

**2002 No. 2677**

**HEALTH AND SAFETY**

**The Control of Substances Hazardous to Health  
Regulations 2002**

*Made* - - - - - *24th October 2002*

*Laid before Parliament* *31st October 2002*

*Coming into force* - - *21st November 2002*

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The Secretary of State being the Minister designated(a) for the purpose of section 2(2) of the European Communities Act 1972(b) in relation to the abolition of restrictions on the import or export of goods, in the exercise of the powers conferred on him by the said section 2(2) and sections 15(1), (2), (3)(b), (4), (5)(b), (6)(b) and (9), 52(2) and (3) and 82(3)(a) of, and paragraphs 1(1) to (4), 2, 6(1), 8, 9, 11, 14, 15(1), 16 and 20 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(c) (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

### **Citation and commencement**

1. These Regulations may be cited as the Control of Substances Hazardous to Health Regulations 2002 and shall come into force on 21st November 2002.

### **Interpretation**

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(d) and adopted as respects Great Britain by the European Economic Area Act 1993(e);

“appointed doctor” means a registered medical practitioner appointed for the time being in writing by the Executive for the purpose of these Regulations;

“approved” means approved for the time being in writing;

“approved classification” of a biological agent means the classification of that agent approved by the Health and Safety Commission;

“approved supply list” has the meaning assigned to it in regulation 2(1) of the CHIP Regulations;

“biological agent” means a micro-organism, cell culture, or human endoparasite, whether or not genetically modified, which may cause infection, allergy, toxicity or otherwise create a hazard to human health;

“carcinogen” means—

(a) a substance or preparation which if classified in accordance with the classification provided for by regulation 4 of the CHIP Regulations would be in the category of danger, carcinogenic (category 1) or carcinogenic (category 2) whether or not the substance or preparation would be required to be classified under those Regulations; or

(b) a substance or preparation—

(i) listed in Schedule 1, or

(ii) arising from a process specified in Schedule 1 which is a substance hazardous to health;

“cell culture” means the in-vitro growth of cells derived from multicellular organisms;

“the CHIP Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002(f);

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(a) S.I. 1992/2661.

(b) 1972 c. 68, the definition of the Treaties referred to in section 2(2) of the European Communities Act 1972 was extended by section 1 of the European Economic Area Act 1993 (c. 51).

(c) 1974 c. 37, sections 11(2), 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 4, 6 and 16(3) respectively.

(d) The Agreement was amended by Decision 7/94 of the EEA Joint Committee of 21st March 1994 (OJ No. L160, 28.6.94, p. 1). There are other amendments to the Agreement not relevant to these Regulations.

(e) 1993 c. 51.

(f) S.I. 2002/1689.

“control measure” means a measure taken to reduce exposure to a substance hazardous to health (including the provision of systems of work and supervision, the cleaning of workplaces, premises, plant and equipment, the provision and use of engineering controls and personal protective equipment);

“employment medical adviser” means an employment medical adviser appointed under section 56 of the Health and Safety at Work etc. Act 1974;

“the Executive” means the Health and Safety Executive;

“fumigation” means an operation in which a substance is released into the atmosphere so as to form a gas to control or kill pests or other undesirable organisms and “fumigate” and “fumigant” shall be construed accordingly;

“Group”, in relation to a biological agent, means one of the four hazard Groups specified in paragraph 2 of Schedule 3 to which that agent is assigned;

“hazard”, in relation to a substance, means the intrinsic property of that substance which has the potential to cause harm to the health of a person, and “hazardous” shall be construed accordingly;

“health surveillance” means assessment of the state of health of an employee, as related to exposure to substances hazardous to health, and includes biological monitoring;

“inhalable dust” means airborne material which is capable of entering the nose and mouth during breathing, as defined by BS EN 481 1993;

“maximum exposure limit” for a substance hazardous to health means the maximum exposure limit approved by the Health and Safety Commission for that substance in relation to the specified reference period when calculated by a method approved by the Health and Safety Commission;

“medical examination” includes any laboratory tests and X-rays that a relevant doctor may require;

“member State” means a State which is a Contracting Party to the Agreement;

“micro-organism” means a microbiological entity, cellular or non-cellular, which is capable of replication or of transferring genetic material;

“mine” has the meaning assigned to it by section 180 of the Mines and Quarries Act 1954(a);

“occupational exposure standard” for a substance hazardous to health means the standard approved by the Health and Safety Commission for that substance in relation to the specified reference period when calculated by a method approved by the Health and Safety Commission;

“personal protective equipment” means all equipment (including clothing) which is intended to be worn or held by a person at work and which protects that person against one or more risks to his health, and any addition or accessory designed to meet that objective;

“preparation” means a mixture or solution of two or more substances;

“public road” means (in England and Wales) a highway maintainable at the public expense within the meaning of section 329 of the Highways Act 1980(b) and (in Scotland) a public road within the meaning assigned to that term by section 151 of the Roads (Scotland) Act 1984(c);

“registered dentist” has the meaning assigned to it in section 53(1) of the Dentists Act 1984(d);

“relevant doctor” means an appointed doctor or an employment medical adviser;

“respirable dust” means airborne material which is capable of penetrating to the gas exchange region of the lung, as defined by BS EN 481 1993;

“risk”, in relation to the exposure of an employee to a substance hazardous to health, means the likelihood that the potential for harm to the health of a person will be attained under the conditions of use and exposure and also the extent of that harm;

“the risk assessment” means the assessment of risk required by regulation 6(1)(a);

“safety data sheet” means a safety data sheet within the meaning of regulation 5 of the CHIP Regulations;

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(a) 1954 c. 70, section 180 was modified by S.I. 1974/2013, 1993/1897 and 1999/2024.

(b) 1980 c. 66.

(c) 1984 c. 54.

(d) 1984 c. 24.

“substance” means a natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour (including micro-organisms);

“substance hazardous to health” means a substance (including a preparation)—

- (a) which is listed in Part I of the approved supply list as dangerous for supply within the meaning of the CHIP Regulations and for which an indication of danger specified for the substance is very toxic, toxic, harmful, corrosive or irritant;
- (b) for which the Health and Safety Commission has approved a maximum exposure limit or an occupational exposure standard;
- (c) which is a biological agent;
- (d) which is dust of any kind, except dust which is a substance within paragraph (a) or (b) above, when present at a concentration in air equal to or greater than—
  - (i) 10 mg/m<sup>3</sup>, as a time-weighted average over an 8-hour period, of inhalable dust, or
  - (ii) 4 mg/m<sup>3</sup>, as a time-weighted average over an 8-hour period, of respirable dust;
- (e) which, not being a substance falling within sub-paragraphs (a) to (d), because of its chemical or toxicological properties and the way it is used or is present at the workplace creates a risk to health;

“workplace” means any premises or part of premises used for or in connection with work, and includes—

- (a) any place within the premises to which an employee has access while at work; and
- (b) any room, lobby, corridor, staircase, road or other place—
  - (i) used as a means of access to or egress from that place of work, or
  - (ii) where facilities are provided for use in connection with that place of work, other than a public road.

(2) In these Regulations, a reference to an employee being exposed to a substance hazardous to health is a reference to the exposure of that employee to a substance hazardous to health arising out of or in connection with work at the workplace.

(3) Where a biological agent has an approved classification, any reference in these Regulations to a particular Group in relation to that agent shall be taken as a reference to the Group to which that agent has been assigned in that approved classification.

### **Duties under these Regulations**

3.—(1) Where a duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work carried out by the employer except that the duties of the employer—

- (a) under regulation 11 (health surveillance) shall not extend to persons who are not his employees; and
- (b) under regulations 10, 12(1) and (2) and 13 (which relate respectively to monitoring, information and training and dealing with accidents) shall not extend to persons who are not his employees, unless those persons are on the premises where the work is being carried out.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and an employee, except that regulations 10 and 11 shall not apply to a self-employed person.

(3) The duties imposed by these Regulations shall not extend to the master or crew of a sea-going ship or to the employer of such persons in relation to the normal shipboard activities of a ship’s crew under the direction of the master.

### **Prohibitions relating to certain substances**

4.—(1) Those substances described in Column 1 of Schedule 2 are prohibited to the extent set out in the corresponding entry in Column 2 of that Schedule.

(2) The importation into the United Kingdom, other than from another member State, of the following substances and articles is prohibited, namely—

- (a) 2-naphthylamine, benzidine, 4-aminodiphenyl, 4-nitrodiphenyl, their salts and any substance containing any of those compounds in a total concentration equal to or greater than 0.1 per cent by mass;

(b) matches made with white phosphorus,

and a contravention of this paragraph shall be punishable under the Customs and Excise Management Act 1979<sup>(a)</sup> and not as a contravention of a health and safety regulation.

(3) A person shall not supply during the course of or for use at work a substance or article specified in paragraph (2).

(4) A person shall not supply during the course of or for use at work, benzene or a substance containing benzene unless its intended use is not prohibited by item 11 of Schedule 2.

### **Application of regulations 6 to 13**

**5.**—(1) Regulations 6 to 13 shall have effect with a view to protecting persons against a risk to their health, whether immediate or delayed, arising from exposure to substances hazardous to health except—

(a) where and to the extent that the following Regulations apply, namely—

- (i) the Coal Mines (Respirable Dust) Regulations 1975<sup>(b)</sup>,
- (ii) the Control of Lead at Work Regulations 2002<sup>(c)</sup>,
- (iii) the Control of Asbestos at Work Regulations 2002<sup>(d)</sup>;

(b) where the substance is hazardous to health solely by virtue of its radioactive, explosive or flammable properties, or solely because it is at a high or low temperature or a high pressure;

(c) where the risk to health is a risk to the health of a person to whom the substance is administered in the course of his medical treatment.

(2) In paragraph (1)(c) “medical treatment” means medical or dental examination or treatment which is conducted by, or under the direction of a—

- (a) registered medical practitioner;
- (b) registered dentist; or
- (c) other person who is an appropriate practitioner for the purposes of section 58 of the Medicines Act 1968<sup>(e)</sup>,

and includes any such examination or treatment conducted for the purpose of research.

### **Assessment of the risk to health created by work involving substances hazardous to health**

**6.**—(1) An employer shall not carry out work which is liable to expose any employees to any substance hazardous to health unless he has—

(a) made a suitable and sufficient assessment of the risk created by that work to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations; and

(b) implemented the steps referred to in sub-paragraph (a).

(2) The risk assessment shall include consideration of—

- (a) the hazardous properties of the substance;
- (b) information on health effects provided by the supplier, including information contained in any relevant safety data sheet;
- (c) the level, type and duration of exposure;
- (d) the circumstances of the work, including the amount of the substance involved;
- (e) activities, such as maintenance, where there is the potential for a high level of exposure;
- (f) any relevant occupational exposure standard, maximum exposure limit or similar occupational exposure limit;
- (g) the effect of preventive and control measures which have been or will be taken in accordance with regulation 7;
- (h) the results of relevant health surveillance;

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(a) 1979 c. 2.

(b) S.I. 1975/1433, as amended by S.I. 1978/807.

(c) S.I. 2002/2676.

(d) S.I. 2002/2675.

(e) 1968 c. 67.

- (i) the results of monitoring of exposure in accordance with regulation 10;
  - (j) in circumstances where the work will involve exposure to more than one substance hazardous to health, the risk presented by exposure to such substances in combination;
  - (k) the approved classification of any biological agent; and
  - (l) such additional information as the employer may need in order to complete the risk assessment.
- (3) The risk assessment shall be reviewed regularly and forthwith if—
- (a) there is reason to suspect that the risk assessment is no longer valid;
  - (b) there has been a significant change in the work to which the risk assessment relates; or
  - (c) the results of any monitoring carried out in accordance with regulation 10 show it to be necessary,
- and where, as a result of the review, changes to the risk assessment are required, those changes shall be made.
- (4) Where the employer employs 5 or more employees, he shall record—
- (a) the significant findings of the risk assessment as soon as is practicable after the risk assessment is made; and
  - (b) the steps which he has taken to meet the requirements of regulation 7.

### **Prevention or control of exposure to substances hazardous to health**

7.—(1) Every employer shall ensure that the exposure of his employees to substances hazardous to health is either prevented or, where this is not reasonably practicable, adequately controlled.

(2) In complying with his duty of prevention under paragraph (1), substitution shall by preference be undertaken, whereby the employer shall avoid, so far as is reasonably practicable, the use of a substance hazardous to health at the workplace by replacing it with a substance or process which, under the conditions of its use, either eliminates or reduces the risk to the health of his employees.

(3) Where it is not reasonably practicable to prevent exposure to a substance hazardous to health, the employer shall comply with his duty of control under paragraph (1) by applying protection measures appropriate to the activity and consistent with the risk assessment, including, in order of priority—

- (a) the design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work equipment and materials;
- (b) the control of exposure at source, including adequate ventilation systems and appropriate organisational measures; and
- (c) where adequate control of exposure cannot be achieved by other means, the provision of suitable personal protective equipment in addition to the measures required by subparagraphs (a) and (b).

(4) The measures referred to in paragraph (3) shall include—

- (a) arrangements for the safe handling, storage and transport of substances hazardous to health, and of waste containing such substances, at the workplace;
- (b) the adoption of suitable maintenance procedures;
- (c) reducing, to the minimum required for the work concerned—
  - (i) the number of employees subject to exposure,
  - (ii) the level and duration of exposure, and
  - (iii) the quantity of substances hazardous to health present at the workplace;
- (d) the control of the working environment, including appropriate general ventilation; and
- (e) appropriate hygiene measures including adequate washing facilities.

(5) Without prejudice to the generality of paragraph (1), where it is not reasonably practicable to prevent exposure to a carcinogen, the employer shall apply the following measures in addition to those required by paragraph (3)—

- (a) totally enclosing the process and handling systems, unless this is not reasonably practicable;

- (b) the prohibition of eating, drinking and smoking in areas that may be contaminated by carcinogens;
- (c) cleaning floors, walls and other surfaces at regular intervals and whenever necessary;
- (d) designating those areas and installations which may be contaminated by carcinogens and using suitable and sufficient warning signs; and
- (e) storing, handling and disposing of carcinogens safely, including using closed and clearly labelled containers.

(6) Without prejudice to the generality of paragraph (1), where it is not reasonably practicable to prevent exposure to a biological agent, the employer shall apply the following measures in addition to those required by paragraph (3)—

- (a) displaying suitable and sufficient warning signs, including the biohazard sign shown in Part IV of Schedule 3;
- (b) specifying appropriate decontamination and disinfection procedures;
- (c) instituting means for the safe collection, storage and disposal of contaminated waste, including the use of secure and identifiable containers, after suitable treatment where appropriate;
- (d) testing, where it is necessary and technically possible, for the presence, outside the primary physical confinement, of biological agents used at work;
- (e) specifying procedures for working with, and transporting at the workplace, a biological agent or material that may contain such an agent;
- (f) where appropriate, making available effective vaccines for those employees who are not already immune to the biological agent to which they are exposed or are liable to be exposed;
- (g) instituting hygiene measures compatible with the aim of preventing or reducing the accidental transfer or release of a biological agent from the workplace, including—
  - (i) the provision of appropriate and adequate washing and toilet facilities, and
  - (ii) where appropriate, the prohibition of eating, drinking, smoking and the application of cosmetics in working areas where there is a risk of contamination by biological agents; and
- (h) where there are human patients or animals which are, or are suspected of being, infected with a Group 3 or 4 biological agent, the employer shall select the most suitable control and containment measures from those listed in Part II of Schedule 3 with a view to controlling adequately the risk of infection.

(7) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which a maximum exposure limit has been approved, control of exposure shall, so far as the inhalation of that substance is concerned, only be treated as being adequate if the level of exposure is reduced so far as is reasonably practicable and in any case below the maximum exposure limit.

(8) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which an occupational exposure standard has been approved, control of exposure shall, so far as the inhalation of that substance is concerned, only be treated as being adequate if—

- (a) that occupational exposure standard is not exceeded; or
- (b) where that occupational exposure standard is exceeded, the employer identifies the reasons for the standard being exceeded and takes appropriate action to remedy the situation as soon as is reasonably practicable.

(9) Personal protective equipment provided by an employer in accordance with this regulation shall be suitable for the purpose and shall—

- (a) comply with any provision in the Personal Protective Equipment Regulations 2002(a) which is applicable to that item of personal protective equipment; or
- (b) in the case of respiratory protective equipment, where no provision referred to in subparagraph (a) applies, be of a type approved or shall conform to a standard approved, in either case, by the Executive.

(10) Without prejudice to the provisions of this regulation, Schedule 3 shall have effect in relation to work with biological agents.

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(a) S.I. 2002/1144.

(11) In this regulation, “adequate” means adequate having regard only to the nature of the substance and the nature and degree of exposure to substances hazardous to health and “adequately” shall be construed accordingly.

#### **Use of control measures etc.**

8.—(1) Every employer who provides any control measure, other thing or facility in accordance with these Regulations shall take all reasonable steps to ensure that it is properly used or applied as the case may be.

(2) Every employee shall make full and proper use of any control measure, other thing or facility provided in accordance with these Regulations and, where relevant, shall—

- (a) take all reasonable steps to ensure it is returned after use to any accommodation provided for it; and
- (b) if he discovers a defect therein, report it forthwith to his employer.

#### **Maintenance, examination and testing of control measures**

9.—(1) Every employer who provides any control measure to meet the requirements of regulation 7 shall ensure that, where relevant, it is maintained in an efficient state, in efficient working order, in good repair and in a clean condition.

(2) Where engineering controls are provided to meet the requirements of regulation 7, the employer shall ensure that thorough examination and testing of those controls is carried out—

- (a) in the case of local exhaust ventilation plant, at least once every 14 months, or for local exhaust ventilation plant used in conjunction with a process specified in Column 1 of Schedule 4, at not more than the interval specified in the corresponding entry in Column 2 of that Schedule; or
- (b) in any other case, at suitable intervals.

(3) Where respiratory protective equipment (other than disposable respiratory protective equipment) is provided to meet the requirements of regulation 7, the employer shall ensure that thorough examination and, where appropriate, testing of that equipment is carried out at suitable intervals.

(4) Every employer shall keep a suitable record of the examinations and tests carried out in accordance with paragraphs (2) and (3) and of repairs carried out as a result of those examinations and tests, and that record or a suitable summary thereof shall be kept available for at least 5 years from the date on which it was made.

(5) Every employer shall ensure that personal protective equipment, including protective clothing, is:

- (a) properly stored in a well-defined place;
- (b) checked at suitable intervals; and
- (c) when discovered to be defective, repaired or replaced before further use.

(6) Personal protective equipment which may be contaminated by a substance hazardous to health shall be removed on leaving the working area and kept apart from uncontaminated clothing and equipment.

(7) The employer shall ensure that the equipment referred to in paragraph (6) is subsequently decontaminated and cleaned or, if necessary, destroyed.

#### **Monitoring exposure at the workplace**

10.—(1) Where the risk assessment indicates that—

- (a) it is requisite for ensuring the maintenance of adequate control of the exposure of employees to substances hazardous to health; or
- (b) it is otherwise requisite for protecting the health of employees,

the employer shall ensure that the exposure of employees to substances hazardous to health is monitored in accordance with a suitable procedure.

(2) Paragraph (1) shall not apply where the employer is able to demonstrate by another method of evaluation that the requirements of regulation 7(1) have been complied with.

(3) The monitoring referred to in paragraph (1) shall take place—

- (a) at regular intervals; and

(b) when any change occurs which may affect that exposure.

(4) Where a substance or process is specified in Column 1 of Schedule 5, monitoring shall be carried out at least at the frequency specified in the corresponding entry in Column 2 of that Schedule.

(5) The employer shall ensure that a suitable record of monitoring carried out for the purpose of this regulation is made and maintained and that that record or a suitable summary thereof is kept available—

(a) where the record is representative of the personal exposures of identifiable employees, for at least 40 years; or

(b) in any other case, for at least 5 years,  
from the date of the last entry made in it.

(6) Where an employee is required by regulation 11 to be under health surveillance, an individual record of any monitoring carried out in accordance with this regulation shall be made, maintained and kept in respect of that employee.

(7) The employer shall—

(a) on reasonable notice being given, allow an employee access to his personal monitoring record;

(b) provide the Executive with copies of such monitoring records as the Executive may require; and

(c) if he ceases to trade, notify the Executive forthwith in writing and make available to the Executive all monitoring records kept by him.

### **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, and there is a reasonable likelihood that an identifiable disease or adverse health effect will result from that exposure; or

(b) the exposure of the employee to a substance hazardous to health is such that—

(i) an identifiable disease or adverse health effect may be related to the exposure,

(ii) there is a reasonable likelihood that the disease or effect may occur under the particular conditions of his work, and

(iii) there are valid techniques for detecting indications of the disease or effect,

and the technique of investigation is of low risk to the employee.

(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) applies, is made and maintained and that that record or a copy thereof is kept available in a suitable form for at least 40 years from the date of the last entry made in it.

(4) The employer shall—

(a) on reasonable notice being given, allow an employee access to his personal health record;

(b) provide the Executive with copies of such health records as the Executive may require; and

(c) if he ceases to trade, notify the Executive forthwith in writing and make available to the Executive all health records kept by him.

(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 a relevant doctor at intervals of not more than 12 months or at such shorter intervals as the relevant doctor may require.

(6) Where an employee is subject to medical surveillance in accordance with paragraph (5) and a relevant 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 a relevant doctor.

(7) Where an employee is subject to medical surveillance in accordance with paragraph (5) and a relevant 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 a relevant doctor.

(8) 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 relevant doctor with such information concerning his health as the relevant doctor may reasonably require.

(9) Where, as a result of health surveillance, an employee is found to have an identifiable disease or adverse health effect which is considered by a relevant doctor or other occupational health professional to be the result of exposure to a substance hazardous to health the employer of that employee shall—

- (a) ensure that a suitably qualified person informs the employee accordingly and provides the employee with information and advice regarding further health surveillance;
- (b) review the risk assessment;
- (c) review any measure taken to comply with regulation 7, taking into account any advice given by a relevant doctor, occupational health professional or by the Executive;
- (d) consider assigning the employee to alternative work where there is no risk of further exposure to that substance, taking into account any advice given by a relevant doctor or occupational health professional; and
- (e) provide for a review of the health of any other employee who has been similarly exposed, including a medical examination where such an examination is recommended by a relevant doctor, occupational health professional or by the Executive.

(10) Where, for the purpose of carrying out his functions under these Regulations, a relevant 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 a relevant 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.

### **Information, instruction and training for persons who may be exposed to substances hazardous to health**

**12.**—(1) Every employer who undertakes work which is liable to expose an employee to a substance hazardous to health shall provide that employee with suitable and sufficient information, instruction and training.

(2) Without prejudice to the generality of paragraph (1), the information, instruction and training provided under that paragraph shall include—

- (a) details of the substances hazardous to health to which the employee is liable to be exposed including—
  - (i) the names of those substances and the risk which they present to health,

- (ii) any relevant occupational exposure standard, maximum exposure limit or similar occupational exposure limit,
  - (iii) access to any relevant safety data sheet, and
  - (iv) other legislative provisions which concern the hazardous properties of those substances;
- (b) the significant findings of the risk assessment;
  - (c) the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other employees at the workplace;
  - (d) the results of any monitoring of exposure in accordance with regulation 10 and, in particular, in the case of a substance hazardous to health for which a maximum exposure limit has been approved, the employee or his representatives shall be informed forthwith, if the results of such monitoring show that the maximum exposure limit has been exceeded;
  - (e) the collective results of any health surveillance undertaken in accordance with regulation 11 in a form calculated to prevent those results from being identified as relating to a particular person; and
  - (f) where employees are working with a Group 4 biological agent or material that may contain such an agent, the provision of written instructions and, if appropriate, the display of notices which outline the procedures for handling such an agent or material.
- (3) The information, instruction and training required by paragraph (1) shall be—
- (a) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
  - (b) provided in a manner appropriate to the level, type and duration of exposure identified by the risk assessment.
- (4) Every employer shall ensure that any person (whether or not his employee) who carries out work in connection with the employer's duties under these Regulations has suitable and sufficient information, instruction and training.
- (5) Where containers and pipes for substances hazardous to health used at work are not marked in accordance with any relevant legislation listed in Schedule 7, the employer shall, without prejudice to any derogations provided for in that legislation, ensure that the contents of those containers and pipes, together with the nature of those contents and any associated hazards, are clearly identifiable.

#### **Arrangements to deal with accidents, incidents and emergencies**

**13.—**(1) Subject to paragraph (4) and without prejudice to the relevant provisions of the Management of Health and Safety at Work Regulations 1999(a), in order to protect the health of his employees from an accident, incident or emergency related to the presence of a substance hazardous to health at the workplace, the employer shall ensure that—

- (a) procedures, including the provision of appropriate first-aid facilities and relevant safety drills (which shall be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;
  - (b) information on emergency arrangements, including—
    - (i) details of relevant work hazards and hazard identification arrangements, and
    - (ii) specific hazards likely to arise at the time of an accident, incident or emergency, is available; and
  - (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs.
- (2) The employer shall ensure that information on the procedures and systems required by paragraph (1)(a) and (c) and the information required by paragraph(1)(b) is—
- (a) made available to relevant accident and emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and

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(a) S.I. 1999/3242.

- (b) displayed at the workplace, if this is appropriate.
- (3) Subject to paragraph (4), in the event of an accident, incident or emergency related to the presence of a substance hazardous to health at the workplace, the employer shall ensure that—
  - (a) immediate steps are taken to—
    - (i) mitigate the effects of the event,
    - (ii) restore the situation to normal, and
    - (iii) inform those of his employees who may be affected;
  - (b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with—
    - (i) appropriate personal protective equipment, and
    - (ii) any necessary specialised safety equipment and plant, which shall be used until the situation is restored to normal; and
  - (c) in the case of an incident or accident which has or may have resulted in the release of a biological agent which could cause severe human disease, as soon as practicable thereafter his employees or their representatives are informed of—
    - (i) the causes of that incident or accident, and
    - (ii) the measures taken or to be taken to rectify the situation.
- (4) Paragraph (1) and, provided the substance hazardous to health is not a carcinogen or biological agent, paragraph (3) shall not apply where—
  - (a) the results of the risk assessment show that, because of the quantity of each substance hazardous to health present at the workplace, there is only a slight risk to the health of employees; and
  - (b) the measures taken by the employer to comply with the duty under regulation 7(1) are sufficient to control that risk.
- (5) An employee shall report forthwith, to his employer or to any other employee of that employer with specific responsibility for the health and safety of his fellow employees, any accident or incident which has or may have resulted in the release of a biological agent which could cause severe human disease.

#### **Provisions relating to certain fumigations**

**14.**—(1) This regulation shall apply to fumigations in which the fumigant used or intended to be used is hydrogen cyanide, phosphine or methyl bromide, except that paragraph (2) shall not apply to fumigations using the fumigant specified in Column 1 of Schedule 8 when the nature of the fumigation is that specified in the corresponding entry in Column 2 of that Schedule.

(2) An employer shall not undertake fumigation to which this regulation applies unless he has—

- (a) notified the persons specified in Part I of Schedule 9 of his intention to undertake the fumigation; and
- (b) provided to those persons the information specified in Part II of that Schedule, at least 24 hours in advance, or such shorter time in advance as the persons required to be notified may agree.

(3) An employer who undertakes a fumigation to which this regulation applies shall ensure that, before the fumigant is released, suitable warning notices have been affixed at all points of reasonable access to the premises or to those parts of the premises in which the fumigation is to be carried out and that after the fumigation has been completed, and the premises are safe to enter, those warning notices are removed.

#### **Exemption certificates**

**15.**—(1) Subject to paragraph (2) the Executive may, by a certificate in writing, exempt any person or class of persons or any substance or class of substances from all or any of the requirements or prohibitions imposed by regulations 4 (to the extent permitted by article 9 of Council Directive 98/24/EC), 8, 9, 11(8), (10) and (11) and 14 of these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any requirements imposed by or under any enactments which apply to the case, it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

#### **Exemptions relating to the Ministry of Defence etc.**

**16.**—(1) In this regulation—

- (a) “Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employed by those forces;
- (b) “visiting force” has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952(a); and
- (c) “headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999(b).

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

- (a) any of Her Majesty’s Forces;
- (b) any visiting force;
- (c) members of a visiting force working in or attached to a headquarters; or
- (d) any person engaged in work involving substances hazardous to health, if that person is under the direct supervision of a representative of the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing, except that, where any such exemption is granted, suitable arrangements shall be made for the assessment of the health risk created by the work involving substances hazardous to health and for adequately controlling the exposure to those substances of persons to whom the exemption relates.

(3) Regulation 11(11) shall not apply in relation to—

- (a) any visiting force; or
- (b) members of a visiting force working in or attached to a headquarters.

#### **Extension outside Great Britain**

**17.**—(1) Subject to paragraph (2), these Regulations shall apply to and in relation to any activity outside Great Britain to which sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001(c) as those provisions apply within Great Britain.

(2) These Regulations shall not extend to Northern Ireland except insofar as they relate to imports of substances and articles referred to in regulation 4(2) into the United Kingdom.

#### **Revocation and savings**

**18.**—(1) The Control of Substances Hazardous to Health Regulations 1999(d) are revoked.

(2) Any record or register required to be kept under the Regulations revoked by paragraph (1) shall, notwithstanding that revocation, be kept in the same manner and for the same period as specified in those Regulations as if these Regulations had not been made, except that the Executive may approve the keeping of records at a place or in a form other than at the place where, or in the form in which, records were required to be kept under the Regulations so revoked.

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(a) 1952 c. 67.

(b) S.I. 1999/1736.

(c) S.I. 2001/2127.

(d) S.I. 1999/437.

### **Extension of meaning of “work”**

19. For the purposes of Part I of the 1974 Act the meaning of “work” shall be extended to include any activity involving the consignment, storage or use of a Group 2, 3 or 4 biological agent and the meaning of “at work” shall be extended accordingly, and in that connection the references to employer in paragraphs 5 and 6 of Schedule 3 include references to any persons carrying out such an activity.

### **Modification of section 3(2) of the 1974 Act**

20. Section 3(2) of the 1974 Act shall be modified in relation to an activity involving the consignment, storage or use of any of the biological agents referred to in regulation 19 so as to have effect as if the reference therein to a self-employed person is a reference to any person who is not an employer or an employee and the reference therein to his undertaking includes a reference to such an activity.

### **Defence**

21. Subject to regulation 21 of the Management of Health and Safety at Work Regulations 1999(a), in any proceedings for an offence consisting of a contravention of these Regulations it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

Signed by authority of the Secretary of State.

24th October 2002

*N. Brown*  
Minister of State,  
Department for Work and Pensions

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(a) S.I. 1999/3242.

SCHEDULE 1

Regulation 2(1)

OTHER SUBSTANCES AND PROCESSES TO WHICH THE DEFINITION OF  
“CARCINOGEN” RELATES

Aflatoxins.  
 Arsenic.  
 Auramine manufacture.  
 Calcining, sintering or smelting of nickel copper matte or acid leaching or electrorefining of roasted matte.  
 Coal soots, coal tar, pitch and coal tar fumes.  
 Hardwood dusts.  
 Isopropyl alcohol manufacture (strong acid process).  
 Leather dust in boot and shoe manufacture, arising during preparation and finishing.  
 Magenta manufacture.  
 Mustard gas (β, β' -dichlorodiethyl sulphide).  
 Rubber manufacturing and processing giving rise to rubber process dust and rubber fume.  
 Used engine oils.

SCHEDULE 2

Regulation 4(1)

PROHIBITION OF CERTAIN SUBSTANCES HAZARDOUS TO HEALTH FOR  
CERTAIN PURPOSES

<b>Column 1</b> <i>Description of substance</i>	<b>Column 2</b> <i>Purpose for which the substance is prohibited</i>
1. 2-naphthylamine; benzidine; 4-aminodiphenyl; 4-nitrodiphenyl; their salts and any substance containing any of those compounds, in a total concentration equal to or greater than 0.1 per cent by mass.	Manufacture and use for all purposes including any manufacturing process in which a substance described in Column 1 of this item is formed.
2. Sand or other substance containing free silica.	Use as an abrasive for blasting articles in any blasting apparatus.
3. A substance— (a) containing compounds of silicon calculated as silica to the extent of more than 3 per cent by weight of dry material, other than natural sand, zirconium silicate (zircon), calcined china clay, calcined aluminous fireclay, sillimanite, calcined or fused alumina, olivine; or (b) composed of or containing dust or other matter deposited from a fettling or blasting process.	Use as a parting material in connection with the making of metal castings.
4. Carbon disulphide.	Use in the cold-cure process of vulcanising in the proofing of cloth with rubber.
5. Oils other than white oil, or oil of entirely animal or vegetable origin or entirely of mixed animal and vegetable origin.	Use for oiling the spindles of self-acting mules.
6. Ground or powdered flint or quartz other than natural sand.	Use in relation to the manufacture or decoration of pottery for the following purposes: (a) the placing of ware for the biscuit fire; (b) the polishing of ware; (c) as the ingredient of a wash for saggars, trucks, bats, cranks, or other articles used in supporting ware during firing; and (d) as dusting or supporting powder in potters' shops.
7. Ground or powdered flint or quartz other than—	Use in relation to the manufacture or decoration of pottery for any purpose except—

<b>Column 1</b>	<b>Column 2</b>
<i>Description of substance</i>	<i>Purpose for which the substance is prohibited</i>
(a) natural sand; or (b) ground or powdered flint or quartz which forms parts of a slop or paste.	(a) use in a separate room or building for— (i) the manufacture of powdered flint or quartz, or (ii) the making of frits or glazes or the making of colours or coloured slips for the decoration of pottery; (b) use for the incorporation of the substance into the body of ware in an enclosure in which no person is employed and which is constructed and ventilated to prevent the escape of dust.
8. Dust or powder of a refractory material containing not less than 80 per cent of silica other than natural sand.	Use for sprinkling the moulds of silica bricks, namely bricks or other articles composed of refractory material and containing not less than 80 per cent of silica.
9. White phosphorus.	Use in the manufacture of matches.
10. Hydrogen cyanide.	Use in fumigation except when— (a) released from an inert material in which hydrogen cyanide is absorbed; (b) generated from a gassing powder; or (c) applied from a cylinder through suitable piping and applicators other than for fumigation in the open air to control or kill mammal pests.
11. Benzene and any substance containing benzene in a concentration equal to or greater than 0.1 per cent by mass, other than— (a) motor fuels covered by Council Directive 85/210/EEC (OJ No. L96, 3.4.85, p. 25); (b) waste covered by Council Directives 75/442/EEC (OJ No. L194, 25.7.75, p. 39), as amended by Council Directive 91/156/EEC (OJ No. L78, 26.3.91, p. 32), and 91/689/EEC (OJ No. L377, 31.12.91, p. 20).	Use for all purposes except— (a) use in industrial processes; and (b) for the purposes of research and development or for the purpose of analysis.
12. The following substances— Chloroform CAS No. 67-66-3; Carbon Tetrachloride CAS No. 56-23-5; 1,1,2 Trichloroethane CAS No. 79-00-5; 1,1,2,2 Tetrachloroethane CAS No. 79-34-5; 1,1,1,2 Tetrachloroethane CAS No. 630-20-6; Pentachloroethane CAS No. 76-01-7; Vinylidene chloride (1,1 Dichloroethylene) CAS No. 75-35-4; 1,1,1 Trichloroethane CAS No. 71-55-6, and any substance containing one or more of those substances in a concentration equal to or greater than 0.1 per cent by mass, other than— (a) medicinal products; (b) cosmetic products.	Supply for use at work in diffusive applications such as in surface cleaning and the cleaning of fabrics except for the purposes of research and development or for the purpose of analysis.

In this Schedule—

“aerosol dispenser” means an article which consists of a non-reusable receptacle containing a gas compressed, liquefied or dissolved under pressure, with or without liquid, paste or powder and fitted with a release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state;

“blasting apparatus” means apparatus for cleaning, smoothing, roughening or removing of part of the surface of any article by the use as an abrasive of a jet of sand, metal shot or grit or other material propelled by a blast of compressed air or steam or by a wheel;

“CAS No.” is the number assigned to a substance by the Chemical Abstract Service;

“cosmetic product” has the meaning assigned to it in regulation 2(1) of the Cosmetic Products (Safety) Regulations 1996(a) (including any aerosol dispenser containing a cosmetic product);

“gassing powder” means a chemical compound in powder form which reacts with atmospheric moisture to generate hydrogen cyanide;

“medicinal product” means a substance or preparation which is—

- (a) intended for use as a medicinal product within the meaning of section 130 of the Medicines Act 1968(b); or
- (b) a substance or preparation specified in an order made under section 104 or 105 of the Medicines Act 1968 which is for the time being in force and which directs that specified provisions of that Act shall have effect in relation to that substance or preparation as such provisions have effect in relation to medicinal products within the meaning of that Act;

“use as a parting material” means the application of the material to the surface or parts of the surface of a pattern or of a mould so as to facilitate the separation of the pattern from the mould or the separation of parts of the mould;

“white oil” means a refined mineral oil conforming to a specification approved by the Executive and certified by its manufacturer as so conforming.

## SCHEDULE 3

Regulation 7(10)

### ADDITIONAL PROVISIONS RELATING TO WORK WITH BIOLOGICAL AGENTS

#### PART I

##### PROVISIONS OF GENERAL APPLICATION TO BIOLOGICAL AGENTS

#### Interpretation

1. In this Schedule “diagnostic service” means any activity undertaken solely with the intention of analysing specimens or samples from a human patient or animal in which a biological agent is or is suspected of being present for purposes relating to the assessment of the clinical progress, or assistance in the clinical management, of that patient or animal, and “diagnosis” shall be construed accordingly.

#### Classification of biological agents

2.—(1) Where a biological agent does not have an approved classification, the employer shall provisionally classify that agent in accordance with sub-paragraph (2), having regard to the nature of the agent and the properties of which he may reasonably be expected to be aware.

(2) When provisionally classifying a biological agent the employer shall assign that agent to one of the following Groups according to its level of risk of infection and, if in doubt as to which of two alternative Groups is the most appropriate, he shall assign it to the higher of the two—

- (a) Group 1—unlikely to cause human disease;
- (b) Group 2—can cause human disease and may be a hazard to employees; it is unlikely to spread to the community and there is usually effective prophylaxis or treatment available;
- (c) Group 3—can cause severe human disease and may be a serious hazard to employees; it may spread to the community, but there is usually effective prophylaxis or treatment available;
- (d) Group 4—causes severe human disease and is a serious hazard to employees; it is likely to spread to the community and there is usually no effective prophylaxis or treatment available.

(3) Where an employer is using a biological agent which has an approved classification and the risk of infection for that particular agent is different to that expected, the employer shall reclassify the agent in consultation with the Executive as if performing a provisional classification under sub-paragraph (2).

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(a) S.I. 1996/2925.

(b) 1968 c. 67.

### **Special control measures for laboratories, animal rooms and industrial processes**

3.—(1) Every employer who is engaged in any of the activities specified in sub-paragraph (3) shall ensure that measures taken to control adequately the exposure of his employees to biological agents include, in particular, the most suitable combination of containment measures from those listed in Parts II and III of this Schedule as appropriate, taking into account—

- (a) the nature of the activity specified in sub-paragraph (3);
- (b) the minimum containment level specified in sub-paragraph (4);
- (c) the risk assessment; and
- (d) the nature of the biological agent concerned.

(2) An employer who is engaged in—

- (a) any of the activities specified in sub-paragraph (3)(a) or (b) shall select measures from Part II of this Schedule;
- (b) the activity specified in sub-paragraph (3)(c) shall select measures from Part III of this Schedule and, subject to sub-paragraph (4), when making that selection he may combine measures from different containment levels on the basis of a risk assessment related to any particular process or part of a process.

(3) The activities referred to in sub-paragraph (1) are—

- (a) research, development, teaching or diagnostic work in laboratories which involves working with a Group 2, Group 3 or Group 4 biological agent or material containing such an agent;
- (b) working with animals which have been deliberately infected with a Group 2, Group 3 or Group 4 biological agent or which are, or are suspected of being, naturally infected with such an agent; and
- (c) industrial processes which involve working with a Group 2, Group 3 or Group 4 biological agent.

(4) Subject to sub-paragraph (5), the minimum containment level referred to in sub-paragraph (1) shall be—

- (a) level 2 for activities which involve working with a Group 2 biological agent;
- (b) level 3 for activities which involve working with a Group 3 biological agent;
- (c) level 4 for activities which involve working with a Group 4 biological agent;
- (d) level 2 for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a biological agent but work with materials in respect of which it is unlikely that a Group 3 or Group 4 biological agent is present;
- (e) level 3 or 4, where appropriate, for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a Group 3 or Group 4 biological agent but where the employer knows, or it is likely, that such a containment level is necessary; and
- (f) level 3 for activities where it has not been possible to carry out a conclusive assessment but where there is concern that the activity might involve a serious health risk for employees.

(5) The Health and Safety Commission may approve guidelines specifying the minimum containment measures which are to apply in any particular case.

(6) The Health and Safety Commission shall not approve any guidelines under paragraph (5) unless it is satisfied that the health of any person who is likely to be affected by the use of those guidelines will not be prejudiced.

### **List of employees exposed to certain biological agents**

4.—(1) Subject to sub-paragraph (2), every employer shall keep a list of employees exposed to a Group 3 or Group 4 biological agent, indicating the type of work done and, where known, the biological agent to which they have been exposed, and records of exposures, accidents and incidents, as appropriate.

(2) Sub-paragraph (1) shall not apply where the results of the risk assessment indicate that—

- (a) the activity does not involve a deliberate intention to work with or use that biological agent; and
- (b) there is no significant risk to the health of employees associated with that biological agent.

(3) The employer shall ensure that the list or a copy thereof is kept available in a suitable form for at least 40 years from the date of the last entry made in it.

(4) The relevant doctor referred to in regulation 11, and any employee of that employer with specific responsibility for the health and safety of his fellow employees, shall have access to the list.

(5) Each employee shall have access to the information on the list which relates to him personally.

### **Notification of the use of biological agents**

5.—(1) Subject to sub-paragraphs (7) and (8), an employer shall not use for the first time one or more biological agents in Group 2, 3 or 4 at particular premises for any of the activities listed in paragraph 3(3) unless he has—

- (a) notified the Executive in writing of his intention to do so at least 20 working days in advance, or such shorter period as the Executive may allow;
- (b) furnished with that notification the particulars specified in sub-paragraph (5); and
- (c) received the acknowledgement required by sub-paragraph (4).

(2) Subject to sub-paragraphs (7) and (9), an employer shall not use a biological agent which is specified in Part V of this Schedule, except where the use of that agent has been notified to the Executive in accordance with sub-paragraph (1), for any of the activities listed in paragraph 3(3) unless he has—

- (a) notified the Executive in writing of his intention to do so at least 20 working days in advance, or such shorter period as the Executive may allow;
- (b) furnished with that notification the particulars specified in sub-paragraph (5); and
- (c) received the acknowledgement required by sub-paragraph (4).

(3) The Executive may accept a single notification under sub-paragraph (2) in respect of the use of more than one biological agent by the same person.

(4) Upon receipt of the notification required by sub-paragraph (1) or (2), the Executive shall, within 20 working days—

- (a) send to the notifier an acknowledgement of receipt; or
- (b) if the notification does not contain all of the particulars specified in sub-paragraph (5)—
  - (i) inform the notifier in writing of the further particulars required, and
  - (ii) within 10 working days of receipt of those further particulars, send to the notifier an acknowledgement of receipt.

(5) The particulars to be included in the notification referred to in sub-paragraphs (1) and (2) shall be—

- (a) the name and address of the employer and the address of the premises where the biological agent will be stored or used;
- (b) the name, qualifications and relevant experience of any employee of that employer with specific responsibility for the health and safety of his fellow employees;
- (c) the results of the risk assessment;
- (d) the identity of the biological agent and, if the agent does not have an approved classification, the Group to which the agent has been assigned; and
- (e) the preventive and protective measures that are to be taken.

(6) Where there are changes to processes, procedures or the biological agent which are of importance to health or safety at work and which render the original notification invalid the employer shall notify the Executive forthwith in writing of those changes.

(7) Sub-paragraphs (1) and (2) shall not apply in relation to a biological agent where an intention to use that biological agent has been previously notified to the Executive in accordance with the Genetically Modified Organisms (Contained Use) Regulations 2000(a).

(8) The requirement in sub-paragraph (1) to notify first use of a biological agent in Group 2 or 3 shall not apply to an employer whose only use of that agent is in relation to the provision of a diagnostic service provided that use will not involve a process likely to propagate, concentrate or otherwise increase the risk of exposure to that agent.

(9) The requirement in sub-paragraph (2) to notify use of a biological agent specified in Part V of this Schedule shall not apply to an employer whose only use of that agent is in relation to the provision of a diagnostic service provided that use will not involve a process likely to propagate, concentrate or otherwise increase the risk of exposure to that agent.

### **Notification of the consignment of biological agents**

6.—(1) An employer shall not consign a Group 4 biological agent or anything containing, or suspected of containing, such an agent to any other premises, whether or not those premises are under his ownership or control, unless he has notified the Executive in writing of his intention to do so at least 30 days in advance or before such shorter time as the Executive may approve and with that notification has furnished the particulars specified in sub-paragraph (4).

(2) Sub-paragraph (1) shall not apply where—

- (a) the biological agent or material containing or suspected of containing such an agent is being consigned solely for the purpose of diagnosis;

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(a) S.I. 2000/2831.

- (b) material containing or suspected of containing the biological agent is being consigned solely for the purpose of disposal; or
- (c) the biological agent is or is suspected of being present in a human patient or animal which is being transported for the purpose of medical treatment.

(3) Where a Group 4 biological agent is imported into Great Britain, the consignee shall give the notice required by sub-paragraph (1).

- (4) The particulars to be included in the notification referred to in sub-paragraph (1) shall be—
- (a) the identity of the biological agent and the volume of the consignment;
  - (b) the name of the consignor;
  - (c) the address of the premises from which it will be transported;
  - (d) the name of the consignee;
  - (e) the address of the premises to which it shall be transported;
  - (f) the name of the transport operator responsible for the transportation;
  - (g) the name of any individual who will accompany the consignment;
  - (h) the method of transportation;
  - (i) the packaging and any containment precautions which will be taken;
  - (j) the route which will be taken; and
  - (k) the proposed date of transportation.

## PART II

### CONTAINMENT MEASURES FOR HEALTH AND VETERINARY CARE FACILITIES, LABORATORIES AND ANIMAL ROOMS

<i>Containment measures</i>	<i>Containment levels</i>		
	2	3	4
1 The workplace is to be separated from any other activities in the same building.	No	Yes	Yes
2 Input air and extract air to the workplace are to be filtered using HEPA or equivalent.	No	Yes, on extract air	Yes, on input and double on extract air
3 Access is to be restricted to authorised persons only.	Yes	Yes	Yes, via air-lock key procedure
4 The workplace is to be sealable to permit disinfection.	No	Yes	Yes
5 Specified disinfection procedure.	Yes	Yes	Yes
6 The workplace is to be maintained at an air pressure negative to atmosphere.	No	Yes	Yes
7 Efficient vector control eg rodents and insects.	Yes, for animal containment	Yes, for animal containment	Yes
8 Surfaces impervious to water and easy to clean.	Yes, for bench	Yes, for bench and floor (and walls for animal containment)	Yes, for bench, floor, walls and ceiling
9 Surfaces resistant to acids, alkalis, solvents, disinfectants.	Yes, for bench	Yes, for bench and floor (and walls for animal containment)	Yes, for bench, floor, walls and ceiling
10 Safe storage of biological agents.	Yes	Yes	Yes, secure storage
11 An observation window, or alternative, is to be present, so that occupants can be seen.	No	Yes	Yes
12 A laboratory is to contain its own equipment.	No	Yes, so far as is reasonably practicable	Yes

13	Infected material, including any animal, is to be handled in a safety cabinet or isolator or other suitable containment.	Yes, where aerosol produced	Yes, where aerosol produced	Yes
14	Incinerator for disposal of animal carcasses.	Accessible	Accessible	Yes, on site

### PART III

#### CONTAINMENT MEASURES FOR INDUSTRIAL PROCESSES

<i>Containment measures</i>		<i>Containment levels</i>		
		2	3	4
1	Viable micro-organisms should be contained in a system which physically separates the process from the environment (closed system).	Yes	Yes	Yes
2	Exhaust gases from the closed system should be treated so as to—	Minimise release	Prevent release	Prevent release
3	Sample collection, addition of materials to a closed system and transfer of viable micro-organisms to another closed system, should be performed so as to—	Minimise release	Prevent release	Prevent release
4	Bulk culture fluids should not be removed from the closed system unless the viable micro-organisms have been—	Inactivated by validated means	Inactivated by validated chemical or physical means	Inactivated by validated chemical or physical means
5	Seals should be designed so as to—	Minimise release	Prevent release	Prevent release
6	Closed systems should be located within a controlled area—	Optional	Optional	Yes, and purpose-built
	(a) biohazard signs should be posted;	Optional	Yes	Yes
	(b) access should be restricted to nominated personnel only;	Optional	Yes	Yes, via air-lock
	(c) personnel should wear protective clothing;	Yes, work clothing	Yes	Yes, a complete change
	(d) decontamination and washing facilities should be provided for personnel;	Yes	Yes	Yes
	(e) personnel should shower before leaving the controlled area;	No	Optional	Yes
	(f) effluent from sinks and showers should be collected and inactivated before release;	No	Optional	Yes
	(g) the controlled area should be adequately ventilated to minimise air contamination;	Optional	Optional	Yes
	(h) the controlled area should be maintained at an air pressure negative to atmosphere;	No	Optional	Yes
	(i) input and extract air to the controlled area should be HEPA filtered;	No	Optional	Yes
	(j) the controlled area should be designed to contain spillage of the entire contents of closed system;	Optional	Yes	Yes
	(k) the controlled area should be sealable to permit fumigation.	No	Optional	Yes
7	Effluent treatment before final discharge.	Inactivated by validated means	Inactivated by validated chemical or physical means	Inactivated by validated physical means

PART IV

BIOHAZARD SIGN

The biohazard sign required by regulation 7(6)(a) shall be in the form shown below—



PART V

BIOLOGICAL AGENTS WHOSE USE IS TO BE NOTIFIED IN ACCORDANCE WITH PARAGRAPH 5(2) OF PART I OF THIS SCHEDULE

Any Group 3 or 4 agent.

The following Group 2 agents:

*Bordetella pertussis*

*Corynebacterium diphtheriae*

*Neisseria meningitidis*

SCHEDULE 4

Regulation 9(2)(a)

FREQUENCY OF THOROUGH EXAMINATION AND TEST OF LOCAL EXHAUST VENTILATION PLANT USED IN CERTAIN PROCESSES

<b>Column 1</b> <i>Process</i>	<b>Column 2</b> <i>Minimum frequency</i>
Processes in which blasting is carried out in or incidental to the cleaning of metal castings, in connection with their manufacture.	1 month
Processes, other than wet processes, in which metal articles (other than of gold, platinum or iridium) are ground, abraded or polished using mechanical power, in any room for more than 12 hours in any week.	6 months
Processes giving off dust or fume in which non-ferrous metal castings are produced.	6 months
Jute cloth manufacture.	1 month

SCHEDULE 5

Regulation 10(4)

SPECIFIC SUBSTANCES AND PROCESSES FOR WHICH MONITORING IS REQUIRED

<b>Column 1</b> <i>Substance or process</i>	<b>Column 2</b> <i>Minimum frequency</i>
Vinyl chloride monomer.	Continuous or in accordance with a procedure approved by the Health and Safety Commission.
Spray given off from vessels at which an electrolytic chromium process is carried on, except trivalent chromium.	Every 14 days while the process is being carried on.

SCHEDULE 6

Regulation 11(2)(a) and (5)

MEDICAL SURVEILLANCE

<b>Column 1</b> <i>Substances for which medical surveillance is appropriate</i>	<b>Column 2</b> <i>Process</i>
Vinyl chloride monomer (VCM).	In manufacture, production, reclamation, storage, discharge, transport, use or polymerisation.
Nitro or amino derivatives of phenol and of benzene or its homologues.	In the manufacture of nitro or amino derivatives of phenol and of benzene or its homologues and the making of explosives with the use of any of these substances.
Potassium or sodium chromate or dichromate.	In manufacture.
Ortho-tolidine and its salts. Dianisidine and its salts. Dichlorobenzidine and its salts.	In manufacture, formation or use of these substances.
Auramine. Magenta.	In manufacture.
Carbon disulphide. Disulphur dichloride.	Processes in which these substances are used, or given off as vapour, in the manufacture of indiarubber or of articles or goods made wholly or partially of indiarubber.
Benzene, including benzol. Carbon tetrachloride. Trichlorethylene.	
Pitch.	In manufacture of blocks of fuel consisting of coal, coal dust, coke or slurry with pitch as a binding substance.

SCHEDULE 7

Regulation 12(5)

LEGISLATION CONCERNED WITH THE LABELLING OF CONTAINERS AND PIPES

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (CHIP) (SI 2002/1689);  
 The Health and Safety (Safety Signs and Signals) Regulations 1996 (SI 1996/341);  
 The Radioactive Material (Road Transport) Regulations 2002 (SI 2002/1093);  
 The Carriage of Dangerous Goods by Rail Regulations 1996 (SI 1996/2089);  
 The Packaging, Labelling and Carriage of Radioactive Material by Rail Regulations 2002 (SI 2002/2099);  
 The Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 (SI 1996/2092);  
 The Carriage of Explosives by Road Regulations 1996 (SI 1996/2093);  
 The Carriage of Dangerous Goods by Road Regulations 1996 (SI 1996/2095); and  
 The Good Laboratory Practice Regulations 1999 (SI 1999/3106).

## FUMIGATIONS EXCEPTED FROM REGULATION 14

<b>Column 1</b> <i>Fumigant</i>	<b>Column 2</b> <i>Nature of fumigation</i>
Hydrogen cyanide.	<p>Fumigations carried out for research.</p> <p>Fumigations in fumigation chambers.</p> <p>Fumigations in the open air to control or kill mammal pests.</p>
Methyl bromide.	<p>Fumigations carried out for research.</p> <p>Fumigations in fumigation chambers.</p> <p>Fumigations of soil outdoors under gas-proof sheeting where not more than 1000 kg is used in any period of 24 hours on the premises.</p> <p>Fumigations of soil under gas-proof sheeting in glasshouses where not more than 500 kg is used in any period of 24 hours on the premises.</p> <p>Fumigations of compost outdoors under gas-proof sheeting where not more than 10 kg of methyl bromide is used in any period of 24 hours on the premises.</p> <p>Fumigations under gas-proof sheeting inside structures other than glasshouses and mushroom houses where not more than 5 kg of methyl bromide is used in each structure during any period of 24 hours.</p> <p>Fumigations of soil or compost in mushroom houses where not more than 5 kg of methyl bromide is used in any one fumigation in any period of 24 hours.</p> <p>Fumigations of containers where not more than 5 kg of methyl bromide is used in any one fumigation in a period of 24 hours.</p>
Phosphine.	<p>Fumigations carried out for research.</p> <p>Fumigations in fumigation chambers.</p> <p>Fumigations under gas-proof sheeting inside structures where not more than 1 kg of phosphine in each structure is used in any period of 24 hours.</p> <p>Fumigations in containers where not more than 0.5 kg of phosphine is used in any one fumigation in any period of 24 hours.</p> <p>Fumigations in individual impermeable packages.</p> <p>Fumigations in the open air to control or kill mammal pests.</p>

## NOTIFICATION OF CERTAIN FUMIGATIONS

## PART I

## PERSONS TO WHOM NOTIFICATIONS MUST BE MADE

1. In the case of a fumigation to be carried out within the area of a harbour authority, advance notification of fumigation shall, for the purposes of regulation 14(2)(a), be given to—
  - (a) that authority;
  - (b) an inspector appointed under section 19 of the 1974 Act, if that inspector so requires; and
  - (c) where the fumigation—
    - (i) is to be carried out on a sea-going ship, the chief fire officer of the area in which the ship is situated and the officer in charge of the office of Her Majesty's Customs and Excise at the harbour, or
    - (ii) is the space fumigation of a building, the chief fire officer of the area in which the building is situated.
2. In the case of a fumigation, other than a fumigation to which paragraph (1) applies, advance notification of fumigation shall be given to—
  - (a) the police officer for the time being in charge of the police station for the police district in which the fumigation is carried out;
  - (b) an inspector appointed under section 19 of the 1974 Act, if that inspector so requires; and
  - (c) where the fumigation is to be carried out on a sea-going ship or is the space fumigation of a building, the chief fire officer of the area in which the ship or building is situated.

## PART II

## INFORMATION TO BE GIVEN IN ADVANCE NOTICE OF FUMIGATIONS

3. The information to be given in a notification made for the purposes of regulation 14(2) shall include the following—
  - (a) the name, address and place of business of the fumigator and his telephone number;
  - (b) the name of the person requiring the fumigation to be carried out;
  - (c) the address and description of the premises where the fumigation is to be carried out;
  - (d) the date on which the fumigation is to be carried out and the estimated time of commencement and completion;
  - (e) the name of the operator in charge of the fumigation; and
  - (f) the fumigant to be used.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations re-enact, with modifications, the Control of Substances Hazardous to Health Regulations 1999 (S.I. 1999/437) (“the 1999 Regulations”). The 1999 Regulations imposed duties on employers to protect employees and other persons who may be exposed to substances hazardous to health and also imposed certain duties on employees concerning their own protection from such exposure, and prohibited the import into the United Kingdom of certain substances and articles from outside the European Economic Area.

2. The Regulations, with the exception of regulations 8, 9, 11(8), (10) and (11) and 14, implement as respects Great Britain—

- (a) Council Directive 78/610/EEC (OJ No. L 197, 22.7.78, p.12) on the approximation of the laws, regulations and administrative provisions of the Member States on the protection of the health of workers exposed to vinyl chloride monomer,
- (b) point 3 of Article 1 of Council Directive 89/677/EEC (OJ No. L 398, 30.12.89, p.19) amending for the 8th time the Marketing and Use Directive insofar as that point relates to the importation, supply or use of benzene and substances containing benzene for such purposes,
- (c) Council Directive 90/394/EEC (OJ No. L 196, 26.7.90, p.1) on the protection of workers from risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) insofar as it relates to carcinogens other than asbestos,
- (d) that part of Commission Directive 96/55/EC (OJ No. L 231, 12.9.96, p.20) adapting to technical progress for the 2nd time Annex I to Council Directive 76/769/EEC (“the Marketing and Use Directive”) (OJ No. L 262, 27.9.76, p.201) on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations which relates to supply of specified substances for use at work,
- (e) Council Directive 98/24/EC (OJ No. L 131, 5.5.98, p.11) on the protection of the health and safety of workers from risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) insofar as it relates to risks to health from exposure to substances other than asbestos or lead, and
- (f) Directive 2000/54/EC (OJ No. L 262, 17.10.2000, p.21) of the European Parliament and of the Council on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

3. The Regulations are consistent with the provisions of Commission Directive 91/322/EEC (OJ No. L 177, 5.7.91, p.22) on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from risks related to exposure to chemical, physical and biological agents at work.

4. In addition to minor and drafting amendments, the Regulations make the following changes of substance—

- (a) include certain further definitions (regulation 2);
- (b) extend the matters to be considered when carrying out an assessment of the risk from exposure to substances hazardous to health (regulation 6);
- (c) detail the measures which the employer must take to prevent or adequately control the exposure of his employees to substances hazardous to health (regulation 7);
- (d) provide for further duties in respect of care and decontamination of personal protective equipment (regulation 9);
- (e) provide for the keeping of an individual record of air monitoring where an employee is required to be under health surveillance (regulation 10);
- (f) extend the duties on employers with respect to health surveillance where an employee is found to have an identifiable disease or adverse health effect caused by exposure to a substance hazardous to health (regulation 11);
- (g) introduce a duty to ensure that the contents of containers and pipes for substances hazardous to health used at work are clearly identifiable (regulation 12(5));

- (h) introduce a duty on the employer to prepare procedures, provide information and establish warning systems to deal with an emergency in the workplace related to the presence of a substance hazardous to health (regulation 13); and
  - (i) apply the extension to the meaning of “work” in Part I of the 1974 Act to all Group 2, 3, or 4 biological agents and transfer certain provisions relating to biological agents which had been in Schedule 3 of the 1999 Regulations to regulations 7 and 12.
5. Copies of the publications mentioned in the Regulations are obtainable as follows—
- (a) a list of the maximum exposure limits and occupational exposure standards which the Health and Safety Commission has approved is available in the publication “EH40, Occupational Exposure Limits” obtainable from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA; and
  - (b) British Standard BS EN 481 1993, referred to in regulation 2(1), relating to workplace atmospheres is obtainable from the British Standards Institution, BSI House, 389 Chiswick High Road, London W4 4AL.
6. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic Advisers Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy of the transposition note in relation to implementation of the Directives set out in paragraph 2 can be obtained from the Health and Safety Executive, International Branch at the same address. Copies of both these documents have been placed in the Library of each House of Parliament.

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