

Enquiries received by the Royal Society of Chemistry indicate there is a need for basic information about the legal situation regarding pregnant workers and chemicals. This Note is designed to answer this need. It does not pretend to be a full or definitive guide to the subject and readers are urged to obtain more detailed guidance if this is required. This Note is an update of an earlier version first issued in 1997.

Current health and safety legislation requires the identification of hazards and the assessment, management and control of risks to persons at work. The European Union believes that particular groups of workers may be at special risk and has proposed that additional legislation is needed to protect such groups. For one such group the European Union Directive 92/85/EEC, The Pregnant Workers Directive, requires

Member States to introduce measures to encourage the improvement in the health and safety of pregnant workers and others who have recently given birth or are breast feeding. The Directive was originally implemented in the UK by means of an amendment to the Management of Health and Safety at Work Regulations 1992. The amendment has now been consolidated in the new Management of Health and Safety at Work Regulations 1999 which set out the duties of the employer. An employee who is pregnant needs to inform her employer of her pregnancy as soon as possible so that the employer can discharge the duties imposed by the Regulations.

The Regulations set out a number of hazards which may affect the health and safety of new or expectant mothers and their babies. These hazards include physical, biological and chemical agents, certain work processes and working conditions. The chemical agents and associated work processes included are :

- substances labelled R40, R45, R46, R61, R63 and R64 under Directive 67/548/EEC (ie. possible risk of irreversible effects, may cause cancer, may cause heritable genetic damage and may cause harm to the unborn child, possible risk of harm to the unborn child and may cause harm to breastfed babies).
- chemical agents and industrial processes in Annex 1 to Directive 90/394/EEC (Control of Carcinogenic Substances)
- mercury and mercury derivatives

This Note was produced by a Working Party of the Environment, Health and Safety Committee [EHSC] of the Royal Society of Chemistry.

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The EHSC welcomes comments on this Note. Please send them to the committee secretary:

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- antimetabolic (cytotoxic) drugs
- carbon monoxide
- chemical agents of known and dangerous percutaneous absorption
- lead and lead derivatives.

Where any of these hazards are present in the workplace and the workforce includes women of child-bearing age, then risk assessment (including COSHH and lead assessments) must take into account the effects that these substances or processes can have, not just on a mother but also on the unborn or recently delivered child. If any assessment reveals risks then the employer must tell all female employees of those risks and explain the action that will be taken to ensure that they are not exposed to those risks.

Legislation is already in place to ensure protection from the hazards listed above and, therefore, providing that an employer complies with existing requirements the risks presented should already be controlled and additional measures will not be required. In the minority of cases where the assessment shows that there is still a significant risk to a mother which goes beyond the level of risk to be expected

outside the workplace then the employer must take steps to remove her from that risk once she has advised her employer of her pregnancy in writing.

In order to remove an employee from significant risk the first step that an employer must take is to adjust temporarily the mother's working conditions and/or hours of work. If it is not reasonable to make adjustments or if such action would not avoid the risk then The Employment Rights Act 1996 requires an employer to offer her suitable alternative work if any is available.

Such work must be suitable and appropriate for her in the circumstances and must also be on terms and conditions which are no less favourable than her normal terms or conditions. If this second step is not feasible then she must be suspended from work on full pay as long as is necessary to protect her safety or health or that of her child.

Any assessments should be kept under review as the possibility of damage to the foetus as a result of the hazard will vary at different stages of pregnancy. In addition there are different risks that must be considered for workers who are breast feeding. Assessments should be reviewed periodically to ensure that any new information is taken into account.

NIGHT WORK

Special consideration is required for new and expectant mothers who work at night. If the employee produces a medical certificate which states that night work could affect her health and safety then the employer must either offer her suitable alternative day-time work, if any is available, or suspend her from work on full pay as long as is necessary. The HSE does not believe that at present there are any risks to pregnant or breast feeding workers arising solely from night work.

REPRODUCTIVE EFFECTS OF CHEMICALS IN MALES

It is worth mentioning that males who are overexposed to some chemicals may contribute to abnormalities of reproduction. This is a separate issue which should be considered when COSHH assessments are undertaken.

FURTHER READING

1. Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breast feeding (tenth individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC).
2. Health and Safety Commission, 'The Management of Health and Safety at Work Regulations – Approved Code of Practice and Guidance' HSE Books, 2000.
3. The Control of Substances Hazardous to Health Regulations 1999, [SI 1999/437].
4. The Control of Lead at Work Regulations 1998, [SI 1998/543].
5. Professional Brief 'Reproductive Risks of Chemicals at Work', Royal Society of Chemistry, 1992.
6. 'New and expectant mothers at work - A guide for employers', HS(G)122, Health and Safety Executive, 1994.
7. 'Suspension from Work on Medical or Maternity Grounds', Department of Trade and Industry, Booklet PL 707.
8. 'Maternity Rights', Department of Trade and Industry, Booklet PL 958.
9. Health and Safety Executive, '5 Steps to Risk Assessment', IND(4)163L(Rev1), HSE Books, 1998.

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