

## SCHEDULE

### CONSEQUENTIAL AMENDMENTS RELATING TO STATUTORY AND OTHER UNDERTAKERS

#### PART II

##### *Welsh Development Agency Act 1975*

2. In section 27 of the Welsh Development Agency Act 1975 (interpretation)<sup>(1)</sup>—
- (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)<sup>(2)</sup>—
- (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<sup>(3)</sup>—
- (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).”;

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(1) 1975 c. 70.  
(2) 1976 c. 57.  
(3) 1980 c. 66.

- (b) in section 254 (compulsory acquisition for certain purposes of rights in land belonging to local authorities etc)(**4**)
- (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
- (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)(**5**)—
- (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(**6**)—
- (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)”; and
- (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(**7**)—
- (a) in section 8 (statutory undertakers)(**8**)—
- (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

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

(5) Section 290(9A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 49(9)(b).

(6) Paragraph 3(3A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 49(11)(b).

(7) 1981 c. 67.

(8) Section 8(1A) was inserted by S.I. 2001/1149, Schedule 1, paragraph 54(2)(b).

Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”; and

(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)(9) 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)(10)—

(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.”.

#### *Building Act 1984*

7. In the Building Act 1984(11)—

(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—

(9) Section 32(8) was amended by the Civil Aviation Act 1982 (c. 16), section 109 and Schedule 15, paragraph 27.

(10) 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).

(11) 1984 c. 55.

“(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)(**12**)—

- (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(**13**)—

- (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)”;
- (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(**14**) 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

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(12) 1991 c. 56.

(13) 2000 c. 37; paragraph 14 of Part II of Schedule 1 was amended by S.I. 2001/1149.

(14) 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<sup>(15)</sup> 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<sup>(16)</sup> 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”.

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<sup>(15)</sup> S.I. 1999/1892, to which there are amendments not relevant to this Order.

<sup>(16)</sup> S.I. 2000/2190, to which there are amendments not relevant to this Order.