

Employers Guide to the Legal Framework for the Protection of Pregnant Workers in Nigeria.



Introduction

Maternity protection and childcare are essential rights to be considered when dealing with the employment of female employees. Employers are encouraged to incorporate policies and practices aimed at assisting female employees to combine family responsibilities with work.

There has been an upward trajectory of laws and decisions aimed at promoting the rights and interest of pregnant and nursing mothers in the workplace. To ensure a safe working environment where women can thrive, it is necessary to put in place legal measures to ensure the health and safety of women in the workplace.



Rights and entitlements of pregnant and nursing women

The Labour Act is the key piece of legislation regulating the relationship of employers with their female employees. Apart from the Labour Act, the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the ILO Maternity Protection Convention 1919 (No 3), revised in Convention 2000 (No 183) are also enforceable in Nigeria.

The provisions of the ILO Maternity Protection Convention 2000 (No 183), although not ratified in Nigeria, are considered international best practices by the National Industrial Court. In the case of *MS BINTA OLUWATOSIN ADEJOH V ARIK AIR*¹, the Court held as follows:

⁴ Available at <https://www.nicnadr.gov.ng/judgement/judgement.php?id=9669> (last accessed on 19th September 2025)

“...even though Nigeria has not ratified ILO Convention No. 183, the Convention is binding on Nigeria as a member state of the ILO. The ILO Convention No. 183 represents the best international labour standards that this Court is enjoined to apply. See Section 254C[1][h] of the 1999 Constitution. Section 54 of the Labour Act provides for the protection of the maternity rights of women, but the protection is not extensive...”

The ILO Convention No. 183 promotes equality of all women in the workforce and the health and safety of the mother and child, recognizes the diversity in economic and social development of Members as well as the diversity of enterprises and supports the development of the protection of maternity in national law and practice. It also encourages employers to adopt appropriate measures to ensure that pregnant or breast-feeding women are not obliged to perform work which is prejudicial or poses a significant risk to the health of the mother or the child.

In Nigeria, the Labour Act makes it mandatory for employers to grant pregnant women at least 12 weeks maternity leave. According to the provisions of Section 54 (1) of the Labour Act, pregnant women shall have the right to proceed on maternity leave if she produces a medical certificate issued by a medical practitioner. The pregnant employee is also entitled to at least 50% of her salary during the period of her maternity leave. Upon the employee's resumption, she shall be allowed half an hour twice a day during her working hours for the purpose of nursing her child.

The implication of section 54 is that upon the production of a medical certificate issued by a registered medical practitioner, a pregnant employee is entitled to at least 12 weeks maternity leave which may commence 6 weeks before the expected due date. The law also makes maternity pay mandatory during the period of absence with a minimum pay of at least 50% of the employee's wages. The employee is also allowed to nurse her child during working hours for half an hour twice a day.

It is important to note that the law does not place an obligation on an employer to pay the medical expenses incurred by a pregnant employee during or on account of her pregnancy. However, in accordance with the National Health Insurance Scheme, medical benefits should be provided to the employee. Medical benefits include prenatal, childbirth, postnatal care and hospitalization care covered by the employee's health insurance provided by the employer.

This position was reiterated by the Court in **MS BINTA OLUWATOSIN ADEJOH V ARIK AIR (2005)** wherein the National Industrial Court laid bare the obligations of employers to their pregnant/nursing employees. In this case, the Claimant had applied for a leave of absence due to pregnancy related complications. During the leave of absence, Arik Air proceeded to terminate the Claimant's employment. While on the leave, the Company withdrew the Claimant's medical benefits and did not pay the Claimant salaries during the period. The Court found that the withdrawal of the Claimant's medical benefits during the leave of absence was wrongful and in breach of her employment contract. The Court also held that Arik Air could not under any guise terminate the Claimant's employment during the subsistence of the leave of absence or any time after her resumption.

In considering the obligations of an employer to its pregnant/nursing employees, the National Industrial Court in a related case – **Mrs. Nicoline Tresfon Ogidi Nwankwo V Mrs Priscilla Olloh & Mr. Augustine Olloh (2022)**² has held that the provisions of the Labour Act "stipulate that a woman on maternity leave shall not be dismissed or given notice of termination of her appointment during her maternity leave period. In other words, any action to be taken against a woman on maternity leave is to be suspended by the employer until the expiration of her maternity leave, and when she returns to duty. This is irrespective of whether the woman (employee) is on probation, or not on probation, or a confirmed staff. This is the express provision of the Law, and it is international best practice, and international labour standard. Section 54 of the Labour Act is in conformity with international best practice and standard."

² Available at <https://www.nicnadr.gov.ng/judgement/details.php?id=7526&txt=maternity%20protection%20convention> (last accessed on 19th September 2025)

"The Court adjudged the termination as discriminatory and held as follows: "From the evidence adduced, the Claimant has reasonable grounds to believe that her gender, pregnancy and childbirth, her name, her marital status, and her way of life and culture as a Dutch woman has resulted in the treatment she has received from the Defendants. This has disadvantaged her in employment with the Defendants and has resulted in the loss of her job. This is an act of discrimination by reason of her being a woman and thereby subjected to a disability in breach of her fundamental right to freedom from discrimination on account of sex/gender. Discrimination on account of pregnancy, confinement and related medical conditions is demonstrated by the fact that only women are affected."

"In applying the provisions of the Labour Act, the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the ILO Maternity Protection Convention, the Court found that the Claimant's employment which was terminated as a result of her gender, pregnancy, birth of her child, her name and marital status was unlawful and in violation of constitutional conventions and international best practices.

It should be emphasized that employers are prohibited from terminating the employment of their pregnant or nursing employees during the period of their maternity leave.³ The law permits a female employee to extend the period of maternity leave due to illness that arose out of her pregnancy or confinement rendering her unfit to work.⁴ The illness must be certified by a registered medical practitioner. The employer must not dismiss such an employee during the period of the extended maternity leave.



³ Article 8 ILO Maternity Protection Convention

⁴ Article 5 ILO Maternity Protection Convention

Conclusion

The legal framework for the protection of pregnant and nursing mothers has witnessed an upward trajectory geared towards adoption of international best practices. Employers must not focus solely on the provisions of the Labour Act but are enjoined to apply the provisions of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the ILO Maternity Protection Convention in drafting and implementing internal company policies aimed at protecting the rights of their pregnant/nursing employees to reduce their risk of breaching these rights.

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