

2002 No. 1281

PREVENTION AND SUPPRESSION OF TERRORISM

The Security of Pathogens and Toxins (Exceptions to Dangerous Substances) Regulations 2002

<i>Made</i> - - - -	<i>4th May 2002</i>
<i>Laid before Parliament</i>	<i>10th May 2002</i>
<i>Coming into force</i>	<i>31st May 2002</i>

The Secretary of State, in exercise of the powers conferred on him by section 58(5) of the Anti-terrorism, Crime and Security Act 2001(a), having regard to the definition of “prescribed” in section 74(1) of that Act, hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the Security of Pathogens and Toxins (Exceptions to Dangerous Substances) Regulations 2002 and shall come into force on 31st May 2002.

(2) In these Regulations:

“the Act” means the Anti-terrorism, Crime and Security Act 2001;

“animal” includes a bird, fish or arthropod;

“dangerous substance” has the same meaning as in Part 7 of the Act (by virtue of section 58(4));

“pathogen” means a substance for the time being mentioned in Schedule 5 to the Act other than a toxin; and

“toxin” means a substance for the time being mentioned under that heading in Schedule 5 to the Act.

2.—(1) Where any of the conditions or group of conditions set out in paragraphs (2) to (5) is satisfied, something which would otherwise fall within section 58(4)(a) of the Act is not to be regarded as a dangerous substance.

(2) In the case of a pathogen or toxin, those conditions are:

(a) that it exists in the form of, or is included in, a medicinal product; or

(b) that it is an immunological product intended to diagnose whether a state of immunity to certain diseases exists in human beings or animals.

(3) In the case of a pathogen, those conditions are:

(a) that it is modified for use to be administered to one or more human beings or animals for a medicinal purpose; or

(b) that it is kept in such a way that it is no longer in a state that will allow it to be propagated; or

(c) that it is kept—

(i) as part of a clinical specimen for diagnostic purposes, and

(ii) for no longer than is reasonably practicable for its disposal after the time when the diagnosis has been made.

(a) 2001 c.24.

(4) In the case of a toxin which is neither a botulinum toxin nor a clostridium perfringens toxin (other than clostridium perfringens alphatoxin), those conditions are:

- (a) that, in the case of premises which are not divided into secure parts, the amount of the toxin in question kept at any particular premises does not exceed 5 milligrams (whether or not the amount of that toxin taken together with any other toxin at those premises exceeds that amount); or
- (b) that the amount of the toxin in question kept at any particular secure part of any premises does not exceed 5 milligrams (whether or not the amount of that toxin taken together with either—
 - (i) any other toxin kept at the same secure part, or
 - (ii) the same or any other toxin kept at another secure part of the premises in question,exceeds that amount).

(5) In the case of any toxin, those conditions are:

- (a) that it exists only as an immunotoxin; or
- (b) that it has not been deliberately isolated or extracted from its natural source.

(6) In this regulation:

“administer” has the same meaning as in section 130(9) of the Medicines Act 1968**(a)**;

“immunotoxin” means a conjugate of one cell specific monoclonal antibody and a toxin or subunit of a toxin, that selectively affects diseased cells;

“medicinal product” means any substance or article which is held in a form which is ready to be administered to one or more human beings or animals for a medicinal purpose;

“medicinal purpose” has the same meaning as in section 130(2) of the Medicines Act 1968; and

“secure part”, in relation to premises, means a part of the premises which is securely divided from any other part of the premises at which a toxin is kept.

3.—(1) Where the condition set out in paragraph (2) is satisfied, a pathogen which would otherwise fall within section 58(4)(b) of the Act is not to be regarded as a dangerous substance.

(2) Subject to paragraph (3), that condition is that the substance for the time being mentioned in Schedule 5 to the Act infects or is otherwise carried by:

- (a) any animal, alive or dead, or anything which is or was a part of it;
- (b) any human corpse, or any part of it;
- (c) any food or food source within the meaning of the Food Safety Act 1990**(b)**; or
- (d) any feeding stuff.

(3) Paragraph (2) does not apply if the occupier of the premises where any of the things set out in sub-paragraphs (a) to (d) of that paragraph is kept:

- (a) knows or ought reasonably to have known that the thing in question had been deliberately infected by a pathogen or that it otherwise carries a pathogen as a result of a deliberate act, and
- (b) keeps the thing in question for longer than is reasonably necessary for its disposal.

(4) In paragraph (2)(d) “feeding stuff” means—

- (a) a product of vegetable or animal origin in its natural state (whether fresh or preserved);
- (b) a product derived from the industrial processing of such a product; or

(a) 1968 c.67; section 130(9) was amended by paragraph 3(10) of Schedule 1 to the Animal Health and Welfare Act 1984 (c.40).

(b) 1990 c.16; “food” and “food source” are defined by section 1 of that Act.

(c) an organic or inorganic substance, used simply or in a mixture, whether or not containing additives, for oral feeding to animals.

Home Office
4th May 2002

John Denham
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 7 of the Anti-terrorism, Crime and Security Act 2001 places duties on the occupiers of premises at which dangerous substances are kept. In that Part, a “dangerous substance” means anything which consists of or includes a substance for the time being mentioned in Schedule 5 to that Act (section 58(4)(a)) or anything which is infected with or otherwise carries any such substance (section 58(4)(b)). However, under section 58(5) to the Act something which otherwise falls within that definition is not to be regarded as a dangerous substance if it satisfies conditions prescribed in regulations or is kept or used in circumstances so prescribed. These Regulations exercise those powers.

Regulation 2 sets out the exceptions to section 58(4)(a). Regulation 2(2) sets out exceptions in respect of both pathogens and toxins; regulation 2(3) sets out further exceptions in respect of pathogens; and regulation 2(4) and (5) set out further exceptions in respect of toxins. Regulation 3 sets out an exception to section 58(4)(b).

£1.75

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E0853 5/02 ON (MFK)