
STATUTORY INSTRUMENTS

2020 No. 776

**The Scotland Act 1998 (Agency Arrangements)
(Specification) (Coronavirus) Order 2020**

Specification of functions

2.—(1) Subject to paragraph (3), the functions exercisable by the Scottish Ministers under the provisions mentioned in paragraph (2) are specified for the purposes of section 93(1) of the Scotland Act 1998.

(2) The provisions are—

- (a) the following sections of the National Health Service (Scotland) Act 1978⁽¹⁾—
 - (i) section 1 (general duty of the Scottish Ministers),
 - (ii) section 1A (duty of the Scottish Ministers to promote health improvement),
 - (iii) section 37 (prevention of illness, care and after-care),
 - (iv) section 43 (control of spread of infectious disease), and
- (b) section 1 of the Public Health etc. (Scotland) Act 2008⁽²⁾ (duty of Scottish Ministers to protect public health).

(3) Paragraph (1) has effect only where a function specified by that paragraph is exercised in connection with application software which falls within paragraph (4) and is developed by, or on behalf of, the Secretary of State, for use by the general public on mobile devices such as, but not limited to, smartphones and tablets.

(4) Application software falls within this paragraph if it has functions aimed at supporting a reduction in the transmission of coronavirus, which may include—

- (a) enabling users to report that they appear to have developed symptoms of coronavirus disease,
- (b) enabling users to request a test for coronavirus,
- (c) notifying users that they may have been exposed to coronavirus, and
- (d) providing advice to users who have reported symptoms of coronavirus disease, or who may have been exposed to users with coronavirus or symptoms of coronavirus disease, on what to do next.

⁽¹⁾ 1978 c.29; section 1A was inserted by the National Health Service Reform (Scotland) Act 2004 (asp 7), section 9(1). The functions of the Secretary of State in sections 1, 37 and 43 were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. The references to the “Secretary of State” in those sections and the heading to section 1 of the National Health Service (Scotland) Act 1978 are to be read as references to “Scottish Ministers” by virtue of section 117 of the Scotland Act 1998. However section 117 does not amend those references. The functions exercisable under the provisions listed in article 2(2) were separately specified for the purposes of section 93(1) of that Act insofar as those functions may be exercised by the Scottish Ministers in relation to other matters for the health service in Scotland (as defined in section 108(1) of the National Health Service (Scotland) Act 1978) but these are not relevant for this Order.

⁽²⁾ 2008 asp 5.