
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Scotland Act 1998 (c. 46), provides for certain functions of a Minister of the Crown, so far as they are exercisable by that Minister in or as regards Scotland, to be exercisable by the Scottish Ministers instead of, or concurrently with, the Minister concerned.

Article 2 provides that the functions conferred on a Minister of the Crown by the enactments specified in the Schedule to this Order shall, so far as exercisable in or as regards Scotland, be exercisable by the Scottish Ministers instead of by a Minister of the Crown.

In relation to the Fire and Rescue Services Act 2004, this Order transfers to the Scottish Ministers functions in respect of Fire Authority pensions.

In relation to the Electricity Act 1989, this Order transfers to the Scottish Ministers functions specified in section 3A, 32BA and 32(7) of that Act which relate to the principal objective and general duties of the Secretary of State in relation to consumers, the use of green certificates issued in Northern Ireland and consultation requirements.

In relation to the Energy Act 2004, this Order transfers to the Scottish Ministers functions relating to consultation requirements in relation to functions exercisable under the Electricity Act 1989.

In relation to the Food and Environment Protection Act 1985, the Food Safety Act 1990 and the Food Standards Act 1999, this Order transfers to the Scottish Ministers those functions, other than functions already devolved to the Scottish Ministers, relating to food safety and standards in respect of all substances considered food under Regulation (EC) 178/2002 (O.J. No. L 31, 1.2.2002, p.1).

In relation to the Road Traffic Regulation Act 1984, this Order transfers to the Scottish Ministers, subject to a requirement for the agreement of the Secretary of State, functions exercisable for purposes related to avoiding or reducing, or reducing the likelihood of, danger connected with terrorism. In relation to the Roads (Scotland) Act 1984, the Order transfers to the Scottish Ministers functions exercisable for purposes in connection with traffic calming which relate to avoiding or reducing, or reducing the likelihood of, danger connected with terrorism.

Article 3 provides that those functions which are not already devolved to the Scottish Ministers and which are conferred on a Minister of the Crown by section 2(2) of the European Communities Act 1972 shall, so far as exercisable in or as regards Scotland, and in relation to food (including drink) including the primary production of food, be exercisable by the Scottish Ministers concurrently with a Minister of the Crown.

Article 4 provides for the modification of the Road Traffic Regulation Act 1984 and the Roads (Scotland) Act 1984 to repeal provisions in respect of the allocation of functions to the Secretary of State which will be spent as a result of the transfer of functions under this Order, and to modify a provision as a consequence of the transfer of functions.

Article 5 provides for the general modification of enactments in connection with provision made by the Order.

Article 6 makes transitional and saving provision for the effect of this Order.