

SCHEDULE 3

Transitional provision

PART 1

Existing certificates and licences, etc.

Interpretation

1.—(1) In this Schedule—

“the Act” means the Animals (Scientific Procedures) Act 1986 (and unless otherwise specified, references to a section are to a section of that Act);

“the Home Office guidance” means the guidance on the operation of the Act presented to Parliament by the Secretary of State for the Home Department under section 21 which was ordered to be printed by the House of Commons on 23 March 2000;

“named animal care and welfare officer” means the person specified in a section 2C licence pursuant to section 2C(5)(a);

“named information officer” means the person specified in a section 2C licence pursuant to section 2C(5)(c);

“named person responsible for compliance” means the person specified in a section 2C licence pursuant to section 2C(5)(e);

“named persons” means the persons specified in a section 2C licence pursuant to section 2C(5);

“named training and competency officer” means the person specified in a section 2C licence pursuant to section 2C(5)(d);

“named veterinary surgeon” means the person specified in a section 2C licence pursuant to section 2C(5)(b).

(2) Terms used in this Schedule which are defined in the Act have the same meaning in this Schedule as in the Act.

(3) Any reference in this Schedule to an Annex of the Animals Directive is a reference to the Annex as amended from time to time.

(4) For the purposes of Part 2 of this Schedule, in relation to a section 2C licence—

(a) “regulated activities” means such of the activities listed in section 2B(2) as are authorised by the licence, and

(b) “establishment” means a place specified in the licence as a place where regulated activities may be carried on.

(5) For the purposes of this Schedule, these Regulations come fully into force on 1 January 2013.

Scientific procedure establishments

2. Paragraphs 3 to 8 apply in relation to a certificate issued under section 6 (a “section 6 certificate”) which is in force immediately before these Regulations come fully into force.

3.—(1) The section 6 certificate is to be treated as a licence granted under section 2C to the holder of the certificate.

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(2) The licence is to be treated as authorising the holder of the section 6 certificate to carry on an undertaking involving the activity mentioned in section 2B(2)(a) at the place designated in the section 6 certificate as a scientific procedure establishment.

(3) The person specified in the section 6 certificate pursuant to section 6(5)(a) is to be treated as the person specified in the licence pursuant to section 2C(5)(a).

(4) The person specified in the section 6 certificate pursuant to section 6(5)(b) is to be treated as the person specified in the licence pursuant to section 2C(5)(b).

(5) The holder of the section 6 certificate is to be treated as the person specified in the licence pursuant to section 2C(5)(c), (d) and (e).

(6) The Act applies to a licence arising under this paragraph as it applies to a licence granted under section 2C.

4.—(1) The licence arising under paragraph 3 is to be treated as including the conditions in Part 2 of this Schedule (the “deemed conditions”).

(2) The following existing conditions of the section 6 certificate cease to have effect—

(a) the conditions which correspond to the conditions set out in Appendix B of the Home Office guidance (standard conditions for designated scientific procedure establishments), and

(b) any additional conditions which authorise an exception from, or otherwise relate to, one of those conditions.

(3) If any of the deemed conditions is inconsistent with an existing condition which does not cease to have effect under sub-paragraph (2), the deemed condition prevails.

(4) For the purposes of this paragraph the existing conditions of the certificate are the conditions contained in the certificate by virtue of section 10 immediately before these Regulations come fully into force.

(5) The Act applies to the deemed conditions as it applies to conditions included in a licence by virtue of section 10.

5.—(1) This paragraph applies to conditions 4(3) and 4(7) in Part 2 of this Schedule (standards of care and accommodation etc).

(2) Nothing contained in the section 6 certificate immediately before these Regulations come fully into force is to be treated as authorising an exception from the condition.

(3) The Secretary of State may under this paragraph authorise an exception from the condition if he or she is satisfied of the matters specified in paragraph 11(5) of Schedule 2C to the Act.

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence arising under paragraph 3.

(5) This paragraph is without prejudice to the Secretary of State’s power to authorise an exception from the condition by variation of the licence after these Regulations come fully into force.

6.—(1) Until the Secretary of State publishes guidance about Animal Welfare and Ethical Review Bodies, condition 6 in Part 2 of this Schedule applies with the following modifications.

(2) Sub-paragraph (2)(c) of the condition does not apply; but in selecting any members of the Animal Welfare and Ethical Review Body additional to those required by sub-paragraph (2)(a) and (b) of the condition the licence holder must have regard to the principles in paragraph 5 of Appendix J of the Home Office guidance (persons to be involved in ethical review process).

(3) The reference to guidance in paragraph (3) of the condition is to be treated as a reference to paragraphs 6 to 8 of that Appendix (operation of ethical review process).

7.—(1) This paragraph applies where the section 6 certificate specifies in relation to a description of animal a method of killing (an “alternative method”) which is not a method appropriate to that description of animal under Schedule 1 to the Act.

(2) The licence arising under paragraph 3 is to be treated as if it did not specify the alternative method, unless—

- (a) the Secretary of State authorises the use of that method under this paragraph, or
- (b) the licence is varied after these Regulations come fully into force and the use of that method is authorised in the licence as varied.

(3) The Secretary of State may authorise the use of the alternative method under this paragraph only if he or she is satisfied of the matters specified in section 15A(6).

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence arising under paragraph 3.

8.—(1) Any proceedings under section 12 which are underway in relation to the section 6 certificate when these Regulations come fully into force may be continued in relation to the licence arising under paragraph 3.

(2) If immediately before these Regulations come fully into force the section 6 certificate is suspended under section 13, the suspension continues to have effect in relation to the licence arising under paragraph 3.

9.—(1) An application for a certificate under section 6 which is made but not determined before these Regulations come fully into force may be treated by the Secretary of State as an application for a section 2C licence; and any proceedings under section 12 which are underway in relation to such an application when these Regulations come fully into force may be continued accordingly.

(2) Any enactment or instrument passed or made before these Regulations come fully into force has effect, so far as is necessary or appropriate in consequence of these Regulations, as if—

- (a) references to a certificate issued by the Secretary of State under section 6 were to a section 2C licence authorising the holder to carry on an undertaking involving the activity mentioned in section 2B(2)(a), and
- (b) references to a designated scientific procedure establishment were to a place specified in such a licence.

Breeding and supplying establishments

10. Paragraphs 11 to 17 apply in relation to a certificate issued under section 7 (a “section 7 certificate”) which is in force immediately before these Regulations come fully into force.

11.—(1) The section 7 certificate has effect as if it were a licence granted under section 2C to the holder of the certificate.

(2) If the section 7 certificate designates a place as a breeding establishment, the licence is to be treated as authorising the holder of the section 7 certificate to carry on an undertaking involving the activity mentioned in section 2B(2)(b) at the place designated in the section 7 certificate as a breeding establishment (subject to paragraph 12(1)).

(3) If the section 7 certificate designates a place as a supplying establishment, the licence is to be treated as authorising the holder of the section 7 certificate to carry on an undertaking involving the activity mentioned in section 2B(2)(c) at the place designated in the section 7 certificate as a supplying establishment (subject to paragraph 12(2)).

(4) The person specified in the section 7 certificate pursuant to section 7(5)(a) is to be treated as the person specified in the licence pursuant to section 2C(5)(a).

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(5) The person specified in the section 7 certificate pursuant to section 7(5)(b) is to be treated as the person specified in the licence pursuant to section 2C(5)(b).

(6) The holder of the section 7 certificate is to be treated as the person specified in the licence pursuant to section 2C(5)(c), (d) and (e).

(7) The Act applies to a licence arising under this paragraph as it applies to a licence granted under section 2C.

12.—(1) If the section 7 certificate designates a place as a breeding establishment, the licence arising under paragraph 11 does not authorise carrying out the activity mentioned in section 2B(2)(b) in relation to a new relevant protected animal, unless—

- (a) carrying out that activity in relation to such an animal is authorised by the Secretary of State under this paragraph, or
- (b) the licence is varied after these Regulations come fully into force and carrying out that activity in relation to such an animal is authorised in the licence as varied.

(2) If the section 7 certificate designates a place as a supplying establishment, the licence arising under paragraph 11 does not authorise carrying out the activity mentioned in section 2B(2)(c) in relation to a new relevant protected animal, unless—

- (a) carrying out that activity in relation to such an animal is authorised by the Secretary of State under this paragraph, or
- (b) the licence is varied after these Regulations come fully into force and carrying out that activity in relation to such an animal is authorised in the licence as varied.

(3) In this paragraph a “new relevant protected animal” means a protected animal which is a relevant protected animal by virtue of regulation 26(18)(h).

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence arising under paragraph 11.

13.—(1) The licence arising under paragraph 11 is to be treated as including the conditions set out in Part 2 of this Schedule (the “deemed conditions”).

(2) The following existing conditions of the section 7 certificate cease to have effect—

- (a) the conditions which correspond to the conditions set out in Appendix C of the Home Office guidance (standard conditions for designated breeding and supplying establishments), and
- (b) any additional conditions which authorise an exception from, or otherwise relate to, one of those conditions.

(3) If any of the deemed conditions is inconsistent with an existing condition which does not cease to have effect under sub-paragraph (2), the deemed condition prevails.

(4) For the purposes of this paragraph the existing conditions of the certificate are the conditions contained in the certificate by virtue of section 10 immediately before these Regulations come fully into force.

(5) The Act applies to the deemed conditions as it applies to conditions included in a licence by virtue of section 10.

14.—(1) This paragraph applies to conditions 4(3) and 4(7) in Part 2 of this Schedule (standards of care and accommodation etc).

(2) Nothing contained in the section 7 certificate immediately before these Regulations come fully into force is to be treated as authorising an exception from the condition.

(3) The Secretary of State may under this paragraph authorise an exception from the condition if he or she is satisfied of the matters specified in paragraph 11(5) of Schedule 2C to the Act.

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence arising under paragraph 11.

(5) This paragraph is without prejudice to the Secretary of State's power to authorise an exception from the condition by variation of the licence after these Regulations come fully into force.

15.—(1) Until the Secretary of State publishes guidance about Animal Welfare and Ethical Review Bodies, condition 6 in Part 2 of this Schedule applies with the following modifications.

(2) Sub-paragraph (2)(c) of the condition does not apply; but in selecting any members of the Animal Welfare and Ethical Review Body additional to those required by sub-paragraph (2)(a) and (b) of the condition the licence holder must have regard to the principles in paragraph 5 of Appendix J of the Home Office guidance (persons to be involved in ethical review process).

(3) The reference to guidance in paragraph (3) of the condition is to be treated as a reference to paragraphs 6 to 8 of that Appendix (operation of ethical review process).

16.—(1) This paragraph applies where the section 7 certificate specifies in relation to a description of animal a method of killing (an "alternative method") which is not a method appropriate to that description of animal under Schedule 1 to the Act.

(2) The licence arising under paragraph 11 is to be treated as if it did not specify the alternative method, unless—

- (a) the Secretary of State authorises the use of that method under this paragraph, or
- (b) the licence is varied after these Regulations come fully into force and the use of that method is authorised in the licence as varied.

(3) The Secretary of State may authorise the use of the alternative method under this paragraph only if he or she is satisfied of the matters specified in section 15A(6).

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence arising under paragraph 11.

17.—(1) Any proceedings under section 12 which are underway in relation to the section 7 certificate when these Regulations come fully into force may be continued in relation to the licence arising under paragraph 11.

(2) If immediately before these Regulations come fully into force the section 7 certificate is suspended under section 13, the suspension continues to have effect in relation to the licence arising under paragraph 11.

18.—(1) An application for a certificate under section 7 which is made but not determined before these Regulations come fully into force may be treated by the Secretary of State as an application for a section 2C licence; and any proceedings under section 12 which are underway in relation to such an application when these Regulations come fully into force may be continued accordingly.

(2) Any enactment or instrument passed or made before these Regulations come fully into force has effect, so far as is necessary or appropriate in consequence of these Regulations, as if—

- (a) references to a certificate issued by the Secretary of State under section 7(1) were to a section 2C licence authorising the holder to carry on an undertaking involving the activity mentioned in section 2B(2)(b),
- (b) references to a designated breeding establishment were to a place specified in such a licence,

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- (c) references to a certificate issued by the Secretary of State under section 7(2) were to a section 2C licence authorising the holder to carry on an undertaking involving the activity mentioned in section 2B(2)(c), and
- (d) references to a designated supplying establishment were to a place specified in such a licence.

Personal licences

19.—(1) This paragraph applies in relation to a personal licence granted under section 4 which is in force immediately before these Regulations come fully into force.

(2) The licence is to be treated as including the conditions in Part 3 of this Schedule (the “deemed conditions”).

(3) The existing conditions of the licence which correspond to the conditions set out in Appendix E of the Home Office guidance (standard conditions for personal licences) cease to have effect.

(4) If any of the deemed conditions is inconsistent with an existing condition which does not cease to have effect under sub-paragraph (3), the deemed condition prevails.

(5) For the purposes of this paragraph the existing conditions of the licence are the conditions contained in the licence by virtue of section 10 immediately before these Regulations come fully into force.

(6) The Act applies to the deemed conditions as it applies to conditions included in a licence by virtue of section 10.

Project licences

20. Paragraphs 21 to 28 apply in relation to a project licence granted under section 5 which is in force immediately before these Regulations come fully into force.

21. Except as provided by this Part of this Schedule, the amendments made by regulation 9 do not apply in relation to the licence.

22. Section 5E(2) to (4) (termination of licence on death of licence holder) applies to the licence as it applies to a licence granted after these Regulations come fully into force.

23.—(1) Where the licence classifies the severity of a regulated procedure specified in the licence as “unclassified”, it is to be treated as classifying the severity of that procedure as “non-recovery”.

(2) Where the licence classifies the severity of a regulated procedure specified in the licence as “substantial”, it is to be treated as classifying the severity of that procedure as “severe”.

24.—(1) The licence is to be treated as including the conditions set out in Part 4 of this Schedule (the “deemed conditions”).

(2) The following existing conditions of the licence cease to have effect—

- (a) the conditions which correspond to the conditions set out in Appendix D of the Home Office guidance (standard conditions for project licences), and
- (b) any additional conditions which authorise an exception from, or otherwise relate to, one of those conditions (subject to paragraph 29(4)).

(3) If any of the deemed conditions is inconsistent with an existing condition which does not cease to have effect under sub-paragraph (2), the deemed condition prevails.

(4) For the purposes of this paragraph the existing conditions of the licence are the conditions contained in the licence by virtue of section 10 immediately before these Regulations come fully into force.

(5) The Act applies to the deemed conditions as it applies to conditions included in a licence by virtue of section 10.

25.—(1) This paragraph applies to condition 13 in Part 4 of this Schedule (restrictions on use of certain descriptions of animal).

(2) Nothing contained in the licence immediately before these Regulations come fully into force is to be treated as authorising an exception from the condition.

(3) The Secretary of State may under this paragraph authorise an exception from the condition if he or she is satisfied of the matters specified in paragraph 25(2) or (3) of Schedule 2C to the Act (whichever is relevant).

(4) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence.

(5) This paragraph is without prejudice to the Secretary of State's power to authorise an exception from the condition by variation of the licence after these Regulations come fully into force.

26.—(1) The following requirements apply in relation to the licence (despite anything to the contrary in the licence).

(2) The licence holder must meet the requirements in section 5C(2)(a) to (c).

(3) The programme of work specified in the licence may only be carried out for one of the purposes specified in section 5C(3)(a) to (g).

(4) Regulated procedures must not be applied to any of the following unless authorised by the Secretary of State under paragraph 27—

- (a) endangered primates,
- (b) non-endangered primates,
- (c) endangered animals other than primates.

(5) Regulated procedures must not be applied to great apes.

(6) Section 15A applies as if in subsection (3)(b), at the end there were inserted “and there is a scientific justification that the purposes of the programme of work specified in the licence cannot be achieved if a method of killing appropriate to that description of animal under Schedule 1 is used.”

(7) A neuromuscular blocking agent must not be used unless authorised by the Secretary of State under paragraph 27.

(8) The Act applies to the requirements imposed by this paragraph as if they were provisions of the Act.

27.—(1) The Secretary of State may authorise the application of regulated procedures to endangered primates only if he or she has verified that the following conditions are met—

- (a) Condition 1 or 2 of Schedule 2B to the Act, and
- (b) Condition 3 of that Schedule.

(2) The Secretary of State may authorise the application of regulated procedures to non-endangered primates only if he or she has verified that the following conditions are met—

- (a) Condition 4 or 5 of Schedule 2B to the Act, and
- (b) Condition 6 of that Schedule.

(3) The Secretary of State may authorise the application of regulated procedures to endangered animals other than primates only if he or she has verified that the following conditions are met—

- (a) Condition 7 of Schedule 2B to the Act, and

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(b) Condition 8 of that Schedule.

(4) The Secretary of State may authorise the use of a neuromuscular blocking agent only if he or she is satisfied of the matters specified in section 17(2).

(5) The Act applies to an authorisation under this paragraph as if the authorisation were included in the licence.

28.—(1) This paragraph applies if the Secretary of State is considering—

(a) a variation of the licence, or

(b) if the licence was granted for a period of less than 5 years, its renewal.

(2) The following provisions apply in relation to the licence as proposed to be varied or renewed as they apply in relation to a project licence granted after these Regulations come fully into force—

(a) section 5C (restrictions on grant of project licence);

(b) section 15A(7) (methods of killing not specified in Schedule 1 to the Act);

(c) section 17(2) (neuromuscular blocking agents).

(3) Accordingly, on the variation or renewal of the licence paragraph 26 ceases to apply in relation to it.

Re-use of protected animals

29.—(1) This paragraph applies to any consent given by the Secretary of State under section 14 which has effect immediately before these Regulations come fully into force.

(2) The consent continues to have effect after these Regulations come fully into force, subject to sub-paragraph (3).

(3) In a case to which section 14(6) applies, the consent does not continue to have effect after these Regulations come fully into force unless it was given under section 14(6) by virtue of regulation 1(3) (a).

(4) Where a consent to which this paragraph applies takes the form of an existing additional condition of a project licence (within the meaning of paragraph 24), paragraph 24(2)(b) does not apply in relation to that condition.

30. In the application of section 14(4) to a project licence granted before these Regulations come fully into force, paragraph (b) applies as if for “was classified by the Secretary of State under section 5B(3)(c)” there were substituted “is classified in the project licence”.

Setting free and re-homing protected animals

31. In section 17A(1)(a), the reference to the Secretary of State’s consent does not include a consent given before these Regulations come fully into force, unless it was given under section 17A by virtue of regulation 1(3)(b).