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STATUTORY INSTRUMENTS

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**2006 No. 1157 (S. 11)**

**CIVIL AVIATION, SCOTLAND**

**The Transport Act 2000 (Consequential Amendments) (Scotland) Order 2006**

*Made* - - - - - *20th April 2006*  
*Coming into force* - - - - - *21st April 2006*

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by section 277(1) of the Transport Act 2000<sup>(1)</sup>.

In accordance with section 277(3) of that Act, this Order has been laid before Parliament and approved by each House of Parliament.

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Transport Act 2000 (Consequential Amendments) (Scotland) Order 2006 and shall come into force on the day after the day on which it is made.

(2) This Order extends to Scotland only.

**Consequential amendments**

2. The enactments specified in the Schedule to this Order are amended as specified in the Schedule.

Signed by authority of the Secretary of State for Transport

20th April 2006

*Derek Twigg*  
Parliamentary Under Secretary of State  
Department for Transport

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## SCHEDULE

Article 2

## Town and Country Planning (Scotland) Act 1997

1. In section 216(8)(2) of the Town and Country Planning (Scotland) Act 1997 (cases in which land is to be treated as not being operational land)—

(a) for “the Civil Aviation Authority” there shall be substituted—

“(a) the Civil Aviation Authority;

(b) a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000; or

(c) a company associated with such a person,” and

(b) after “the Authority” there shall be inserted, “person or company”.

*Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984*

2. In the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, in regulation 2 (interpretation)(3)—

(a) in paragraph (1) in the definition of “statutory undertakers” and “statutory undertaking” after the “Civil Aviation Authority,” there shall be inserted “a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (air traffic services),”; and

(b) after paragraph (1) there shall be inserted—

“(1A) For the purposes of these Regulations—

(a) a person who holds a licence under Chapter 1 of Part 1 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 (General Permitted Development) (Scotland) Order 1992*

3. In the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 in Schedule 1 (classes of permitted development)(4), in Part 14 (aviation development)—

(a) the heading and content of class 45 (air navigation development at an airport) shall be substituted by—

**“Air traffic services development at an airport**

**Class 45.** 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 heading and content of class 46 (air navigation development near an airport) shall be substituted by—

**“Air traffic services development near an airport**

**Class 46.** —

(2) 1997 c. 8. There have been amendments to section 216 which are not relevant to this Order.

(3) S.I.1984/467. There is an amendment to regulation 2 which is not relevant to this Order.

(4) S.I. 1992/223. There have been amendments to Schedule 1 which are not relevant to this Order.

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(1) 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.

(2) Development is not permitted by this class 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.”;

(c) the heading and content of class 47 (development by Civil Aviation Authority within an airport) shall be substituted by—

**“Development by an air traffic services licence holder within an airport**

**Class 47.** 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 heading and content of class 48 (development by Civil Aviation Authority for air traffic control and navigation) shall be substituted by—

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

**Class 48.—**(1) 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.

(2) Development is not permitted by this class 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 heading and content of class 49 (development by Civil Aviation Authority in emergency) shall be substituted by—

**“Development by an air traffic services licence holder in an emergency**

**Class 49.—**(1) 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.

(2) Development is permitted by this class subject to the condition that on or before the expiry of a period of 6 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 planning authority and the developer.”;

(f) the heading and content of class 50 (development by Civil Aviation Authority for air traffic control etc.) shall be substituted by—

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

**Class 50.**—(1) 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 purpose of that use.

(2) Development is permitted by this class subject to the condition that, on or before the expiry of the period of 6 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 planning authority and the developer.”; and

(g) in the interpretation of Part 14 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 1 of Part 1 of the Transport Act 2000;”.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the enactments specified in the Schedule, which relate to town and country planning, in consequence of the provisions of Part 1 of the Transport Act 2000.

The relevant main effects of Part 1 of the Transport Act 2000 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 is to regulate the provision of those services. The provision of such services as comprise the air traffic services was formerly the responsibility of the Civil Aviation Authority and it remains responsible for the performance of air navigation functions.

Paragraph 1 of the Schedule amends section 216 of the Town and Country Planning (Scotland) Act 1997 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 or associated company is, in relation to the licence holder or company, operational land for the purposes of that Act.

Paragraph 2 of the Schedule amends the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 so that a licence holder is deemed to be a statutory undertaker for the purpose of the display of advertisements of Class 1 specified in Schedule 4 to the extent that he is carrying out activities authorised by the licence.

Paragraph 3 of the Schedule amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 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

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- (b) other specified classes of development in connection with the provision of such services or to station moveable apparatus in an emergency or for not more than six months are granted planning permission when carried out by or on behalf of a licence holder.

A full regulatory assessment has not been produced for this instrument as it has no impact on the costs of business.