

**EXPLANATORY MEMORANDUM TO**  
**THE RADIOACTIVE SUBSTANCES (EMERGENCY EXEMPTION) (ENGLAND**  
**AND WALES) ORDER 2006**

**2006 No. 3169**

**1.** This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Exemption Order excludes radioactive waste relating to the death of Alexander Litvinenko from the provisions of sections 13 and 14 of the Radioactive Substances Act 1993.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The 21 day rule will be breached given the urgency of the situation.

**4. Legislative Background**

4.1 The Radioactive Substances Act 1993 (RSA93) is primarily concerned with the control of radioactive material and radioactive waste. Control is exercised by means of permissions granted by the Environment Agency (in England and Wales). In respect of radioactive waste, a permission to deal with that waste is referred to as an authorisation. An authorisation may be granted by the Environment Agency under section 13 (disposal of radioactive waste) and/or section 14 (accumulation of radioactive waste).

4.2 In respect of England and Wales, the Secretary of State has the power under section 15(2) RSA93 to make an order exempting particular descriptions of radioactive waste from the requirements for authorisation either absolutely or subject to conditions or limitations. Such an exemption order is by section 44(3) RSA93 made by statutory instrument.

**5. Extent**

5.1 These Regulations apply in relation to England and Wales.

**6. European Convention on Human Rights**

6.1 Ian Pearson has made the following statement regarding Human Rights:

In my view the provisions of the Radioactive Substances (Emergency Exemption) (England and Wales) Order 2006 are compatible with the Convention rights.

**7. Policy background**

7.1 Following the death of Alexander Litvinenko, Government Agencies are examining ways of decontaminating areas affected by radioactive contamination. This may require the

use of contractors acting under the direction of the Agencies. The normal authorisation process is inappropriate as it is a relatively lengthy process structured around an application from a relevant person for the accumulation or disposal of radioactive waste. There are also persons who are carrying on undertakings from premises from which radioactive waste must be disposed of. The radioactive waste may have arisen on those premises without the knowledge of the person in charge of those premises. However, under section 13 of RSA93 those persons would be required to apply for and obtain an authorisation for the disposal of the waste unless an exemption was granted. This Order therefore provides for an exemption from sections 13 and 14 of the Act.

7.2 None of this prejudices orderly and appropriate accumulation and disposal of the radioactive waste which will be undertaken with the agreement of the Environment Agency.

7.3 Given the current information at the moment we are not able to define who may require exemption but the Order will be reviewed in light of experience and revoked or amended as necessary.

## **8. Impact**

8.1 No regulatory impact assessment has been prepared in relation to these Regulations because there is no additional impact on public, private or voluntary sectors.

## **9. Contact**

9.1 Chris Wilson at the Radioactive Substances Division of Defra (Zone 3/G27, Ashdown House, 123 Victoria Street, London); Tel: 020 7082 8475 or email: [chrisk.wilson@defra.gsi.gov.uk](mailto:chrisk.wilson@defra.gsi.gov.uk) can answer any queries regarding the instrument.