

Draft Regulations laid before the Scottish Parliament under section 2(8) and (9)(d) and (e) of the Pollution Prevention and Control Act 1999 for approval by resolution of the Scottish Parliament. These draft Regulations replace the draft laid on 9th November 2012 and are being issued free of charge to all known recipients of that draft.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

ENVIRONMENTAL PROTECTION

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

Made - - - -

Coming into force - - *7th January 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999⁽¹⁾ (the “1999 Act”) and section 2(2) of the European Communities Act 1972⁽²⁾, and all other powers enabling them to do so.

In accordance with section 2(4) of the 1999 Act, they have consulted with the Scottish Environment Protection Agency, such bodies and persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively as they consider appropriate, and such other bodies or persons as they consider appropriate.

In accordance with section 2(8) and (9)(d) and (e) of the 1999 Act a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

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- (1) [1999 c.24](#). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 ([c.46](#)), as read with section 5(3) of the Pollution Prevention and Control Act 1999 (the “1999 Act”) and [S.I. 2008/1776](#), and by the [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2008 \(S.I. 2008/1776\)](#). The 1999 Act is to be read subject to the gloss in section 45(3) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, so that the maximum period of imprisonment that can be imposed on summary conviction of offence triable either way under these Regulations is 12 months. Directive [2008/98/EC](#) (O.J. L 312, 22.11.2008, p.3), Directive [2008/1/EC](#) (O.J. L 24, 29.01.2008, p.8; as amended by Directive [2009/31/EC](#)) and Directive [2000/60/EC](#) (O.J. L 327, 22.12.2000, p.1; as amended by Directives [2008/105/EC](#) and [2009/31/EC](#), and by Decision [2455/2001/EC](#)) were designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by [S.S.I. 2010/131](#). Directive [2008/112/EC](#) (O.J. L 345, 23.12.2008, p.68) was designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by [S.S.I. 2010/235](#). Directive [2010/75/EU](#) (O.J. L 334, 17.12.2010, p.17) was designated for the purposes of paragraph 20 of Part 1 of Schedule 1 to the 1999 Act by [S.S.I. 2011/423](#).
- (2) [1972 c.68](#). Section 2(2) was amended by the Scotland Act 1998 ([c.46](#)) (“the “1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 ([c.51](#)) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 ([c.7](#)), Schedule, Part 1. The power is exercised in these Regulations for the purpose of designating a competent authority. The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.