

2006 No. 1500

**ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES,
ENGLAND AND WALES**

**The Radioactive Substances (Testing Instruments)(England and
Wales) Exemption Order 2006**

<i>Made</i> - - - -	<i>5th June 2006</i>
<i>Laid before Parliament</i>	<i>9th June 2006</i>
<i>Coming into force</i> - -	<i>6th October 2006</i>

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The Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred upon him by sections 8(6) and (7), 11(1) and (2) and 15(2) of the Radioactive Substances Act 1993(a), makes the following Order:

(a) 1993 c.12. The subject matter of this Act is devolved to the Scottish Parliament, see the Scotland Act 1998 (c.46), section 30 and Schedule 5, Part II, Head D, section D4(nuclear energy).

Citation, commencement and application

1.—(1) This Order may be cited as the Radioactive Substances (Testing Instruments) (England and Wales) Exemption Order 2006 and comes into force on 6th October 2006.

(2) This Order extends to England and Wales.

Interpretation

2. In this Order—

“the Act” means the Radioactive Substances Act 1993;

“activity”, expressed in becquerels, means the number of spontaneous nuclear transformations occurring in a period of one second in a radioactive substance;

“Class 1 source” means—

- (a) a homogeneous source;
- (b) a laminated source;
- (c) a sealed source;
- (d) an electrodeposited source; or
- (e) a tritium foil source,

in which the total number of kilobecquerels of all the radionuclides present, including radionuclides which are decay products of other radionuclides present, does not exceed 200;

“Class 2 source” means—

- (a) a homogeneous source;
- (b) a laminated source;
- (c) a sealed source;
- (d) an electrodeposited source; or
- (e) a tritium foil source,

other than a Class 1 source, in which the total number of megabecquerels of activity of all the radionuclides present, including radionuclides which are decay products of other radionuclides present, does not exceed the number specified for that source in Schedule 1 to this Order;

“decay products” means, in relation to any radionuclide, the radionuclides succeeding it in the radioactive series in which it occurs;

“electrodeposited source” means an article which consists of iron or nickel electrodeposited on to a metal substrate and which is radioactive material solely due to the presence of iron 55 or nickel 63;

“exhibition” means an exhibition or display held for the purposes of any trade, business or profession, and includes any demonstration of the use or uses to which material included in such an exhibition or display may be put;

“homogeneous source” means an article which—

- (a) is made wholly from a substance which—
 - (i) is solid, coherent, homogeneous and tough; and
 - (ii) is radioactive material or a mixture of radioactive material and material which is not radioactive material,

being a substance in which the radionuclides present do not emit alpha particles; or

- (b) is made partly from or incorporates such a substance and is radioactive material solely because of the presence of that substance;

“laminated source” means an article consisting of a layer of coherent radioactive material sandwiched between and securely bonded to layers of coherent, inert and tough material which is not radioactive material;

“sealed source” means radioactive material—

- (a) sealed in a container (otherwise than solely for the purpose of storage, transport or disposal); or
- (b) bonded wholly within material,
the immediate container or the bonding being of adequate mechanical strength and not constructed of radioactive material, and includes the immediate container or the bonding;

“testing instrument” means any apparatus, equipment or appliance—

- (a) designed for testing, measuring or otherwise investigating any of the characteristics of a substance or article; and
- (b) which is radioactive material solely because it incorporates one or more Class 1 or Class 2 sources but which does not incorporate two or more sources of the same description with an aggregate number of megabecquerels of activity exceeding the number specified in Schedule 1 in relation to sources of that description;

“tritium foil source” means an article which consists of material which is not radioactive material and which has a mechanically tough surface into which tritium is incorporated, being an article which is radioactive material solely due to the presence of tritium;

“waste collection authority” means a local authority which is a waste collection authority within the meaning of section 30(3) of the Environmental Protection Act 1990(a).

Exemption from registration under section 7 of the Act

3.—(1) Subject to paragraph (2), a person is exempt from registration under section 7 of the Act (registration of users of radioactive material) at any premises in respect of—

- (a) a testing instrument; or
- (b) a Class 1 or Class 2 source (not incorporated in a testing instrument) for use with, or for testing or calibrating, a testing instrument.

(2) A person is not exempt from registration if—

- (a) the premises are used for, or in connection with, the manufacture or storage for sale, hire or exhibition of testing instruments or sources referred to in paragraph (1); or
- (b) a source incorporated in a testing instrument or a source referred to in paragraph (1)(b) is defective or damaged or leaks radioactive material.

(3) A person who is exempt from registration must comply with the limitations and conditions set out in Schedule 2 in relation to a Class 2 source.

Exemption from registration under section 10 of the Act

4.—(1) Subject to paragraph (2), a person is exempt from registration under section 10 of the Act (registration of mobile radioactive apparatus) in respect of mobile radioactive apparatus which consists of—

- (a) a testing instrument; or
- (b) a Class 1 or Class 2 source (not incorporated in a testing instrument) for use with, or for testing or calibrating, a testing instrument.

(2) A person is not exempt from registration—

- (a) in respect of a testing instrument incorporating one or more—
 - (i) electrodeposited sources which consist of iron 55; or
 - (ii) tritium foil sources;
- (b) in respect of—

(a) 1990 c.43.

- (i) an electrodeposited source which consists of iron 55; or
 - (ii) a tritium foil source;
 - (c) if the apparatus referred to in paragraph (1) is kept or used as an exhibit at an exhibition; or
 - (d) if a source incorporated in a testing instrument or a source referred to in paragraph (1)(b) is defective or damaged or leaks radioactive material.
- (3) A person who is exempt from registration must comply with the limitations and conditions set out in Schedule 2 in relation to a Class 2 source.

Radioactive waste from a Class 1 source

5.—(1) Articles 6, 7 and 8 apply to radioactive waste from a Class 1 source, as defined in paragraph (2).

(2) Radioactive waste from a Class 1 source means material which—

- (a) immediately before it became radioactive waste, was a Class 1 source or part of such a source and in respect of which a person was exempt from registration under article 3 or 4; or
- (b) is radioactive waste solely because it has been contaminated by contact with, or proximity to—
 - (i) material within sub-paragraph (a); or
 - (ii) other material which is radioactive waste because it has been so contaminated.

Section 13 of the Act and radioactive waste from a Class 1 source

6.—(1) A person is excluded from authorisation under subsections (1) and (2) of section 13 of the Act (disposal of radioactive waste) in respect of radioactive waste from a Class 1 source.

(2) A person who is excluded from authorisation must comply with the limitations and conditions set out in Schedule 3.

Section 14 of the Act and radioactive waste from a Class 1 source

7.—(1) A person is excluded from authorisation under subsection (1) of section 14 of the Act (accumulation of radioactive waste) in respect of radioactive waste from a Class 1 source.

(2) A person who is excluded from authorisation must—

- (a) only accumulate the radioactive waste with a view to its subsequent disposal; and
- (b) dispose of the radioactive waste as soon as practicable and comply with the limitations and conditions set out in Schedule 3.

Waste collection authorities or their contractors and radioactive waste from a Class 1 source

8. A waste collection authority, or its contractors, that receives radioactive waste from a Class 1 source—

- (a) is excluded from authorisation under section 13(3) of the Act in respect of that radioactive waste if it disposes of the Class 1 source by way of dispersal in refuse which is not radioactive waste; and
- (b) is excluded from authorisation under section 14(1) of the Act in respect of that radioactive waste if—
 - (i) as soon as practicable, it disperses the Class 1 source in refuse which is not radioactive waste; and
 - (ii) it disposes of that refuse as soon as practicable.

Radioactive waste from a Class 2 source

9.—(1) Articles 10 and 11 apply to radioactive waste from a Class 2 source, as defined in paragraph (2).

(2) Radioactive waste from a Class 2 source means material which—

- (a) immediately before it became radioactive waste was a Class 2 source and in respect of which a person was exempt from registration under article 3 or 4;
- or
- (b) is radioactive waste solely because it has been contaminated by contact with or proximity to—
 - (i) material within sub-paragraph (a); or
 - (ii) other material which is radioactive waste because it has been so contaminated.

Section 13 of the Act and radioactive waste from a Class 2 source

10.—(1) A person is excluded from authorisation under section 13(1) and (2) of the Act in respect of radioactive waste from a Class 2 source.

(2) A person who is excluded from authorisation must ensure that the radioactive waste is disposed of by despatch to, or removal by—

- (a) a person authorised under section 13(1) of the Act to dispose of such radioactive waste; or
- (b) a manufacturer or supplier of a Class 2 source.

Section 14 of the Act and radioactive waste from a Class 2 source

11.—(1) A person is excluded from authorisation under section 14(1) of the Act in respect of radioactive waste from a Class 2 source.

(2) A person who is excluded from authorisation must—

- (a) only accumulate the radioactive waste with a view to its subsequent disposal by way of despatch to, or removal by—
 - (i) a person authorised under section 13(1) of the Act to dispose of such radioactive waste; or
 - (ii) a manufacturer or supplier of a Class 2 source; and
- (b) dispose of the radioactive waste as soon as practicable.

Revocation

12. The Radioactive Substances (Testing Instruments) Exemption Order 1985^(a), insofar as it extends to England and Wales, is revoked.

5th June 2006

Ian Pearson
Minister of State
Department for Environment, Food and Rural Affairs

^(a) S.I.1985/1049.

SCHEDULE 1

Article 2

Activity of Class 2 sources

<i>Description</i>	<i>Maximum number of megabecquerels</i>
Homogenous source	0.4
Laminated source	4
Sealed source	4
Electrodeposited source containing iron 55	200
Electrodeposited source containing nickel 63	600
Tritium foil source	20,000

SCHEDULE 2

Articles 3(3) and 4(3)

Limitations and conditions in relation to a Class 2 source

1. A person who is exempt from registration in relation to a Class 2 source must comply with the following limitations and conditions.

2. A record must be kept at the premises where the Class 2 source is held, or a place or places notified to the Environment Agency, showing—

- (a) the date of first receipt on the premises of the source;
- (b) the manufacturer's type number;
- (c) the number of megabecquerels contained in the source at the date of receipt;
- (d) the date when any source is exchanged or disposed of; and
- (e) the address of the premises to which it is removed and the name of the occupier of those premises,

and such record must be made available for inspection by the Environment Agency.

3. No material (whether radioactive or not) forming part of the source may be removed from the source.

4. No source may be mutilated.

5. When it becomes known, or there are reasonable grounds for believing, that a source has been stolen or lost—

- (a) the police and the Environment Agency must be notified as soon as possible of the suspected theft or loss; and
- (b) all reasonably practicable steps must be taken forthwith to recover the source.

6. When it becomes known, or there are reasonable grounds for believing, that—

- (a) in the case of a sealed source, the immediate container or the bonding of the source is broken or damaged;
- (b) any material (whether radioactive or not) forming part of a source has been removed therefrom; or
- (c) any radioactive material has become detached, or has escaped, from a source because of some defect therein,

the Environment Agency must be notified of the occurrence or suspected occurrence as soon as possible, and if the notification is given orally, the notification must be confirmed in writing as soon as is practicable.

SCHEDULE 3

Article 6(2)

Limitations and conditions in relation to radioactive waste from a Class 1 source

1. A person who is excluded from authorisation in relation to radioactive waste from a Class 1 source must comply with the following limitations and conditions.
2. The radioactive waste must be disposed of by—
 - (a) removal as refuse by a waste collection authority, or its contractors; or
 - (b) despatch to, or removal by—
 - (i) a person authorised under section 13(3) of the Act to dispose of such radioactive waste; or
 - (ii) a manufacturer of Class 1 or Class 2 sources.
3. In respect of disposal under paragraph 2(a)—
 - (a) not more than one former source may be disposed of from the premises where it is held in any one week; and
 - (b) sub-paragraph (a) applies whether the former source is whole or in parts and whether or not absorbed in, mixed with or adhering to other articles or substances.
4. A record must be kept at the premises from which the radioactive waste is disposed of showing—
 - (a) the description of the radioactive waste disposed of and the number of kilobecquerels contained in the radioactive waste at the time of its disposal; and
 - (b) the means and date of its disposal,

and such record must be made available for inspection by the Environment Agency.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the Radioactive Substances (Testing Instruments) Exemption Order 1985(a) (“the 1985 Order”) in respect of England and Wales. The provisions of the 1985 Order are re-enacted in this Order but with references to the Radioactive Substances Act 1993 (“the Act”)(b) and subject to drafting changes and the following minor changes:

- (a) a waste collection authority under this Order means a local authority which is a waste collection authority within the meaning of section 30(3) of the Environmental Protection Act 1990 (c.43);
- (b) the reference to “free from patent defect” is removed from the definitions of “electrodeposited source”, “homogeneous source”, “laminated source”, “sealed source” and “tritium foil source”; under articles 3 and 4 of this Order it is provided that a person is not exempt from registration if a source is defective or damaged or leaks radioactive material; and

(a) S.I.1985/1049.

(b) The Radioactive Substances Act 1993 repealed the Radioactive Substances Act 1960 (1960 c.34).

- (c) under article 6 of the 1985 Order, a person was not exempt from registration under what became section 10 of the Act in respect of mobile radioactive apparatus that consisted of a testing instrument or a source containing an electrodeposited source; under article 4 of this Order, a person is not exempt from registration under section 10 in respect of an electrodeposited source that consists of iron 55 but a person is exempt from registration in respect of mobile radioactive apparatus that consists of a testing instrument or a source containing electrodeposited nickel 63.

A Regulatory Impact Assessment has been prepared and copies may be obtained from RAS Division, Department for Environment, Food and Rural Affairs, Ashdown House, 123 Victoria Street, London SW1E 6DE.

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