



FORESTRY SOUTH AFRICA™

PREGNANCY AND BREASTFEEDING GUIDANCE DOCUMENT

ABSTRACT

Pregnancy Guidelines based on the Code of Practice on the Protection of Employees During Pregnancy and After the Birth of a Child as required under the Basic Conditions of Employment Act No.75 of 1997. Please note, this is only a guidance document. You are responsible for how the Code is implemented into company policies and procedures.

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1. Overview

Section 8 of the Occupational Health and Safety Act (OHSA) 85 of 1993 places an obligation on employers to protect the health of employees who are exposed to hazards at work. This is based on the risk management approach of identifying the hazards present in the workplace, determining the risks associated with exposure to these hazards, and implementing protective measures to protect the health of workers against the impact of these hazards.

To this end, employers should also recognise that the vulnerability of certain groups or individuals to hazards needs to be considered in the management of these risks. In the 2020 document from FAO and WHO “Guidelines for personal protection when handling and applying pesticide – International Code of Conduct on Pesticide Management”, vulnerable groups in this particular regard are defined as (our emphasis) “**persons that include pregnant and nursing women, the unborn, infants and children**, the elderly, HIV/AIDS affected people and, when subject to high exposure to pesticides over the long term, workers and residents.”

Section 6 of the Employment Equity Act (EEA) 55 of 1998 prohibits unfair employment practice discrimination on grounds of pregnancy, while section 26 of the Basic Conditions of Employment Act (BCEA) 75 of 1997 prohibits a pregnant or breastfeeding woman from performing tasks hazardous to her health or the health of her child. Furthermore, employers are compelled to, during an employee’s pregnancy and for a period of six months after the birth of her child, offer her suitable alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment.

In terms of Section 87(2) of the BCEA, a Code of Good Practice on the Protection of Employees During Pregnancy and After the Birth of a Child was published in 1997 (the Code). The Code lists the hazards that need to be identified and assessed for the protection of pregnant and breastfeeding employees at work as:

1. Physical hazards
2. Ergonomic hazards
3. Chemical hazards
4. Biological hazards

This Pregnancy and Breastfeeding Guidance document is particularly concerned with issues related to the protection of pregnant and breastfeeding employees against chemical hazards at work, and only this aspect will be addressed in this guidance document.

2. Chemical Hazards and Risks

From the United Nations’ Globally Harmonised System of Classification and Labelling of Chemicals (GHS), the health risks associated with chemical exposures and pregnant employees are classified under:

- Germ Cell Mutagenicity risks, and
- Reproductive Toxicity Risks

Germ Cell Mutagenicity risks are defined as risks associated with chemicals that may cause mutations in the germ cells of humans that can be transmitted to the progeny. A mutation is defined as a permanent change in the amount or structure of the genetic material in a cell.

These mutations occur early in pregnancy and are a compelling reason for early notification of pregnancy to the employer, or even non-exposure of female workers in their reproductive years to these chemicals.

Reproductive Toxicity risks are defined as adverse effects on sexual function and fertility in adult males and females, developmental toxicity in the offspring, and adverse pregnancy outcomes such as spontaneous abortion, foetal growth retardation, premature birth, and birth defects. This guideline will only focus on developmental toxicity in the offspring and adverse pregnancy outcomes, as fertility and sexual dysfunction issues are not relevant to the topic.

Breastfeeding Toxicity is a separate risk in that many chemicals that breastfeeding women are exposed to are absorbed in breastmilk, and are, thus, ingested by the newborn baby – with potential negative short- or long-term health effects. Although this is not a classical employer-employee relationship risk management intervention as foreseen by OHSa, it certainly creates a significant health risk to the newborn baby and justifies the classification of breastfeeding employees as vulnerable employees to chemical exposures.

The Hazardous Chemical Agent (HCA) Regulations, 2021, of OHSa apply to all employers who carry out activities which may expose people to hazardous chemical substances. Employers must assess the potential exposure of employees to any hazardous chemical substance, consider the risk posed to all employees, including those with differing vulnerabilities, and take appropriate preventive steps to not only protect the general employee population, but also the vulnerable sectors of this population.

The prescribed Occupational Exposure Limits (OELs) to different chemicals for pregnant and breastfeeding employees do not differ from those prescribed for the general employee population. The only exception to this is described in the Lead Regulations, 2001, of OHSa, where exposed pregnant workers are removed from all exposures to lead until the exposed worker is not pregnant anymore.

The HCA Regulations require employers to inform and train employees about, and the risk posed by, any substance to which they are or may be exposed. This must include information on any potential detrimental effect on the mutagenic and/or reproductive ability of female employees.

This disclosure of health hazards posed by chemical substances or products must be done through the provision of a legally compliant Safety Data Sheet (SDS) by the manufacturers, importers, sellers, and suppliers of these products to the employer. Section 14 of the HCA Regulations provides the prescriptions of the content and format for an SDS to be legally compliant. All employers should evaluate the SDS of each chemical product for completeness and accuracy prior to allowing the chemical to be used in its operations, and if the document is not compliant to legal prescriptions, the product should not be used on site.

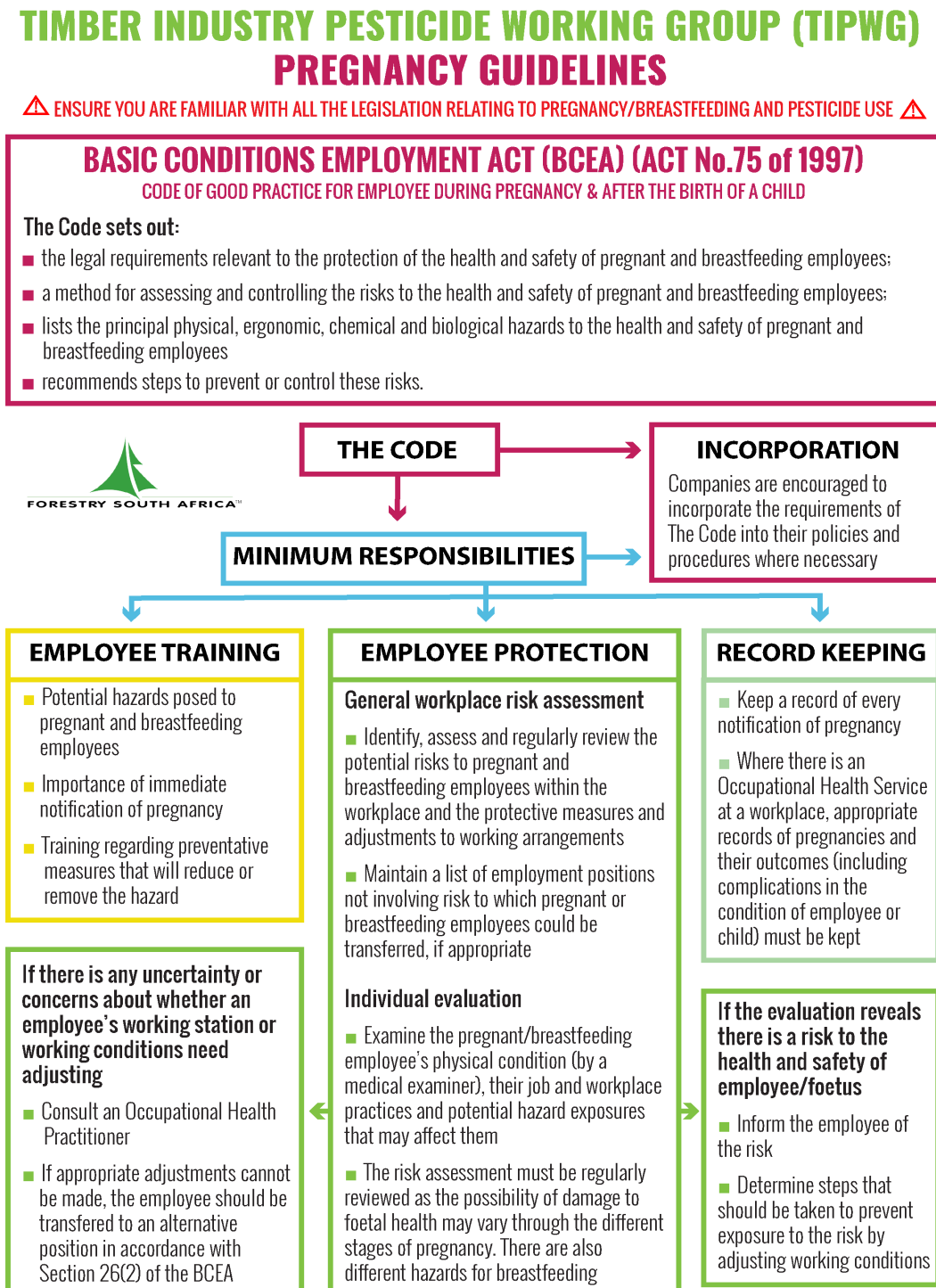
Occupational Health personnel must review all the SDSs of chemicals used by the employer, with the desired outcome of identifying all chemical products that pose a risk to pregnant and breastfeeding employees. In view of the absence of occupational health standards for the exposure of pregnant or breastfeeding women to hazardous chemical substances, care should be taken to minimise exposure to chemicals that can be inhaled, swallowed, or absorbed through the skin.

3. The Risk Management Process

a. Overview of the Code Requirements

Figure 1 below provides TIPWG’s interpretation of the requirements set out by the Code.

Figure 1:



b. Employee Protection – Assessment of Risk

A risk assessment process forms the basis of any risk management intervention and is prescribed by both OHSA and the Code. The risk assessment involves identifying hazards, assessing their risks to the health and safety of pregnant and breastfeeding employees, and recording the results of the risk assessment.

Elected worker health and safety representatives and committees are entitled to participate in the risk assessment and control of hazards.

This is a formal process that needs to be reviewed and repeated at least every two years.

c. Employee Protection – Reduction of Risk

Employers must implement appropriate measures to eliminate or control hazards identified during the risk assessment. Measures may include several approaches, including:

- Removal of hazardous chemicals from the site.
- Replacement of hazardous chemicals with less hazardous products.
- Improved engineering controls, for example, improved ventilation, isolation of hazardous processes, etc.
- Improved administrative controls, for example, lessen the time of exposure of operators using the chemicals, protection against incidental exposure of employees not using the chemicals, etc.
- Prescribed use of appropriate Personal Protective Equipment (PPE) to protect against exposure of workers to the offending chemicals.

d. Employee Protection – Training

Section 13 of OHSA prescribes that employers need to inform (train) employees who are exposed to hazards at work to allow them to become “conversant” regarding all relevant aspects related to these hazards. Section 3 of the HCA Regulations expands further on the need for training in chemical hazards exposure and specifically mentions training with regards to:

- The content of the HCA Regulations.
- Details of HCAs that employees may be exposed to and where they may be found in the workplace.
- Information on the potential harmfulness of HCAs at the workplace.
- Significant findings of the HCA exposure risk assessment.
- Information on how to access the relevant SDSs.
- The information that each part of an SDS provides.
- The information that each part of the label on containers provides and why the information is being provided.
- The work practices and procedures that must be followed for the use, handling, storage, transportation, spillage, and disposal of an HCA, in emergency situations as well as for good housekeeping and personal hygiene.
- The necessity of personal air sampling, biological monitoring, and medical surveillance.

With regard to training relevant to pregnant and breastfeeding employees, the Code provides the following instruction:

- Employers should inform employees about hazards to pregnant and breastfeeding employees.
- Workplace policies should encourage women employees to inform employers of their pregnancy as early as possible to ensure that the employer is able to identify and assess risks and take appropriate preventive measures.
- Employees should be informed of the EEA prohibition on unfair discrimination against pregnant employees.
- Employees should be informed of the rights of pregnant and breastfeeding employees in terms of the Code.

e. Employee Protection – Temporary Alternative Suitable Employment

In terms of Section 26 of BCEA, and also as prescribed by the Code, pregnant or breastfeeding employees who cannot be effectively protected against exposure to hazardous chemicals must be accommodated in alternate suitable employment on terms and conditions not less favourable than their usual employment terms and conditions. This also applies to breastfeeding employees for the first six months after birth.

Reasonable measures on time allowed for attendance of antenatal medical examinations, and time to allow for breastfeeding twice daily, are also prescribed.

Figure 2 below summarises the employer's responsibility with regard to the management of pregnant and breastfeeding employees in the workplace. These processes should be regularly reviewed and updated to allow for changes in vulnerability, and changes in the operating environment.

Figure 2: Summary of Employer Responsibility

<p>Employers' responsibility</p>
<p>Identify, record and regularly review:</p> <ul style="list-style-type: none"> • Potential risks to pregnant or breastfeeding employees within the workplace. • Protective measures and adjustments to working arrangements.
<p>Maintain a list of employment positions not involving risk to which pregnant or breastfeeding employees could be transferred, if appropriate.</p>
<p>When an employee notifies an employer that she is pregnant, her situation in the workplace should be evaluated. The evaluation should include:</p> <ul style="list-style-type: none"> • An assessment of the employee's physical condition in relation to chemical risk exposure by a qualified Occupational Health Professional. • The employee's job. • Workplace practices and potential workplace exposures that may affect the employee.
<p>If the evaluation reveals that there is a risk to the health or safety of the pregnant employee or the foetus, the employer must:</p> <ul style="list-style-type: none"> • Inform the employee of the risk. • After consulting the employee and her representative, if any, determine what steps should be taken to prevent the exposure of the employee to the risk by adjusting the employee's working conditions.
<p>If there is any uncertainty or concern about whether an employee's workstation or working conditions should be adjusted, it is appropriate to consult an Occupational Health Practitioner. If appropriate adjustments cannot be made, the employee should be transferred to an alternative position in accordance with section 26(2) of the BCEA.</p>
<p>The risk assessment for expectant or new mothers must be regularly reviewed. The possibility of damage to the health of the foetus may vary during the different stages of pregnancy. There are also different risks to consider for workers who are breastfeeding.</p>

4. Recordkeeping

Employers should ensure recordkeeping of all the following documents:

- Records of all chemicals on site, and the presence of compliant SDSs.
- A list of all chemicals hazardous to the health of pregnant and breastfeeding employees.
- Records of all risk assessment interventions.
- Records of all risk reduction interventions.
- Records of all training.
- Records of all positions suitable for temporary accommodation of pregnant and breastfeeding employees where protection in their normal employment cannot be guaranteed.

When an employee informs the employer that she is pregnant, the following records should be kept:

- A record of the employee.
- A record of the outcome of the risk assessment.
- A record that the employee has been informed of the hazards and risks, and their threat to the pregnancy – if any.
- A record of corrective actions taken.
- A record of monitoring of the effectiveness of corrective actions.

If an occupational health service is available, records should be kept of the medical progress and outcome of each pregnancy.

5. Decision Tree Flows

Figure 3 represents the decision tree on the development of the Pregnancy and Breastfeeding Chemical exposures policy.

Figure 3:

TIMBER INDUSTRY PESTICIDE WORKING GROUP (TIPWG) PREGNANCY GUIDELINES POLICY DECISION TREE

⚠️ ENSURE YOU ARE FAMILIAR WITH ALL THE LEGISLATION RELATING TO PREGNANCY/BREASTFEEDING AND PESTICIDE USE ⚠️

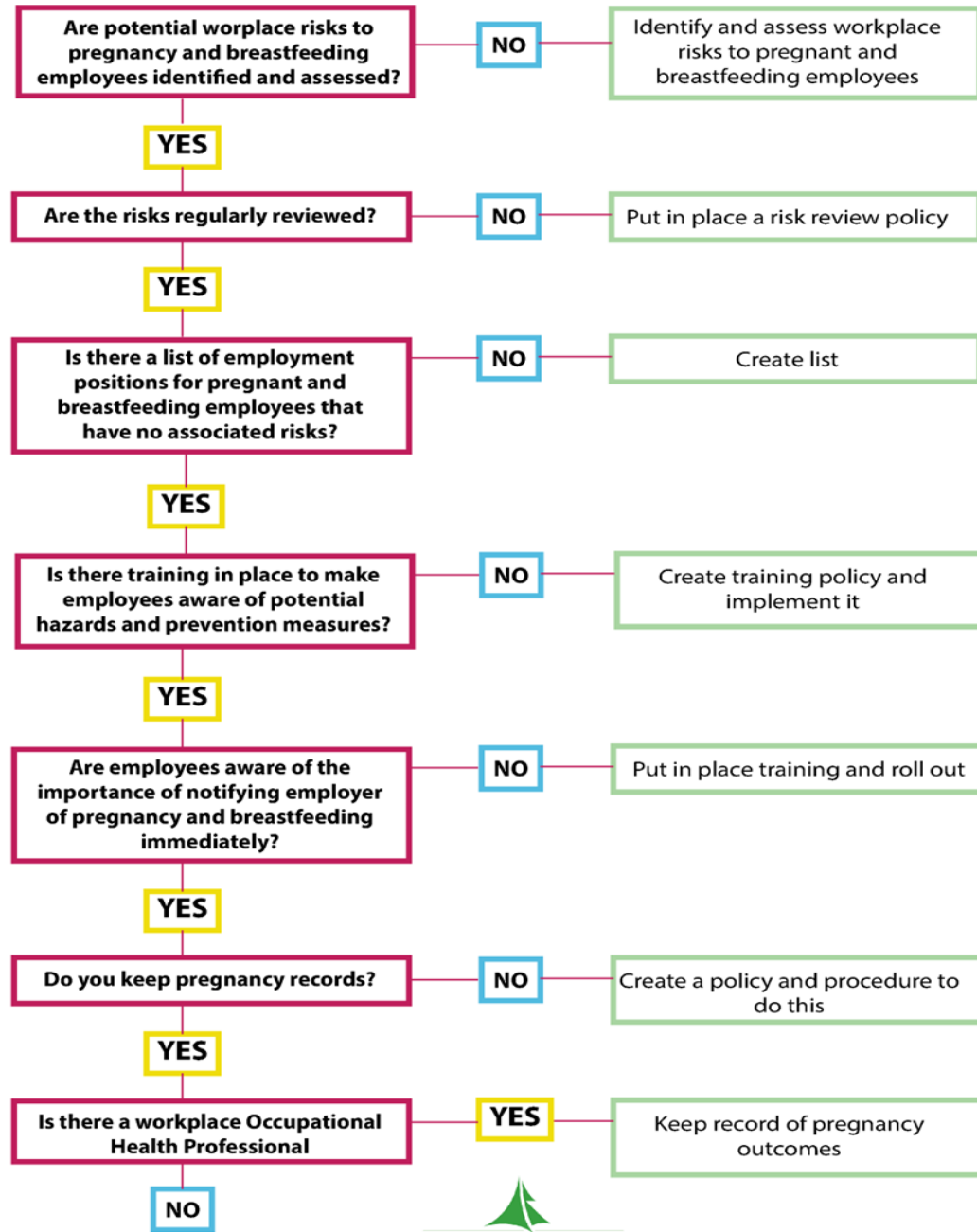
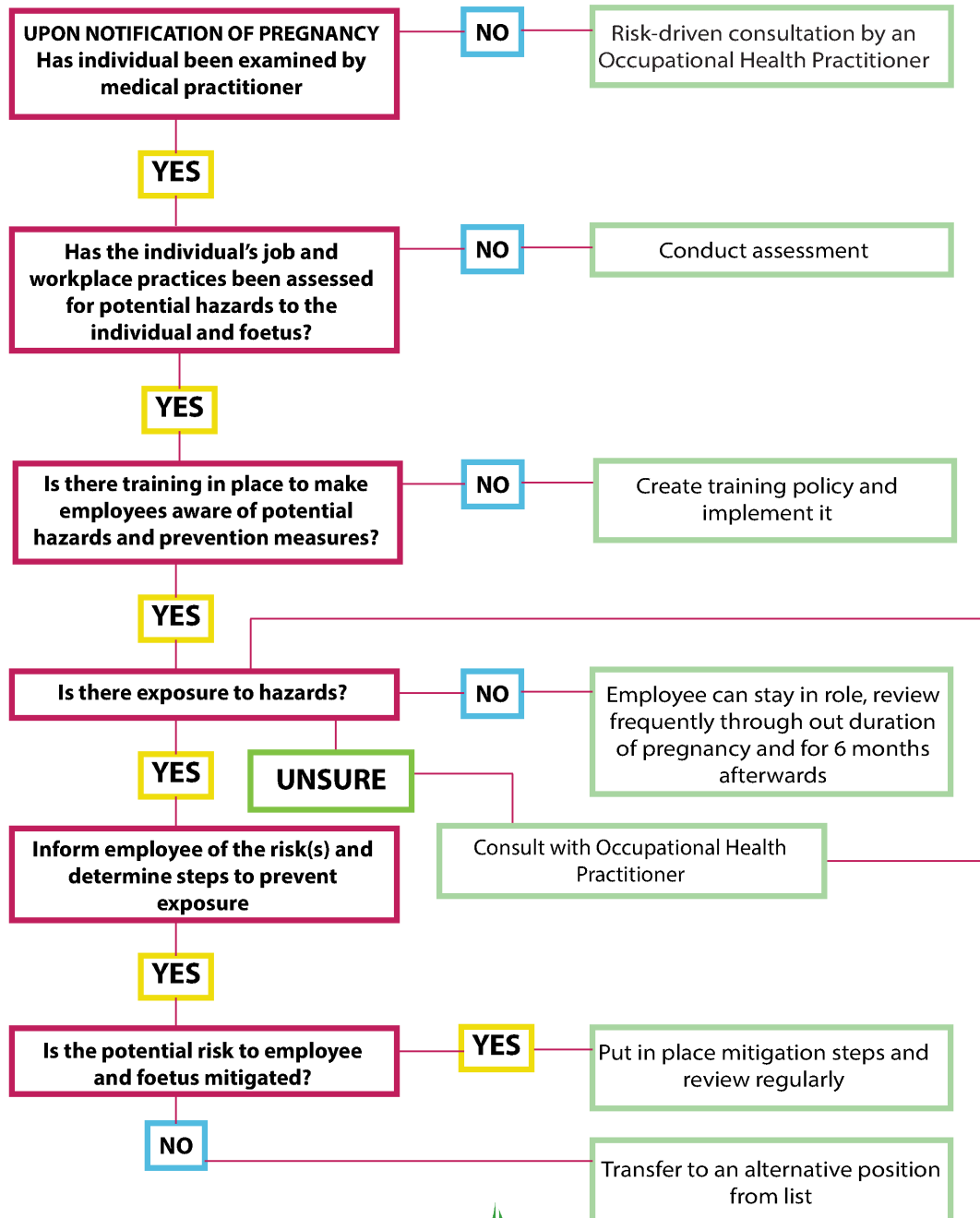


Figure 4 represents the decision tree when an employee informs the employer about her pregnancy.

Figure 4:

TIMBER INDUSTRY PESTICIDE WORKING GROUP (TIPWG) PREGNANCY GUIDELINES: NOTIFICATION OF PREGNANCY DECISION TREE

⚠️ ENSURE YOU ARE FAMILIAR WITH ALL THE LEGISLATION RELATING TO PREGNANCY/BREASTFEEDING AND PESTICIDE USE ⚠️



6. Supporting Documentation

The TIPWG Pregnancy and Breastfeeding Guidance Document has been based on the requirements laid out by:

- [FAO and WHO, 2020, Guidelines for personal protection when handling and applying pesticide – International Code of Conduct on Pesticide Management.](#)
- [The 2022 FAO and Rotterdam Convention – Addressing Gender Issues in Pesticide Management.](#)
- [Basic Conditions of Employment Act - Act No. 75 of 1997. \(BCEA\)](#)
- [Employment Equity Act - Act no 55 of 1998. \(EEA\)](#)
- [Occupational Health and Safety Act - Act 85 of 1993. \(OHSA\)](#)
- [BCEA’s Code of Practice on the Protection of Employees During Pregnancy and After the Birth of a Child.](#)
- [OHSA’s Hazardous Chemical Agent Regulations, 2021.](#)
- [United Nations’ Globally Harmonised System of Classification and Labelling of Chemicals \(GHS\) – 8th revised edition, 2019.](#)

7. Endorsement

The TIPWG Pregnancy and Breastfeeding Guidance Document has been reviewed, amended and endorsed by:

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