

SCHEDULE

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)(1)—
- (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)(2)—
- (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(3)—
- (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).”;

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

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(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⁾—

⁽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.

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- (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 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

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

(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.

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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)(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.”.

(12) 1991 c. 56.

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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)”; 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**(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
- (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**(15)** in the Schedule (form of tree preservation order) in paragraph 5 (exemptions) in subparagraph (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”.

(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.

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

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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(**16**) 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(**17**)—

- (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)(**18**) 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(**19**) in Schedule 2 (permitted development) in Part 18 (aviation development)—

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

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

(17) 1990 c. 8.

(18) Section 265(1)(d) was amended by S.I. 2001/2568, article 16 and the Schedule, paragraph 9(4).

(19) S.I. 1995/418, to which there are amendments not relevant to this Order.

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“Class B Air traffic services development at an airport

Permitted development

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 Permitted development

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 not permitted

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;
- (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

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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.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.

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

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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;”.