity Protection Act is – depending on the facts of the case and the severity of the breach – a regulatory offence that involves a fine of up to EUR 30,000 or a criminal offence involving a custodial sentence of up to one year.



Protection from dismissal

From the beginning of your **pregnancy up until the end of your period of protection after childbirth, and up until at least four months after childbirth**, your employer is not permitted to terminate your employment contract, with a few exceptions. The same protection from dismissal applies until four months have passed in the event of a miscarriage after the twelfth week of pregnancy (periods of protection from dismissal).

Periods of protection from dismissal

3.1 Which women are protected?

In principle, all women **in employment** are entitled to protection from dismissal under maternity protection law. This means it also applies to part-time, marginal and fixed-term employees as well as during the probationary period (see 1.2.1).

Regardless of whether the individual is subject to an employment contract, the protection from dismissal also applies to:

- trainees within the meaning of Section 26 of the Vocational Training Act [*Berufsbildungsgesetz – BBiG*];
- women with disabilities who are employed in a workshop for disabled persons;
- development workers;
- women who are volunteers within the meaning of the Youth Volunteer Services Act [*Jugendfreiwilligendienstegesetz – JFDG*] or the Federal Volunteer Service Act [*Bundesfreiwilligendienstgesetz – BFDG*];
- women who are members of a religious cooperative, deaconesses or members of a comparable community who hold a permanent position or a position based on a secondment contract, also during a period of practical training;

- women who work from home and those of equivalent status within the meaning of Section 1 Subsections 1 and 2 of the Home Work Act [*Heimarbeitsgesetz – HAG*], insofar as they work continuously; and
- women who are to be regarded as having a status similar to that of an employee due to their economic dependence.

3.2 When does the protection from dismissal start and how long does it last?

Protection from dismissal starts regardless of whether or not you have informed your employer that you are pregnant. Your employer is only prohibited from dismissing you under certain conditions, however (see 3.3).

In principle, your employer is not allowed to dismiss you during the period of protection from dismissal even if your employment contract is due to end after this period. For details of exceptions, see 3.3.2.

If you become pregnant after you have found out about the dismissal (i.e. after receiving the notice of dismissal), special protection from dismissal under the Maternity Protection Act does not apply.

3.3 What are the requirements for protection from dismissal?

Your employer is only prohibited from dismissing you if **they are aware of your pregnancy, miscarriage after the twelfth week of pregnancy or childbirth** at the time of the dismissal or if you inform them of the fact within two weeks of receiving the notice of dismissal.

Was the employer informed and if so, when?

Your pregnancy must have started by the time you receive the notice of dismissal. The protection from dismissal applies equally even if you yourself were not yet aware of the pregnancy or were not yet sure, but you must inform your employer as soon as possible after receiving the notice of dismissal.



Important note

You are required to inform your employer of your pregnancy, miscarriage or birth within two weeks of being dismissed in order for you to enjoy protection from dismissal.

If you miss this deadline, protection from dismissal only applies to you if it was not your fault that you missed the deadline and you immediately inform your employer as soon as you know.

If you take **parental leave** immediately after the birth of your child, the special protection from dismissal is extended until the end of your registered parental leave (for details, see the information brochure *Parental Allowance, Parental Allowance Plus and Parental Leave*, see 1.2.1).

3.3.1 What is your employer not allowed to do during a period of protection from dismissal?

Any extraordinary or ordinary termination of employment is inadmissible. Termination with the option of altered conditions of employment, termination of a probationary employment contract and termination in the event of insolvency are also generally prohibited.

Not only is your employer prohibited from issuing a notice of termination, they are also banned from adopting **preparatory measures** with regard to your dismissal. This also includes finding, planning and recruiting a permanent replacement for you after your return, for example.

3.3.2 Exceptions to the ban on dismissal

In exceptional cases, dismissal is possible where special reasons apply. However, these may not be related to your condition during pregnancy or your situation up until the expiry of the period of protection from dismissal, which is usually four months after the birth or miscarriage.

A special case may apply, for example, in the event of a relocation of the business premises, total or partial closure of the business (without the possibility of transferring the pregnant woman to another workplace) or, in small businesses, if the business cannot continue to operate due to the lack of a qualified replacement. In specific cases, very serious violations of obligations on your part may exceptionally entitle your employer to terminate your employment.

Approval of the supervisory authority

Your employer must always **first apply to the supervisory authority** for the dismissal to be declared admissible due to exceptional circumstances if they intend to dismiss you during the period of protection from dismissal. Not until the authority has approved may

your employer issue a valid notice of dismissal; any notice of termination issued before this is invalid.

The notice of termination must be issued in **writing** and must state the **reason for termination**.

3.4 Unlawful dismissal during maternity protection

In the event of a dismissal by your employer in violation of the prohibition, you have the options and rights outlined below. You cannot waive this protection from dismissal vis-à-vis your employer from the outset; any contractual agreement to this effect is inadmissible and therefore irrelevant. You can hand in your notice yourself, however.

3.4.1 How can you take legal action against dismissal by your employer?

If you are dismissed in violation of the law (i.e. without official approval) despite protection from dismissal, you must **take legal action before the competent industrial tribunal** if you wish the legal ineffectiveness of the dismissal to be established. As a rule, you must file the action **within three weeks of receipt of the written notice of termination**. If you do not file the action, your employer's dismissal is considered to be legally effective from the outset.

You can file the action before the industrial tribunal yourself or have it filed for you by a legal representative (such as a lawyer). The action does not have to be filed in writing. It may also be submitted orally on the record to the industrial tribunal (administrative office).



Important note

In principle, you must file an action before the competent industrial tribunal within three weeks of receiving the written notice of termination if you wish to take legal steps against your employer's termination. In the following instances your legal action may still be admissible if taken at a later stage:

- If your employer is aware of your pregnancy, miscarriage or childbirth and applied to the supervisory authority for approval of the dismissal, the three-week period for filing an action does not start until you have been notified of the authority's decision.
- If you have not been informed of the authority's decision or if your employer has not applied for a declaration of admissibility from the authority, the three-week time limit does not apply. However, the right to take legal action can also be forfeited in these cases if you do not take action against the termination for an extended period of time. For this reason, legal action should be taken within the three-week period in these cases, too.
- If, for reasons beyond your control, you do not find out that you are pregnant until after the three-week period for filing an action has expired, you can apply to the industrial tribunal to have the late action admitted and then file the action. The application must be justified and has to be made within two weeks after you have found out you are pregnant. If six months have passed since the deadline was missed, you may no longer submit the application.



Important note

The employer's dismissal is not the only thing you can take legal action against. Depending on the federal state, you can also **take legal action** against the approval of the supervisory authority **or take legal action before the competent administrative court.**

3.4.2 What happens to your pay entitlement in the event of an invalid dismissal?

If the industrial tribunal finds that the dismissal is legally ineffective and the employment contract is therefore still valid, you are entitled to continued payment of your salary. Income from other work and public benefits paid as a result of your unemployment are deducted from this.

If your employer has dismissed you in breach of the law and does not continue to employ you until the end of the notice period, they must continue to pay your salary if you have offered to work for them. You do not have to offer to work if and for as long as a work ban (see 2.2.5) applies.

During the periods of protection (see 2.3), your employer must pay the maternity allowance supplement in such cases, too.

3.5 Who can advise you on protection from dismissal under maternity protection law?

If you have any questions about protection from dismissal, you can contact the maternity protection supervisory authority responsible.

Information can also be found in the free brochure published by the Federal Ministry of Labour and Social Affairs entitled *Kündigungsschutz* ('Protection from dismissal'), which can be ordered free of charge from the Federal Government's publication mailing service (email: publikationen@bundesregierung.de).

3.6 Are you allowed to terminate your employment yourself during maternity protection?

Voluntary termination, severance agreement

You can hand in your notice during the maternity protection period by means of voluntary termination or by concluding a severance agreement. If you are considering this in order to take care of your child, possibly because you think that childcare is not compatible with your job, you should seek advice – in particular from the Federal Employment Agency with regard to the risk of a block on unemployment benefit. It may be a better option for you to apply to your employer for **parental leave**.

Otherwise, the following principles apply:

- You yourself are not bound by any ban on termination. You can hand in your notice at any time during your maternity leave, too (**voluntary termination**). When handing in your notice yourself, you must comply with the statutory or agreed notice periods applicable under the terms and conditions of your employment contract or collective agreement.
- Since you can voluntarily hand in your notice during pregnancy and after childbirth, **severance agreements are also permissible in principle**.
- In the case of voluntary termination and severance agreements, your maternity protection ends together with the termination of the employment.
- In both cases, you no longer have any claims against your employer (including claims to pay and to the maternity allowance supplement).
- Only in special cases, in particular if the termination or the severance agreement was brought about by your employer through **fraudulent deception or under unlawful threat**, is it possible to challenge the termination legally.



Benefits before and
after childbirth

You are entitled to various benefits during the period before and after childbirth, in particular during the statutory periods of maternity protection. These are as follows:

- Entitlements to pay and compensation in the event of a restriction on your work as a result of maternity protection (see 4.1);
- Entitlements to support benefits (see 4.2); and
- Entitlements to preserving your existing rights (see 4.3).

In addition, you have a general entitlement to parental leave (see 4.4).

Those **eligible to receive benefits** under the Maternity Protection Act are, in principle, women in employment as defined in Section 7 Subsection 1 of the Fourth Book of the Social Code. Regardless of whether a woman is in employment as defined here, the regulations on benefit entitlements also apply to:

- trainees within the meaning of Section 26 of the Vocational Training Act [*Berufsbildungsgesetz – BBiG*];
- women with disabilities who are employed in a workshop for disabled persons;
- women who are volunteers within the meaning of the Youth Volunteer Services Act [*Jugendfreiwilligendienstegesetz – JFDG*] or the Federal Volunteer Service Act [*Bundesfreiwilligendienstgesetz – BFDG*];
- women who are members of a religious cooperative, deaconesses or members of a comparable community who hold a permanent position or a position based on a secondment contract, also during a period of practical training;

4 Benefits before and after childbirth

- women who work from home and those of equivalent status within the meaning of Section 1 Subsection 1 and 2 of the Home Work Act [*Heimarbeitsgesetz* – HAG], insofar as they work continuously; and
- women who are to be regarded as having a status similar to that of an employee due to their economic dependence (Section 19 Subsection 1).

The following are **not entitled to benefits** under the Maternity Protection Act:

- development workers;
- housewives (who are not subject to an employment contract);
- self-employed persons who do not have statutory health insurance with entitlement to sickness benefits;
- female civil servants (in this case, special civil service regulations apply instead of the Maternity Protection Act); and
- school pupils and university students (who are not subject to an employment contract).

4.1 Your pay and compensation entitlements

You are entitled to the following to avoid loss of income due to maternity protection:

- paid breaks for medical check-ups and breastfeeding (see 4.1.1);
- maternity protection pay in the case of maternity protection measures (see 4.1.2); and
- compensation for the periods of protection before and after childbirth as well as for the day of childbirth, e.g. maternity allowance and maternity allowance supplement – the so-called employer supplement (see 4.1.3).



Note for your employer

All employers are fully reimbursed for expenses incurred by them due to their employees' pregnancy and maternity (in particular maternity protection pay and the employer supplement). For this purpose, they participate in a general **apportionment procedure** operated by the health insurance companies (so-called **U2 procedure**).

Both the employer supplements to maternity protection pay and the remuneration paid as maternity protection pay in the case of work bans are **fully reimbursed**. Employer contributions to statutory health, pension and unemployment insurance are also reimbursed.

4 Benefits before and after childbirth

A special regulation applies to co-working family members employed on a full-time basis who have mandatory **agricultural health insurance**. The U2 procedure does not apply to these employees because their employment is linked to family relationships.

Trainee allowances that have to continue to be paid due to a work ban are also eligible for reimbursement. The statutory health insurance companies are responsible for this. Reimbursement is made on application.

4.1.1 Paid breaks for medical check-ups and breastfeeding

Pay in the event of release time for medical check-ups and breastfeeding

The granting of time off for medical check-ups and breastfeeding breaks must **not result in a loss of pay** for you. Nor are you required to make up for such time off, whether before or afterwards. Time off for medical check-ups or breastfeeding does not count towards the rest breaks stipulated in the Working Time Act [*Arbeitszeitgesetz* – ArbZG] or other regulations (see 2.2.3 and 2.4.1, also in connection with special working hours agreements).

4.1.2 Maternity protection pay in the case of maternity protection measures

You do not need to fear any financial disadvantages in the event of a change of workplace due to maternity protection or a (partial or complete) work ban **outside the periods of protection**. You are entitled to **so-called maternity protection pay**, which means that you will receive at least the average pay you were earning before the start of your pregnancy.

Maternity protection pay

Maternity protection pay is calculated as the average (gross) earnings of the last three calendar months prior to the start of pregnancy. This also applies if the employment or the type of remuneration changes because of the ban. If the employment contract does not begin until after the onset of pregnancy, the average pay is calculated based on the pay for the first three months of employment.

Maternity protection pay is considered normal remuneration and is therefore **subject to tax and social security deductions**.



Note for your employer

Your employer **receives 100 per cent** of the maternity protection pay (according to the so-called U2 procedure).

4.1.3 Compensation during periods of protection under maternity protection law

As an employee, you can generally receive compensation benefits for work suspensions during the periods of maternity protection. Which benefits you are entitled to will depend in particular on your employment contract and your health insurance. In addition to maternity benefits such as **the maternity allowance** and the **maternity allowance supplement (employer supplement)**, privately insured women are also entitled to **daily sickness benefits**. See 4.1.3.1 to 4.1.3.4 and the summary table under 4.1.4 to find out whether and to what extent you are entitled to benefits.

Who pays?

Women with **statutory health insurance** receive the maternity allowance through their health insurance. Women who are privately insured or who have statutory health insurance as non-contributory family members receive a maternity allowance limited to a total of EUR 210 from the **Federal Office for Social Security**.

You must **apply** for the maternity allowance through your health insurance or the Federal Office for Social Security. To submit the application, you will require the certificate from your doctor, midwife or obstetric nurse stating the expected date of delivery (calculated date).



Important note

To obtain the maternity allowance amounting to a total of up to EUR 210, you must apply to the **Federal Office for Social Security – Maternity Allowance Office**, Friedrich-Ebert-Allee 38, 53113 Bonn, Tel. 0228 6191888. Information and application forms are also available online: www.mutterschaftsgeld.de

Women in employment receive an employer supplement from their employer in addition to the maternity allowance. The employer supplement is the difference between EUR 13 and the average daily pay of the last three calendar months before the start of the period of protection before childbirth, less statutory deductions. You will therefore receive the employer supplement if your average daily pay exceeds EUR 13. If your employment starts during the periods of protection before or after childbirth, your employer will pay you the maternity allowance supplement from the time your employment begins. The supplement is paid on the same date as you would have received your regular pay. If you have more than one employer, the employer supplement is to be paid on a pro rata basis by each employer according to the net pay you receive from them.

Employer
supplement

The maternity allowance and employer supplement are always calculated based on the average pay per calendar day, less statutory deductions, of the last three calendar months before the start of the period of protection prior to childbirth.

Assessment
basis

4 Benefits before and after childbirth

Amount of compensation

In terms of the amount of compensation, there are four different types:

- full pay compensation based on a **maternity allowance amounting to a maximum of EUR 13 per day and (if applicable) the employer supplement**



Example calculation:

A woman received constant gross monthly pay of EUR 1,500 in the last three months before the start of the period of protection. The net monthly pay was EUR 975. The monthly net pay of the last three months ($\text{EUR } 975 \times 3 = \text{EUR } 2,925$) is broken down into the amount per calendar day (three calendar months of 30 days each – $\text{EUR } 2,925/90$ calendar days = EUR 32.50 per calendar day). The average net daily pay was therefore EUR 32.50. During the periods of protection before and after childbirth, the woman receives this amount of EUR 32.50 per calendar day, namely

- EUR 13 in the form of the maternity allowance from the health insurance company; and
 - EUR 19.50 in the form of the employer supplement.
- partial pay compensation based on a **maternity allowance amounting to a total of EUR 210 and (if applicable) the employer supplement**
 - partial pay compensation based on a **maternity allowance in the amount of sick pay**



Important note

Sickness benefit amounts to 70 per cent of regular pay and income from work, insofar as it is subject to statutory contributions (standard pay); it may not exceed 90 per cent of the relevant net pay, however.

- pay compensation in the amount of the agreed daily sickness benefit (for women with private **daily sickness benefit insurance**)



Important note

The maternity allowance, parental allowance and other compensation claims are **offset against the daily sickness benefit**. If applicable, contractually agreed waiting and deferment periods must be taken into account.

The maternity allowance and the employer supplement are not subject to tax and social security contributions. They are included in the fiscal **progression proviso**, however. Because of the tax and contribution exemption, the amount of these benefits is based on your net earnings (gross pay minus the amounts for tax and contributions).

4 Benefits before and after childbirth

4.1.3.1 Women subject to existing employment contracts

As an employee, you are financially protected – regardless of your insurance status – during the periods of maternity protection before and after childbirth and for the day of childbirth by the **maternity allowance** (paid out through your health insurance company or the Federal Office for Social Security) and the **employer supplement**:

Women with statutory health insurance

- If you are **employed** and have **statutory health insurance**, you are entitled to a maternity allowance of up to EUR 13 per day through your health insurance and a maternity allowance supplement from your employer.

Part-time employees (mini-jobbers)

- If you are **marginally employed** and **have your own statutory health insurance** (for example, students, voluntarily insured persons) and do not receive pay during the periods of protection, you receive a maternity allowance of up to EUR 13 per day through your health insurance and, if applicable, a maternity allowance supplement from your employer. If you are marginally employed and **do not have your own statutory health insurance** (if you are included in family insurance as a wife, civil partner or child, for example), you receive a maternity allowance of a total of up to EUR 210 from the Federal Office for Social Security and, if applicable, a maternity allowance supplement from your employer.

Women with private health insurance

- If you are **employed** and have **private health insurance**, you receive a maternity allowance of a total of up to EUR 210 from the Federal Office for Social Security and a maternity allowance supplement from your employer. If you have taken out daily sickness benefit insurance, you may also be entitled to payment of the agreed daily sickness benefit during the periods of protection.

4.1.3.2 Women whose type of employment changes during pregnancy or during the periods of protection

If your type of employment changes during pregnancy or during the periods of protection, this will affect your entitlement to benefits.

There are four different groups here:

- **If your employer effectively terminates your employment during pregnancy or during the periods of protection** (see 3.3.2), you retain your entitlement to the maternity allowance and the employer supplement in the amount to which you were entitled before the end of the terminated employment. However, once you are no longer employed, you are no longer entitled to payment of the employer supplement by your employer. In order to protect you in this unforeseeable situation, you will continue to receive the maternity allowance from the agency responsible (either your health insurance or the Federal Office for Social Security) from the time the employment ends until the end of the period of protection.
- **If your employment ends during the periods of protection** because you are on a **fixed-term contract** that expires during a period of protection or because you have **terminated** your employment **yourself** (see 3.6), your entitlements will depend on your health insurance company from the end of your employment: if you have statutory health insurance, you will receive the maternity allowance through your health insurance from the end of your employment until the end of the period of maternity protection. If you have family health insurance or private health insurance, your entitlement to the maternity allowance, once applicable, is not affected if your employment ends later. You will continue to receive a **maternity allowance of a total of up to EUR 210** from the Federal Office for Social Security. Since you are not (or no longer) in employment, you are not entitled to the employer supplement in these cases, regardless of your insurance status.

Dismissal

Fixed-term contracts, voluntary termination

4 Benefits before and after childbirth

- **If your employment ends** (e.g. due to a fixed-term contract) **immediately before the start of the period of protection before the birth** and if you had health insurance on your last day of employment, you receive a maternity allowance in the amount of the sickness benefit.

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Important note

If you become unemployed during the periods of maternity protection, you should contact your health insurance, the Federal Employment Agency and, if necessary, the social welfare office as early as possible so as to clarify both your insurance cover and your financial security.

Benefits in the event of insolvency

If your employer cannot fulfil their obligation to pay the employer supplement **due to an insolvency**, the same regulation applies from the day of the insolvency until the end of the periods of protection as would apply in the case of a legal dismissal (see 3.3.2) from the end of employment until the end of the periods of protection (see above). Overdue claims to the employer supplement up until the time of the insolvency are treated as overdue pay at the time of the occurrence of the insolvency. After the occurrence of the insolvency, you are entitled to insolvency **benefits** if you are still entitled to remuneration for the three months of employment preceding the insolvency.

- **If your status changes from that of a civil servant to that of an employee during the periods of protection**, you are entitled to the maternity allowance from the time employee status is established.

4.1.3.3 Self-employed women

As a **self-employed person with private health insurance**, you do **not** receive the **maternity allowance**. Under the Insurance Contract Act [*Versicherungsvertragsgesetz – VVG*], however, self-employed women who have taken out a private daily sickness benefit insurance policy are **entitled to payment of the agreed daily sickness benefit** during the periods of maternity protection even if they are not working or are only working to a limited extent during this time. Check with your insurance company to find out what benefits you will receive under your policy.

Women with private health insurance

If you are self-employed and have **statutory health insurance on a voluntary basis** with entitlement to sickness benefit, you will receive a maternity allowance through your **health insurance in the amount of the sickness benefit** during the period of maternity protection. However, if your insurance does not include an entitlement to sickness benefit, you will not be entitled to the maternity allowance either: this is because the entitlement to the maternity allowance is legally linked to the entitlement to sickness benefit.

Voluntarily insured persons



Important note

If you are self-employed and have **statutory health insurance on a voluntary basis**, you can choose whether you want your insurance to cover loss of earnings in the event of work incapacity by means of an optional sickness benefit tariff or by means of a ‘statutory’ sickness benefit entitlement (**optional declaration**). Further information is available from the relevant health insurance companies. There are exceptions that apply to those with **agricultural health insurance**.

4 Benefits before and after childbirth

4.1.3.4 Women who are not in gainful employment

If you are not in gainful employment, your entitlements are essentially based on the general provisions of the Second and Third Book of the Social Code (SGB II and SGB III). The same applies to women whose employment ends during pregnancy but before the start of the period of protection before childbirth.

Unemployment Benefit I recipients

- If at the beginning of the period of protection you are receiving Unemployment Benefit I in the case of unemployment or in the case of further vocational training under SGB III, you will receive the maternity allowance under statutory health insurance. The amount of maternity allowance corresponds to the **amount of unemployment benefit in the case of unemployment, or in the case of further vocational training under SGB III**, the amount that the insured person received before the start of the period of protection prior to childbirth.

Unemployment Benefit II recipients

- If you receive Unemployment Benefit II (including supplementary benefits) under SGB II, you will be paid from the 13th month onwards. What is more, an **additional 17 per cent of the regular amount** is payable for the period from the first week of pregnancy to the day of delivery (for a single person this is approximately EUR 71, for example). If there is an entitlement to the maternity allowance from previous gainful employment, this is taken into account as income when determining Unemployment Benefit II. The same tax-free allowances apply as for the previous gainful employment. Regardless of this, benefits for the first set of clothes and other items required for pregnancy and birth are available separately on application to the local agencies responsible for basic benefits for jobseekers (Job Centres).

School pupils and university students

- If you are a school pupil or university student without employee status, you are generally insured under **statutory health insurance** as a student **without sickness benefit entitlement** and are therefore **not entitled to the maternity allowance**.

4.1.4 General information on the maternity allowance and employer supplement

Summary

Women subject to existing employment contracts

Those with **statutory** health insurance **including** sickness benefit entitlement

Up to **EUR 13 per day of maternity allowance** paid through health insurance **plus the employer supplement** in the amount of the difference from the average net pay

Mini-jobbers with **statutory** health insurance **without** sickness benefit entitlement (e.g. students)

Up to **EUR 13 per day of maternity allowance** paid through health insurance and, if applicable, the **employer supplement** in the amount of the difference between EUR 13 and the average net pay

Mini-jobbers without statutory health insurance (such as **family members**)

Maternity allowance as a one-off payment of a total of up to **EUR 210** from the Federal Office for Social Security **plus the employer supplement** in the amount of the difference between EUR 13 and the average net pay

Employees with **private** health insurance

Maternity allowance of a total of up to **EUR 210** from the Federal Office for Social Security **plus the employer supplement** amounting to the difference between EUR 13 and the average net pay, **plus any additional daily sickness benefit if agreed**

Women whose employment ends during pregnancy or during the periods of protection

Women whose employment **was legally terminated** by their employer during pregnancy or during the periods of protection

For those with statutory health insurance: up to **EUR 13 of maternity allowance** per day **plus the employer supplement** paid through health insurance; for women who do not have statutory health insurance: **maternity allowance** up to a total of **EUR 210** from the Federal Office for Social Security

4 Benefits before and after childbirth

Summary	
Women whose fixed-term employment ended during the periods of protection	For those who have statutory health insurance: maternity allowance in the amount of the sickness benefit paid through health insurance; for women who do not have statutory health insurance: maternity allowance up to a total of EUR 210 from the Federal Office for Social Security
Women whose employment ends immediately before the start of the period of protection before childbirth , if they had health insurance on the last day of employment	Maternity allowance in the amount of the sickness benefit paid through health insurance
Women whose employment ends during pregnancy but before the beginning of the period of protection before childbirth	Maternity benefits are the same as for women not in employment, see page 89
Women whose employer goes into insolvency during pregnancy or during the periods of protection	Maternity benefits from the occurrence of the insolvency the same as after a legal dismissal
Self-employed women	
Those with statutory health insurance including sickness benefit entitlement	Maternity allowance in the amount of the sickness benefit paid through health insurance
Those with statutory health insurance not including sickness benefit entitlement	No maternity allowance
Self-employed women with private health insurance who have taken out daily sickness benefit insurance	Entitlement to payment of the agreed daily sickness benefit applies during the periods of maternity protection

Summary	
Women who are not in gainful employment	
Those with statutory health insurance including sickness benefit entitlement (Unemployment Benefit I recipients)	Maternity allowance is paid through health insurance in the amount of the previous Unemployment Benefit I
Those with statutory health insurance including sickness benefit entitlement (Unemployment Benefit II recipients)	Unemployment Benefit II is paid during the statutory periods of maternity protection, plus an additional amount from the 13th week of pregnancy onwards. This additional amount is only granted up to and including the day of delivery.
School pupils and university students not in gainful employment	No benefits

4.1.5 Conditions relating to pay and compensation and how these are calculated

Please note the following with regard to the conditions and calculation of pay and compensation.

When **determining average pay**, the principle applies that your financial treatment during maternity protection may not be worse or better than if you had continued to pursue your employment without work bans under maternity protection law:

- Neither does it have any effect if there is a change in the type of remuneration as a result of such a ban. Losses due to the ban on piecework and assembly line work or additional work, Sunday and night work do not have a negative effect on the calculation.

Changes in pay group

4 Benefits before and after childbirth

Changes in pay

- In the case of **permanent increases or reductions in earnings**, for example in the case of wage and salary increases or reductions that take effect during the calculation period, the calculation of the average earnings for the entire calculation period is based on the new level of pay. This takes account of the fact that the woman would otherwise have continued to work without the work ban and would have received her pay in the new amount. If the change takes effect after the end of the calculation period, it is included in the calculation from the time it takes effect. **Temporary increases or reductions in earnings** that occur during the calculation period are not taken into account for the calculation of average pay.

Secondary employment

- If you pursue **secondary employment** in addition to your main employment, the remuneration for the secondary employment must also be taken into account when calculating your pay.

Unexcused absences

- When determining the calculation period for average pay, periods during which the woman did not earn **any pay** due to **absence through no fault** of her own are not taken into account. If the period of employment was shorter than three months, the calculation is based on the actual period of employment.
- When calculating the average pay, **one-off payments and reductions in pay** that occurred during the calculation period as a result of short-time work, absences from work or absence from work through **no fault of** the employee are not taken into account.

Insufficient basis for assessment

- If it is **not possible to determine the average pay** based on the usual regulations, the average daily pay of a person employed in a comparable position is taken as a basis.

If you are on parental leave for your older child at the time of pregnancy, you must bear the following in mind:

- If you do not work part-time during parental leave or if you do not end your parental leave early, you are not entitled to maternity protection pay during a work ban. Your entitlement to the employer supplement during the periods of protection also ceases if you do not work part-time during parental leave or you do not end your parental leave early. Your employment status is only fully revived once you have completed your parental leave: not until this happens are you entitled to payment of the employer supplement for your employment prior to your renewed parental leave. If you do not end your parental leave early and have not worked part-time during your parental leave, you are only entitled to the maternity allowance.

Special provisions in the event of renewed pregnancy during parental leave



Important note

You can **end an ongoing period of parental leave early – and without your employer’s consent** – in order to take advantage of the pre-natal and post-natal periods of maternity protection and the rights that this involves (including entitlement to the employer’s maternity allowance supplement). Your employer cannot refuse early termination of parental leave in this case. This is governed by the Federal Parental Allowance and Parental Leave Act [*Bundeselterngeld und Elternzeitgesetz* – BEEG].

If you end your parental leave early in order to take advantage of the statutory periods of maternity protection, you should inform your employer in good time that you intend to end your parental leave. Retroactive termination of parental leave is not possible.

This does not incur costs to your employer because they will be reimbursed in full through health insurance for the employer supplement which they are required to pay.

4 Benefits before and after childbirth

- If you pursue permissible **part-time employment** during parental leave and **you do not end your current parental leave**, and if the period of maternity protection falls during this part-time employment, you are entitled to the employer supplement from the part-time employment. The Maternity Protection Act applies unrestrictedly to part-time employment.
- If you have **prematurely ended a period of parental leave** during which you **worked part-time**, special rules apply to the calculation of average pay: an assessment has to be carried out to determine whether it is more favourable for you to do the calculation based on your income during parental leave or based on your income before parental leave. The part-time pay that you earned during parental leave before the end of your parental leave is not taken into account if the average pay is higher without taking into account the periods during which this pay was earned. This prevents any disadvantage arising from the parental leave you took for your older child when it comes to assessing the maternity protection for your other child.

Maternity benefits are always fully **offset against your parental allowance**. This also applies to the remuneration paid during the periods of maternity protection if you are a civil servant. The maternity allowance of up to a total of EUR 210 paid by the Federal Office for Social Security is not taken into account. Maternity benefits from the day of the birth of another child are also offset against the parental allowance for an older child, but only to the extent that the parental allowance exceeds an amount of EUR 300.



Important note

The brochure issued by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth entitled *Parental Allowance, Parental Allowance Plus and Parental Leave* provides details of the regulations relating to the parental allowance and parental leave. It can be ordered free of charge from the Federal Government's publication mailing service (email: publikationen@bundesregierung.de) See also:

[www.bmfsfj.de/bmfsfj/service/publikationen/elterngeld--
elterngeldplus-und-elternzeit-/73770](http://www.bmfsfj.de/bmfsfj/service/publikationen/elterngeld--elterngeldplus-und-elternzeit-/73770)

4.2 Your entitlement to support benefits

In addition to the cash benefits mentioned above, you may be entitled to other support benefits.

4.2.1 Statutory health insurance benefits (such as midwife assistance)

The following benefits are provided in addition to the maternity allowance for those with statutory health insurance:

- medical care and midwife assistance;
- provision of medicines, dressings, remedies and aids;
- childbirth;
- home care;
- domestic help.

4.2.2 Assistance from the Federal Foundation Mother and Child – Protection of the Unborn in emergency situations

The Federal Foundation Mother and Child – Protection of Unborn Life provides unbureaucratic assistance if you are in an emergency situation and other social benefits are not available to you or not sufficient. The application must be submitted during pregnancy to a pregnancy counselling centre near your home. Your income is assessed before financial aid is granted. The Foundation provides assistance for the first set of clothes and other items for the child, household help, housing and furnishings as well as infant care. This assistance is not counted as income against Unemployment Benefit II, income support or other social benefits. For details, see the Foundation flyer at:

www.bmfsfj.de/bmfsfj/service/publikationen/bundesstiftung-mutter-und-kind/81256?view=DEFAULT

4.3 Your entitlement to preserving your existing rights

There are also various ways in which you are entitled to preserve your existing rights. This ensures you are protected from other disadvantages in addition to matters of financial compensation. These entitlements are as follows:

4.3.1 Claiming holiday leave

Periods of absence caused by work bans under maternity protection law and periods of maternity protection are treated as periods of employment. Holiday leave entitlement also accrues during these periods. It is not permissible to reduce holiday leave as a result of work bans under maternity protection law. If you did not receive your leave or did not receive it in full before the work bans came into effect, you can claim your remaining annual leave in the current or subsequent year after the periods of protection have come to an end.

Holiday leave

Remaining annual leave from the period before the work bans is transferable to the current or following year. This remaining leave can also be taken after parental leave (see the brochure *Parental Allowance, Parental Allowance Plus and Parental Leave*).

4.3.2 Continued employment according to your existing contract

When periods of protection or other maternity protection work bans come to an end, you have the right to continue to be employed under the terms of your existing contract.

4.3.3 Entitlement to capital-forming benefits and savings allowances

Whether or not you are entitled to have **capital-forming benefits** paid by your employer during maternity protection will depend on the agreement in question (collective agreement, company agreement or individual employment contract).

4 Benefits before and after childbirth

The **savings allowance** under the Capital Accumulation Act [*Vermögensbildungsgesetz* – VermBG] is only available on payments made by the employer. For this reason, the maternity allowance paid through statutory health insurance cannot be used as a capital-forming benefit. However, you can have parts of the employer's maternity allowance supplement invested as a capital-forming benefit and receive the state savings allowance for this purpose.

If you did not receive any capital-forming benefits from your employer during the periods of maternity protection, you can also have the employer invest the amounts that are still lacking for full utilisation of the eligible maximum before the start or after the end of the periods of maternity protection.

This is because the amounts eligible for allowances under the Capital Accumulation Act [*Vermögensbildungsgesetz* – VermBG] are annual amounts.

4.3.4 Securing entitlements under statutory health, pension and unemployment insurance

Statutory health insurance

If your employment was subject to social insurance contributions before the start of the period of protection, you remain insured under statutory health insurance by law during the period of entitlement to or receipt of the maternity allowance. You do not have to pay contributions for the maternity allowance. Even if you are voluntarily insured under statutory health insurance, receipt of the maternity allowance means that you are exempt from paying contributions for pay or income from work that was subject to contributions before the benefit was received, insofar as and for as long as you do not receive such income. The statutory minimum contributions are not payable in these cases for the duration of benefit receipt.

Under statutory pension insurance, those periods in which you do not pursue employment subject to pension insurance or a self-employed activity because of pregnancy or maternity during the periods of maternity protection are known as non-contributory periods. Neither you nor your employer pay contributions during this time. These periods subject to maternity protection have the effect of increasing your pension but are not counted towards every holding period under statutory pension insurance. After the month in which your child is born, you can have 36 calendar months credited to your later pension as child-raising periods if you raise your child in Germany. During this time, you enjoy the same status as if you were paying contributions as an average earner, but without actually having to pay any contributions.

Statutory
pension
insurance

Unemployment insurance is compulsory without restriction for periods in which the maternity allowance is received if such insurance was compulsory immediately prior to the start of receipt or if benefits were received on an ongoing basis under unemployment insurance. The Federal Employment Agency will inform you of the details.

Statutory
unemployment
insurance

4.3.5 Entitlement to a 13th monthly salary and special benefits

Whether and to what extent special annual benefits are paid is determined in each individual case by the content of the relevant agreement (collective agreement, company agreement or individual employment contract). The Maternity Protection Act does not contain any specific provisions here.

According to case law, neither under collective agreements (collective bargaining agreements or works agreements) nor according to employment contracts may absences due to a work ban under maternity protection law or periods of maternity protection be used to reduce

any entitlement to work-related special annual bonuses (special payments of a purely remunerative nature).

4.4 Your entitlement to parental leave

Providing you inform your employer in good time, parental leave under the Federal Parental Allowance and Parental Leave Act [*Bundeselterngehd- und Elternzeitgesetz* – BEEG] follows on immediately from the period of maternity protection. If you wish, however, you also have the option to resume your work and start parental leave at a later date.

Employed women and men are entitled to claim parental leave from their employer. Parents can also take parental leave together, either in full or for part of the time.

Registration deadline

You must inform your employer **in writing** of the **parental leave** you wish to take until the child reaches the age of three **at least seven weeks before it begins**. At the same time, you must make a binding commitment for two years regarding the period or periods in which you wish to take parental leave. During parental leave, it is possible to work part-time for up to 30 hours per week; special protection from dismissal also applies.



Important note

If you wish to work part-time during parental leave, you must inform your employer in writing seven weeks before the start of the part-time work. This request for part-time work during parental leave is deemed to be accepted if it is not rejected in writing by your employer within four weeks in the case of parental leave taken before your child's third birthday.

If another child is born during the current parental leave, the periods of maternity protection for the additional child do not lead to an automatic termination of the parental leave (see 4.1.5). Parental leave for the additional child follows on when the first parental leave comes to an end, unless the current parental leave is terminated prematurely. For more information about parental leave, see our brochure *Parental Allowance, Parental Allowance Plus and Parental Leave*. The brochure can be ordered free of charge from publikationen@bundesregierung.de (see 1.2.1).

Renewed pregnancy during parental leave

4.5 Who advises you on benefit entitlements?

The following agencies can provide you and your employer with information and advice on all questions relating to the Maternity Protection Act:

- benefits under statutory health insurance during pregnancy and maternity: the statutory health insurance companies;
- maternity allowances for women who do not have statutory health insurance: the Federal Office for Social Security in Bonn;
- questions relating to unemployment benefit: the Employment Agency, and questions relating to Unemployment Benefit II: the local agencies responsible for basic benefits for jobseekers (Job Centres);
- if entitlements to benefits under SGB XII are to be claimed (for example basic income support in the case of a permanent reduction in earning capacity): the social welfare offices.

According to the Counselling Assistance Act [*Beratungshilfegesetz – BerHG*], women on a low income are also entitled to advisory assistance in matters relating to labour law and social law. The district courts with local jurisdiction will issue a counselling permit if the requirements are met.

5

Appendix:
Important maternity
protection regulations

The **Act on the Protection of Mothers at Work, in Training and at University [Mutterschutzgesetz – MuSchG]** mainly introduced the following changes:

- The period of protection after the birth of a child with disabilities was extended from eight to twelve weeks. This is because in many such cases the birth involves a particular degree of physical and psychological stress for the mother.
- Protection from dismissal was newly introduced for women after a miscarriage that occurred after the twelfth week of pregnancy.

The amendments as of 1 January 2018 are mainly as follows:

- School pupils and university students are also covered under the Maternity Protection Act (MuSchG) if the training organisation stipulates the place, time and structure of the course or if the pupils and students are undertaking a mandatory internship that forms part of their school or university education.
- The Act also explicitly includes persons with a similar status to that of an employee under current EU law.
- The same level of maternity protection applies to female civil servants, judges and soldiers as to other employees under the Maternity Protection Act. However, maternity protection for these special status groups continues to be regulated by separate ordinances. The Act also clarifies that, under EU law, appropriate control and monitoring by special authorities must also be ensured for these groups of persons, and that ‘self-monitoring’ by the supervising department is therefore not sufficient.

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- The regulations prohibiting night work and Sunday work apply regardless of the industry or sector. The provisions regarding the ban on additional work are supplemented by a special provision on the maximum permissible additional work in part-time employment.
- Regulatory approval has been introduced for work after 8 pm until 10 pm. In addition, if a woman is to work after 8 pm, she must explicitly agree to do so. The employer can in principle continue to employ the woman while the authority assesses the complete application. If the authority does not reject the application within six weeks, it is deemed to have been approved.
- The integration of the Ordinance on the Protection of Mothers at Work (MuSchArbV) in to the Maternity Protection Act makes the regulations clearer and easier to understand for employees and employers as well as for the supervisory authorities.
- Businesses and authorities are provided with advice and support in implementing the regulations through the establishment of a maternity protection committee.

5.1 Maternity Protection Act

Act on the Protection of Mothers at Work, in Training and at University [*Mutterschutzgesetz – MuSchG*] of 23 May 2017

as amended by the notice of 30 May 2017 (Federal Law Gazette [BGBl.] I p. 1,228), last amended by Section 1 of the Act of 23 May 2017 (Federal Law Gazette [BGBl.] I p. 1,228).

Section 1 – General Provisions

§ 1 Scope, aim of maternity protection

- (1) This Act protects the health of women and their children at the place of work, training and study during pregnancy, after and during childbirth and during breastfeeding. The Act enables a woman to continue her employment or other activity during this period without endangering her health or that of her child and counteracts disadvantages during pregnancy, after childbirth and during breastfeeding. Provisions under other occupational health and safety legislation remain unaffected.
- (2) This Act applies to women in employment within the meaning of Section 7 Subsection 1 of the Fourth Book of the Social Code. Regardless of whether the individual is subject to an employment contract, this Act also applies to
 1. trainees within the meaning of Section 26 of the Vocational Training Act [*Berufsbildungsgesetz – BBiG*];
 2. women with disabilities who are employed in a workshop for disabled persons;
 3. development workers within the meaning of the Development Workers Act [*Entwicklungshelfer-Gesetz – EhfG*], but subject to the requirement that Sections 18 to 22 do not apply to them;
 4. women who are volunteers within the meaning of the Youth Volunteer Services Act [*Jugendfreiwilligendienstgesetz – JFDG*] or the Federal Volunteer Service Act [*Bundesfreiwilligendienstgesetz – BFDG*];
 5. women who are members of a religious cooperative, deaconesses or members of a comparable community who hold a permanent position or a position based on a secondment contract, also during a period of practical training;

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6. women who work from home and those of equivalent status within the meaning of Sections 1 and 2 of the Home Work Act [*Heimarbeitsgesetz* – HAG], insofar as they work continuously, but subject to the requirement that Sections 10 and 14 do not apply to them and that Section 9 Subsections 1 to 5 are to be applied to them accordingly;
 7. women who are to be regarded as having a status similar to that of an employee due to their economic dependence, but subject to the requirement that Section 18, Section 19 Subsection 2 and Section 20 are to be applied to them; and
 8. school pupils and university students, insofar as the training organisation stipulates the place, time and structure of the course or if the pupils and students are taking a mandatory internship that forms part of their school or university education, but subject to the requirement that Sections 17 to 24 do not apply to them.
- (3) The Act does not apply to female civil servants and judges. The Act likewise does not apply to female soldiers, even if the requirements of Subparagraph 2 are met, unless they work outside the area of responsibility of the Federal Ministry of Defence based on official orders or permission.
 - (4) This Act applies to any person who is pregnant, has given birth to a child or is breastfeeding. Subparagraphs 2 and 3 apply accordingly.

§ 2 Definitions

- (1) For the purposes of this Act, an employer is a natural or legal person or partnership with legal capacity that employs persons under Section 1 Subsection 2 Sentence 1. The following are equivalent to an employer:
 1. the natural or legal person or partnership with legal capacity that trains women in the case of Section 1 Subsection 2 Sentence 2 Number 1 or for which female interns work in the case of Section 1 Subsection 2 Sentence 2 Number 1;
 2. the organisation which operates the workshop for disabled people in the case of Section 1 Subsection 2 Sentence 2 Number 2;
 3. the development service provider in the case of Section 1 Subsection 2 Sentence 2 Number 3;
 4. the institution in which the voluntary service is performed under the Youth Voluntary Service Act or the Federal Voluntary Service Act in the case of Section 1 Subsection 2 Sentence 2 Number 4;
 5. the religious cooperative or similar community in the case of Section 1 Subsection 2 Sentence 2 Number 5;

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6. the contracting authority and intermediate supervisor of women in the case of Section 1 Subsection 2 Sentence 2 Number 6;
 7. the natural or legal person or the partnership with legal capacity for which women work within the meaning of Section 1 Subsection 2 Sentence 2 Number 7; and
 8. the natural or legal person or the partnership with legal capacity with which the training or internship contract has been concluded in the case of Section 1 Subsection 2 Sentence 2 Number 8 (training organisation).
- (2) Employment within the meaning of the provisions set out below covers any form of activity that a woman engages in as part of an employment relationship under Section 1 Subsection 2 Sentence 1, or that a woman engages in under Section 1 Subsection 2 Sentence 2 as part of her legal relationship with her employer under Section 2 Subsection 1 Sentence 2.
- (3) A work ban within the meaning of this Act is only a work ban under Sections 3 to 6, Section 10 Subsection 3, Section 13 Subsection 1 Sentence 3 and Section 16. In the case of a woman who works from home and a woman of equal status, the work ban is replaced by a ban on the instruction to perform home work under Sections 3 and 8, Section 13 Subsection 2 and Section 16. For a woman who, because of her economic dependence, is to be regarded as having a status similar to that of an employee, the work ban under Sentence 1 is replaced by exemption from the contractually agreed performance obligation; the woman may, however, declare her willingness to provide the contractually agreed performance vis-à-vis the person or company equivalent to the employer within the meaning of Subparagraph 1 Sentence 2 Number 7.
- (4) Working alone within the meaning of this Act occurs when the employer has a woman work on the premises within their area of responsibility without ensuring that she is able to freely leave the workplace or reach help at any time.
- (5) Remuneration within the meaning of this Act shall be remuneration paid under Section 14 of the Fourth Book of the Code of Social Law in conjunction with an ordinance issued based on Section 17 of the Fourth Book of the Social Code. For women within the meaning of Section 1 Subsection 2 Sentence 2, their respective remuneration pay shall be deemed to be their pay.

Section 2 – Health Protection

Subsection 1 – Occupational health and safety in connection with working hours

§ 3 Periods of protection before and after childbirth

- (1) The employer may not have a pregnant woman perform work in the last six weeks before childbirth (period of protection before childbirth) if the woman does not expressly declare her willingness to do so. The woman may withdraw her declaration under Sentence 1 at any time with effect for the future. For the calculation of the period of protection before childbirth, the expected date of delivery is the deciding factor, as derived from the medical certificate or the certificate issued by a midwife or obstetric nurse. If the woman does not give birth on the expected date of delivery, the period of protection before childbirth is shortened or extended accordingly.
- (2) The employer may not have a woman perform work until eight weeks after the birth (period of protection after childbirth). The period of protection after childbirth is extended to twelve weeks
 1. in the event of a premature birth;
 2. in the event of a multiple birth; and
 3. if the child is medically diagnosed with a disability within the meaning of Section 2 Subsection 1 Sentence 1 of the Ninth Book of the Social Code within eight weeks after delivery.

In the event of a premature birth, the period of protection after delivery according to Sentence 1 or Sentence 2 shall be extended by the reduction of the period of protection before delivery according to Subparagraph 1 Sentence 4. According to Sentence 1 Number 3, the period of protection after childbirth is only extended if the woman submits an application to this effect.
- (3) The training organisation may allow a woman within the meaning of Section 1 Subsection 2 Sentence 2 Number 8 to be active as part of her school or university education during the period of protection after childbirth if the woman expressly requests this of her training organisation. The woman may revoke her request at any time with effect for the future.

- (4) The employer may have a woman perform work after the death of her child after the expiry of the first two weeks after childbirth if
1. the woman expressly requests this; and
 2. there is no medically certified reason to the contrary.
- (2) The employer must grant the pregnant or breastfeeding woman an uninterrupted rest period of at least eleven hours after the end of each day's work.

The woman may withdraw her request under Sentence 1 Number 1 at any time with effect for the future.

§ 4 Ban on additional work; rest period

- (1) An employer may not employ a pregnant or breastfeeding woman who is 18 years of age or older to perform work for a period of more than eight and a half hours a day or more than 90 hours in a fortnight. An employer may not have a pregnant or breastfeeding woman under the age of 18 perform work for a period of more than eight hours a day or more than 80 hours in a fortnight. Sundays are included in the fortnight. The employer may not have a pregnant or breastfeeding woman perform work in excess of the contractually agreed weekly working hours on average over a monthly period. If there are several employers, the working hours must be added together.

§ 5 Ban on night work

- (1) The employer may not have a pregnant or breastfeeding woman work between 8 pm and 6 am. The employer may have her work until 10 pm providing the requirements of Section 28 are met.
- (2) The training organisation may not have a pregnant or breastfeeding woman within the meaning of Section 1 Subsection 2 Sentence 2 Number 8 be active between 8 pm and 6 am as part of her school or university education. The training organisation may have her attend courses until 10 pm, if
1. the woman expressly declares her willingness to do so;
 2. attendance is required at that time for training purposes; and
 3. in particular, there is no irresponsible risk to the pregnant woman or her child from working alone.

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The pregnant or breastfeeding woman may withdraw her declaration under Sentence 1 Number 1 at any time with effect for the future.

§ 6 Ban on work on Sundays and public holidays

- (1) The employer may not have a pregnant or breastfeeding woman work between 8 pm and 6 am. The employer may only have her work on Sundays and public holidays if
 1. the woman expressly declares her willingness to do so;
 2. an exception to the general ban on work on Sundays and public holidays under Section 10 of the Working Hours Act is approved;
 3. the woman is granted an alternative day of rest each week following an uninterrupted night's rest of at least eleven hours; and
 4. in particular, there is no irresponsible risk to the pregnant woman or her child from working alone.

The pregnant or breastfeeding woman may withdraw her declaration under Sentence 1 Number 1 at any time with effect for the future.

- (2) The training organisation may not have a pregnant or breastfeeding woman within

the meaning of Section 1 Subsection 2 Sentence 2 Number 8 work on Sundays or public holidays as part of her school or university education. The training organisation may allow her to attend courses on Sundays and public holidays if

1. the woman expressly declares her willingness to do so;
2. attendance is required at that time for training purposes;
3. the woman is granted an alternative day of rest each week following an uninterrupted night's rest of at least eleven hours; and
4. in particular, there is no irresponsible risk to the pregnant woman or her child from working alone.

The pregnant or breastfeeding woman may withdraw her declaration under Sentence 1 Number 1 at any time with effect for the future.

§ 7 Release time for medical check-ups and breastfeeding

- (1) The employer shall release a woman from work for the time required to have medical check-ups in connection with pregnancy and maternity under statutory health insurance.

The same applies to women who do not have statutory health insurance.

- (2) The employer shall give a breastfeeding woman release time at her request during the first twelve months after childbirth for the time required for breastfeeding, amounting to at least twice a day for half an hour or once a day for one hour. In the case of a continuous working period of more than eight hours, the woman is to be allowed, on request, to breastfeed twice for at least 45 minutes or, if there are no breastfeeding facilities near the workplace, once for at least 90 minutes. Working time is deemed to be continuous if it is not interrupted by a rest break of more than two hours.

§ 8 Restriction of home work

- (1) The contracting entity or intermediate supervisor may only assign home work to a pregnant woman who works from home or to a woman of equal status to such an extent and with such completion deadlines that the work can be performed during an eight-hour working day on weekdays.
- (2) The contracting entity or intermediate supervisor may only assign home work to a breastfeeding woman who works from home or to a woman of equal status to such an extent and with such completion deadlines that the work can be performed during a seven-hour working day on weekdays.

Subsection 2 – Workplace-related occupational health and safety

§ 9 Arrangement of working conditions; irresponsible risks

- (1) When arranging the conditions in which a pregnant or breastfeeding woman works, the employer must implement all measures required based on the risk assessment under Section 10 in order to protect her physical and mental health and that of her child. The employer shall review the effectiveness of the measures and, if necessary, shall adapt them to changing circumstances. A woman shall be enabled to continue her work during pregnancy, after childbirth and during the period of breastfeeding to the extent that it is responsibly possible under the provisions of this Act. Disadvantages due to pregnancy, childbirth or breastfeeding are to be avoided or compensated for.

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- (2) The employer shall organise the working conditions in such a way that risks to a pregnant or breastfeeding woman or her child are avoided as far as possible and any irresponsible risk is excluded. A risk is defined as irresponsible if the likelihood of a health impairment occurring is unacceptable in view of its anticipated severity. An irresponsible risk shall be deemed to be excluded if the employer complies with all requirements that are likely to result in the health of a pregnant or breastfeeding woman or her child not being adversely affected.
- (3) The employer shall ensure that the pregnant or breastfeeding woman can briefly interrupt her work at the workplace to the extent necessary for her. The employer must also ensure that the pregnant or breastfeeding woman can lie down, sit down and rest in appropriate conditions during breaks and work interruptions.
- (4) All measures taken by the employer under this subsection and the assessment of working conditions under Section 10 shall be in line with the state of the art, occupational medicine and hygiene as well as other established scientific insights. The employer shall take into account in their measures the rules and findings determined by the Maternity Protection Committee and published in the Joint Ministerial Gazette under Section 30 Subsection 4; if these rules are complied with and these findings are observed, it shall be assumed that the requirements set out in this Act are met.
- (5) The employer may commission reliable and competent persons in writing to perform tasks incumbent upon the employer under this subsection on the persons' own responsibility.
- (6) The employer may not impose costs for measures under this Act on persons in their employment. The employer shall bear the costs of any certificates and written confirmations which the pregnant or breastfeeding woman is required to produce at the employer's request.

§ 10 Assessment of working conditions; protective measures

- (1) As part of the assessment of working conditions under Section 5 of the Occupational Health and Safety Act [*Arbeitsschutzgesetz* – ArbSchG], the employer shall, for each activity,
 1. assess the hazards in terms of their nature, duration and magnitude to which a pregnant or breastfeeding woman or her child is or may be exposed; and
 2. determine, taking into account the outcome of the risk assessment referred to in Number 1, whether no protective measures are likely to be required for a pregnant or breastfeeding woman or her child or whether
 - a) a reorganisation of the working conditions under Section 13 Subsection 1 Sentence 1 will be necessary; or
 - b) a continuation of the woman's work at this workplace will not be possible.

In the case of similar working conditions, the assessment of one workplace or activity is sufficient.

- (2) As soon as a woman has informed the employer that she is pregnant or breastfeeding, the employer shall immediately determine the protective measures required in accordance with the risk assessment referred to in Subparagraph 1. In addition, the employer shall offer the woman an interview on the subject of further adaptations of her working conditions.
- (3) The employer may only allow a pregnant or breastfeeding woman to perform those activities for which they have taken the necessary protective measures under Subparagraph 2 Sentence 1.

§ 11 Inadmissible activities and working conditions for pregnant women

- (1) The employer must not allow a pregnant woman to carry out activities or expose her to working conditions where she comes into contact or might come into contact with hazardous substances to such an extent that this poses an irresponsible risk to her or her child. An irresponsible risk within the meaning of Sentence 1 exists in particular if the pregnant woman carries out activities or is exposed to working conditions in which she comes into contact or might come into contact with the following hazardous substances:

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1. hazardous substances which, according to the criteria listed in Appendix I to Regulation (EC) Number 1272/2008 of the European Parliament and of the Council of 16 December 2008 on the classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) Number 1907/2006 (OJ L 353, 31.12.2008, p. 1), are to be assessed as
 - a) toxic to reproduction according to category 1A, 1B or 2 or according to the additional category for effects on or via lactation;
 - b) germ cell mutagenic according to category 1A or 1B;
 - c) a carcinogen according to category 1A or 1B;
 - d) specifically target organ toxic after a single exposure according to category 1; or
 - e) acutely toxic according to category 1, 2 or 3;
2. lead and lead derivatives, insofar as there is a risk that these substances will be absorbed by the human body; or
3. hazardous substances that have been identified as substances that can potentially be teratogenic, even if the workplace regulations are complied with.

An irresponsible risk within the meaning of Sentence 1 or 2 shall be deemed to be excluded in particular

1. if
 - a) the workplace-related requirements for the respective hazardous substance are complied with and the hazardous substance is one that is designated as a substance that has been assessed as safe from a teratogenic point of view, providing the workplace-related specifications are complied with; or
 - b) the hazardous substance is not able to cross the placental barrier, or damage is excluded from occurring to the foetus for any other reasons; and
2. if the hazardous substance is not assessed as toxic to reproduction according to the criteria of Annex I to Regulation (EC) No. 1272/2008 under the additional category for effects on or via lactation.

The scientific findings identified by the Maternity Protection Committee shall be observed.

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- (2) The employer may not allow a pregnant woman to perform any activities or expose her to any working conditions in which she comes into contact or might come into contact with biological substances under risk group 2, 3 or 4 within the meaning of Section 3 Subsection 1 of the Biological Substances Ordinance [*Biostoffverordnung* – *BiostoffV*] to a degree that poses an irresponsible risk to her or her child. An irresponsible risk within the meaning of Sentence 1 exists in particular if the pregnant woman carries out activities or is exposed to working conditions in which she comes into contact or might come into contact with the following biological substances:
1. biological substances that are to be classified in risk group 4 within the meaning of Section 3 Subsection 1 of the Biological Substances Ordinance; or
 2. rubella virus or *Toxoplasma*.
- Sentences 1 and 2 shall also apply if the contact with biological substances within the meaning of Sentence 1 or 2 necessitates or potentially necessitates therapeutic measures which themselves pose an irresponsible risk. An irresponsible risk within the meaning of Sentence 1 or 2 shall be deemed to be excluded in particular if the pregnant woman has sufficient immune protection.
- (3) The employer must not allow a pregnant woman to carry out activities or expose her to working conditions where she is or may be exposed to physical impacts to such an extent that this poses an irresponsible risk to her or her child. Physical impacts within the meaning of Sentence 1 shall be considered in particular to be:
1. ionising and non-ionising radiation;
 2. shocks, vibrations and noise;
 3. heat, cold and wet.
- (4) The employer must not allow a pregnant woman to carry out activities or expose her to working conditions where she is or may be exposed to a burdensome working environment to such an extent that this poses an irresponsible risk to her or her child. In particular, the employer may not allow a pregnant woman to carry out any activities
1. in rooms with overpressure within the meaning of Section 2 of the Compressed Air Ordinance [*Druckluftverordnung* – *DruckLV*];
 2. in rooms with an oxygen-reduced atmosphere; or
 3. in underground mining.

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- (5) The employer must not allow a pregnant woman to carry out activities or expose her to working conditions in which she is or may be exposed to physical stress or mechanical impact to such an extent that this poses an irresponsible risk to her or her child. In particular, the employer may not allow a pregnant woman to perform any activities in which
 1. she has to lift, hold, move or transport loads weighing more than five kilograms by hand without mechanical aids on a regular basis or loads weighing more than ten kilograms by hand on an occasional basis;
 2. she has to lift, hold, move or transport loads resulting in an equivalent physical strain involved in the work under Number 1;
 3. she is required to stand constantly while mainly remaining physically inactive, after the fifth month of pregnancy, where this type of work exceeds a period of four hours a day;
 4. she has to stretch considerably, bend over, constantly squat, stoop or adopt other forced postures;
 5. she is deployed on means of transport if this poses an irresponsible risk to her or her child;
 6. there is a risk of accidents, especially slips, trips, falls or physical assaults occurring that pose an irresponsible risk to her or her child;
 7. she has to wear protective equipment and this puts her under stress; or
 8. there is a risk of an increase in pressure in the abdominal cavity, especially when performing activities that involve particular strain on the feet.
- (6) The employer may not allow a pregnant woman to carry out the following activities:
 1. piecework or other work where a higher rate of pay can be achieved through an increased pace of work;
 2. assembly line work; or
 3. timed work with a prescribed pace of work if the nature of the work or the pace of work poses an irresponsible risk to the pregnant woman or her child.

§ 12 Inadmissible activities and working conditions for breastfeeding women

- (1) The employer must not allow a pregnant woman to carry out activities or expose her to working conditions where she comes into contact or might come into contact with hazardous substances to such an extent that this poses an irresponsible risk to her or her child. An irresponsible risk within the meaning of Sentence 1 exists in particular if the breastfeeding woman carries out activities or is exposed to working conditions in which she comes into contact or might come into contact with the following hazardous substances:
 1. hazardous substances which, according to the criteria listed in Appendix I to Regulation (EC) Number 1272/2008, are toxic to reproduction according to the additional category for effects on or via lactation; or
 2. lead and lead derivatives, insofar as there is a risk of these substances being absorbed by the human body.
- (2) The employer may not allow a breastfeeding woman to perform any activities or expose her to any working conditions in which she comes into contact or might come into contact with biological substances under risk group 2, 3 or 4 within the meaning of Section 3 Subsection 1 of the Biological Substances Ordinance [Biostoffverordnung – BiostoffV] to a degree that poses an irresponsible risk to her or her child. An irresponsible risk within the meaning of Sentence 1 exists in particular if the breastfeeding woman carries out activities or is exposed to working conditions in which she comes into contact or might come into contact with biological substances to be classified in risk group 4 within the meaning of Section 3 Subsection 1 of the Biological Substances Ordinance. Sentences 1 and 2 shall also apply if the contact with biological substances within the meaning of Sentence 1 or 2 necessitates or potentially necessitates therapeutic measures which themselves pose an irresponsible risk. An irresponsible risk within the meaning of Sentence 1 or 2 shall be deemed to be excluded if the breastfeeding woman has sufficient immune protection.

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- (3) The employer must not allow a breastfeeding woman to carry out activities or expose her to working conditions where she is or may be exposed to physical impacts to such an extent that this poses an irresponsible risk to her or her child. Physical impacts within the meaning of Sentence 1 shall include in particular ionising and non-ionising radiation.
- (4) The employer must not allow a breastfeeding woman to carry out activities or expose her to working conditions where she is or may be exposed to a burdensome working environment to such an extent that this poses an irresponsible risk to her or her child. In particular, the employer may not allow a breastfeeding woman to carry out any activities
1. in rooms with overpressure within the meaning of Section 2 of the Compressed Air Ordinance [*Druckluftverordnung – DruckLV*]; or
 2. in underground mining.
- (5) The employer may not allow a breastfeeding woman to carry out the following activities:
1. piecework or other work where a higher rate of pay can be achieved through an increased pace of work;
 2. assembly line work; or
 3. timed work with a prescribed pace of work if the nature of the work or the pace of work poses an irresponsible risk to the breastfeeding woman or her child.

§ 13 Ranking of protective measures: change of working conditions, change of workplace and occupational work ban

- (1) If irresponsible risks within the meaning of Section 9, Section 11 or Section 12 are identified, the employer shall take protective measures for each activity of a pregnant or breastfeeding woman in the following order of priority:
1. The employer shall modify the working conditions for pregnant or breastfeeding women by taking protective measures under Section 9 Subsection 2.

2. If the employer is unable to eliminate irresponsible risks to the pregnant or breastfeeding woman by rearranging the working conditions under Number 1, or if a rearrangement is unreasonable due to the proven disproportionate expense, the employer shall assign the woman to another suitable workplace if they can provide such a workplace and it is reasonable to expect the pregnant or breastfeeding woman to work at this workplace.
 3. If the employer is unable to eliminate irresponsible risks to the pregnant or breastfeeding woman either by protective measures according to Number 1 or by a change of workplace according to Number 2, the employer may not continue to have the pregnant or breastfeeding woman perform work.
- (2) The contracting entity or intermediate supervisor may not assign home work to pregnant or breastfeeding women if irresponsible risks cannot be eliminated by means of protective measures under Subparagraph 1 Number 1.

§ 14 Documentation and notification on the part of the employer

- (1) The employer shall document the assessment of the working conditions under Section 10 in order to show the following:
 1. the result of the risk assessment under Section 10 Subsection 1 Sentence 1 Number 1 and the need for protective measures under Section 10 Subsection 1 Sentence 1 Number 2;
 2. the determination of the necessary protective measures under Section 10 Subsection 2 Sentence 1 as well as the result of the review of these measures under Section 9 Subsection 1 Sentence 2; and
 3. the offer of an interview with the woman regarding further adaptations of her working conditions under Section 10 Subsection 2 Sentence 2 or the timing of such an interview.

If the assessment under Section 10 Subsection 1 shows that the pregnant or breastfeeding woman or her child is not and cannot be exposed to any risk within the meaning of Section 9 Subsection 2, it shall be sufficient to note this finding in any documentation of the assessment of working conditions under Section 5 of the Occupational Health and Safety Act [*Arbeitsschutzgesetz – ArbSchG*] already drawn up for the woman's workplace or activity.

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- (2) The employer shall inform all persons in their employ of the result of the risk assessment under Section 10 Subsection 1 Sentence 1 Number 1 and of the need for protective measures under Section 10 Subsection 1 Sentence 1 Number 2.
- (3) The employer shall inform a pregnant or breastfeeding woman of the risk assessment under Section 10 Subsection 1 Sentence 1 Number 1 and of the associated protective measures required for her under Section 10 Subsection 2 Sentence 1 in conjunction with Section 13.

§ 15 Notifications and proofs to be provided on the part of pregnant and breastfeeding women

- (1) A pregnant woman is to inform her employer of her pregnancy and the expected date of delivery as soon as she knows she is pregnant. A breastfeeding woman is to tell her employer as early as possible that she is breastfeeding.
- (2) At the employer's request, a pregnant woman is to produce a medical certificate or the certificate issued by a midwife or obstetric nurse as proof of her pregnancy. The certificate of pregnancy shall include the expected date of delivery.

Subsection 3 – Medical health protection

§ 16 Medical work ban

- (1) An employer may not have a pregnant woman perform work if a medical certificate indicates that her health or the health of her child would be endangered if she continued to work.
- (2) The employer may not have a woman perform work who, according to a medical certificate, is not fully able to perform work that exceeds her work capacity in the first months after childbirth.

Section 3 – Protection from dismissal

§ 17 Ban on dismissal

- (1) An employer may not dismiss a woman
 1. during her pregnancy;
 2. until the expiry of four months after a miscarriage after the twelfth week of pregnancy; and
 3. until the end of their period of protection after childbirth, but at least up until the expiry of four months after childbirth;

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if the employer is aware of the pregnancy, the miscarriage after the twelfth week of pregnancy or the childbirth at the time of the dismissal or if the information is communicated to them within two weeks after receipt of the notice of dismissal. Exceeding this time limit is not detrimental if the woman is not responsible for the delay and the notification is then made without delay. Sentences 1 and 2 shall apply analogously to preparatory measures taken by the employer with a view to dismissing the woman.

- (2) The supreme federal state authority responsible for occupational health and safety or the body designated by it may exceptionally declare dismissal permissible in special cases not connected with the condition of the woman during pregnancy, after a miscarriage after the twelfth week of pregnancy or after childbirth. The notice of dismissal must be issued in writing and must state the reason for dismissal.
- (3) The contracting entity or intermediate supervisor may not exclude a woman who works from home from the assignment of home work against her will during the periods referred to in Section 1 Subsection 1; Sections 3, 8, 11 and 12, Section 13

Subsection 2 and Section 16 shall remain unaffected. Subparagraph 1 shall also apply to a woman who has an equivalent status to that of a woman working from home and whose equivalent status also extends to Section 29 of the Home Work Act [*Heimarbeitsgesetz – HAG*]. Subparagraph 2 shall apply analogously to a woman who works from home and to a woman of equivalent status.

Section 4 – Benefits

§ 18 Maternity protection pay

A woman who is not allowed to work at all or in part because of a work ban outside the periods of protection before or after childbirth receives maternity protection pay from her employer. Maternity protection pay is calculated as the average earnings of the last three calendar months prior to the start of pregnancy. This shall also apply if, because of such a work ban, the employment or the type of remuneration changes. If the employment contract does not begin until after the onset of pregnancy, the average pay is calculated based on the pay for the first three months of employment.

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§ 19 Maternity allowance

- (1) A woman who has statutory health insurance shall receive the maternity allowance under the provisions of the Fifth Book of the Social Code or under the provisions of the Second Act on Farmers' Health Insurance (KVLG) for the periods of protection before and after childbirth and for the day of childbirth.
- (2) A woman who does not have statutory health insurance shall receive the maternity allowance at the expense of the Federal Government for the periods of protection before and after childbirth as well as for the day of childbirth in analogous application of the provisions of the Fifth Book of the Social Code on the maternity allowance, but not exceeding a total of EUR 210. The maternity allowance is paid to the woman on application by the Federal Office for Social Security. If the employment ends as a result of termination under Section 17 Subsection 2, the woman shall receive maternity pay by applying Sentences 1 and 2 analogously for the period after the end of the employment.

§ 20 Supplement to the maternity allowance

- (1) A woman receives a maternity allowance supplement from her employer for the periods of protection before and after childbirth as well as for the day of childbirth. The maternity allowance supplement is the difference between EUR 13 and the average daily pay, less statutory deductions, of the last three calendar months before the start of the period of protection before the birth. A woman whose employment begins during the periods of protection before or after childbirth is paid the maternity allowance supplement from the beginning of employment.
- (2) If a woman has more than one employer, calculation of the employer supplement according to Subparagraph 1 is based on the average of the total pay received from all employers. The resulting amount shall be paid by the employers on a pro rata basis according to the amount of the average pay per calendar day paid by each of them.

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- (3) If the employment ends as a result of dismissal under Section 17 Subsection 2, the woman shall receive the maternity allowance supplement under Subparagraph 1 from the body responsible for paying the maternity allowance for the period after the end of the employment. Sentence 1 shall apply analogously if the employer is unable to pay the allowance under Subparagraph 1 due to an insolvency within the meaning of Section 165 Subsection 1 Sentence 2 of the Third Book of the Social Code.
2. reductions in remuneration that occur during the calculation period as a result of short-time work, loss of working hours or absence from work through no fault of the employee; and
3. in the event of termination of parental leave under the Federal Parental Allowance and Parental Leave Act [*Bundeselterngeld- und Elternzeitgesetz* – BEEG], the remuneration from part-time employment earned during parental leave prior to the termination of parental leave, insofar as the average pay is higher without taking into account the periods during which this remuneration was earned.

§ 21 Determination of the average pay

- (1) When determining the period for calculating the average pay for the benefits under Sections 18 to 20, periods during which the woman did not receive any earnings due to absence through no fault of her own shall not be included. If the employment lasted less than three months, the calculation shall be based on the actual period of employment.
- (2) For the purpose of determining the average pay for the benefits under Sections 18 to 20, the following shall not be included:
 1. remuneration paid on a one-off basis within the meaning of Section 23a of the Fourth Book of the Social Code;
- (3) If it is not possible to determine the average pay based on Subparagraphs 1 and 2, the average daily pay of a person employed in a comparable position shall be taken as a basis.
- (4) In the event of a permanent change in the amount of pay, the new amount of pay shall be used as a basis for determining the average pay for the benefits under Sections 18 to 20, namely
 1. for the entire calculation period if the change takes effect during the calculation period; or
 2. from the effective date of the change in the amount of pay, if the change in the amount of pay takes effect after the calculation period.

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§ 22 Benefits during parental leave

During parental leave, claims to benefits under Sections 18 and 20 arising from employment suspended due to parental leave are excluded. If the woman works part-time during parental leave, only the remuneration from this part-time work is to be taken as a basis for determining the average pay.

§ 23 Pay in the event of release time for medical check-ups and breastfeeding

- (1) The pregnant or breastfeeding woman must not suffer any loss of pay as a result of the granting of release time under Section 7. The woman may not be required to make up release time, whether in advance or later. Nor may such time be counted towards breaks as stipulated in the Working Hours Act [*Arbeitszeitgesetz* – ArbZG] or other regulations.
- (2) The contracting entity or intermediate supervisor shall pay a woman working from home and a woman with an equivalent status a remuneration for the breastfeeding period which is to be calculated at the rate of the average hourly

pay for each working day. If a woman works for more than one contracting entity or intermediate supervisor, the latter shall pay the remuneration for the breastfeeding period in equal shares. The provisions under Sections 23 to 25 of the Home Work Act [*Heimarbeitsgesetz* – HAG] on the protection of remuneration shall apply.

§ 24 Continued entitlement to holiday leave in case of work bans

For the purpose of calculating the entitlement to paid holiday leave, periods of absence due to a work ban shall be regarded as periods of employment. If a woman did not receive her leave or did not receive it in full before the work bans came into effect, she can claim her remaining annual leave in the current or subsequent year on expiry of the work ban.

§ 25 Continued work after the end of the work ban

On expiry of a work ban within the meaning of Section 2 Subsection 3, a woman has the right to be employed under the contractually agreed conditions.

Section 5 – Implementation of the Act

§ 26 Posting of the Act

- (1) In businesses and administrations where more than three women are regularly employed, the employer must display or post a copy of the Maternity Protection Act in a suitable place for viewing. This does not apply if the employer has made it accessible at all times to employees electronically.
 - (2) In the case of a woman working from home or her equivalent, the contracting entity or intermediate supervisor shall display or post a copy of this Act in a suitable place for inspection on the premises where home work is issued or accepted. Subparagraph 1 Sentence 2 shall apply accordingly.
- b) that she is breastfeeding, unless the employer has already notified the supervisory authority of that woman's pregnancy; or
2. if the employer intends to have a pregnant or breastfeeding woman work
 - a) until 10 pm according to the provisions of Section 5 Subsection 2 Sentence 2 Number 3; or
 - b) on Sundays and public holidays according to the provisions of Section 6 Subsection 1 Sentence 2 Number 3 or Subsection 2 Sentence 2 Number 3; or
 - c) at a prescribed pace within the meaning of Section 11 Subsection 6 Sentence 3 or Section 12 Subsection 5 Sentence 3.

The employer shall not disclose this information to third parties without being authorised to do so.

§ 27 Notification and retention obligations on the part of the employer, prohibition of disclosure by the persons entrusted with supervision

- (1) The employer shall notify the supervisory authority without delay
 1. when they have been informed by a woman
 - a) that she is pregnant; or
- (2) The employer shall, on request, provide the supervisory authority with the information necessary for that authority to fulfil its duties. The employer must provide the information truthfully, completely and in good time.
- (3) On request, the employer shall submit or send documentary evidence of the following to the supervisory authority for inspection:
 1. the names of pregnant or breastfeeding women in their employment;

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2. the nature and period of their employment;
 3. the pay that they have received;
 4. the results of the assessment of the working conditions under Section 10; and
 5. any other information required under Subparagraph 2.
- (4) The person required to provide information may refuse to answer such questions or to produce such documents where this would expose them or one of their relatives referred to in Section 383 Subsection 1 Sentence 1 to 3 of the Code of Civil Procedure [*Zivilprozessordnung – ZPO*] to the risk of prosecution for a criminal offence or regulatory offence. The person required to provide the information shall be notified of this.
- (5) The employer shall keep the documents referred to in Subparagraph 3 at least until the expiry of two years after the last registration.
- (6) The persons of the supervisory authority entrusted with monitoring may only disclose business and trade secrets of which they have become aware in the

course of their monitoring activities to the competent authorities in cases regulated by law or for the prosecution of violations of the law or for the fulfilment of tasks regulated by law for the protection of the environment. Insofar as business and trade secrets constitute information about the environment within the meaning of the Environmental Information Act [*Umweltinformationsgesetz – UIG*], the authority to disclose them shall be governed by the Environmental Information Act.

§ 28 Official approval procedure for work between 8 pm and 10 pm

- (1) By way of derogation from Section 5 Subsection 1 Sentence 1, the supervisory authority may, at the employer's request, approve the pregnant or breastfeeding woman working between 8 pm and 10 pm if
1. the woman expressly declares her willingness to do so;
 2. there is no medically certified reason to stop her working until 10 pm; and
 3. in particular, there is no irresponsible risk to the pregnant woman or her child from working alone.

The application shall be accompanied by documentation of the assessment of the working conditions under Section 14 Subsection 1. The pregnant or breastfeeding woman may withdraw her declaration under Sentence 1 Number 1 at any time with effect for the future.

- (2) If the supervisory authority does not reject the application or does not impose a ban on work between 8 pm and 10 pm, the employer may have the woman work subject to the conditions of Subparagraph 1. The supervisory authority shall notify the employer without delay after receipt of the application if the documents required for the application under sub-paragraph 1 are incomplete. The supervisory authority may temporarily impose a ban on work to the extent necessary to ensure the protection of the health of the woman or her child.
- (3) If the supervisory authority does not reject the application within six weeks after receipt of the complete application, the approval shall be deemed to have been granted. On request, the employer shall receive certification of the granting of the deemed approval (Section 42a of the Administrative Procedure Act – *Verwaltungsverfahrensgesetz* – VwVfG).
- (4) In all other respects, the provisions of the Administrative Procedure Act shall apply.

§ 29 Responsibility and powers of the supervisory authorities, annual report

- (1) Supervision of the implementation of the provisions of this Act and of the regulations issued on the basis of this Act shall be the responsibility of the authorities competent under federal state law (supervisory authorities).
- (2) The supervisory authorities shall have the same powers as the persons charged with supervision under Section 22 Subsections 2 and 3 of the Occupational Health and Safety Act (*Arbeitsschutzgesetz* – ArbSchG). The fundamental right of inviolability of the home (Section 13 of the Basic Law – *Grundgesetz* – GG) is restricted in this respect.
- (3) The supervisory authority may in individual cases order the necessary measures to be taken by the employer to fulfil the obligations arising from Section 2 of this Act and from the statutory orders issued based on Section 31 Subsections 1 to 5. In particular, the supervisory authority may:
 1. in particularly justified individual cases, grant exemptions from the ban on additional work under Section 4 Subsection 1 Sentence 1 Number 2 and 4, and from the ban on night work between 10 pm and 6 am under Section 5 Subsection 1 Sentence 1 and Subsection 2 Sentence 1, if

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- a) the woman expressly declares her willingness to do so;
 - b) there is no medically certified reason to stop her working;
 - c) in the cases referred to in Section 5 Subsection 1 Sentence 1 or Subsection 2 Sentence 1, in particular, an irresponsible risk to the pregnant woman or her child from working alone is excluded;
2. prohibit an employer from having a pregnant or breastfeeding woman work
 - a) between 8 pm and 10 pm in accordance with Section 5 Subsection 2 Sentence 2; or
 - b) on Sundays and public holidays in accordance with Section 6 Subsection 1 Sentence 2, or Section 6 Subsection 2 Sentence 2;
 3. request details of leave for breastfeeding under Section 7 Subsection 2 and the provision of premises suitable for breastfeeding;
 4. request details of the permissible quantity of work under Section 8;
 5. request protective measures under Section 9 Subsections 1 to 3 and Section 13;
 6. request details of the nature and scope of the assessment of working conditions under Section 10;
 7. ban certain activities or working conditions under Section 11 or Section 12;
 8. grant exemptions from the provisions under Section 11 Subsection 6 Sentences 1 and 2 and Section 12 Subsection 5 Sentences 1 and 2 if the nature of the work and the pace of work do not pose an irresponsible risk to the pregnant or breastfeeding woman or to her child; and
 9. request details of the nature and scope of the documentation and information under Section 14.

The pregnant or breastfeeding woman may withdraw her request under Sentence 2 Number 1 at any time with effect for the future.

- (4) The supervisory authority shall advise the employer on the fulfilment of their obligations under this Act and the persons employed by them on their rights and obligations under this Act; this shall not apply to the rights and obligations under Sections 18 to 22.
- (5) For establishments and administrations in the area of responsibility of the Federal Ministry of Defence, supervision under Subparagraph 1 shall be carried out by the Federal Ministry of Defence or the agency designated by it at its own responsibility.

- (6) The competent supreme federal state authorities shall publish an annual report on the supervisory activities of their subordinate authorities. The annual report shall also include information on the fulfilment of information obligations arising from international conventions or acts of law of the European Union as they relate to maternity protection.
- (2) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth shall appoint the members of the Maternity Protection Committee and the substitute members in agreement with the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Health and the Federal Ministry of Education and Research. The Committee shall adopt its own rules of procedure and elect a chairperson from among its members. The rules of procedure and the election of the chairperson require the approval of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Approval shall be granted in agreement with the Federal Ministry of Labour and Social Affairs and the Federal Ministry of Health.

§ 30 Maternity Protection Committee

- (1) A Maternity Protection Committee shall be established at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth with suitable persons representing public and private employers, training organisations, trade unions, student bodies and federal state authorities as well as other suitable persons, in particular from the academic community. The committee shall not have more than 15 members. A substitute member shall be appointed for each member. Membership of the Maternity Protection Committee is unpaid.
- (3) The responsibilities of the Maternity Protection Committee include
 1. determining and justifying the nature, extent and duration of the possible irresponsible risks to a pregnant or breastfeeding woman and her child in accordance with scientific findings;
 2. establishing safety-related, occupational health and hygiene rules for the protection of pregnant or breastfeeding women and their children; and

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3. advising the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on all issues relating to maternity protection.

The committee shall work closely with the committees under Section 18 Subsection 2 Sentence 5 of the Occupational Health and Safety Act [*Arbeitsschutzgesetz – ArbSchG*].

- (4) After review by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, by the Federal Ministry of Labour and Social Affairs, by the Federal Ministry of Health and by the Federal Ministry of Education and Research, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth may, in agreement with the other federal ministries referred to in this subparagraph, publish the rules and findings drawn up by the Maternity Protection Committee under subparagraph 3 in the Joint Ministerial Gazette.
- (5) The federal ministries and the supreme federal state authorities may send representatives to the meetings of the Maternity Protection Committee. They shall be given the floor at the meeting on request.
- (6) The business of the Maternity Protection Committee shall be conducted by the Federal Office of Family Affairs and Civil Society Functions.

§ 31 Issuance of legal ordinances

The Federal Government is authorised to issue ordinances to regulate the following with the consent of the Federal Council:

1. more detailed provisions on the concept of irresponsible risk under Section 9 Subsection 2 Sentence 2 Number 3;
2. more detailed provisions on the implementation of the necessary protective measures under Section 9 Subsections 1 and 2 and Section 13;
3. more detailed provisions on the nature and scope of the assessment of working conditions under Section 10;
4. determinations regarding unlawful activities and working conditions within the meaning of Section 11 or Section 12 or regarding other activities and working conditions which are unlawful under this Act;
5. more detailed provisions on documentation and information under Section 14;
6. more detailed provisions for determining the average pay within the meaning of Sections 18 to 22; and
7. more detailed provisions on the required content of the notification, its form, the manner of transmission and the recipients of the information to be reported by the employer under Section 27.

Section 6 – Rules on fines, penal provisions

§ 32 Fines

- (1) A regulatory offence is committed by anyone who intentionally or negligently
1. has a woman work in contravention of Section 3 subparagraph 1 Sentence 1, also in conjunction with Sentence 4, in contravention of Section 3 Subparagraph 2 Sentence 1, also in conjunction with Sentence 2 or 3, in contravention of Section 3 Subparagraph 3 Sentence 1, Section 4 Subparagraph 1 Sentence 1, 2 or 4 or Section 5 Subparagraph 1 Sentence 1, Section 6 Subparagraph 1 Sentence 1, Section 13 Subparagraph 1 Number 3 or Section 16;
 2. fails to grant a rest period, or does not do so properly or in a timely manner, in contravention of Section 4 subparagraph 2;
 3. has a woman work in contravention of Section 5 Subparagraph 2 Sentence 1 or Section 6 Subparagraph 2 Sentence 1;
 4. does not release a woman from work in contravention of Section 7 subparagraph 1 Sentence 1, also in conjunction with Sentence 2, or in contravention of Section 7 Subparagraph 2 Sentence 1;
 5. assigns home work in contravention of Section 8 or Section 13 Subparagraph 2; fails to assess a hazard or fails to do so properly or in good time or fails to carry out an investigation properly or in good time in contravention of Section 10 Subparagraph 1 Sentence 1, also in conjunction with an ordinance under Section 31 Number 3;
 6. fails to determine a protective measure, fails to determine it correctly or fails to determine it in good time, in contravention of Section 10 Subparagraph 2 Sentence 1, also in conjunction with an ordinance under Section 31 Number 3;
 7. in contravention of Section 10 Subparagraph 3, has a woman engage in any work other than that specified therein;
 8. fails to prepare documentation, fails to prepare it correctly, fails to prepare it completely or fails to prepare it in time, in contravention of Section 14 Subparagraph 1 Sentence 1 in conjunction with an ordinance under Section 31 Number 5;
 9. fails to provide information or provide it correctly, completely or in good time in contravention of Section 14

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Subparagraph 2 or 3, in each case in conjunction with an ordinance under Section 31 Number 5,

10. fails to notify the supervisory authority, fails to notify it correctly or fails to notify it in good time in contravention of Section 27 Subparagraph 1 Sentence 1;
11. discloses information in contravention of Section 27 Subparagraph 1 Sentence 2;
12. fails to provide information or to provide it correctly, completely or in good time in contravention of Section 27 Subparagraph 2;
13. fails to submit a document, fails to submit it correctly or fails to submit it at all or in good time in contravention of Section 27 Subparagraph 3;
14. fails to retain a document or to retain it for at least two years in contravention of Section 27 Subparagraph 5;
15. contravenes an enforceable order under Section 29 Subparagraph 3 Sentence 1; or
16. contravenes an ordinance under Section 31 Number 4 or an enforceable order based on such an ordinance, insofar as the ordinance refers to this provision on fines for a specific offence.

- (2) The regulatory offence may attract a fine of up to EUR 30,000 in the cases referred to in Subparagraph 1, Numbers 1 to 5, 8, 16 and 17, and a fine of up to EUR 5,000 in other cases.

§ 33 Penal provisions

Any person who commits an intentional act referred to in Section 32 Subparagraph 1 Number 1 to 5, 8, 16 and 17 and thereby endangers the health of a woman or her child shall be liable to a custodial sentence not exceeding one year or to a fine.

Section 7 – Final provisions

§ 34 Evaluation report

The Federal Government shall submit an evaluation report on the effects of the Act to the German Bundestag by 1 January 2021. The main focus of the report shall be the manageability of the statutory regulations in the practice of businesses and authorities, the effectiveness and impact of the Act in terms of its scope of application, the impact of the provisions prohibiting additional work and night work and the prohibition of work on Sundays and public holidays, and the work of the Maternity Protection Committee. The report must not contain any personal data.

5.2 Fifth Book of the Social Code (SGB V) – Excerpts

§ 10 Family insurance

(Extract Section 1 Sentence 4)

Spouses and life partners are not insured for the duration of the periods of protection under Section 3 Subsection 2 and Section 6 Subsection 1 of the Maternity Protection Act as well as during their parental leave if they did not last have statutory health insurance before these periods.

§ 24c Pregnancy and maternity benefits

Pregnancy and maternity benefits include

1. medical care and midwife assistance;
2. provision of medicines, dressings, remedies and aids;
3. delivery;
4. home care;
5. domestic help;
6. maternity allowance.

§ 24d Medical care and midwife assistance

During pregnancy and during and after delivery, the insured person is entitled to medical care and midwife assistance, including check-ups to determine pregnancy and pre-natal care. If the child cannot be cared for by the insured person after delivery, the insured child is entitled to the benefits of midwife assistance that relate to it. Medical care also includes counselling pregnant women on the importance of oral health for mother and child, including the link between diet and disease risk, and assessing or determining the risk of transmission of caries.

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§ 24e Supply of medicines, dressings, remedies and aids

The insured person is entitled to the provision of medicines, dressings, remedies and aids during pregnancy and in connection with childbirth. The provisions applicable to the benefits under Sections 31 to 33 shall apply analogously; in the case of disorders in connection with pregnancy and childbirth, Section 31 Subsection 2, Section 32 Subsection 2, Section 33 Subsection 8 and Section 127 Subsection 4 shall not apply.

§ 24f Delivery

The insured person is entitled to outpatient or inpatient delivery. The insured person can give birth on an outpatient basis in a hospital, in a facility run by a midwife or maternity nurse, in a facility run by a doctor, at a midwife's practice or as a home birth. If the insured person is admitted to a hospital or another inpatient facility for inpatient delivery, she is entitled to accommodation, care and meals for herself and the new-born child. There is no entitlement to hospital treatment for this period. Section 39 Subsection 2 shall apply analogously.

§ 24g Home care

The insured person is entitled to home care insofar as this is necessary due to pregnancy or childbirth. Section 37 Subsections 3 and 4 shall apply analogously.

§ 24h Domestic help

The insured person receives domestic help if she is unable to continue to run the household due to pregnancy or childbirth and another person living in the household is unable to continue to run the household. Section 38 Subsection 4 shall apply analogously.

§ 24i Maternity allowance

- (1) Female insurees who are entitled to sickness benefit in the event of work incapacity or who do not receive pay due to the periods of protection under Section 3 of the Maternity Protection Act shall receive a maternity allowance. The maternity allowance is also paid to women whose employment ends immediately before the beginning of the period of protection under Section 3 Subsection 1 of the Maternity Protection Act if on the last day of their employment they had health insurance.

5 Appendix: Important maternity protection regulations

- (2) For insurees who, at the beginning of the period of protection prior to childbirth, are employed under Section 3 Subsection 1 of the Maternity Protection Act or work from home or whose employment contract was terminated under Section 17 Subsection 2 of the Maternity Protection Act, the maternity allowance shall be paid based on the average daily pay for the last three calendar months before the beginning of the period of protection under Section 3 Subsection 1 of the Maternity Protection Act, less statutory deductions. It amounts to a maximum of EUR 13 per calendar day. Section 21 of the Maternity Protection Act shall apply analogously to the determination of the average daily pay. If the average pay exceeds EUR 13 per calendar day, the excess amount is paid by the employer or by the body responsible for the payment of the maternity allowance under the provisions of the Maternity Protection Act. For women under Subparagraph 1 Sentence 2 and for other insurees, the maternity allowance shall be paid in the amount of the sickness benefit.
- (3) The maternity allowance shall be paid for the last six weeks before the expected day of delivery, the day of delivery itself and for the first eight weeks after childbirth. In the case of premature and multiple births, as well as in cases where the child is medically diagnosed with a disability in the area of the brain within eight weeks
- after delivery, within the meaning of Section 2 Subsection 1 Sentence 1 of the Ninth Book of the Social Code, and an application is made under Section 3 Subsection 2 Sentence 4 of the Maternity Protection Act, the period of payment of the maternity allowance under Sentence 1 shall be extended to the first twelve weeks after delivery. If the period of six weeks before the expected day of delivery is shortened in the case of premature births and other early deliveries, the period of entitlement shall be extended by the period that could not be taken before the delivery. For the payment of the maternity allowance before childbirth, the certificate issued by a doctor or midwife stating the expected date of delivery is decisive. In the case of births after the expected day of delivery, the reference period shall be extended accordingly until the day of delivery. For insurees whose employment begins during the periods of protection under Section 3 of the Maternity Protection Act, the maternity allowance shall be paid from the beginning of the employment.
- (4) The entitlement to the maternity allowance shall be suspended insofar as and to the extent that the insuree receives pay, earnings from work or holiday pay that is subject to contributions. This does not apply to one-off payments.

5.3 Second Farmers' Health Insurance Act (KVLG 1989)

§ 9

(Extract Section 9 Subparagraph 3a)

(3a) The statutes may provide that, instead of the maternity allowance, occupational assistance shall be granted during pregnancy and until the expiry of eight weeks after delivery, and until the expiry of twelve weeks after delivery in the case of multiple and premature births, if the operation of the business is at risk. In the case of premature births and other early deliveries, Section 6 Subsection 1 Sentence 2 of the Maternity Protection Act shall apply accordingly.

§ 14 Maternity allowance

- (1) The maternity allowance under Section 24i of the Fifth Book of the Social Code is paid to
 1. family members who are subject to compulsory insurance and who are subject to pension insurance; and
 2. other insurees who meet the requirements of Section 24i Subsection 2 of the Fifth Book of the Social Code.
- (2) A maternity allowance in the amount of the sickness benefit shall be paid under the conditions of Section 24i Subsection 3 Sentence 4 of the Fifth Book of the Social Code to
 1. family members who are subject to compulsory insurance but do not meet the requirements for maternity benefit under Section 24i Subsection 2 of the Fifth Book of the Social Code;
 2. co-working family members who are not subject to statutory pension insurance; and
 3. persons mentioned under Section 2 Subsection 1 Sentence 6 in connection with Section 5 Subsection 1 Sentence 2 of the Fifth Book of the Social Code.

5.4 Insurance Contract Act (VVG)

§ 192 Typical benefits provided by the insurer

(Excerpt)

- (5) In the case of daily sickness benefit insurance, the insurer is obliged to compensate the loss of earnings caused by work incapacity as a result of illness or accident by means of the agreed daily sickness benefit. The insurer is also obliged

to compensate any loss of earnings that occurs during the periods of protection under Section 3 Subsections 1 and 2 of the Maternity Protection Act and on the day of delivery with the agreed daily sickness benefit, insofar as the insured person is not otherwise entitled to appropriate compensation for the loss of earnings caused during this period.

5.5 Further regulations relevant to maternity protection

In addition to the Maternity Protection Act, the legislator has enacted numerous other provisions to ensure health protection from hazards, excessive demands and exposure to hazardous substances at the workplace.

Regulations on the protection of women of childbearing age, pregnant women and breastfeeding women and their children are to be found in the following legal provisions, including:

- Workplace Ordinance [*Arbeitsstättenverordnung – ArbStättV*]
- Biological Substances Ordinance [*Biostoffverordnung – BiostoffV*]
- Ordinance on Hazardous Substances [*Gefahrstoffverordnung – GefStoffV*]
- X-Ray Ordinance [*Röntgenverordnung – RöV*]
- Radiation Protection Ordinance [*Strahlenschutzverordnung – StrlSchV*]

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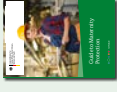
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Important dates, deadlines, information

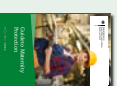
I



Before pregnancy	During pregnancy	Before the start of the period of protection	Period of protection before childbirth
<ul style="list-style-type: none"> ○ Possibly obtain information about maternity protection from your employer → p. 22 	<ul style="list-style-type: none"> ○ Inform employer of pregnancy and calculated date of delivery (possibly submit medical certificate or certificate issued by midwife/delivery nurse) → p. 23 ff. ○ Agree on information and planning meeting with employer → p. 24 f. ○ Enable continued employment until the start of the period of protection before the birth, <ul style="list-style-type: none"> • taking into account permissible working hours (e.g. max. 8.5 hours per day) <ul style="list-style-type: none"> – After 8 pm and on Sundays and public holidays, work is only possible with your consent → p. 27 ff. • Entitlement to rest opportunities, short breaks from work and, if necessary, time off for required medical check-ups → p. 26, 33 • Implement protective measures where required (adapt working conditions, change of workplace) → p. 33 ff., 38 • Partial/full occupational or medical work ban, where applicable → p. 40 ff. 	<ul style="list-style-type: none"> ○ Apply to health insurance (or the Federal Office for Social Security) for maternity allowances for the periods of protection before and after the birth → p. 78 ff., 87 ff. <ul style="list-style-type: none"> – Submit medical certificate or certificate issued by midwife/delivery nurse with the date of delivery and employer confirmation to calculate maternity pay – Additional entitlement to maternity allowance where relevant (employer supplement) ○ If parental leave starts directly after the period of protection, inform the employer <ul style="list-style-type: none"> – no later than seven weeks before it starts ○ If necessary, discuss job re-entry with employer in advance, e.g. communicate your desire to work part-time 	<ul style="list-style-type: none"> ○ Work is generally prohibited six weeks before the birth → p. 44 <ul style="list-style-type: none"> – Continued work possible at employee's request
	<ul style="list-style-type: none"> ○ Plan time up until maternity leave (handover, remaining tasks) <ul style="list-style-type: none"> – Special protection from dismissal applies from the beginning of pregnancy → p. 23, 66 ff. – No loss of pay for release time under maternity protection and work bans → Entitlement to continued pay (maternity protection pay) → p. 77 – You must not be required to make up release time, either before or after, no deduction of rest breaks → p. 26, 76 		

Important dates, deadlines, information

II



Protection period after birth

After birth

Return to work

- Usually for eight weeks after birth, in special cases for twelve weeks, there is an absolute ban on work
 - Continued work at employee's request not possible → **p. 44 ff.**
- Send copy of birth certificate to health insurance
- Apply for child benefit from the family benefit office at the employment agency responsible
 - Submit tax identification numbers
 - Child benefit is paid regardless of income
- Apply for parental allowance from the parental allowance office
 - Retrospective payment only possible for the last three months after the application was made
 - Submit birth certificate and proof of income
- Inform employer in writing about return or inform employer of parental leave at least seven weeks before it starts
- Where applicable, inform employer in writing of your wish to work part-time during parental leave
 - Seven weeks before you wish to start
 - Up to 30 hours per week on average per month is possible
- Special protection from dismissal applies up until the end of the period of protection after birth, and at least until four months after the birth → **p. 63 ff.**
- Interview on the subject of your return to work, if necessary inform employer you will be breastfeeding → **p. 51**
- Entitlement to work in line with maternity protection requirements, e.g. during the breastfeeding period
 - taking into account permissible working hours (e.g. max. 8.5 hours per day)
 - After 8 pm and on Sundays and public holidays, your employer can only have you work if you agree to do so → **p. 52 ff.**
 - Entitlement to rest facilities, short breaks from work and, if necessary, release time for breastfeeding breaks and medical check-ups as required → **p. 52 ff.**
 - If necessary, implementation of protective measures (adaptation of working conditions, change of workplace) → **p. 54 ff.**
 - If applicable, partial/full occupational or medical work ban → **p. 56**
- No loss of pay for release time under maternity protection and work bans → Entitlement to continued pay (maternity protection pay) → **p. 77**
- You must not be required to make up release time, either before or after, no deduction of rest breaks → **p. 77**
- If necessary, apply for part-time work after parental leave



**You will find a checklist opposite
which sets out details of important dates, deadlines
and information on the subject of maternity
protection**

If this list is missing or gets lost, please see our PDF of
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-  Commitment
-  Family
-  Older Persons
-  Equality
-  Children and Youth