

## SCHEDULE 3

### ADDITIONAL PROVISIONS RELATING TO WORK WITH BIOLOGICAL AGENTS

#### PART I

#### PROVISIONS OF GENERAL APPLICATION TO BIOLOGICAL AGENTS

##### **Interpretation**

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

##### **Classification of biological agents**

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

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

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

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

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

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

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

(2) An employer who is engaged in—

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- (a) any of the activities specified in sub-paragraph (3)(a) or (b) shall select measures from Part II of this Schedule;
  - (b) the activity specified in sub-paragraph (3)(c) shall select measures from Part III of this Schedule and, subject to sub-paragraph (4), when making that selection he may combine measures from different containment levels on the basis of a risk assessment related to any particular process or part of a process.
- (3) The activities referred to in sub-paragraph (1) are—
- (a) research, development, teaching or diagnostic work in laboratories which involves working with a Group 2, Group 3 or Group 4 biological agent or material containing such an agent;
  - (b) working with animals which have been deliberately infected with a Group 2, Group 3 or Group 4 biological agent or which are, or are suspected of being, naturally infected with such an agent; and
  - (c) industrial processes which involve working with a Group 2, Group 3 or Group 4 biological agent.
- (4) Subject to sub-paragraph (5), the minimum containment level referred to in sub-paragraph (1) shall be—
- (a) level 2 for activities which involve working with a Group 2 biological agent;
  - (b) level 3 for activities which involve working with a Group 3 biological agent;
  - (c) level 4 for activities which involve working with a Group 4 biological agent;
  - (d) level 2 for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a biological agent but work with materials in respect of which it is unlikely that a Group 3 or Group 4 biological agent is present;
  - (e) level 3 or 4, where appropriate, for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a Group 3 or Group 4 biological agent but where the employer knows, or it is likely, that such a containment level is necessary; and
  - (f) level 3 for activities where it has not been possible to carry out a conclusive assessment but where there is concern that the activity might involve a serious health risk for employees.
- (5) <sup>F1</sup>The Health and Safety Executive] may approve guidelines specifying the minimum containment measures which are to apply in any particular case.
- (6) <sup>F1</sup>The Health and Safety Executive] shall not approve any guidelines under paragraph (5) unless it is satisfied that the health of any person who is likely to be affected by the use of those guidelines will not be prejudiced.

#### Textual Amendments

- F1** Words in Sch. 3 Pt. I paras. 3(5)(6) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), art. 1, [Sch. 3](#) (with art. 21)

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

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

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

- (a) the activity does not involve a deliberate intention to work with or use that biological agent; and
  - (b) there is no significant risk to the health of employees associated with that biological agent.
- (3) The employer shall ensure that the list or a copy thereof is kept available in a suitable form for at least 40 years from the date of the last entry made in it.
- (4) The relevant doctor referred to in regulation 11, and any employee of that employer with specific responsibility for the health and safety of his fellow employees, shall have access to the list.
- (5) Each employee shall have access to the information on the list which relates to him personally.

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

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

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

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

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

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

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

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

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

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

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

(7) Sub-paragraphs (1) and (2) shall not apply in relation to a biological agent where an intention to use that biological agent has been previously notified to the Executive in accordance with the Genetically Modified Organisms (Contained Use) Regulations 2000 <sup>M1</sup>.

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

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

**Marginal Citations**

**M1** S.I. 2000/2831.

**Notification of the consignment of biological agents**

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

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

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

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

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

- (a) the identity of the biological agent and the volume of the consignment;
- (b) the name of the consignor;
- (c) the address of the premises from which it will be transported;
- (d) the name of the consignee;
- (e) the address of the premises to which it shall be transported;
- (f) the name of the transport operator responsible for the transportation;
- (g) the name of any individual who will accompany the consignment;
- (h) the method of transportation;
- (i) the packaging and any containment precautions which will be taken;
- (j) the route which will be taken; and

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(k) the proposed date of transportation.

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