

2001 No. 4050

CIVIL AVIATION

**The Transport Act 2000 (Consequential Amendments)
Order 2001**

Made - - - - - *20th December 2001*

Coming into force - - - - - *21st December 2001*

Whereas a draft of this Order has been laid before Parliament and approved by each House of Parliament in pursuance of section 277(3) of the Transport Act 2000(a).

Now, therefore, the Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred by section 277(1) of that Act hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Transport Act 2000 (Consequential Amendments) Order 2001 and shall come into force on 21st December 2001.

Consequential amendments

2. The enactments specified in the Schedule hereto are hereby amended as specified in that Schedule.

Signed by authority of the Secretary of State for
Transport, Local Government and the Regions

20th December 2001

David Jamieson
Parliamentary Under-Secretary of State,
Department for Transport, Local Government and the Regions

(a) 2000 c. 38.

PART I

CONSEQUENTIAL AMENDMENTS RELATING TO AVIATION

Aviation Security Act 1982

1. In section 38 of the Aviation Security Act 1982(a) (interpretation etc.) in subsection (2)(b) for “the manager of an aerodrome” there shall be substituted “the person”.

PART II

CONSEQUENTIAL AMENDMENTS RELATING TO STATUTORY AND OTHER UNDERTAKERS

Welsh Development Agency Act 1975

2. In section 27 of the Welsh Development Agency Act 1975 (interpretation)(b)—
- (a) in subsection (1) in the definition of “statutory undertakers” in paragraph (b) after “the Civil Aviation Authority,” there shall be inserted “a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”; and
- (b) after subsection (1) there shall be inserted—
- “(1B) The undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaking for the purposes of this Act except to the extent that it is the person’s undertaking as licence holder; and references in this Act to the person’s undertaking shall be construed accordingly.
- (1C) A person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered a statutory undertaker for the purposes of section 21C above.”.

Local Government (Miscellaneous Provisions) Act 1976

3. In section 15 of the Local Government (Miscellaneous Provisions) Act 1976 (power of local authorities to survey land which they propose to acquire compulsorily)(c)—
- (a) in subsection (3) for “and the Civil Aviation Authority” there shall be substituted “the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services)”; and
- (b) after subsection (3) there shall be inserted—
- “(3A) For the purposes of subsection (3) of this section—
- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a relevant undertaker unless the person is carrying out activities authorised by the licence;
- (b) the person’s undertaking shall not be considered to be that of a relevant undertaker except to the extent that it is the person’s undertaking as licence holder.”.

Highways Act 1980

4. In the Highways Act 1980(d)—
- (a) in section 178 (restriction on placing rails, beams etc over highways) in subsection (5) after “the Civil Aviation Authority” there shall be inserted “, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence),”;
- (b) in section 254 (compulsory acquisition for certain purposes of rights in land belonging to local authorities etc)(e)
- (i) in subsection (6) after “the Civil Aviation Authority” there shall be inserted “, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”; and

(a) 1982 c. 36.

(b) 1975 c. 70.

(c) 1976 c. 57.

(d) 1980 c. 66.

(e) Section 254(6A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 49(8)(b).

- (ii) after subsection (6) there shall be inserted—
 - “(6ZA) In its application to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, subsection (1) of this section shall be construed as if for the words “or which has been acquired, for the purposes of their undertaking, by statutory undertakers” there were substituted the words “or of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 and which, in the case of such a person, is being held or used for the purpose of carrying out activities authorised by the licence”;
- (c) in section 290 (supplementary provisions as to powers of entry for the purposes of survey)(a)—
 - (i) subsection (9) for “and the Civil Aviation Authority” there shall be substituted “the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence); and
 - (ii) after subsection (9A) there shall be inserted—
 - “(9B) For the purposes of subsection (9) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”; and
- (d) in Schedule 6 (provisions as to making, confirmation, validity and date of operation of certain orders relating to footpaths and bridleways) in Part I (procedure for making and confirming certain orders relating to footpaths and bridleways) in paragraph 3(b)—
 - (i) in sub-paragraph (3) after “the Civil Aviation Authority” there shall be inserted “, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”;
 - (ii) after sub-paragraph (3) there shall be inserted—
 - “(3ZA) For the purposes of sub-paragraph (3) above the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”.

Acquisition of Land Act 1981

- 5. In the Acquisition of Land Act 1981(c)—
 - (a) in section 8 (statutory undertakers)(d)—
 - (i) in subsection (1) in paragraph (b) after “the Civil Aviation Authority” there shall be inserted “or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”;
 - (ii) after subsection (1) there shall be inserted—
 - “(1ZA) The undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaking for the purposes of this Act except to the extent that it is the person’s undertaking as licence holder; and references in this Act to the person’s undertaking shall be construed accordingly.”; and
 - (b) in section 32 (power to extinguish certain public rights of way) in subsection (8)(e) for “section 41 or 42” there shall be substituted “sections 41, 42 or 42A”.

Civil Aviation Act 1982

- 6. In section 105 of the Civil Aviation Act 1982 (general interpretation)(f)—
 - (a) in subsection (1) in the definition of “statutory undertaker” after “the CAA,” there shall be inserted “a licence holder,”; and
 - (b) after subsection (1) there shall be inserted—
 - “(1ZA) For the purposes of this Act—
 - (a) a licence holder shall not be considered to be a statutory undertaker unless it is carrying out activities authorised by the licence;
 - (b) the licence holder’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is its undertaking as licence holder; and references in this Act to a licence holder’s undertaking shall be construed accordingly.”.

(a) Section 290(9A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 49(9)(b).
 (b) Paragraph 3(3A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 49(11)(b).
 (c) 1981 c. 67.
 (d) Section 8(1A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 54(2)(b).
 (e) Section 32(8) was amended by the Civil Aviation Act 1982 (c. 16), section 109 and Schedule 15, paragraph 27.
 (f) 1982 c. 16; section 105(1) was amended by the Transport Act 2000 (c. 38), Schedule 4, paragraphs 1 and 14; section 105(1A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 56(3).

Building Act 1984

7. In the Building Act 1984(a)—
- (a) in section 4 (exemption of educational buildings and buildings of statutory undertakers) in subsection (1) at the end of paragraph (b) there shall be inserted—
“or
 - (c) a building belonging to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by the person for the purpose of carrying out activities authorised by the licence, unless it is—
 - (i) a house, or
 - (ii) a building used as offices or showrooms.”; and
 - (b) in section 59 (drainage of a building)—
 - (i) in subsection (4) for “or the Civil Aviation Authority and held or used by them for the purposes of their undertaking” there shall be substituted “the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by such a body or person for the purpose of that body’s or that person’s undertaking”; and
 - (ii) after subsection (4) there shall be inserted—
“(5) For the purposes of subsection (4) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall be taken to be the person’s undertaking as licence holder.”.

Water Industry Act 1991

8. In section 184 of the Water Industry Act 1991 (power of certain undertakers to alter public sewers etc)(b)—
- (a) in subsection (1) for “or airport operator” there shall be substituted “, airport operator or licence holder”;
 - (b) in subsection (1)(b)—
 - (i) in sub-paragraph (iv) at the end “or” shall be omitted; and
 - (ii) after sub-paragraph (v) there shall be inserted—
“; or
 - (vi) any property of a licence holder which is used by the licence holder for the purpose of carrying out activities authorised by the licence.”; and
 - (c) in subsection (4)—
 - (i) in the definition of “airport operator”, at the end “and” shall be omitted; and
 - (ii) after the definition of “dock undertakers” there shall be inserted—
“; and
“licence holder” means a person who holds a licence under Chapter I of Part I of the Transport Act 2000 and “licence” shall be construed accordingly.”.

Countryside and Rights of Way Act 2000

9. In Schedule 1 to the Countryside and Rights of Way Act 2000 (excepted land for purposes of Part I) in Part II (supplementary provisions) in paragraph 14(c)—
- (a) in the definition of “statutory undertaker” in paragraph (e) for “or the Civil Aviation Authority” there shall be substituted “, the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”; and
 - (b) in the definition of “statutory undertaking” in paragraph (a) after “(within the meaning of that Act)” there shall be inserted “and, in the case of a person who holds a licence under Chapter I of Part I of the Transport Act 2000, means that person’s undertaking as licence holder”.

Town and Country Planning (Control of Advertisements) Regulations 1992

10. In the Town and Country Planning (Control of Advertisements) Regulations 1992(d) in regulation 2 (interpretation)—
- (a) in paragraph (1) in the definition of “statutory undertaker” after “the Civil Aviation Authority,” there shall be inserted “, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services),”; and

(a) 1984 c. 55.

(b) 1991 c. 56.

(c) 2000 c. 37; paragraph 14 of Part II of Schedule 1 was amended by S.I. 2001/1149.

(d) S.I. 1992/666; relevant amending instrument is S.I. 1996/525.

(b) after paragraph (2A) there shall be inserted—

“(2B) For the purposes of these Regulations—

- (a) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaker unless the person is carrying out activities authorised by the licence; and
- (b) the person’s undertaking shall not be considered to be a statutory undertaking except to the extent that it is the person’s undertaking as licence holder.”.

Town and Country Planning (Trees) Regulations 1999

11. In the Town and Country Planning (Trees) Regulations 1999(a) in the Schedule (form of tree preservation order) in paragraph 5 (exemptions) in sub-paragraph (2) for “or a body acting on behalf of that Authority” there shall be substituted “, a body acting on behalf of that authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000”.

Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000

12. In the Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2000(b) in rule 4 (interpretation and notices) in paragraph (1) in the definition of “statutory undertaker”—

- (a) in paragraph (f) at the end “and” shall be omitted; and
- (b) after paragraph (f) there shall be inserted—
“(ff) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence); and”.

PART III

CONSEQUENTIAL AMENDMENTS RELATING TO TOWN AND COUNTRY PLANNING

Town and Country Planning Act 1990

13. In the Town and Country Planning Act 1990(c)—

- (a) in section 264 (cases in which land is to be treated as not being operational land) in subsection (8)—
 - (i) for “the Civil Aviation Authority” there shall be substituted “—
 - (a) the Civil Aviation Authority, or
 - (b) a person who holds a licence under Chapter I of Part I of the Transport Act 2000 or a company associated with that person,”; and
 - (ii) after “the Authority” there shall be inserted “or the licence holder”; and
- (b) in section 265 (meaning of “the appropriate Minister”) in subsection (1)(d)(d) for “or the Civil Aviation Authority,” there shall be substituted “, the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services),”.

Town and Country Planning (General Permitted Development) Order 1995

14. In the Town and Country Planning (General Permitted Development) Order 1995(e) in Schedule 2 (permitted development) in Part 18 (aviation development)—

- (a) the content of Class B shall be substituted by—

“Class B Air traffic services development at an airport

B. The carrying out on operational land within the perimeter of a relevant airport by a relevant airport operator or its agent of development in connection with the provision of air traffic services.”;

- (b) the content of Class C shall be substituted by—

“Class C Air traffic services development near an airport

C. The carrying out on operational land outside but within 8 kilometres of the perimeter of a relevant airport, by a relevant airport operator or its agent, of development in connection with the provision of air traffic services.

C.1 Development is not permitted by Class C if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic services;

Permitted development

Permitted development

Development not permitted

(a) S.I. 1999/1892, to which there are amendments not relevant to this Order.
(b) S.I. 2000/2190, to which there are amendments not relevant to this Order.
(c) 1990 c. 8.
(d) Section 265(1)(d) was amended by S.I. 2001/2568, article 16 and the Schedule, paragraph 9(4).
(e) S.I. 1995/418, to which there are amendments not relevant to this Order.

- (b) any building erected would exceed a height of 4 metres;
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast antenna or apparatus, if greater.”;

(c) the content of Class D shall be substituted by—

“Class D Development by an air traffic services licence holder within an airport

Permitted development

D. The carrying out by an air traffic services licence holder or its agents within the perimeter of an airport of development in connection with the provision of air traffic services.”;

(d) the content of Class E shall be substituted by—

“Class E Development by an air traffic services licence holder on operational land

Permitted development

E. The carrying out on operational land of an air traffic services licence holder by that licence holder or its agents of development in connection with the provision of air traffic services.

Development not permitted

E.1 Development is not permitted by Class E if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic services;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.”;

(e) the content of Class F shall be substituted by—

“Class F Development by an air traffic services licence holder in an emergency

Permitted development

F. The use of land by or on behalf of an air traffic services licence holder in an emergency to station moveable apparatus replacing unserviceable apparatus.

Condition

F.1 Development is permitted by Class F subject to the condition that on or before the expiry of a period of six months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.”;

(f) the content of Class G shall be substituted by—

“Class G Development by an air traffic services licence holder involving moveable structures

Permitted development

G. The use of land by or on behalf of an air traffic services licence holder to provide services and facilities in connection with the provision of air traffic services and the erection or placing of moveable structures on the land for the purposes of that use.

Condition

G.1 Development is permitted by Class G subject to the condition that, on or before the expiry of the period of six months beginning with the date on which the use began, the use shall cease, and any structure shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.”; and

(g) in paragraph J (interpretation of Part 18) before the definition of “operational building” there shall be inserted—

““air traffic services” has the same meaning as in section 98 of the Transport Act 2000 (air traffic services);

“air traffic services licence holder” means a person who holds a licence under Chapter I of Part I of the Transport Act 2000”.

PART IV

CONSEQUENTIAL AMENDMENTS RELATING TO DISCLOSURE

Consumer Credit Act 1974

15. In section 174 of the Consumer Credit Act 1974 (restrictions on disclosure of information)(a) in subsection (3)(a) after “the Gas (Northern Ireland) Order 1996” there shall be inserted “or Part I of the Transport Act 2000”.

(a) 1974 c. 39; section 174(3)(a) was amended by the Airports Act 1986 (c. 31), section 83(1) and Schedule 4, paragraph 4.

Estate Agents Act 1979

16. In section 10 of the Estate Agents Act 1979 (restriction on disclosure of information)(a) in subsection (3)(a) after “the Competition Act 1998” there shall be inserted “or Part I of the Transport Act 2000”.

Telecommunications Act 1984

17. In section 101 of the Telecommunications Act 1984 (general restrictions on disclosure of information)(b)—

- (a) in subsection (2)(b) after “the Rail Regulator” there shall be inserted “, the Civil Aviation Authority”; and
- (b) in subsection (3) after paragraph (n) there shall be inserted—
 - “(o) Part I of the Transport Act 2000.”.

Airports Act 1986

18. In section 74 of the Airports Act 1986 (restriction on disclosure of information)(c) in subsection (3) after paragraph (p) there shall be inserted—

“(q) Part I of the Transport Act 2000.”.

Consumer Protection Act 1987

19. In section 38 of the Consumer Protection Act 1987 (restrictions on disclosure of information)(d) in subsection (3) after paragraph (p) there shall be inserted—

“(q) Part I of the Transport Act 2000.”.

Water Act 1989

20. In section 174 of the Water Act 1989 (general restrictions on disclosure of information)(e) in subsection (3) after paragraph (ll) there shall be inserted—

“(lm) Part I of the Transport Act 2000.”.

Water Industry Act 1991

21. In Schedule 15 to the Water Industry Act 1991 (disclosure of information)(f) in Part II (enactments etc in respect of which disclosure may be made) immediately after the entry relating to “The Competition Act 1998” there shall be inserted the following entry—

“Part I of the Transport Act 2000.”.

Water Resources Act 1991

22. In Schedule 24 to the Water Resources Act 1991 (disclosure of information)(g) in Part II (enactments etc in respect of which disclosure may be made) immediately after the entry relating to “The Competition Act 1998” there shall be inserted the following entry—

“Part I of the Transport Act 2000.”.

Railways Act 1993

23. In section 145 of the Railways Act 1993 (general restrictions on disclosure of information)(h) in subsection (3) after paragraph (qq) there shall be inserted—

“(qr) Part I of the Transport Act 2000;”.

Coal Industry Act 1994

24. In section 59 of the Coal Industry Act 1994 (information to be kept confidential by the Coal Authority)(i) in subsection (3) after paragraph (d) and before the word “and” there shall be inserted—

“(dd) the Civil Aviation Authority is a relevant authority in relation to its functions under Part I of the Transport Act 2000;”.

(a) 1979 c. 38; section 10(3)(a) was amended by the Airports Act 1986 (c. 31), section 83(1) and Schedule 4, paragraph 6.
(b) 1984 c. 12.
(c) 1986 c. 31.
(d) 1987 c. 43.
(e) 1989 c. 15.
(f) 1991 c. 56.
(g) 1991 c. 57.
(h) 1993 c. 43.
(i) 1994 c. 21.

Utilities Act 2000

25. In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information)(a) in subsection (6) after paragraph (q) there shall be inserted—

“(r) Part I of the Transport Act 2000.”.

PART V

CONSEQUENTIAL AMENDMENTS TO THE CIVIL AVIATION ACT 1982

Civil Aviation Act 1982

26. In the Civil Aviation Act 1982(b)—

- (a) in section 101 (power to apply certain provisions to Crown aircraft) in subsection (2) for “to 62, 73” there shall be substituted “and 61, 75”;
- (b) in section 106 (application of Act to territorial waters) in subsection (2) for “63 to 74” there shall be substituted “64 to 71”;
- (c) in section 108 (extension of provisions of Act outside United Kingdom) in subsection (2)(b) “73” shall be omitted; and
- (d) in Schedule 13 (subordinate instruments)—
 - (i) in Part II (provisions applying to certain powers) the entries relating to section 62 and 63 shall be omitted; and
 - (ii) in Part III (supplemental powers) in paragraph 4 (power to provide for detention of aircraft) in sub-paragraph (2) “73, 74,” shall be omitted.

(a) 2000 c. 27.
(b) 1982 c. 16.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the enactments specified in the Schedule, which relate to aviation security, statutory undertakers, town and country planning, disclosure and civil aviation, in consequence of the provisions of Part I of the Transport Act 2000 (“the Act”).

In so far as relevant the main effects of Part I of the Act are that a person to whom a licence under that Part is granted (“a licence holder”) is to provide air traffic services and the Civil Aviation Authority (“the CAA”) is to regulate the provision of those services. The provision of such services as comprise air traffic services was formerly the responsibility of the CAA and the CAA remains responsible for the performance of air navigation functions.

Paragraph 1 of the Schedule amends section 38 of the Aviation Security Act 1982 so that for the purposes of that Act the authority responsible for an air navigation installation is the person (who may be a licence holder) providing that installation or by whom such installation is wholly or mainly used.

Paragraphs 2, 4 to 6 and 9 to 12 of the Schedule amend legislation for the purposes of which the CAA is a statutory undertaker and make a licence holder a statutory undertaker for the purposes of that legislation to the extent that he is carrying out activities authorised by the licence. Paragraphs 3, 7 and 8 amend legislation whereby the CAA enjoys rights in relation to the carrying out of its functions otherwise than by being a statutory undertaker for the purposes of that legislation. The amendments provide that a licence holder shall enjoy similar rights to the extent that he is carrying out activities authorised by the licence.

Paragraph 13 of the Schedule amends sections 264 and 265 of the Town and Country Planning Act 1990. Section 264 is amended to provide that the section does not apply for the purposes of determining whether land in which an interest is held by a licence holder is, in relation to him, operational land for the purposes of that Act. The amendment to section 265 provides that in relation to a licence holder “the appropriate Minister” means the Secretary of State for Transport, Local Government and the Regions.

Paragraph 14 of the Schedule amends the Town and Country Planning (General Permitted Development) Order 1995 to provide that:

- (a) development by a relevant airport operator or its agent on operational land at or near an airport is granted planning permission if in connection with the provision of air traffic services; and
- (b) other specified classes of development in connection with the provision of such services or to station moveable apparatus in an emergency are granted planning permission when carried out by or on behalf of a licence holder.

Paragraphs 15 to 25 of the Schedule amend legislation which provides that information obtained thereunder may be disclosed to specified persons and bodies for specified purposes. The amendments provide that information obtained under such legislation may be disclosed to the CAA for the purposes of its functions under Part I of the Act.

Paragraph 26 of the Schedule amends the Civil Aviation Act 1982 in consequence of the repeal of sections 62, 63 and 72 to 74 thereof.

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CIVIL AVIATION

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