
STATUTORY INSTRUMENTS

2020 No. 777

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
NATIONAL HEALTH SERVICE**

The Scotland Act 1998 (Agency Arrangements)
(Specification) (Coronavirus) (No. 2) Order 2020

<i>Made</i>	- - - -	<i>21st July 2020</i>
<i>Laid before Parliament</i>		<i>22nd July 2020</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>22nd July 2020</i>
<i>Coming into force</i>	- -	<i>4th September 2020</i>

At the Court at Windsor Castle, the 21st day of July 2020

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 93(3) and 113(3)(b) of the Scotland Act 1998(1) is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Agency Arrangements) (Specification) (Coronavirus) (No. 2) Order 2020 and comes into force on 4th September 2020.

(2) In this Order—

“coronavirus” has the same meaning as in section 1(1) of the Coronavirus Act 2020(2),

“Joint Biosecurity Centre” means a body established by the Secretary of State for the purpose of performing certain information and advice functions relating to the management of coronavirus, which may include, but are not limited to:

(a) gathering and analysing information concerning patterns of coronavirus infection,

(1) 1998 c.46; section 93 was amended by section 23 of the Scotland Act 2012 (c.11).

(2) 2020 c.7.

- (b) providing advice with a view to informing decisions, whether of the Secretary of State or others, concerning the measures that it may be appropriate to implement to control the spread of coronavirus, and
- (c) setting, and communicating, the level of risk of coronavirus infection that may apply from time to time to the public of the whole, or part, of the United Kingdom.

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⁽³⁾—
 - (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),
 - (v) section 47(2) (educational and research facilities), and
- (b) section 1 of the Public Health etc. (Scotland) Act 2008⁽⁴⁾ (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 the Joint Biosecurity Centre.

Richard Tilbrook
Clerk of the Privy Council

(3) 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, 43 and 47(2) 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.

(4) 2008 asp 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies functions of the Scottish Ministers for the purposes of section 93(1) of the Scotland Act 1998. Section 93(1) allows the Scottish Ministers to make arrangements for any of their specified functions to be exercised on their behalf by a Minister of the Crown.

This Order, which extends to the whole of the United Kingdom, is concerned solely with enabling Ministers of the Crown and the Scottish Ministers to enter into agency arrangements in the particular circumstances detailed below.

Article 2 paragraph (1) specifies the functions mentioned in paragraph (2) (in the circumstances set out in paragraph (3)) of the Scottish Ministers under sections: 1 (general duty of the Scottish Ministers), 1A (duty of the Scottish Ministers to promote health improvement), 37 (prevention of illness, care and after-care), 43 (control of spread of infectious disease) and 47(2) (educational and research facilities) of the National Health Service (Scotland) Act 1978 and section 1 (duty of Scottish Ministers to protect public health) of the Public Health etc. (Scotland) Act 2008.

The specification of the above functions in connection with the Joint Biosecurity Centre (JBC), established on 1 June 2020 as a directorate of the Department for Health and Social Care, will allow the Secretary of State to enter into agency arrangements with the Scottish Ministers in respect of the operation of the JBC in relation to Scotland, including arrangements for the gathering and analysing of data concerning rates of infection with the coronavirus in Scotland. This will inform decision-makers' choices in acting to prevent or mitigate the effects of further outbreaks in Scotland, and will allow the JBC to set, and to communicate to the public of Scotland (and the rest of the United Kingdom), the level of the risk of coronavirus infection on a scale of 1 (low) to 5 (critical).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.