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STATUTORY INSTRUMENTS

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**2002 No. 800 (S. 2)**

**CONSTITUTIONAL LAW  
DEVOLUTION, SCOTLAND**

The Scotland Act 1998 (Agency Arrangements)  
(Specification) (No. 2) Order 2002

<i>Made</i>	- - - -	<i>26th March 2002</i>
<i>Laid before Parliament</i>		<i>9th April 2002</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>28th March 2002</i>
<i>Coming into force</i>	- -	<i>3rd May 2002</i>

At the Court at Buckingham Palace, the 26th day of March 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by sections 93(3) and 113 of the Scotland Act 1998(1), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and commencement**

1. This Order may be cited as the Scotland Act 1998 (Agency Arrangements) (Specification) (No. 2) Order 2002 and shall come into force on 3rd May 2002.

**Specification of functions**

2. The functions exercisable by the Scottish Ministers under the enactments mentioned in the Schedule to this Order are hereby specified for the purposes of section 93(1) of the Scotland Act 1998.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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### **Revocation of the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2001**

3. The Scotland Act 1998 (Agency Arrangements) (Specification) Order 2001(2) is hereby revoked.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE

Article 2

### FUNCTIONS EXERCISABLE BY THE SCOTTISH MINISTERS

- (a) Section 111(6) of the Environmental Protection Act 1990<sup>(3)</sup> (functions of requiring information with a view to granting consent to the import, acquisition, release or marketing of genetically modified organisms).
- (b) Section 122(1) and (2) of the Environmental Protection Act 1990 (function of maintaining the public register).
- (c) Section 123(3) to (6) and (8) of the Environmental Protection Act 1990 (function of excluding from the public register of particulars (required under section 122 of that Act) on the grounds of commercial confidentiality).
- (d) Regulation 14 of the Genetically Modified Organisms (Deliberate Release) Regulations 1992<sup>(4)</sup> (functions on receiving applications for consent to release genetically modified organisms).
- (e) Regulation 16(1) of the Genetically Modified Organisms (Deliberate Release) Regulations 1992 (functions in relation to examination of applications for consent to market genetically modified organisms).
- (f) Regulation 4 of the Air Quality Limit Values (Scotland) Regulations 2001<sup>(5)</sup> (functions relating to the assessment of ambient air quality) but only in so far as it relates to regulation 7 of those Regulations.
- (g) Regulation 7 of the Air Quality Limit Values (Scotland) Regulations 2001 (functions in relation to the method of assessment of ambient air quality).
- (h) Regulation 11 of the Air Quality Limit Values (Scotland) Regulations 2001 (functions in relation to public information).
- (i) The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2002<sup>(6)</sup>.

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### 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 a Minister of the Crown to make arrangements for any of that Minister's specified functions to be exercised on his or her behalf by the Scottish Ministers and 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.

Article 2 specifies the functions of the Scottish Ministers as those statutory functions exercisable by the Scottish Ministers under the enactments mentioned in the Schedule to this Order.

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(3) 1990 c. 43.

(4) S.I. 1992/3280, amended by S.I. 1995/304, 1997/1900 and 2000/2831.

(5) S.S.I. 2001/224.

(6) S.I. 2002/528. Those Regulations are deemed to be a pre-commencement enactment for the purposes of the Scotland Act 1998 (see regulation 2(3)). The functions of the Secretary of State under those Regulations, insofar as they do not relate to reserved matters, transferred to the Scottish Ministers by virtue of Section 53 of that Act.

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Article 3 revokes the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2001.

In the Schedule:

Paragraph (a) specifies the function of requiring information with a view to granting consent to import, acquire, release or market a genetically modified organism in Scotland.

Paragraphs (b) and (c) relate to the public register of applications and consents to release genetically modified organisms and other prescribed notices and information about genetically modified organisms set up under section 122 of the Environmental Protection Act 1990 (“the 1990 Act”). Paragraph (b) specifies the function of maintaining the public register. Paragraph (c) specifies the function of excluding information from the public register on the grounds of commercial confidentiality.

Paragraph (d) relates to applications for consent to release genetically modified organisms in Scotland. It specifies the functions of forwarding a summary of such applications to the European Commission; examining such applications for their conformity with the requirements of the 1990 Act and the Genetically Modified Organisms (Deliberate Release) Regulations 1992 (as amended) (“the 1992 Regulations”); evaluating the risks posed by such proposed releases; carrying out any necessary tests or inspections; taking account of any comments on such applications made by the competent authority or authorities of other member States; and recording the conclusions on any such application in writing.

Paragraph (e) relates to applications for consent to market in Europe genetically modified organisms as or in a product where it is proposed that the product be marketed first in Scotland. It specifies the function of examining such applications for their conformity with the requirements of the 1990 Act and the 1992 Regulations, giving particular attention to the environmental risk assessment which should accompany such applications and the recommended precautions related to the safe use of the product.

Paragraph (f) relates to the assessment of ambient air quality.

Paragraph (g) deals with methods of assessment for monitoring ambient air quality.

Paragraph (h) concerns functions relating to public information on ambient concentrations of the pollutants covered by the Air Quality Limit Values (Scotland) Regulations 2001.

Paragraph (i) relates to the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2002 which make provision in relation to Council Regulation (EC) No. 2037/2000 on substances that deplete the ozone layer, as amended by Council Regulations (EC) Nos. 2038/2000 and 2039/2000.