S T A T U T O R Y I N S T R U M E N T S

1999 No. 437

HEALTH AND SAFETY

The Control of Substances Hazardous to Health Regulations 1999

Made - - - - -	*20th February 1999*
Laid before Parliament	*4th March 1999*
Coming into force - -	*25th March 1999*

ARRANGEMENT OF REGULATIONS

[DETR 1539]

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)(a) and (b), (4), (5)(b), (6)(b) and (9), 52(2) and (3) and 82(3)(a) of, and paragraphs 1(1) and (2), 2, 3(1), 6(1), 8, 9, 11, 13(1) and (3), 14, 15(1) and 16 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 1999 and shall come into force on 25th March 1999.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"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**);

"approved" means approved for the time being in writing;

"approved supply list" has the meaning assigned to it in regulation 4 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(**f**);

"biological agent" means any micro-organism, cell culture, or human endoparasite, including any which have been genetically modified, which may cause any infection, allergy, toxicity or otherwise create a hazard to human health;

"carcinogen" means—

(a) any substance or preparation which if classified in accordance with the classification provided for by regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994 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) any substance or preparation—

(i) listed in Schedule 1, or

(**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 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 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. 1994/3247, as amended by S.I. 1996/1092, 1997/1460, 1998/3106, 1999/197.

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

"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;

"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;

"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;

"preparation" means a mixture or solution of two or more substances;

"registered dentist" has the meaning assigned to it in section 53(1) of the Dentists Act 1984(**b**);

"respirable dust" means airborne material which is capable of penetrating to the gas exchange region of the lung;

"substance" means any 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 any substance (including any preparation) which is—

(a) a substance which is listed in Part 1 of the approved supply list as dangerous for supply within the meaning of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994 and for which an indication of danger specified for the substance in Part V of that list is very toxic, toxic, harmful, corrosive or irritant;

(b) a substance for which the Health and Safety Commission has approved a maximum exposure limit or an occupational exposure standard;

(c) a biological agent;

(d) 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^3, as a time-weighted average over an 8-hour period, of total inhalable dust, or

(ii) 4 mg/m^3, as a time-weighted average over an 8-hour period, of respirable dust;

(e) a substance, not being a substance mentioned in sub-paragraphs (a) to (d) above, which creates a hazard to the health of any person which is comparable with the hazards created by substances mentioned in those sub-paragraphs;

"total inhalable dust" means airborne material which is capable of entering the nose and mouth during breathing and is thereby available for deposition in the respiratory tract.

(2) In these Regulations, any 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 which is under the control of his employer.

(3) In these Regulations, unless the context otherwise requires—

(a) a reference to a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered; and

(b) a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference appears.

(**a**) 1954 c. 70; section 180 was modified by S.I. 1974/2013 and S.I. 1993/1897.
(**b**) 1984 c. 24.

Duties under these Regulations

3.—(1) Where any 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 on 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 and 12(1) and (2) (which relate respectively to monitoring and information, training etc.) shall not extend to persons who are not his employees, unless those persons are on the premises where the work is being carried on.

(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 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 any contravention of this paragraph shall be punishable under the Customs and Excise Management Act 1979(**a**) 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 any substance or article specified in paragraph (2).

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

Application of regulations 6 to 12

5.—(1) Regulations 6 to 12 shall have effect with a view to protecting persons against risks 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 Control of Lead at Work Regulations 1998(**b**),

(ii) the Control of Asbestos at Work Regulations 1987(**c**);

(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;

(d) where the substance hazardous to health is total inhalable dust which is below ground in any mine of coal.

(**a**) 1979 c. 2.
(**b**) S.I. 1998/543.
(**c**) S.I. 1987/2115, amended by S.I. 1992/3068, 1998/3235.

(2) In paragraph (1)(c) "medical treatment" means medical or dental examination or treatment which is conducted by, or under the direction of, a registered medical practitioner or registered dentist and includes any such examination, treatment or administration of any substance conducted for the purpose of research.

(3) Nothing in these Regulations shall prejudice any requirement imposed by or under any enactment relating to public health or the protection of the environment.

Assessment of health risks created by work involving substances hazardous to health

6.—(1) An employer shall not carry on any work which is liable to expose any employees to any substance hazardous to health unless he has made a suitable and sufficient assessment of the risks 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.

(2) The assessment required by paragraph (1) shall be reviewed regularly and forthwith if—

(a) there is reason to suspect that the assessment is no longer valid; or

(b) there has been a significant change in the work to which the assessment relates,

and, where as a result of the review, changes in the assessment are required, those changes shall be made.

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) So far as is reasonably practicable, the prevention or adequate control of exposure of employees to a substance hazardous to health, except to a carcinogen or a biological agent, shall be secured by measures other than the provision of personal protective equipment.

(3) Without prejudice to the generality of paragraph (1), where the assessment made under regulation 6 shows that it is not reasonably practicable to prevent exposure to a carcinogen by using an alternative substance or process, the employer shall apply all the following measures, namely—

(a) the total enclosure of the process and handling systems unless this is not reasonably practicable;

(b) the use of plant, processes and systems of work which minimise the generation of, or suppress and contain, spills, leaks, dust, fumes and vapours of carcinogens;

(c) the limitation of the quantities of a carcinogen at the place of work;

(d) the keeping of the number of persons who might be exposed to a carcinogen to a minimum;

(e) the prohibition of eating, drinking and smoking in areas that may be contaminated by carcinogens;

(f) the provision of hygiene measures including adequate washing facilities and regular cleaning of walls and surfaces;

(g) the designation of those areas and installations which may be contaminated by carcinogens, and the use of suitable and sufficient warning signs; and

(h) the safe storage, handling and disposal of carcinogens and use of closed and clearly labelled containers.

(4) Where the measures taken in accordance with paragraph (2) or (3), as the case may be, do not prevent, or provide adequate control of, exposure to substances hazardous to health to which those paragraphs apply, then, in addition to taking those measures, the employer shall provide those employees with such suitable personal protective equipment as will adequately control their exposure to those substances.

(5) Any personal protective equipment provided by an employer in pursuance of this regulation shall comply with any provision in the Personal Protective Equipment (EC Directive) Regulations 1992(**a**) which is applicable to that item of personal protective equipment.

(**a**) S.I. 1992/3139.

(6) Where there is exposure to a substance for which a maximum exposure limit has been approved, the 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.

(7) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which an occupational exposure standard has been approved, the control of exposure shall, so far as the inhalation of that substance is concerned, 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.

(8) Where respiratory protective equipment is provided in pursuance of this regulation, then it shall—

(a) be suitable for the purpose; and

(b) comply with paragraph (5) or, where no requirement is imposed by virtue of that paragraph, be of a type approved or shall conform to a standard approved, in either case, by the Executive.

(9) In the event of the failure of a control measure which might result in the escape of carcinogens into the workplace, the employer shall ensure that—

(a) only those persons who are responsible for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with suitable respiratory protective equipment and protective clothing; and

(b) employees and other persons who may be affected are informed of the failure forthwith.

(10) Schedule 3 of these Regulations shall have effect in relation to biological agents.

(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, personal protective equipment or other thing or facility pursuant to 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, personal protective equipment or other thing or facility provided pursuant to these Regulations and shall take all reasonable steps to ensure it is returned after use to any accommodation provided for it and, if he discovers any defect therein, shall report it forthwith to his employer.

Maintenance, examination and test of control measures etc.

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

(2) Where engineering controls are provided to meet the requirements of regulation 7, the employer shall ensure that thorough examinations and tests of those engineering controls are 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;

(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 at suitable intervals thorough examinations and, where appropriate, tests of that equipment are carried out.

(4) Every employer shall keep a suitable record of the examinations and tests carried out in pursuance of paragraphs (2) and (3) and of any 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.

Monitoring exposure at the workplace

10.—(1) In any case in which—

(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) 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.

(3) The employer shall keep a suitable record of any monitoring carried out for the purpose of this regulation and that record or a suitable summary thereof shall be kept available—

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

(b) in any other case, for at least 5 years.

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.

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

12.—(1) An employer who undertakes work which may expose any of his employees to substances hazardous to health shall provide that employee with such information, instruction and training as is suitable and sufficient for him to know—

(a) the risks to health created by such exposure; and

(b) the precautions which should be taken.

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

(a) information on the results of any monitoring of exposure at the workplace in accordance with regulation 10 and, in particular, in the case of any 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; and

(b) information on the collective results of any health surveillance undertaken in accordance with regulation 11 in a form calculated to prevent it from being identified as relating to any particular person.

(3) Every employer shall ensure that any person (whether or not his employee) who carries out any work in connection with the employer's duties under these Regulations has the necessary information, instruction and training.

Provisions relating to certain fumigations

13.—(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 7 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 any fumigation to which this regulation applies unless he has—

(a) notified the persons specified in Part I of Schedule 8 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

14.—(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 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 other 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.

Extension outside Great Britain

15.—(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 article 4, 6 or 8 of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1995(**a**) 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.

Defence in proceedings for contravention of these Regulations

16. 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.

Exemptions relating to the Ministry of Defence etc.

17.—(1) In this regulation, any reference to—

(a) "visiting forces" is a reference to visiting forces within the meaning of any provision of Part I of the Visiting Forces Act 1952(**b**); and

(b) "headquarters or organisation" is a reference to a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(**c**).

(**a**) S.I. 1995/263.
(**b**) 1952 c. 67.
(**c**) 1964 c. 5.

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

(a) Her Majesty's Forces;

(b) visiting forces;

(c) any member of a visiting force working in or attached to any headquarters or organisation; 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 risks 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) visiting forces; or

(b) any member of a visiting force working in or attached to any headquarters or organisation.

Revocations, amendments and savings

18.—(1) The following Regulations are revoked—

(a) the Control of Substances Hazardous to Health Regulations 1994(**a**);

(b) the Control of Substances Hazardous to Health (Amendment) Regulations 1996(**b**);

(c) the Control of Substances Hazardous to Health (Amendment) Regulations 1997(**c**);

(d) the Control of Substances Hazardous to Health (Amendment) Regulations 1998(**d**).

(2) In the definition of "biological agent" in regulation 2(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(**e**), for the number "1994" substitute "1999".

(3) In the Health and Safety (Fees) Regulatons 1997(**f**)—

(a) in regulation 3(1)(e), for the number "1994" substitute "1999";

(b) in column 1 of entry (c) in the Table in Schedule 6, for the number "1994" substitute "1999"; and

(c) in column 2 of entry (c) in the Table in Schedule 6, for the reference "S.I. 1994/3246" substitute "S.I. 1999/437".

(4) Any record or register required to be kept under any regulations revoked by paragraph (1) shall, notwithstanding those revocations, 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.

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 any of the biological agents listed in Part V of Schedule 3 and the meaning of "at work" shall be extended accordingly, and in that connection the references to employer in paragraphs 12 and 13 of that Schedule include references to any person carrying on such an activity.

(**a**) S.I. 1994/3246.
(**b**) S.I. 1996/3138.
(**c**) S.I. 1997/11.
(**d**) S.I. 1998/1357.
(**e**) S.I. 1995/3163.
(**f**) S.I. 1997/2505.

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.

Signed by authority of the Secretary of State

Alan Meale
Parliamentary Under-Secretary of State,
Department of the Environment,
Transport and the Regions

20th February 1999

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.

Hard wood dusts.

Isopropyl alcohol manufacture (strong acid process).

Leather dust in boot and shoe manufacture, arising during preparation and finishing.

Magenta manufacture.

Mustard gas (ß, ß′ -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

Column 1 *Description of substance*	**Column 2** *Purpose for which the substance is prohibited*
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.

Column 1 *Description of substance*	**Column 2** *Purpose for which the substance is prohibited*
7. Ground or powdered flint or quartz other than— (a) natural sand; or (b) ground or powdered flint or quartz which forms parts of a slop or paste.	Use in relation to the manufacture or decoration of pottery for any purpose except— (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)

SPECIAL PROVISIONS RELATING TO BIOLOGICAL AGENTS

PART I

PROVISIONS OF GENERAL APPLICATION TO BIOLOGICAL AGENTS

Interpretation

1. In this Schedule—

"cell culture" means the *in-vitro* growth of cells derived from multicellular organisms;

"diagnostic service" means any activity undertaken solely with the intention of—

(a) testing for the presence of or identifying a biological agent,

(b) isolating or identifying other organisms from specimens or samples containing or suspected of containing a biological agent,

(c) 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;

"Group" means one of the four hazard Groups specified in paragraph 3 to which biological agents are assigned.

Application

2.—(1) This Schedule shall have effect with a view to protecting employees against risks to their health, whether immediate or delayed, arising from exposure to biological agents except that paragraph 11 shall not apply in relation to a particular biological agent where the results of the assessment made under regulation 6 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.

(2) Unless otherwise expressly provided, the provisions of this Schedule shall have effect in addition to and not in substitution for other provisions of these Regulations.

(**a**) S.I. 1996/2925.
(**b**) 1968, c. 67.

Classification of biological agents

3.—(1) The Health and Safety Commission shall approve and publish for the purposes of this Schedule a document, which may be revised or re-issued from time to time, entitled "Categorisation of Biological Agents according to hazard and categories of containment" containing a list of biological agents together with the classification of each agent which it has approved, and any reference in this Schedule to "approved classification" in relation to a particular biological agent shall be construed as a reference to the classification of that agent which appears in the said document.

(2) 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.

(3) Where a biological agent does not have an approved classification, the employer shall provisionally classify that agent in accordance with sub-paragraph (4) below, having regard to the nature of the agent and the properties of which he may reasonably be expected to be aware.

(4) 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.

Assessment of health risks

4. Without prejudice to the generality of regulation 6, every employer who intends to carry on any work which is liable to expose his employees to any biological agent shall take account of the Group into which that agent is classified when making an assessment of the risks created by that work.

Prevention of exposure to a biological agent

5. Without prejudice to the generality of regulation 7(1), if the nature of the activity so permits, every employer shall ensure that the exposure of his employees to a particular biological agent is prevented by substituting a biological agent which is less hazardous.

Control of exposure to biological agents

6.—(1) Where there is a risk of exposure to a biological agent and it is not otherwise reasonably practicable to prevent that exposure then it shall be adequately controlled, in particular by the following measures which are to be applied in the light of the results of the assessment—

(a) keeping as low as practicable the number of employees exposed or likely to be exposed to the biological agent;

(b) designing work processes and engineering control measures so as to prevent or minimise the release of biological agents into the place of work;

(c) displaying the biohazard sign shown in Part IV of this Schedule and other relevant warning signs;

(d) drawing up plans to deal with accidents involving biological agents;

(e) specifying appropriate decontamination and disinfection procedures;

(f) 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;

(g) making arrangements for the safe handling and transport of biological agents, or materials that may contain such agents, within the workplace;

(h) specifying procedures for taking, handling and processing samples that may contain biological agents;

(i) providing collective protection measures and, where exposure cannot be adequately controlled by other means, individual protection measures including, in particular, the supply of appropriate protective clothing or other special clothing;

(j) 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;

(k) instituting hygiene measures compatible with the aim of preventing or reducing the accidental transfer or release of a biological agent from the workplace, including, in particular—

(i) the provision of appropriate and adequate washing and toilet facilities, and

(ii) the prohibition of eating, drinking, smoking and application of cosmetics in working areas where there is a risk of contamination by biological agents.

(2) In this paragraph, "appropriate" in relation to clothing and hygiene measures means appropriate for the risks involved and the conditions at the place where exposure to the risk may occur.

Special control measures for health and veterinary care facilities

7. In health and veterinary care isolation facilities where there are human patients or animals which are, or are suspected or being, infected with a Group 3 or Group 4 biological agent, the employer shall select the most suitable containment measures from those listed in Part II of this Schedule with a view to controlling adequately the risk of infection.

Special control measures for laboratories, animal rooms and industrial processes

8.—(1) Every employer who is engaged in any of the activities specified in sub-paragraph (3) below 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) below;

(b) the minimum containment level specified in sub-paragraph (4) below;

(c) the assessment of risk made under regulation 6; and

(d) the nature of the biological agent concerned.

(2) An employer who is engaged in—

(a) any of the activities specified in paragraph (a) or (b) of sub-paragraph (3) below shall select measures from Part II of this Schedule;

(b) the activity specified in paragraph (c) of sub-paragraph (3) below shall select measures from Part III of this Schedule and, subject to sub-paragraph (4) below, when making that selection he may combine measures from different categories of containment 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) above are—

(a) research, development, teaching or diagnostic work in laboratories which involves the handling of a Group 2, Group 3 or Group 4 biological agent or material containing such an agent;

(b) keeping or handling of laboratory 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 the use of a Group 2, Group 3 or Group 4 biological agent.

(4) The minimum containment level referred to in sub-paragraph (1) above shall be—

(a) level 2 for activities involving the handling of a Group 2 biological agent;

(b) level 3 for activities involving the handling of a Group 3 biological agent;

(c) level 4 for activities involving the handling of a Group 4 biological agent;

(d) level 2 for laboratories which do not intentionally work with biological agents but handle materials in respect of which there exist uncertainties about the presence of a Group 2, Group 3 or Group 4 biological agent;

(e) level 3 or 4, where appropriate, for laboratories which do not intentionally work with biological agents but where the employer knows or suspects that such a containment level is necessary; except where guidelines approved by the Health and Safety Commission indicate that, in the particular case, a lower containment level is appropriate; and

(f) level 3 for activities where it has not been possible to carry out a conclusive assessment but concerning which it appears that the activity might involve a serious health risk for employees.

Examination and maintenance of personal protective equipment

9.—(1) Every employer who provides personal protective equipment, including protective clothing, to meet the requirements of these Regulations as they apply to biological agents shall ensure that it is—

(a) properly stored in a well-defined place;

(b) checked and cleaned at suitable intervals; and

(c) when discovered to be defective, repaired or replaced before further use.

(2) Personal protective equipment which may be contaminated by biological agents shall be—

(a) removed on leaving the working area; and

(b) kept apart from uncontaminated clothing and equipment.

(3) The employer shall ensure that the equipment referred to in sub-paragraph (2) above is subsequently decontaminated and cleaned or, if necessary, destroyed.

Information for employees

10.—(1) Every employer shall provide written instructions at the workplace and, if appropriate, display notices which shall include the procedure to be followed in the case of—

(a) an accident or incident which has or may have resulted in the release of a biological agent which could cause severe human disease;

(b) the handling of a Group 4 biological agent or material that may contain such an agent.

(2) Every 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.

(3) Every employer shall inform his employees or their representatives—

(a) forthwith, of any incident which has or may have resulted in the release of a biological agent which could cause severe human disease; and

(b) as soon as practicable thereafter, of—

(i) the causes of such an accident or incident, and

(ii) the measures taken or to be taken to rectify the situation.

List of employees exposed to certain biological agents

11.—(1) Subject to paragraph 2(1), 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) Subject to sub-paragraph (3) below, the list shall be kept for at least 10 years following the last known exposure of the employee concerned.

(3) In the case of those exposures which may result in infections—

(a) with biological agents known to be capable of establishing persistent or latent infections;

(b) that, in the light of present knowledge, are undiagnosable until illness develops many years later;

(c) that have particularly long incubation periods before illness develops;

(d) that result in illnesses which recrudesce at times over a long period despite treatment; or

(e) that may have serious long-term sequelae,

the list shall be kept for 40 years following the last known exposure.

(4) The employment medical adviser or appointed 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

12.—(1) Subject to sub-paragraphs (5) and (6) below, an employer shall not store or use for the first time one or more biological agents in Group 2, 3 or 4 at particular premises 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 (3) below.

(2) Subject to sub-paragraphs (5) and (7) below, notification in accordance with sub-paragraph (1) above shall also be made of the storage or use for the first time of—

(a) each subsequent biological agent where that agent is specified in Part V of this Schedule;

(b) each subsequent Group 3 biological agent where that agent does not have an approved classification.

(3) The particulars to be included in the notification referred to in sub-paragraphs (1) and (2) above 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 assessment made under regulation 6;

(d) the Group to which the biological agent has been assigned and, if the agent is specified in Part V of this Schedule or is a Group 3 agent which does not have an approved classification, the identity of the agent; and

(e) the preventive and protective measures that are to be taken.

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

(5) Sub-paragraphs (1) and (2) above shall not apply in relation to a particular biological agent where an intention to store or use that biological agent has been previously notified to the Executive in accordance with the Genetically Modified Organisms (Contained Use) Regulations 1992(**a**).

(6) Sub-paragraph (1) above shall not apply to an employer who intends to provide a diagnostic service in relation to Group 2 or Group 3 biological agents, other than those Group 3 agents specified in Part V of this Schedule, unless it will involve a process likely to propagate or concentrate that agent.

(7) Sub-paragraph (1) above shall not apply to an employer who intends to provide a disagnostic service unless it will involve a process likely to propagate or concentrate a biological agent which does not have an approved classification.

Notification of the consignment of biological agents

13.—(1) An employer shall not consign any of the biological agents specified in Part V of this Schedule 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) below.

(2) Sub-paragraph (1) above 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;

(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 biological agent specified in Part V of this Schedule is imported into Great Britain, the consignee shall give the notice required by sub-paragraph (1) above.

(4) The particulars to be included in the notification referred to in sub-paragraph (1) above 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.

Notification to the Health Ministers

14.—(1) Upon receipt of any notification submitted in accordance with paragraph 12 or 13 concerning a biological agent specified in Part V of this Schedule, the Executive shall notify the appropriate Health Minister forthwith in writing that that agent is to be or is no longer to be stored, used or consigned.

(2) In sub-paragraph (1) above "Health Minister" means, in respect of England, Scotland or Wales, the Secretary of State concerned with health in that country.

(**a**) S.I. 1992/3217, as amended by S.I. 1996/967, 1998/1548.

PART II

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

	Containment measures	*Containment levels*		
		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 procedures.	Yes	Yes	Yes
6.	The workplace is to be maintained at an air pressure negative to atmosphere.	No, unless mechanically ventilated	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 (Class III cabinet)
14.	Incinerator for disposal of animal carcases.	Accessible	Accessible	Yes, on site

In this Part of this Schedule, "Class III cabinet" means a safety cabinet defined as such in British Standard 5726: Part I: 1992, or unit offering an equivalent level of operator protection as defined in British Standard 5726: Part I:1992.

PART III

CONTAINMENT MEASURES FOR INDUSTRIAL PROCESSES

	Containment measures	*Containment levels*		
		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 paragraph 6 of Part I of this Schedule shall be in the form shown below—

PART V

LIST OF BIOLOGICAL AGENTS REFERRED TO IN PARAGRAPHS 12(2)(a), 13(1) AND (3) AND 14(1) OF PART I OF THIS SCHEDULE

(1) All Group 4 biological agents.

(2) Rabies virus.

(3) Simian herpes B virus.

(4) Venezuelan equine encephalitis virus.

(5) Tick-borne encephalitis group viruses in Group 3.

(6) Monkeypox virus.

(7) Mopeia virus.

SCHEDULE 4

Regulation 9(2)(a)

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

Column 1 *Process*	**Column 2** *Minimum frequency*
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(2)

SPECIFIC SUBSTANCES AND PROCESSES FOR WHICH MONITORING IS REQUIRED

Column 1 *Substance or process*	**Column 2** *Minimum frequency*
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

Column 1 *Substances for which medical surveillance is appropriate*	**Column 2** *Process*
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. Benzene, including benzol. Carbon tetrachloride. Trichloroethylene.	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.
Pitch.	In manufacture of blocks of fuel consisting of coal, coal dust, coke or slurry with pitch as a binding substance.

SCHEDULE 7

Regulation 13(1)

FUMIGATIONS EXCEPTED FROM REGULATION 13

Column 1 *Fumigant*	**Column 2** *Nature of fumigation*
Hydrogen cyanide.	Fumigations carried out for research.
	Fumigations in fumigation chambers.
	Fumigations in the open air to control or kill mammal pests.
Methyl bromide.	Fumigations carried out for research.
	Fumigations in fumigation chambers.
	Fumigations of soil outdoors under gas-proof sheeting where not more than 1,000 kg is used in any period of 24 hours on the premises.
	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.
	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.
	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.
	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.
	Fumigations of containers where not more than 5 kg of methyl bromide is used in any one fumigation in a period of 24 hours.

Phosphine.	Fumigations carried out for research. Fumigations in fumigation chambers. 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. Fumigations in containers where not more than 0.5 kg of phosphine is used in any one fumigation in any period of 24 hours. Fumigations in individual impermeable packages. Fumigations in the open air to control or kill mammal pests.

SCHEDULE 8

Regulation 13(2)

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 13(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 13(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 minor modifications, the Control of Substances Hazardous to Health Regulations 1994 (S.I. 1994/3246) ("the 1994 Regulations") as amended. The 1994 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 *(regulations 1 to 17 and Schedules 1 to 8)*.

2. The Regulations—

(a) are consistent with the provisions of—

(i) Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (OJ No. L 237, 3.12.80, p.8),

(ii) 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 the risks related to exposure to chemical, physical and biological agents at work,

(iii) Commission Directive 96/94/EC (OJ No. L 338, 28.12.96, p.86) establishing a second list of indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work;

(b) implement as respects Great Britain—

(i) 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,

(ii) Council Directive 88/364/EEC (OJ No. L 179, 9.7.1988, p.44) on the protection of workers by the banning of certain specified agents and/or certain work activities (fourth individual directive within the meaning of Article 8 of Directive 80/1107/EEC),

(iii) 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 in so far as that point relates to the importation, supply or use of benzene and substances containing benzene for such purposes,

(iv) Council Directive 90/394/EEC (OJ No. L 196, 26.7.90, p.38) on the protection of workers from the 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,

(v) Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (OJ No. L 374, 31.12.90, p.1), and

(vi) 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 restriction on the marketing and use of certain dangerous substances and preparations which relates to supply of specified substances for use at work.

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

(a) provide for the approval by the Health and Safety Commission of maximum exposure limits for substances in place of the provisions previously contained in Schedule 1 of the 1994 Regulations *(regulation 2(1))*;

(b) include certain further definitions *(regulation 2(1))*;

(c) require personal protective equipment provided by an employer in pursuance of these Regulations to comply with the Personal Protective Equipment (EC Directive) Regulations *(regulation 7(5))*; and

(d) revoke those Regulations mentioned in paragraph (1) of regulation 18 and make consequential amendments to the provisions mentioned in paragraphs (2) and (3) of that regulation *(regulation 18)*.

4. 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 6FS; and

(b) the British Standards referred to in Part II of Schedule 3 (relating to safety cabinets) are obtainable from (by personal callers only) the British Standards Institution, 2 Park Street, London W1A 2BS or (by post) from the British Standards Institution, Linford Wood, Milton Keynes, MK14 6LE.

5. A copy of the cost benefit 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. Copies have been placed in the Library of each House of Parliament.

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