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STATUTORY INSTRUMENTS

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**1999 No. 437**

**The Control of Substances Hazardous  
to Health Regulations 1999**

**Health surveillance**

**11.**—(1) Where it is appropriate for the protection of the health of his employees who are, or are liable to be, exposed to a substance hazardous to health, the employer shall ensure that such employees are under suitable health surveillance.

(2) Health surveillance shall be treated as being appropriate where—

- (a) the employee is exposed to one of the substances specified in Column 1 of Schedule 6 and is engaged in a process specified in Column 2 of that Schedule, unless that exposure is not significant; or
- (b) the exposure of the employee to a substance hazardous to health is such that an identifiable disease or adverse health effect may be related to the exposure, there is a reasonable likelihood that the disease or effect may occur under the particular conditions of his work and there are valid techniques for detecting indications of the disease or the effect.

(3) The employer shall ensure that a health record, containing particulars approved by the Executive, in respect of each of his employees to whom paragraph (1) relates is made and maintained and that that record or a copy thereof is kept in a suitable form for at least 40 years from the date of the last entry made in it.

(4) Where an employer who holds records in accordance with paragraph (3) ceases to trade, he shall forthwith notify the Executive thereof in writing and offer those records to the Executive.

(5) If an employee is exposed to a substance specified in Schedule 6 and is engaged in a process specified therein, the health surveillance required under paragraph (1) shall include medical surveillance under the supervision of an employment medical adviser or appointed doctor at intervals of not more than 12 months or at such shorter intervals as the employment medical adviser or appointed doctor may require.

(6) Where an employee is subject to medical surveillance in accordance with paragraph (5) and an employment medical adviser or appointed doctor has certified by an entry in the health record of that employee that in his professional opinion that employee should not be engaged in work which exposes him to that substance or that he should only be so engaged under conditions specified in the record, the employer shall not permit the employee to be engaged in such work except in accordance with the conditions, if any, specified in the health record, unless that entry has been cancelled by an employment medical adviser or appointed doctor.

(7) Where an employee is subject to medical surveillance in accordance with paragraph (5) and an employment medical adviser or appointed doctor has certified by an entry in his health record that medical surveillance should be continued after his exposure to that substance has ceased, the employer shall ensure that the medical surveillance of that employee is continued in accordance with that entry while he is employed by the employer, unless that entry has been cancelled by an employment medical adviser or appointed doctor.

(8) On reasonable notice being given, the employer shall allow any of his employees access to the health record which relates to him.

(9) An employee to whom this regulation applies shall, when required by his employer and at the cost of the employer, present himself during his working hours for such health surveillance procedures as may be required for the purposes of paragraph (1) and, in the case of an employee who is subject to medical surveillance in accordance with paragraph (5), shall furnish the employment medical adviser or appointed doctor with such information concerning his health as the employment medical adviser or appointed doctor may reasonably require.

(10) Where, for the purpose of carrying out his functions under these Regulations, an employment medical adviser or appointed doctor requires to inspect any workplace or any record kept for the purposes of these Regulations, the employer shall permit him to do so.

(11) Where an employee or an employer is aggrieved by a decision recorded in the health record by an employment medical adviser or appointed doctor to suspend an employee from work which exposes him to a substance hazardous to health (or to impose conditions on such work), he may, by an application in writing to the Executive within 28 days of the date on which he was notified of the decision, apply for that decision to be reviewed in accordance with a procedure approved for the purposes of this paragraph by the Health and Safety Commission, and the result of that review shall be notified to the employee and employer and entered in the health record in accordance with the approved procedure.

(12) In this regulation—

“appointed doctor” means a registered medical practitioner who is appointed for the time being in writing by the Executive for the purposes of this regulation;

“employment medical adviser” means an employment medical adviser appointed under section 56 of the 1974 Act;

“health surveillance” includes biological monitoring.