

2009 No. 669

REGULATORY REFORM

The Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009

<i>Made</i> - - - -	<i>5th March 2009</i>
<i>Laid before Parliament</i>	<i>16th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 24(1) of the Regulatory Enforcement and Sanctions Act 2008(a).

Citation, commencement and interpretation

1. This Order may be cited as the Co-ordination of Regulatory Enforcement (Regulatory Functions in Scotland and Northern Ireland) Order 2009 and comes into force on 6th April 2009.

2. In this Order “the Act” means the Regulatory Enforcement and Sanctions Act 2008.

Regulatory functions

3.—(1) The following are specified in relation to a local authority in Scotland—

- (a) any regulatory function exercised by that authority under a relevant enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity, and
- (b) any regulatory function exercised by that authority which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which under or by virtue of a relevant enactment relate to any activity.

(2) In paragraph (1) “relevant enactment” means an enactment specified in Schedule 1 or an enactment made under such an enactment.

(3) In paragraph (1) “regulatory function” means, in relation to a relevant enactment specified in—

- (a) Part 1 of Schedule 1, any function;
- (b) Part 2 of Schedule 1, any function which relates to the protection of consumers;
- (c) Part 3 of Schedule 1, any function which relates to the granting of licences or permits under those enactments;
- (d) Part 4 of Schedule 1, any function which relates to product safety, compliance with standards, product labelling or weights and measures;
- (e) Part 5 of Schedule 1, any function which relates to the regulation of business associations;

- (f) Part 6 of Schedule 1, any function which relates to price indications;
 - (g) Part 7 of Schedule 1, any function which does not relate to the encouragement of and observance of equal opportunities requirements.
- (4) Paragraph (1) shall not apply if or to the extent that a specified function relates to matters which are not reserved matters.
- 4.—(1) The following are specified in relation to a local authority in Northern Ireland—
- (a) any regulatory function exercised by that authority under a relevant enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity, and
 - (b) any regulatory function exercised by that authority which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which under or by virtue of a relevant enactment relate to any activity.
- (2) In paragraph (1) “relevant enactment” means—
- (a) an enactment specified in Schedule 2 or an enactment made under such an enactment; and
 - (b) an enactment made under section 2(2) of the European Communities Act 1972^(a) with respect to
 - (i) the safety of consumers in relation to goods, or
 - (ii) technical standards derived from European Community law, other than standards and requirements in relation to food, agricultural or horticultural produce, fish or fish products, seeds, animal feeding stuffs, fertilisers or pesticides).
- (3) In paragraph (1) “regulatory function” means any function in relation to a relevant enactment set out in Schedule 2.
- (4) Paragraph (1) shall not apply if or to the extent that a specified function relates to matters which are transferred matters.

5th March 2009

Stephen Carter
Minister for Communications, Technology and Broadcasting
Department for Business, Enterprise and Regulatory Reform

(a) 1972 c.68.

SCHEDULE 1

Article 3

PART 1

Offices, Shops and Railway Premises Act 1963**(a)**
Firearms Act 1968**(b)**
Medicines Act 1968 (section 109)**(c)**
Unsolicited Goods and Services Act 1971**(d)**
Poisons Act 1972 (section 9)**(e)**
Health and Safety at Work, etc Act 1974**(f)**
Consumer Credit Act 1974**(g)**
Firearms Act 1982**(h)**
Video Recordings Act 1984**(i)**
Copyright, Designs and Patents Act 1988 (sections 107A and 198A)**(j)**
Timeshare Act 1992**(k)**
Trade Marks Act 1994**(l)**
Olympic Symbol etc (Protection) Act 1995**(m)**

PART 2

Explosives Act 1875**(n)**
Trade Descriptions Act 1968**(o)**
Development of Tourism Act 1969**(p)**
Supply of Goods (Implied Terms) Act 1973**(q)**
Fair Trading Act 1973**(r)**
Hallmarking Act 1973**(s)**
Prices Act 1974**(t)**
Energy Act 1976**(u)**

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- (a)** 1963 c.41.
(b) 1968 c.27.
(c) 1968 c.67.
(d) 1971 c.30.
(e) 1972 c.66.
(f) 1974 c.37.
(g) 1974 c.39.
(h) 1982 c.31.
(i) 1984 c.39.
(j) 1988 c.48; sections 107A and 198A were inserted by the section 165(2) of the Criminal Justice and Public Order Act 1994.
(k) 1992 c.35.
(l) 1994 c.26.
(m) 1995 c.32.
(n) 1875 c.17.
(o) 1968 c.29.
(p) 1969 c.51.
(q) 1973 c.13.
(r) 1973 c.41.
(s) 1973 c.43.
(t) 1974 c.24.
(u) 1976 c.76.

Weights and Measures etc Act 1976**(a)**
Unfair Contract Terms Act 1977**(b)**
Estate Agents Act 1979**(c)**
Sale of Goods Act 1979**(d)**
Public Passenger Vehicles Act 1981**(e)**
Supply of Goods and Services Act 1982**(f)**
Motor Cycle Noise Act 1987**(g)**
Consumer Protection Act 1987**(h)**
Education Reform Act 1988**(i)**
Property Misdescriptions Act 1991**(j)**
Enterprise Act 2002, Part 8**(k)**
Fireworks Act 2003**(l)**

Crystal Glass (Descriptions) Regulations 1973**(m)**
Alcohol Tables Regulations 1979**(n)**
Package Travel, Package Holidays and Package Tours Regulations 1992**(o)**
Medicines (Advertising) Regulations 1994**(p)**
Unfair Terms in Consumer Contracts Regulations 1999**(q)**
Consumer Protection (Distance Selling) Regulations 2000**(r)**
Sale and Supply of Goods to Consumers Regulations 2002**(s)**
Consumer Protection from Unfair Trading Regulations 2008**(t)**
any enactment to which section 4(3) of the Act applies with respect to a matter specified in paragraph (d) of that subsection

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- (a)** 1976 c.77.
(b) 1977 c.50.
(c) 1979 c.38.
(d) 1979 c.54.
(e) 1981 c.14.
(f) 1982 c.29.
(g) 1987 c.34.
(h) 1987 c.43: Part 4 which relates to enforcement of Parts 2 and 3 was amended by S.I. 2008/1277.
(i) 1988 c.40.
(j) 1991 c.29.
(k) 2002 c.40.
(l) 2003 c.22.
(m) S.I. 1972/1952.
(n) S.I. 1979/132.
(o) S.I. 1992/3288: Schedule 3 sets out enforcement provisions; paragraph 2 revoked by Article 3 of S.I. 2003/1376, and paragraphs 7 was revoked by Article 7 of, and Schedule 5 to, S.I. 2003/1400.
(p) S.I. 1994/1932, amended S.I. 1994/3144, S.I. 1999/267, S.I. 2002/236, S.I. 2003/2321, S.I. 2004/1480, S.I. 2005/2787, S.I. 2006/2407.
(q) S.I. 1999/2083; amended by the Enterprise Act 2002 c.40
(r) S.I. 2000/2334.
(s) S.I. 2002/3045; amended by inserted by S.I. 2008/1277, reg 30(1), Sch 2, Pt 2, para 97.
(t) S.I. 2008/1277.

PART 3

- Cinemas Act 1985 (sections 1 to 3 and 5 to 16)(a)
- Road Traffic Act 1988 (the whole Act except sections 39 to 40 and 157 to 159)(b)
- Gambling Act 2005(c)

PART 4

- Weights and Measures Act 1985(d)
- Calibration of Tanks and Vessels (EEC Requirements) Regulations 1975(e)
- Measuring Container Bottles (EEC Requirements) Regulations 1977(f)
- Alcoholometers and Alcohol Hydrometers (EEC Requirements) Regulations 1977(g)
- Aerosol Dispensers (EEC Requirements) Regulations 1977(h)
- Taximeters (EEC Requirements) Regulations 1979(i)
- Measuring Instruments (EEC Requirements) Regulations 1988(j)
- Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988(k)
- Simple Pressure Vessels (Safety) Regulations 1991(l)
- Supply of Machinery (Safety) Regulations 1992(m)
- Electrical Equipment (Safety) Regulations 1994(n)
- Units of Measurement Regulations 1995(o)
- Footwear (Indication of Composition) Labelling Regulations 1995 (p)
- Gas Appliances (Safety) Regulations 1995(q)
- Toys (Safety) Regulations 1995(r)
- Energy Information (Washing Machines) Regulations 1996(s)
- Energy Information (Tumble Driers) Regulations 1996(t)

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- (a) 1985 c.13; whole Act ceased to have effect in respect of England and Wales by the Licensing Act 2003, Schedule 6 paragraph 95.
 - (b) 1988 c.52.
 - (c) 2005 c.19.
 - (d) 1985 c.72; section 85 which relates to enforcement, amended by S.I. 2006/659.
 - (e) S.I. 1975/2125.
 - (f) S.I. 1977/932.
 - (g) S.I. 1977/1753.
 - (h) S.I. 1977/1140.
 - (i) S.I. 1977/1379.
 - (j) S.I. 1988/186.
 - (k) S.I. 1988/296.
 - (l) S.I. 1991/2749, amended by S.I. 2003/1400.
 - (m) S.I. 1992/3073, amended by S.I. 1994/2063, S.I. 2005/831.
 - (n) S.I. 1994/3260.
 - (o) S.I. 1988/1804.
 - (p) S.I. 1995/2489.
 - (q) S.I. 1995/1629.
 - (r) S.I. 1995/204, amended by S.I. 2004/1769, S.I. 2005/1082.
 - (s) S.I. 1996/600, amended by S.I. 1997/803, S.I. 2001/3142, S.I. 2008/1277.
 - (t) S.I. 1996/601, amended by S.I. 2001/3142, S.I. 2003/1398, S.I. 2008/1277.

Energy Information (Combined Washer-driers) Regulations 1997**(a)**
 Energy Information (Lamps) Regulations 1999**(b)**
 Energy Information (Dishwashers) Regulations 1999**(c)**
 Pressure Equipment Regulations 1999**(d)**
 Non-automatic Weighing Instruments Regulations 2000**(e)**
 Medical Devices Regulations 2002**(f)**
 Personal Protective Equipment Regulations 2002**(g)**
 Chemicals (Hazard Information and Packaging for Supply) Regulations 2002**(h)**
 Energy Information (Household Electric Ovens) Regulations 2003**(i)**
 Controls on Certain Azo Dyes and “Blue Colourant” Regulations 2003**(j)**
 Creosote (Prohibition on Use and Marketing) (No 2) Regulations 2003**(k)**
 Energy Information (Household Refrigerators and Freezers) Regulations 2004**(l)**
 Biofuel (Labelling) Regulations 2004**(m)**
 Recreational Craft Regulations 2004**(n)**
 Medicines (Traditional Herbal Medicinal Products for human use) Regulations 2005**(o)**
 Energy Information (Household Air Conditioners) (No 2) Regulations 2005**(p)**
 General Product Safety Regulations 2005**(q)**
 Weights and Measures (Packaged Goods) Regulations 2006**(r)**
 Measuring Instruments (Automatic Discontinuous Totalisers) Regulations 2006**(s)**
 Measuring Instruments (Automatic Rail-weighbridges) Regulations 2006**(t)**
 Measuring Instruments (Automatic Catchweighers) Regulations 2006**(u)**
 Measuring Instruments (Automatic Gravimetric Filling Instruments) Regulations 2006**(v)**
 Measuring Instruments (Beltweighers) Regulations 2006**(w)**
 Measuring Instruments (Capacity Serving Measures) Regulations 2006**(x)**
 Measuring Instruments (Liquid Fuel and Lubricants) Regulations 2006**(y)**

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- (a)** S.I. 1997/1624, amended by S.I. 2001/3142, S.I. 2003/1398, S.I. 2008/1277.
(b) S.I. 1999/1517, amended by S.I. 2003/1398, S.I. 2008/1277.
(c) S.I. 1999/1679, amended by S.I. 2001/3142, S.I. 2003/1398, S.I. 2008/1277.
(d) S.I. 1999/2001, amended by S.I. 2002/1267, S.I. 2008/1597.
(e) S.I. 2000/3236, amended by S.I. 2008/738.
(f) S.I. 2002/618; relevant amending instruments are S.I. 2003/1697, S.I. 2005/2759, S.I. 2005/2909. S.I. 2007/400, S.I. 2008/2936.
(g) S.I. 2002/1144, amended by S.I. 2004/693.
(h) S.I. 2002/1689, amended by S.I. 2004/568, S.I. 2005/1732, S.I. 2005/2092, S.I. 2008/2337, S.I. 2008/2852; there are other amending instruments but none is relevant.
(i) S.I. 2003/751, amended by S.I. 2008/1277.
(j) S.I. 2003/3310, amended by S.I. 2004/2913.
(k) S.I. 2003/1511, amended by S.I. 2003/2650.
(l) S.I. 2004/1468, amended by S.I. 2008/1277.
(m) S.I. 2004/3349, amended by S.I. 2005/3355.
(n) S.I. 2004/1464, to which there are amendments which are not relevant for this Order.
(o) S.I. 2005/395, to which there are amendments which are not relevant for this Order.
(p) S.I. 2005/1726.
(q) S.I. 2005/1803, to which there are amendments which are not relevant for this Order.
(r) S.I. 2006/ 659.
(s) S.I. 2006/1255.
(t) S.I. 2006/1256, amended by S.I. 2006/2625.
(u) S.I. 2006/1257, amended by S.I. 2006/2625.
(v) S.I. 2006/1258.
(w) S.I. 2006/1259.
(x) S.I. 2006/1264.
(y) S.I. 2006/1266.

Measuring Instruments (Material Measures of Length) Regulations 2006**(a)**
Measuring Instruments (Cold-water Meters) Regulations 2006**(b)**
Measuring Instruments (Liquid Fuel Delivered from Road Tankers) Regulations 2006**(c)**
Electromagnetic Compatibility Regulations 2006**(d)**
Textile Products (Determination of Composition) Regulations 2008**(e)**
Cosmetic Products (Safety) Regulations 2008**(f)**
any enactment to which section 4(3) of the Act applies with respect to a matter specified in paragraph (h) of that subsection.

PART 5

Companies Act 1985**(g)**, Part XI
Business Names Act 1985**(h)**

PART 6

Energy Act 1976 **(i)**

PART 7

Disability Discrimination Act 1995 **(j)**

SCHEDULE 2

Article 4

PART 1

Consumer Protection Act 1987(Parts II and III) **(k)**

PART 2

Construction Products Regulations 1991**(l)**
Simple Pressure Vessels (Safety) Regulations 1991**(m)**
Supply of Machinery (Safety) Regulations 1992**(n)**

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- (a)** S.I. 2006/ 1267.
(b) S.I. 2006/1268, amended by S.I. 2006/2625.
(c) S.I. 2006/1269.
(d) S.I. 2006/3418.
(e) S.I. 2008/15.
(f) S.I. 2008/1284, amended by S.I. 2008/2173, S.I. 2008/2566.
(g) 1985 c.6; Part XI has been amended by the Companies Act 1989 and the Companies Act 2006.
(h) 1985 c.7.
(i) 1976 c.76.
(j) 1995 c.50.
(k) 1987 c.43.
(l) S.I. 1991/1630, amended by S.I. 1994/3051.
(m) S.I. 1991/2749, amended by S.I. 1994/3098, S.I. 2003/1400.
(n) S.I. 1992/3073, amended by S.I. 1994/2063, S.I. 2005/831.

Electrical Equipment (Safety) Regulations 1994**(a)**
Toys (Safety) Regulations 1995**(b)**
Gas Appliances (Safety) Regulations 1995**(c)**
Pressure Equipment Regulations 1999**(d)**
Medical Devices Regulations 2002**(e)**
Personal Protective Equipment Regulations 2002**(f)**
Recreational Craft Regulations 2004**(g)**
Medicines (Traditional Herbal Medicinal Products for Human Use) Regulations
2005**(h)**
General Product Safety Regulations 2005**(i)**
Cosmetic Products (Safety) Regulations 2008**(j)**

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- (a)** S.I. 1994/3260.
(b) S.I. 1995/204, amended by S.I. 2004/1769, S.I. 2005/1082.
(c) S.I. 1995/1629.
(d) S.I. 1999/2001, amended by S.I. 2002/1267, S.I. 2008/1597.
(e) S.I. 2002/618, relevant amending instruments are S.I. 2003/1697, S.I. 2005/2759, S.I. 2005/2909, S.I. 2007/400, S.I. 2008/2936.
(f) S.I. 2002/1144, amended by S.I. 2004/693.
(g) S.I. 2004/1464, to which there are amendments which are not relevant for this Order.
(h) S.I. 2005/2750, to which there are amendments which are not relevant for this Order.
(i) S.I. 2005/1803, to which there are amendments which are not relevant for this Order.
(j) S.I. 2008/1284.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies regulatory functions exercisable by local authorities in Scotland and Northern Ireland to which Part 2 of the Act applies.

Part 2 of the Regulatory Enforcement and Sanctions Act 2008 (2008 c.13) (the “Act”) enables persons that carry on an activity in the area of two or more local authorities where each authority has the same regulatory function in respect of that person to have a single local authority nominated as the “primary authority” for the exercise of that regulatory function. The primary authority has the function of giving advice and guidance to the regulated person in relation to the regulatory function and to other local authorities as to how they should exercise the regulatory function in relation to that person. In certain circumstances, the primary authority can prevent enforcement action by other local authorities in respect of the regulated person.

Section 24 of the Act enables the Secretary of State to make an order specifying the regulatory functions exercisable by local authorities in Scotland and Northern Ireland to which Part 2 of the Act will apply. Such an order may not specify a regulatory function, so far as exercisable in Scotland, if or to the extent that the function relates to matters that are not reserved matters, and so far as exercisable in Northern Ireland, if or to the extent that that the function relates to matters that are transferred matters.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Enterprise and Regulatory Reform, Bay 3134, 1 Victoria Street, London, SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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STATUTORY INSTRUMENTS

2009 No. 669

REGULATORY REFORM

The Co-ordination of Regulatory Enforcement (Regulatory
Functions in Scotland and Northern Ireland) Order 2009

£5.00