

# Breastfeeding Entitlements and Obligations in the Workplace

**This is primarily an information sheet on workplace breastfeeding entitlements for employees, by implication it reflects what we believe should apply in all workplaces. Moreover health sector organisations should be exemplars.**

Employers have clear legal obligations to support breastfeeding or expressing in the workplace. These obligations come from the Employment Relations Act 2000 and related Employment Relations (Breaks, Infant Feeding, and Other Matters) Amendment Act 2008. Here is a breakdown of what is legally required:

## **Right to breastfeed or express milk at work**

Under section 69Y of the Employment Relations Act 2000, an employer must provide appropriate breaks and facilities for an employee who wishes to breastfeed or express breast milk during work hours — if it is reasonable and practicable to do so in the circumstances.

## **Break entitlements**

- Employees are entitled to unpaid breaks to breastfeed or express.
- The number and timing of breaks should be agreed between employer and employee.
- Employers must act in good faith when making arrangements.

If breaks for breastfeeding/expressing overlap with paid rest or meal breaks, they can be combined.

## **Facilities**

- Employers must make reasonable and practicable efforts to provide facilities for breastfeeding or expressing milk.
- This generally means providing a private, clean, and comfortable space (not a toilet or bathroom) with:
  - A lockable door or privacy screen
  - A chair and table/surface
  - Access to handwashing facilities
  - Refrigeration or storage options for expressed milk (if possible).

**The key phrase is “reasonable and practicable”, which depends on:**

- Size and nature of the business
- Location of the workplace
- The employer’s resources
- The employee’s needs.

## **Non-compliance**

If an employer fails to provide reasonable facilities or breaks, this can be:

- A breach of the Employment Relations Act, and

- The employee can raise a personal grievance for unjustified disadvantage.

## **5. Best practice (above legal minimum)**

Even though the law requires only “reasonable and practicable” support, good employers should endeavour to:

- Have a written breastfeeding policy
- Provide a designated lactation room
- Allow flexible scheduling
- Support gradual return-to-work arrangements.

## **Key references**

- Employment Relations Act 2000, sections 69Y – 69Z
- Employment New Zealand: Breastfeeding in the workplace
- Human Rights Act 1993 (protection from discrimination on grounds of sex, which includes pregnancy and breastfeeding).

**The following is a sample workplace policy to assist employers.**

### **Sample Workplace Breastfeeding and Expressing Policy**

#### **Purpose:**

To support employees who wish to continue breastfeeding or expressing milk on their return to work, in line with the Employment Relations Act 2000 and good workplace practice.

#### **Policy statement**

[Organisation name] recognises the importance of supporting employees who are breastfeeding and/or expressing breast milk. As an employer we will take all reasonable and practicable steps to provide suitable facilities and breaks for this purpose.

#### **Eligibility**

All employees who wish to breastfeed or express milk during work hours are entitled to request appropriate breaks and facilities.

#### **Breaks for breastfeeding or expressing**

- Employees are entitled to reasonable unpaid breaks for breastfeeding or expressing.
- The timing and frequency of these breaks will be agreed between the employee and their manager, taking into account:
  - The employee’s needs
  - Operational requirements of the workplace
- Wherever possible, expressing or feeding breaks may coincide with existing paid rest or meal breaks.

## Facilities

We will make reasonable and practicable efforts to provide a private, hygienic, and comfortable space for breastfeeding or expressing.

Facilities should include:

- A private area (not a toilet) with a lockable door or privacy screen
- A comfortable chair and clean surface
- Access to handwashing facilities
- Storage or refrigeration for expressed milk (if practicable).

Where it is not reasonably practicable to provide all of these features, we will consult with the employee to find a suitable alternative arrangement.

## Storage of expressed milk

Employees may store expressed milk in a personal cooler bag or in a fridge if available. Containers should be clearly labelled and stored hygienically.

## Request process

Employees should advise their manager or HR as early as possible if they wish to breastfeed or express at work, ideally before returning from parental leave. Managers and employees will work together in good faith to agree on arrangements

## Non-discrimination and confidentiality

Employees will not be disadvantaged or discriminated against for breastfeeding or expressing at work. Any information shared about their needs will remain confidential.

## Review

This policy will be reviewed every two years or as legislation changes.

## Workplace breastfeeding and expressing compliance checklist

Requirements	YES/NO	Notes
Breaks provided: Unpaid breaks available for breastfeeding/expressing		
Agreement process: Break times arranged in good faith with employee		
Facilities: Clean, private, and suitable space provided (not a toilet)		
Hygiene: Access to handwashing and cleaning facilities		
Storage: Reasonable arrangements for milk storage		
Policy: Written breastfeeding/expressing policy in place		
Awareness: Managers aware of legal obligations		
Non-discrimination: Employee not disadvantaged or treated unfairly		
Documentation: Agreements or requests recorded (if appropriate)		