

(Fair Work Act 2009)

## 81 Transfer to a safe job

- (1) This section applies to a pregnant employee if she gives her employer evidence that would satisfy a reasonable person that she is fit for work, but that it is inadvisable for her to continue in her present position during a stated period (the ***risk period***) because of:
- (a) illness, or risks, arising out of her pregnancy; or
  - (b) hazards connected with that position.

Note: Personal information given to an employer under this subsection may be regulated under the *Privacy Act 1988*.

- (2) If there is an appropriate safe job available, then the employer must transfer the employee to that job for the risk period, with no other change to the employee's terms and conditions of employment.

Note: If there is no appropriate safe job available, then the employee may be entitled to paid no safe job leave under section 81A or unpaid no safe job leave under 82A.

- (3) An ***appropriate safe job*** is a safe job that has:
- (a) the same ordinary hours of work as the employee's present position; or
  - (b) a different number of ordinary hours agreed to by the employee.
- (4) If the employee is transferred to an appropriate safe job for the risk period, the employer must pay the employee for the safe job at the employee's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.
- (5) If the employee's pregnancy ends before the end of the risk period, the ***risk period*** ends when the pregnancy ends.
- (6) Without limiting subsection (1), an employer may require the evidence to be a medical certificate.

(Fair Work Act 2009)

## 18 Meaning of *full rate of pay*

### *General meaning*

- (1) The ***full rate of pay*** of a national system employee is the rate of pay payable to the employee, including all the following:
- (a) incentive-based payments and bonuses;
  - (b) loadings;
  - (c) monetary allowances;
  - (d) overtime or penalty rates;
  - (e) any other separately identifiable amounts.

### *Meaning for pieceworkers in relation to entitlements under National Employment Standards*

- (2) However, if one of the following paragraphs applies to a national system employee who is a pieceworker, the employee's ***full rate of pay***, in relation to entitlements under the National Employment Standards, is the full rate of pay referred to in that paragraph:

	<ul style="list-style-type: none"><li>(a) a modern award applies to the employee and specifies the employee's full rate of pay for the purposes of the National Employment Standards;</li><li>(b) an enterprise agreement applies to the employee and specifies the employee's full rate of pay for the purposes of the National Employment Standards;</li><li>(c) the employee is an award/agreement free employee, and the regulations prescribe, or provide for the determination of, the employee's full rate of pay for the purposes of the National Employment Standards.</li></ul>
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