

# Protective Reassignment of Pregnant or Breast-feeding Workers



PUBLIC SERVICE ALLIANCE OF CANADA • APRIL 1994

# **Protective Reassignment of Pregnant or Breast-feeding Workers**

PUBLIC SERVICE ALLIANCE OF CANADA  
HEALTH AND SAFETY SECTION

For more information contact  
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your Component or the PSAC Health and Safety section.

Ce livret est disponible en français  
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# Introduction

**M**ore and more women are entering the labour force every year. They may be entering the workforce for the first time. Some are returning after raising a family. Still others, already in the workforce might be seeking an improvement over their current, more conventional jobs. This means that more women are interested in non-traditional work. Overall in 1993, women comprised 45 % of the total paid labour force up from 35 % in 1971 (Statistics Canada). Accordingly, the number of women sustaining occupational injuries has also escalated. There is now a tendency for women to continue working for a greater portion of their pregnancies, and because of hard economic times and poor financial situations, many are returning to work shortly after delivery. Trends also indicate that women are having fewer children, and are having them later in life. The resulting overall increase in womens' participation in the labour force suggests that the occupational health and safety needs of workers are also changing. The need to address womens' workplace concerns has become evident. One such concern is the Protective Reassignment for Pregnant or Breast-Feeding Workers.

Protective Reassignment may be a new term to some, though the Public Service Alliance of Canada (PSAC) has been addressing the issue for the last few years. In fact, the Alliance has endorsed the following definition of Protective Reassignment, which is adapted from la Commission de la santé et de la sécurité du travail du Québec (CSST):

*The aim is to keep a pregnant or breast-feeding worker employed in a position with safe working conditions by reassigning the woman to other tasks that are safe and reasonably within her abilities to perform, and which pose no threat either to her or her unborn or breast-fed child.*

**It is the belief of the Alliance that if it is impossible to accommodate a pregnant or breast-feeding woman by suitably altering her duties, adjusting her work station or temporarily re-assigning the worker, then she should be entitled to a leave of absence with pay and benefits.**

At the Public Service Alliance National Board of Directors (NBoD) meeting held on September 27-30, 1993, the following resolution concerning Protective Reassignment was endorsed:

1. **That** a brochure be developed and distributed to locals to explain the issue and to suggest actions to be pursued.
2. **That** a fact sheet be included in all courses and activities carried out by the PSAC to raise the awareness of members.
3. **That** the issue be incorporated into election campaign materials and provided to Political Action Committees
4. **That** a letter be sent to the Treasury Board President pressuring to have this protection for federal public sector workers.
5. **That** the issue be raised at the National Health and Safety Conference on October 22-24, 1993.

This booklet comes as a result of the NBoD mandate and will serve to inform PSAC members of the concerns on this subject.

We must act to reduce the workplace hazards which might affect both parents and children. Reproductive hazards have not been properly addressed in the past; not enough attention has been paid to this issue. The effects of working during pregnancy in relation to the physiological changes that take place during those nine months, as well as the effects on the fetus are not being dealt with. The effects



in relation to sterility, miscarriages and birth defects are equally ignored. In making the workplace healthy and safe for pregnant and breast-feeding workers, we make the workplace healthier and safer for everyone. In the event that the hazard cannot be removed, provisions must be in place to ensure that the worker is relocated for the term of her pregnancy and nursing. **If this cannot be accomplished, then the pregnant or nursing worker must have the right to fully paid leave until the pregnancy or the nursing is terminated.**

This booklet is intended as a guide providing facts and suggested solutions. It will assist Alliance members in fighting for their fundamental right to a healthy and safe workplace without having to choose between having a child and having a job, especially where those jobs are hazardous. Under **NO** circumstances should a pregnant and/or breast-feeding woman have to face the discrimination seen in many Canadian workplaces today.

As well as raising awareness, the PSAC will strive to ensure that all members are covered by legislation at the federal, provincial and territorial jurisdictions, and to ensure that equal protection is granted to members throughout Canada. We must also work to develop practical strategies for implementing workplace policies and practices aimed at controlling hazards as they are identified. Workplace hazards associated with pregnancy and breast-feeding will require new policies and innovative ideas, perhaps such as outlined in the Québec provincial program put out by la CSST. Solutions to the problems arising from workplace conditions **CAN** be achieved through consultation at the workplace health and safety committees.

In this document we will deal with reproductive hazards, exposures and injuries for women in the workplace (including stress); discrimination and work/family conflict; and the legislative changes needed to cover pregnant or breast-feeding workers, including protective re-assignment and protection from workplace hazards. Finally, we will address what our union can do about this issue.

## Occupational Reproductive Hazards

**O**ften invisible, yet insidious and unsuspected are workplace reproductive hazards. They are the hazardous substances, processes or conditions which can harm the reproductive systems of both men and women, affecting our ability to have children, our unborn child, and even a breast-fed or a young child. They can be:

- **psychosocial hazards** such as job stress, work/family conflicts, violence, discrimination, or sexual, personal and/or racial harassment;
- **chemical hazards** such as second-hand smoke, formaldehyde and other volatile organic compounds (VOC's); or hazards caused directly by a chemical (including mutagens, teratogens, and carcinogens);
- **biological hazards** including infectious diseases and agents which we work with directly or to which we are indirectly exposed;
- **physical and ergonomic hazards** such as prolonged postural positions, working at video display terminals (VDTs), lifting heavy loads, noise exposures, ultra-violet (UV) light and other radiation exposures, as well as problems associated with shift-work, hours of work and overtime.

**TABLE 1 Reproductive Hazards of work: Offspring**

A list of common categories of hazards, with specific examples and occupations, where they can be expected to be found. Known teratogens like thalidomide are not included where they are not of occupational significance.

TYPE OF HAZARD	POTENTIAL HAZARDS	SOME OCCUPATIONS WHERE THEY OCCUR
Chemical hazards	Alkylating chemicals Anesthetic gases* Dioxins Metals: lead (?) cadmium (?) copper (?) mercury (?) Organic mercury compounds* Pesticides: all types Pesticides: chlorinated hydrocarbon organophosphates carbonates arsenates PCB's (polychlorinated biphenyls)*	Drug workers Operating-room personnel Chemical and pesticide workers Battery-plant workers Electrical workers Dental workers Soldiers  Agricultural workers Microscopists (immersion oil) Electrical workers
Irradiation and radioactive material	X-rays* Radioisotopes*	Dental technicians and assistants Dentists X-ray technicians and radiologists Nuclear medicine technicians Some laboratory workers

Infections	Measles, chicken pox, German measles (rubella)*, hepatitis  Herpes virus Toxic plasmosis Brucellosi Venereal disease	Hospital workers—all phases Laboratory workers Teachers in contact with small children  Animal handlers, meat cutters and inspectors
Insufficient oxygen supply (hypoxia)	Carbon monoxide and high-altitude chemicals, which affect blood (?) (See Appendix II)	Outdoor work: toll-booth operators, traffic-control workers, airline personnel
Physical hazards	Noise (?), heat (?), vibration, trauma	All types of industrial and service work
Cancer-causing substances (carcinogens) related to mutation (?)	Some aniline dyes MOCA, BCME, DES  Vinyl chloride	Drug workers, dye workers, some chemical lab workers; rubber workers Permanent-press workers and textile finishers Histology technicians PVC plastics processors (?)

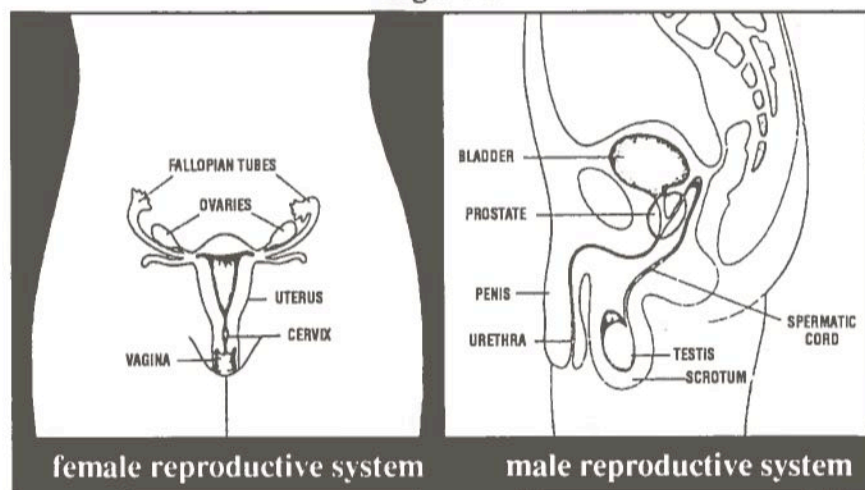
\* Human effects observed.

*Source: Women's Work, Women's Health, Stellman*



Any of these workplace hazards can affect the reproductive system or offspring at many different stages of the cycle, whether prior to conception, during pregnancy, or after the delivery. This interference may prevent conception or adversely affect the pregnancy or the offspring. The germ cells (ova in women and sperm in men) can be affected upon production. The organs which produce these germ cells can be affected. The process from implantation of a fertilized egg (embryo) in the womb through to growth and development of the fetus can be affected. Miscarriages can occur. After delivery, breast milk can be affected, and stress can play a role in the quality of care and nurturing.

**Figure 1**



Source: *Occupational Reproductive Hazards, OFL*

## Prior to Conception

All aspects of reproductive development and function in men and women are controlled by special chemicals called hormones which are secreted by glands into the bloodstream. These sex hormones are extremely sensitive and delicately balanced. When this balance is upset in women, the process of releasing the egg from the ovary (ovulation) may not occur. For example, shiftwork which disrupts a person's circadian rhythms (the body's response to light/dark changes in the surrounding environment, ie. night and day) may be one cause of missed

ovulation. Occupational stress can cause women to stop menstruating and become infertile for prolonged periods of time. In men, the production of sperm may not take place, or the sperm count may be reduced to below normal levels, resulting in functional sterility. Some substances may directly damage the sperm producing organs (testes) resulting in insufficient or abnormal sperm production. (See Table 2)

**TABLE 2**  
**Effects of Selected Occupational Health Hazards**  
**on Male Reproduction**

Those agents which have been found to have adverse effects on male reproduction are listed. There has not been extensive research in the area.

AGENT	EFFECT
Benzene	Exposed workers found to have significantly higher chromosomal aberrations. Possible genetic effects on offspring.
Cadmium	Cadmium chloride can induce severe damage to testicular tissue and permanent sterility in test animals. Damage to the blood system of the testes and other parts of the male reproductive organs has also been observed in humans.
Lead	Low levels of lead have been reported to interfere with spermatogenesis in humans, yielding low sperm counts.
Manganese	Impotence and a decrease in libido have been reported.
Kepon	A high percentage of kepon-exposed workers suffered sterility.
Deuterium oxide	Mice exposed to this substance have become sterile. No results from human studies reported.
Radiation	
X-rays	Male radiological technicians in Japan found to have elevated incidence of sterility. Ionizing radiation also associated with chromosomal aberrations.
Gamma rays	Sterility in mice has been induced by gamma-ray exposure.
Excessive heat	Elevated temperature adversely affects male fertility.

At the time of printing, another chemical, a pesticide known as DBCP, has been implicated as causing sterility in male workers. However, several companies have not officially confirmed this because they now "suspect" that other anti-fertility agents may be present, such as ethylene dibromide and ethylene oxide, two substances not previously related.

Source: *Women's Work, Women's Health, Stellman*



Substances causing changes in the genetic material of living cells are called mutagens, and the process causing the change is known as mutation. Mutations occurring in germ cells prior to conception may, if conception occurs afterwards, result in a defective embryo which might not survive, or a child born with defects. These genetic mutations can also be passed on to future generations. Some of these defects are obvious at birth, such as deformations, Down's Syndrome, and blindness. But others such as blood diseases, heart problems, mental disabilities and cancer may not be apparent for several years.

## During Pregnancy

After conception, the fetus is highly vulnerable to damage by biological agents and chemicals which can cross the placental membrane from the mother's bloodstream to the fetal bloodstream. Physical phenomena can also interfere with the fetal development.

During the embryonic stage, spanning the first eight weeks, all organ systems begin to form, including the brain, heart, liver, lungs, limbs and digestive tract. During the next phase known as the fetal stage, the development of organs is completed. The fetus is particularly susceptible to outside influences during the stages of organ development, with the greatest sensitivity occurring between the twentieth and thirtieth days after conception. (See figure 2)

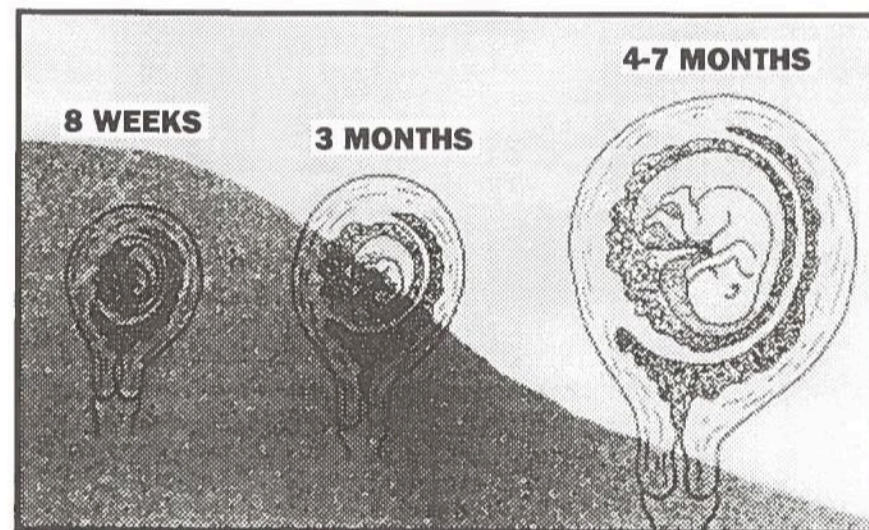
Toxic substances in the maternal bloodstream which pass through the placental membrane and reach the fetus and prevent the normal development of the fetus are called teratogens (eg. thalidomide). Women who come in contact with some infectious biological agents such as bacteria and viruses as a result of workplace exposure may give birth to offspring with severe congenital abnormalities. For example, offspring of nurses and hospital or laboratory workers exposed to Rubella (German measles) may be born deaf, blind, with heart defects or mental retardation. Substances that cause cancer

(carcinogens) are also known to have passed through the placental membrane and may result in cancer in the offspring after a latency period of several years. A strong link has been shown between fetal exposure to radiation and the increased risk of childhood cancers and leukemias. Research is also ongoing to determine the effects of electro-magnetic radiation. (See Table 3 for reproductive hazards during pregnancy)

**Figure 2**

### **The decreasing sensitivity of the embryo and fetus**

*(The shaded background is a schematic representation of relative sensitivity.)*



*Source: Women's Work, Women's Health, Stellman*



**Table 3**  
**Reproductive Hazards of work: Mother**

The first column shows major biological changes of pregnancy. Also listed are some chemical conditions and occupations associated with possible adverse effects on these systems. Occupations which employ relatively few women are not listed even if they involve exposures to these substances. The table is not complete. More information can be obtained from the references listed in the Bibliography.

BODY SYSTEM	POTENTIAL HAZARDS	SOME OCCUPATIONS WHERE MIGHT BE FOUND
Lungs: Air is breathed more deeply, mixed more efficiently. There may be more effective absorption of toxic materials and deeper penetration of harmful dusts.	Toxic gases, fumes, and vapors Dusts	Agricultural workers Bookbinders Dental technicians, dentists Dry cleaners Electrical-parts workers Hairdressers and cosmetologists Lab technicians Meat wrappers Operating-room personnel Postal workers Sewers and stitchers Textile workers
Blood: Reduced percentage of hemoglobin and iron. There may be an enhanced effect of oxygen-depriving toxic chemicals and conditions.	Solvents—particularly benzene and other aromatics Chlorinated hydrocarbons (e.g., carbon tetrachloride, vinyl chloride, chloroprene) Carbon monoxide Aniline dyes and nitro compounds (methemoglobinemia formers)	Agricultural workers Bookbinders Cosmetics- and drug-manufacturing workers Dye workers Electrical-parts workers Hairdressers and cosmetologists

BODY SYSTEM	POTENTIAL HAZARDS	SOME OCCUPATIONS WHERE MIGHT BE FOUND
Circulatory system: 30-40 percent greater blood volume; expanded blood vessels in legs and uterus; increased heart output; increased body weight. There may be a greater effect from jobs involving physical exertion or lack of it.	Amines and nitrates Metals (e.g., lead, nickel, cadmium) Pesticides (particularly chlorinated hydrocarbons)  Standing or sitting too long Too strenuous activity Unreasonable lifting and carrying Stress (including noise and heat stress) Nitrates and other chemicals which affect circulation and heart function Rotating shifts	Laboratory workers Lead-battery workers Packers and canners Rubber workers  Agricultural workers Assembly-line workers Hotel workers Laboratory workers Laundry workers Nurses and nurses' aides Office workers Postal workers Retail clerks Service workers: cleaning and caretaking

*Source: Women's Work, Women's Health, Stellman*

Physical factors can also affect the unborn child. Shiftwork and overtime, for example, can greatly affect a pregnant woman who is already more fatigued than normal, especially in the latter trimester. Most physical hazards however, are considered more ergonomic in nature. Work which causes the person to be in a flexed or extended position for prolonged periods can be hard on muscles. Lifting and carrying of heavy loads can also be an added strain to muscles and back. Canadian researchers (McDonald et al, 1988) conducted a study in Montréal by interviewing 56,000 women admitted to obstetrics in eleven large hospitals. They collected information about their 48,608 previous pregnancies and the nature of all paid work undertaken at any time during their pregnancy. The study found that women whose work involved heavy lifting, other physical efforts, long hours of standing, exposure to noise, and exposure to cold had a significantly increased risk of spontaneous abortion.<sup>1</sup>

## After Delivery

Chemicals which a worker may be exposed to in the normal course of the workday can be absorbed by the mother and then be secreted in breast milk. Parents may be carrying home chemicals and dusts on their clothes and in their hair and may be inadvertently exposing their children to toxic substances. Shiftwork and overtime which disrupt normal daily patterns of eating, sleeping and socializing may have physiological as well as psychological side effects and can interrupt breast-feeding schedules. Work-related stress caused by numerous sources such as over-work, harassment, and/or workplace violence can have numerous negative effects such as drug or alcohol abuse. Obviously, these conditions may have serious repercussions on the quality of care and nurturing of the newborn.

## Discrimination Against Working Women of Child-Bearing Age

Over the past few decades, employers began developing protective employment policies to control the impact of workplace reproductive hazards. These discriminatory administrative measures excluded or removed women of childbearing capacity from jobs where reproductive hazards were known to exist. Women workers were seen as unsuited for specific jobs because of their reproductive function. The fact was, and still is, that in all likelihood, the job was unsuitable for any worker, male or female. This problem was accentuated by the advent of continuous technological change in the workplace. This explosion of technology led to the creation of new employment opportunities for women in sometimes highly specialized, non-traditional jobs. These types of policies simply ignored the right of all workers, both male and female, to a healthy and safe working environment. Unfortunately, this is not just a problem from our past.

Even today, in some cases, employers may let the fact that a possible candidate for a particular job is a female of child-bearing age interfere with his/her decision to hire that candidate. This is an unspoken reality that has plagued working women in this country for many years. As a result, fully qualified competent women are prevented from competing for positions of their choice. If already hired, management's awareness of a woman's family responsibilities may cause her not to be considered for special assignments, therefore



missing valuable work experience. Recent advances in reproductive technologies allowing women more choices in family planning and the possibility of delaying childbearing can indirectly contribute to the feelings of pressure and discrimination felt by the worker to “*wait for a better time*” to become pregnant.

Controlling or preventing a hazard is a responsibility which some employers avoid. Preventing exposures by using engineering controls or by substituting safer alternatives are procedures which may require expensive research and the costly redesign of the work processes. Employers unwilling to undertake such an expense often resort to policies which exclude fertile women from working in certain jobs. Health effects of these jobs to other workers, and the role of the father in reproduction are ignored by such policies. The employers’ fear of being taken to court for an occupational injury or illness has been alleviated by workers’ compensation laws which take away a worker’s right to sue and instead awards them benefits. Our offspring, however, are not covered by workers’ compensation. A lawsuit may be launched against the mother’s employer if birth defects or deformities are believed to be caused by workplace hazards. For this reason, employers often resort to policies banning certain workers from exposure to the hazard. This permits them to avoid having to actually remove that hazard. In most cases, this costs the employer little or nothing and directs the focus of attention away from the workplace hazard and to the worker. “Such policies are usually no more than thinly disguised economic discrimination...A policy genuinely concerned with protecting workers and their children would clean up the hazardous workplace rather than weed out susceptible workers.”<sup>2</sup>

“All Canadians have a fundamental right to a healthy and safe working environment.”<sup>3</sup> This means that they must also have the right to produce healthy offspring with no adverse effects from their workplace hazards.

The hard economic times we now face combined with uncertain job security forces many women to juggle the demand of family responsibilities with work. Equally true is the fact that many women are not leaving their jobs for more than the number of weeks allowed by Unemployment Insurance maternity leave, plus, in some cases, time provided for in collective agreements. Nor are they leaving jobs where unhealthy or unsafe work conditions exist (either for herself or her unborn child) for fear of lost income, an/or permanent job loss. This is why protective reassignment for pregnant or breast-feeding workers is so important. “Women should not have to sacrifice employment opportunities for their children or their children for employment opportunities.”<sup>4</sup>

“Pregnancy, giving birth, and nurturing children are disruptive of the work norm of modern industrial society, where job advancement, security, training, and pensions all depend on unbroken years of work, which usually extends at least eight hours a day, over five days a week, and forty-eight to fifty weeks per year.”<sup>5</sup> For these reasons women must be allowed to continue to work during pregnancy and breast-feeding (if it is their wish to do so) in a healthy and safe environment, free from discrimination and reproductive hazards. Protective reassignment offers one alternative solution to this dilemma.



# Current Worker Protection

## LEGISLATION

"All Canadian occupational health and safety laws are based on the premise that employers have a responsibility to provide a healthy and safe workplace and to ensure that their employees are provided with the training and equipment to do their jobs safely".<sup>6</sup> Workers have won this fundamental right to a healthy and safe workplace, but statistics on work related deaths and injuries confirm that the workplaces are not the healthy and safe environments they should be. This means that working women in most Canadian jurisdictions are still faced with a choice between working in a job with hazardous conditions or having a child. The following summary outlines existing legislation and employer policies, clearly demonstrating the need for improvements.

### ***Canada Labour Code, Part III (Bill C101)***

Bill C-101, (an Act to amend the Canada Labour Code and the Public Service Staff Relations Act) was proclaimed on June 23, 1993. The amendments include provisions regarding protective re-assignment of pregnant and breast-feeding workers.

- *A pregnant or nursing employee may request the employer to modify her job functions or reassign her to another job if her current job functions pose a risk to her health or to that of the fetus or child.*

- *An employee is entitled to continue in her current job while the employer examines her request, unless the job functions pose a risk, where she is then entitled to a leave of absence at her regular rate of wages until the employer:*
  - (a) *modifies her job functions or reassigns her, or*
  - (b) *informs her in writing that it is not reasonably practicable to modify her job functions or reassign her.*
- *An employee whose job functions are modified or who is reassigned shall be deemed to continue to hold the original job and shall continue to receive wages and benefits accordingly.*
- *Employee entitlement to leave of absence during pregnancy and nursing is subject to provision of a certificate of a qualified medical practitioner of her choice indicating that she is unable to work by reason of the pregnancy or nursing.*

By way of omission, this legislation implies that if an employer informs a worker that it is not reasonably practicable to modify her functions or reassign her, then **leave without pay** may be granted. As well, these amendments were made in Part III of the Canada Labour Code and were not incorporated into Part II. Had this protection against health and safety risks been included in Part II, then all federal public sector workers would have been covered. **At present, only PSAC members employed in workplaces regulated under the Canada Labour Code (such as Canada Post Corporation, Royal Canadian Mint, Nordion International Inc., etc.) are presently protected.**

### ***Occupational Health and Safety Act, Québec***

Throughout Canada, there is only one province with an established program for Protective Reassignment which is backed up by legislation. This program is called "Safe Working Conditions for



a Safe Maternity Experience” or “Travailler en sécurité pour une maternité sans danger”. This program comes under the provincial legislation for Québec, known as the Occupational Health and Safety Act, Québec.

Following is the mandate of this program:

*“For a Safe Maternity Experience is a program geared towards prevention; its primary goal is to keep pregnant or breast-feeding workers employed in a job with safe working conditions. It is not a maternity leave.*

*A pregnant or breast-feeding woman who works in conditions that could adversely affect either her own health or that of her unborn or breast-fed child, has the right to be immediately reassigned to other tasks that are safe and reasonably within her abilities to perform.*

*Modifying the work station or reassigning the worker to another job should first be considered. Failing this, she is entitled to a temporary leave of absence and to receive an indemnity (pay) from the CSST.”*

In the CSST guide to the worker, guide to the employer, and guide to the physician published to explain this program, the following examples of dangers in the work environment are listed:

**Ergonomics:** extended work hours (more than 40 hours/week), pace, flexion, extension, handling of heavy loads, etc.

**Physical:** vibration, heat, X-rays, etc.

**Chemical:** solvents, glues, pesticides, etc.

**Biological:** bacteria, viruses, etc.

Under this legislation, if a doctor confirms the existence of any dangers associated with a particular job from any of the above causes, the law states that the employer is unequivocally responsible to:

- eliminate the dangers associated with that job;
- modify the work done;
- adapt the work station; or
- reassign the worker to other work that is safe and reasonably within her abilities to perform.

Though the CSST’s Protective Reassignment Program is definitely a good start to addressing an important issue, there are still some problems to be ironed out. A working group recently prepared a report for the Institut de recherche en santé et en sécurité du travail du Québec (IRSST) on this program. The report stated that in Québec, the percentage of women in the workforce has risen from 28% to 63% between 1976 and 1990. Accordingly, the number of requests for protective reassignment has risen proportionally to the number of working women having children.<sup>7</sup> The disturbing fact, however is that among these cases, the preventive withdrawal was more popular than the modification of the work conditions. According to a study done at the University of Montréal, more than 90% of the women in the program were actually withdrawn from the workplace.<sup>8</sup> The working group reported that interviewing women in the workplace revealed that these women were not necessarily interested in leaving their employment during their pregnancy. If they had a choice of working in conditions which would permit them to combine safe work with maternity, they would. This seems to indicate that in the majority of cases, the employer has taken the “easy road” of **withdrawal** rather than putting in the time, effort and money sometimes necessary to **improve** the workplace conditions.



The advantages of making the workplace healthier and safer are obvious for the worker, but there are also some for the employer. As listed in the CSST guides, the advantages of keeping a pregnant or breast-feeding worker employed are:

- a qualified person will remain employed;
- less money is spent on hiring, replacing or training a temporary worker;
- absence from work due to pregnancy is cut down;
- program costs are reduced, and therefore
- compensation premiums for the employer are reduced.

It is not always possible to pinpoint every cause of unhealthy and unsafe working conditions because often-times, the problems lie in the combinations of hazards. Research must be initiated in novel ways to leave behind the traditional “cause & effect” approach and to identify the cumulative effects on the pregnant worker. The synergistic (combined) effect of chemicals must be addressed, as well as effects of low level exposures over long periods of time.

This program’s bottom line is that if the work station cannot be modified, and the employer cannot reassign the worker to other suitable work, the worker may stop working until she is reassigned, has given birth or has weaned the child. Alternately, the worker may go on a temporary leave of absence and receive income from the CSST, without suffering a major loss of earnings.

While offering protection to workers who come under the Québec Occupational Health and Safety Act, **the program does not apply to PSAC members who work in the Province of Québec for federal undertakings.**

**Accordingly, only a small group of Canadian workers have the right to protective reassignment. Territorial, most provincial and a large number of federal workers do not have that same**

**legal protection. This indicates the need to equalize protection for all our members across the country and establish similar or better programs from coast to coast.**

## **EMPLOYER POLICIES**

Employer policies may exist in a workplace addressing issues specific to the type of work or unique conditions of that workplace. Find out if your workplace has a policy protecting pregnant and nursing workers and become familiar with your rights.

### ***Treasury Board Manual, Personnel Management, Staff Relations, Chapter 13, Transfer of Pregnant Employees***

An example of an employer policy dealing with a related issue is found in the Federal Treasury Board (TB) Manual.

*“Pregnant employees who work on VDTs, inspect construction sites, work on ships, etc., and are concerned about performing these duties during pregnancy may request a temporary change of duties and/or work site. This can be accomplished by means of a transfer or assignment.”*

This employer policy only applies to those parts of the Public Service listed in Part I of Schedule I of the Public Service Staff Relations Act. **Again, only a limited number of PSAC members are covered.** Also, the transfers are subject to limiting conditions, i.e. transfers will only be granted if the employing department has another position available, and the department must also meet Public Service Commission staffing requirements. In essence, these conditions make this policy quite restrictive.



# Union Action

The PSAC believes that the fundamental right to a healthy and safe workplace for all its members, both men and women, must be entrenched in laws and expanded to cover women that are pregnant or breast-feeding, including protection from workplace hazards and discrimination. Until the law requires employers to protect all workers from reproductive hazards, the Alliance will continue to press for improvements.

To this end, the following summary outlines some of the actions the PSAC has been pursuing in the struggle to achieve this goal.

## WHAT WE HAVE DONE TO DATE

### 1. Submission to the Task Force on Barriers to Women in the Public Service (*October 1989*)

A task force was formed to arrive at solutions for removing barriers to the employment and advancement of women in the federal public sector. The PSAC made sixteen recommendations to this task force, and the following relate to the barriers to women originating from health hazards arising in their work:

- Women of childbearing age not be excluded from hazardous jobs to protect their foetus' reproductive health but rather, that the jobs be designed to eliminate health dangers.
- In the event that it is impossible to eliminate the hazard, trans-

fers, with no loss of pay and benefits, for pregnant and nursing women or for women and men planning to conceive, be granted in legislation.

- Legislation and national standards be developed to protect workers from all health hazards including radiation and known carcinogens.
- The employer give increased attention to occupational health and safety as it applies to all public service workers and in particular to hazards affecting women.
- The workers' rights entrenched in Part II of the Canada Labour Code be respected and that the requirements of the law be adhered to.
- Adequate health and safety research, as it affects women, be undertaken, recognized, and acted upon.

### 2. Submissions to the Royal Commission on New Reproductive Technologies (*September 1990*)

On November 15, 1993 the Royal Commission on New Reproductive Technology published a very detailed, lengthy report consisting of two volumes filled with information and recommendations on how new reproductive technologies should be handled in this country. The PSAC made several comprehensive submissions to the Commission about issues which we wanted them to deal with during their investigations. Of the thirteen recommendations we submitted, two were directly related to workplace reproductive hazards:

- a. That the right to work in an environment, which safeguards the reproductive health of workers, be incorporated in all federal and provincial labour legislation. (*Partially accepted, see recommendation #38 below.*)
- b. (i) Women of childbearing age not be excluded from hazard-

ous jobs to protect their reproductive health and the foetus' health but rather, that the jobs be designed to eliminate dangers to reproductive health. (*Accepted in recommendations #35 & #42.*)

- (ii) In the event that it is impossible to eliminate the hazard, the preventive withdrawal of pregnant and breast-feeding women be granted in legislation, without loss of pay and benefits. (*Not accepted, but partially addressed in recommendation #35.*)

In their report, the Commission addressed the health and safety issue of reproductive hazards in the workplace in Chapter 13 of Volume One (see Appendix 1). The following summarizes those recommendations (all in the context of reproductive hazards):

- #35 elimination of workplace hazards;**
- #36 heavy penalties to employers for unsafe working conditions;**
- #37 uniform reproductive health & safety standards across the country;**
- #38 legislation empowering health & safety committees**
- #41 international effort to assess existing environmental substances;**
- #42 monitoring exposure of workers;**
- #43 federal funding for research on designated substances and chemicals, and**
- #44 increasing trained researchers.**

### **3. Submission to the Legislative Committee on Bill C-101, (An Act to amend the Canada Labour Code and the Public Service Staff Relations Act) (March 1993)**

The PSAC welcomed the amendments to remove some of the barriers to pregnant and nursing workers but deplored the fact that these same amendments were not incorporated in Part II of the Canada Labour Code to cover all federal public service workers. We recommended that workplace health and safety protection specific to the condition of the pregnant or nursing worker should be provided, with an emphasis placed on modifying the job functions or reassigning of the worker to another suitable job. If this cannot be accomplished, the pregnant or nursing worker must then have the right to fully paid leave until the pregnancy or the nursing is terminated. We also stipulated that these workers be entitled to the same salary and benefits as in their regular job, and to job protection during the full period of the leave.

### **4. PSAC Election Bulletin on Protective Reassignment (September 1993)**

This bulletin was published to be distributed as campaign material to the PSAC Political Action Committees (PACs) before the federal election on October 25, 1993. It very briefly outlined the issue, explained the existing legislation and urged members to become informed of where their local candidates stood on the issue before making an informed decision when casting their ballots.

### **5. Issue Raised at National Health & Safety Conference (October 22-24, 1993)**

The issue was raised during our recent Health and Safety Conference in Hull, Québec. The PSAC bulletin mentioned above was



also distributed at this time. Gatherings of this nature present us with a forum where we can reach many members interested in Health and Safety matters.

## **6. PSAC Union Update Bulletin (*December 17, 1993*)**

An article was published covering PSAC members in the province of Québec who were lobbying Members of Parliament. They were seeking the same protection as granted provincial workers on the issue of protective reassignment for pregnant or breast-feeding workers. The piece also covered the press conference outlining the union's strategy on this issue held at the Montréal Regional Office on September 24, 1993 during the federal election campaign.

## **7. PSAC Union Update Bulletin (*February 11, 1994*)**

A full one page report on the issues addressed by the Royal Commission on Reproductive Technology was printed in this bulletin to increase member awareness.

## **WHAT WE PLAN TO DO IN THE FUTURE**

- A fact sheet, similar to the one produced on this subject before the election will be published and handed out at all courses and activities carried out by the PSAC to raise awareness of the issue.
- A letter to be signed by PSAC President Daryl Bean will be sent to the Treasury Board President pressuring to have this protection for all federal public service workers.
- We will pressure for legislative protection for all PSAC members in Health and Safety Acts, Worker's Compensation Acts, and Human Rights Acts.

- We will encourage members to pursue this cause within their locals, at local union health and safety committees, at regional women's committees, at political action committees, through awareness sessions and campaigns, or through other activities related to this issue.
- We will pressure for improved protection in all our collective agreements.

## **WHAT YOU CAN DO AT THE LOCAL LEVEL**

### **1. LOBBYING:**

As employees and union members, you must also remember that you are voters. You can be very effective in bringing attention to an issue by forming an influential and powerful lobby group. Your lobbying campaign must first get the attention of your own local in order to get the support of as many members as possible. In this case, it is especially important to attract the attention of those who will be most affected by the changes. Women members will likely have a special interest in issues that deal with reproduction and protective reassignment. It is important to involve the Regional Women's Committees (RWCs), local Union Health and Safety Committees, and the Political Action Committees. You will then be ready to lobby officials and politicians. Politicians will take note of the public's awareness of a workplace problem. It becomes a political issue which impacts on the workers' economic and social well-being. It also affects their personal safety and that of their offspring. The politicians must take a stand because their job as elected officers is to serve us. You must be prepared to lobby by being well informed on the subject at hand. You must have a clear, concise goal and suggestions for solutions which the politician can adapt.

You could also lobby for:

- protective reassignment for all PSAC members as a legislative right



- improved protection against hazardous substances and for lowering chemical exposure limits for workers (Occupational Exposure Limits or OELs)
- more testing of new and existing substances and pretesting of chemicals before use
- reproductive hazards to be recognized as hazards

## 2. NEWS RELEASES:

An extremely valuable tool in any public awareness campaign is the news release. If an issue is of unique importance to your local, (for example, it is known that a certain chemical used in your work process is a suspected teratogen) then you can present your local's specific points of concern using this forum. It will allow you to: alert the media to up-coming events, (such as a special investigation by health officials), to force politicians and administrators to take notice of your issues, to educate reporters and the public, and to strengthen and give a boost to the moral of your members by making news.

## 3. MEDIA CAMPAIGNS:

Public awareness is a most important element in resolving an issue. An effective media campaign can achieve a great deal towards letting people know what the concerns are. It can give added credibility to your cause and will allow you to exert more pressure on public figures. It is a method of documenting dates and times of events as well as keeping track of "*what was said by whom on which issue*". It is important to clearly define the issue at hand. For example, a topic, such as job modification for pregnant workers, must be simply and concisely explained in everyday language. Give yourself time to ensure that as many members as possible are reached and that they understand and support the principles behind your ideas. Suitable slogans such as "Blooming for Change" are useful and catchy

and can be used on leaflets, posters, T-Shirts and other promotional materials. Organizing public meetings with invitations to council members, politicians, and community leaders as well as the press will get a good response and wide coverage.

## 4. PETITIONS:

Organize a petition, be it small and for your local only, or as part of a larger effort by your component or region etc. Again, it is important to clearly define the intent of the petition, to promote and publicize it, and to be organized in its distribution and collection. Petitions can be compared to hard copies of documents; they are visible proof that an issue is important to the members who signed it. Know your target audience and be sure to send the completed copies to officials who have authority. Provide follow-up to those who have taken part in the petition.

## 5. QUESTIONNAIRES:

Remember to use surveys and questionnaires. They can be important fact finding tools in researching any issue. When well designed, they can enable you to collect information on the opinions of the respondents as well as factual information on how they are affected by the issue at hand. The same rules of thumb such as being direct, well organized and publicized apply to questionnaires also. Again, as a matter of courtesy, it is important to inform those who have taken part in the survey of what has been achieved as the results of their efforts.

## 6. EDUCATION:

Organize noon-hour discussion groups, guest speakers at local meetings and other informational gatherings to improve member awareness of important health and safety issues.



## 7. WORKPLACE HEALTH AND SAFETY COMMITTEES (WHSC):

All Health and Safety laws in Canada require the establishment of a WHSC. It is essential that your WHSC be efficient and functional. The committee must be able to evaluate health and safety concerns and then recommend appropriate corrective action to resolve the problems.

The committee should play an active role in workplace inspections and job hazard analysis (JHA). To this end, the PSAC has published a booklet outlining how to go about these processes. *Inspect* the work station. *Recognize* chemical, biological, physical, ergonomic and reproductive hazards in your workplace. *Anticipate* any new substance, process or equipment introduced into or presently in the workplace. *Evaluate* the hazard's potential to cause harm to you, your fetus or your newborn child, not just today but in the future as well. If any of these processes indicate that there may be a problem in your workplace, it is time to think about protective reassignment.

If for example, a pregnant worker brings forth a problem with lifting loads which she now feels are too heavy for her due to her condition, the committee must address that issue during their meeting. Management must be represented on the committee by people with decision-making authority who can act on the recommendations of the committee. It may also be useful to have proportional representation of male and female committee members to fairly represent everyone's concerns.

It is your responsibility to insist on an effective committee, which can only exist if the members are committed and sincere and understand their role and function while accepting their responsibilities as members.

## Conclusion

Modifying or adapting the work station for a pregnant worker forces the employer to really look at the job-elements of that position. It is pointed out that unsafe conditions for a pregnant worker are often good indicators of potential dangers to other workers, both male and female. Therefore, making improvements to the job for a pregnant worker will eventually contribute to improved conditions and improved health and safety for all workers.

A healthy and safe workplace is a fundamental right which Canadians have won, not without a difficult struggle. It is unacceptable that Canadian women in most jurisdictions still have to choose between having a child and having a job where those jobs are hazardous. The PSAC believes that the right to a healthy and safe workplace must be entrenched in laws covering all our members that are pregnant or breast-feeding, and this should include protection from workplace hazards and discrimination. The Health and Safety laws must be strengthened to eliminate working conditions dangerous to pregnant and breast-feeding workers, and must be extended to cover all our members.

The PSAC recognizes that the emphasis must be placed on modifying the job functions or reassigning the worker to another suitable job that is not dangerous. If this is not possible, then the PSAC believes that additional protection in the form of leave with pay until the worker has given birth or weaned the child should be granted. Allowing this protection would guarantee the worker not be penalized for her pregnancy. We can no longer tolerate these types of barriers to women in the workplace. Provision of regular wages and benefits must continue, uninterrupted for the duration of this leave.

It can be said that the cost of correction far outweighs the cost of prevention. This issue does not only involve monetary costs, but human costs as well. We at the PSAC must continue to fight for issues such as this one to bring our members the highest quality of environmental working conditions and therefore bring them better enjoyment of life. In remembering that we spend approximately one third of our day at work, which is often more than one half of our waking hours, it is overwhelmingly important that this time be spent in an environment that is safe and conducive to good health. **You have the right to a healthy and safe working environment.**

**LET US ALL WORK TOGETHER TO MAKE IT SO!**

## **Glossary of Terms**

**Carcinogen:** Any substance or agent that produces or incites cancer

**Conception:** The union of the male sperm and the ovum of the female; fertilization

**Congenital Abnormalities:** An abnormality present at birth

**Down's Syndrome:** Preferred term for mongolism, a variety of congenital moderate-to-severe mental retardation

**Electro-Magnetic Radiation:** Electricity creates two kinds of invisible fields, electric fields produced by voltage, and magnetic fields generated by current, which when taken together are referred to as electro-magnetic radiation

**Embryo:** The early stage of development of the human being, between the 2<sup>nd</sup> and 8<sup>th</sup> weeks inclusive

**Engineering Controls:** Measures that reduce or eliminate the hazards that the workplace present to the worker

**Ergonomics:** The science which is concerned with the problem of how to fit a job to a person's anatomical, physiological, and psychological characteristics in such a way as to enhance human efficiency and well-being

**Fetus (Foetus):** The latter stages of development of the child in utero (in the uterus) from the third month to birth

**Hormone:** A substance originating in an organ, gland, or part, which is conveyed through the blood to another part of the body, stimulating it by chemical action to increased functional activity and increased secretion



**Latency Period:** Time period between first exposure to a substance and the appearance of disease

**Multiple Chemical Sensitivity (MCS):** A chronic disease associated with exposure to chemical products or biological contaminants affecting multiple organs and systems, resulting in a developed intolerance to these substances, with reactions occurring after exposures to doses lower than those generally tolerated by most people

**Mutagen:** Any agent that causes genetic mutations; many medicines, chemicals, and physical agents such as ionizing radiations and ultraviolet light have this ability

**Mutation:** Change, transformation, instance of such change; sudden permanent variation with offspring differing from parents in a marked characteristic; a change in a gene potentially capable of being transmitted to offspring

**Personal Protective Equipment (PPE):** Equipment or gear used to control or protect the worker from a hazard

**Placenta:** Oval spongy structure in the uterus through which the fetus derives its nourishment

**Placental Membrane:** A membrane attached to the placenta which is semipermeable, allowing some materials to pass through and holding others back

**Protective Employment Policies:** Discriminatory administrative policies aimed at controlling the worker rather than the hazard, by including such measures as prescreening workers, refusing to hire those who may be abnormally susceptible to a particular problem, excluding fertile women from working in certain jobs and rotating shifts in hazardous areas

**Sick Building Syndrome (SBS):** Conditions such as lack of fresh air, faulty ventilation systems, and presence of chemical and biological contaminants which usually exist in sealed buildings resulting in health problems manifesting symptoms such as eye, nose, and throat irritations; dizziness, fatigue and headaches; increased susceptibility to illnesses such as colds and flu; and respiratory problems

**Synergistic:** Acting together in such a way that the result is more than the sum of the individual parts

**Teratogen:** Anything that causes the development of abnormal structures in an embryo

**Toxic (Hazardous) Substances:** Substances harmful to human health

**Trimester:** In pregnancy, a period of three months

**Uterus:** An organ of the female for containing and nourishing the embryo and fetus from the time the fertilized egg is implanted to the time of birth; womb

**Volatile Organic Compounds (VOCs):** Synthetic and natural chemicals containing carbon and hydrogen that have a boiling point in the range of 50-250°C

# Appendix

## Royal Commission Recommendations (pertaining to Reproductive Workplace Hazards)

- #35 Control of workplace hazards not be sought through discriminatory personnel policies, and that reduction of hazards be sought through the use of engineering and workplace design controls wherever feasible.
- #36 The Commission endorses the approach of workers' compensation boards that have established their employer contribution rates using penalty assessments based on observed hazards or health and safety audits. This approach should be adapted to include specific provisions for reproductive hazards.
- #37 The federal government initiate and promote federal/provincial/territorial consultation and information sharing and, in cooperation with other governments, attempt to establish uniform standards in occupational health and safety across the country, in particular in relation to reproductive hazards.
- #38 Provinces/territories consider how their occupational health and safety legislation could be amended to provide more equal participation by employers and workers, with a view to reducing reproductive workplace hazards. This could include
  - (a) vesting health and safety committees with the same decision making powers guaranteed by Québec's occupational health and safety legislation;

- (b) requiring that employers obtain the approval of the workplace health and safety committee for significant workplace changes; and
- (c) identifying and appointing external resource persons with health and safety expertise for non-union or small unionized workplaces to provide information on health and safety.

- #41 The federal government organize and provide funding to a working group of Canadian experts in the field of reproductive health and workplace and environmental exposures, to work with the World Health Organization to initiate a cooperative international effort to critically assess the existing data on occupational and environmental substances that may represent risks to reproductive health.
- #42 The federal government, in conjunction with provincial/territorial governments, develop programs to monitor the exposure of workers in various occupations to known reproductive hazards, with the aim of developing appropriate control and prevention measures.
- #43 The federal government and its research funding bodies support research studies on the impact of designated substance and families of chemicals that are suspected of causing adverse reproductive health effects.
- #44 Research funding bodies, such as the Medical Research Council of Canada and Health Canada (National Health Research and Development Program), consider how to increase the pool of trained researchers qualified to conduct research in the area of occupational and environmental reproductive health effects.



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