

# Applying for an exemption from the ban on overtime and night work for a pregnant or breastfeeding person

As an employer, do you employ a pregnant or breastfeeding woman? Then, under certain conditions, you can apply for an exemption from the ban on night work and overtime as well as the type and pace of work.

## Competent Department

- [Gewerbeaufsicht des Landes Bremen | Dienstort Bremen](#)
- [Gewerbeaufsicht des Landes Bremen | Dienstort Bremerhaven](#)

## Basic information

The Maternity Protection Act applies to all pregnant and breastfeeding women who are in an employment relationship. A woman within the meaning of the Maternity Protection Act is any person who is pregnant, has given birth or is breastfeeding - regardless of the gender stated in the birth registration.

Accordingly, special rules apply to pregnant and breastfeeding women when it comes to physically or mentally demanding work.

As an employer, you are not permitted to employ pregnant or breastfeeding women in the following activities:

- Night work
- overtime
- continuous flow work
- piecework
- other work in which higher pay can be achieved in return for a higher work rate

In particularly justified individual cases, you can apply for an exemption from the authority responsible for occupational health and safety.

Night work is when an activity is carried out between 10 p.m. and 6 a.m.

If you employ a pregnant or breastfeeding woman aged 18 or over, this is considered overtime if she works

- over 8.5 hours a day

- over 90 hours in a double week (including Sundays)
- the contractually agreed weekly working hours exceed the monthly average

works more than the monthly average.

If you employ a pregnant or breastfeeding woman under the age of 18, this is considered overtime if she:

- over 8 hours a day
- over 80 hours in a double week (including Sundays)
- the contractually agreed weekly working hours exceed the monthly average

works more than the monthly average.

If there are other employers in addition to you, the working hours must be added together.

Authorization of overtime, night work, continuous or piecework does not replace the basic requirement to notify the supervisory authority that an employee is pregnant. This notification must be made as soon as the employer has been informed of the pregnancy.

## Requirements

- As the applicant, you are the employer.
- The pregnant or breastfeeding woman expressly declares her willingness to do so.
- The medical certificate does not speak against the planned
  - night work,
  - overtime,
  - piecework or
  - continuous work.
- An irresponsible risk to the pregnant woman due to working alone, the type of work and the pace of work is excluded.
- There is no irresponsible risk to the child from working alone, the type of work and the pace of work.

## What documents do I need?

- Documentation of the assessment of working conditions in accordance with Section 14 (1) MuSchG
- Medical certificate stating that there is no reason why the woman should not be employed:
  - Night,
  - multiple,
  - piecework or
  - continuous flow work.
- Declaration of consent by the pregnant or breastfeeding woman
  - The woman can revoke her declaration at any time.

## Procedure

- Describe the request informally.
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- Send the application, together with the required documents and evidence, by post or email to the local trade supervisory authority.
- If the documents or information required for processing are incomplete, you will be notified.
- The trade supervisory authority will check the documents.
- If the requirements are met, the permit will be issued.
- If the requirements for approval are not met, a rejection will be issued.
- The notification of costs will be sent after the procedure has been completed.

## Legal bases

- [§ 29 Absatz 3 Nummer 1 und Nummer 8 Mutterschutzgesetz \(MuSchG\)](#)
- [Gesundheits-Kostenverordnung \(GesundKostV\)](#)

## More information

Legal remedy:

- Appeal
- Further information on how to lodge an objection can be found in the notification of your application for approval

The Maternity Protection Act does not apply to

- Self-employed persons
- Board members and managing directors of legal entities or companies (unless they are also predominantly employed)
- housewives

The reason for this is that they are not in an employment relationship.

## What deadlines must be paid attention to?

You must submit the application before the pregnant or breastfeeding woman takes up employment.

## How long does it take to process

Processing takes up to 6 weeks.

## What are the costs?

The fees are charged on a time and material basis and are based on the Health Costs Ordinance (GesundKostV) No. 602.04.03 with fees ranging from € 155.50 to € 2600.00. You can find the current cost ordinance in the legal bases.