

EXPLANATORY MEMORANDUM TO
THE SECURITY OF ANIMAL PATHOGENS (EXCEPTIONS TO
DANGEROUS SUBSTANCES) REGULATIONS

2007 No. 932

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 Further to the Order extending Part 7 of the Anti-Terrorism, Crime and Security Act 2001 to include animal pathogens, this Instrument sets out the circumstances under which those substances are exempt from the provisions of the Act. These exemptions will apply where substances otherwise deemed to be dangerous are not considered to be so because prescribed conditions or circumstances are met.

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

3.1 None

4. **Legislative Background**

4.1 This instrument is being made following the extension of the Anti-Terrorism, Crime and Security Act 2001 to include animal pathogens. Under section 58(5) of the Anti-Terrorism, Crime and Security Act 2001 a substance which would otherwise be described as dangerous is not regarded as such if it satisfies prescribed conditions or it is kept or used in prescribed circumstances. Under section 74(1) of the Act 'prescribed' means prescribed in regulations made by the Secretary of State.

4.2 The power to regulate under section 74(1) of the Act has been exercised once before. Statutory Instrument 2002 No. 1281 – the Security of Pathogens and Toxins (Exceptions to Dangerous Substances) Regulations 2002 – were made in respect of human pathogens and toxins.

4.3 This instrument relates to SI 2007 No 926 – Part 7 of the Anti-Terrorism, Crime and Security Act 2001 (Extension to Animal Pathogens) Order and SI 2007 No. 929 - Schedule 5 of the Anti-Terrorism, Crime and Security Act 2001 (Amendment) Order 2007.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Minister of State at the Home Office, Tony McNulty, has made the following statement regarding Human Rights:

In my view the provisions of the Part 7 of the Anti-Terrorism, Crime and Security Act 2001 (Extension to Animal Pathogens) Order 2007 are compatible with the Convention rights.

7. Policy Background

7.1 The objective of the Anti-Terrorism, Crime and Security Act is to build on existing counter-terrorist legislation to ensure that the Government has the necessary powers to counter the threat to the UK. Part 7 of the Act is intended to improve the security of dangerous substances that may be targeted or used by terrorists. This instrument sets out the precise circumstances under which the animal pathogens within the scope of the Act are exempt from the Part 7 controls. In effect therefore the provisions of the Act will only apply where absolutely necessary.

7.2 The Department for the Environment, Food and Rural Affairs (DEFRA) and the Department of Health, as the experts in this area, were consulted fully on the content of this instrument. Their input is completely reflected.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. An RIA has however been prepared in relation to the related instruments, cited in paragraph 4.3.

8.2 The impact on the public sector is negligible.

9. Contact

9.1 CTID (Pursue), Home Office (Tel. 020 7035 8959) regarding any queries about this instrument.