

**EXPLANATORY MEMORANDUM TO  
THE TRANSPORT ACT 2000 (CONSEQUENTIAL AMENDMENTS) (SCOTLAND)  
ORDER 2006**

**2006 No.**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Order makes amendments to Scottish town and country planning legislation to take account of the provisions in Part 1 of the Transport Act 2000. The 2000 Act enabled licences to be granted by the CAA or the Secretary of State to provide air traffic services. This Order enables the licence-holder under Part 1 of the 2000 Act, in Scotland, to meet the operational requirements for the provision of en route air traffic services by giving the licence-holder, or a company associated with it, Statutory Undertaker status. This will enable a subsidiary of NATS - NATS En Route Ltd - to site air traffic control equipment, such as radar and navigational aids, in precise locations in order to maximise the safe and expeditious movement of air traffic.

**3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 Part 1 of the Transport Act 2000 contains provision to the effect 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 (“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. The current licence holder is National Air Traffic Services Ltd (NATS), which on completion of a Public Private Partnership ceased to be a part of the CAA.

4.2 As a result of the enactment of Part 1 of the Transport Act 2000, certain provisions in Scottish law drafted to apply to the Civil Aviation Authority, which previously carried out the relevant functions, need to be changed to ensure that the legislation fully reflects the new system of provision of air traffic services. It was not possible, in the time available, to make all of the necessary changes to primary and secondary legislation in the Transport Act itself, and therefore subsequently a consequential amendments order was made in respect of England and Wales, under the powers contained in section 277 of the 2000 Act. This order related to functions which had hitherto been vested in the CAA, which would now be shared by, or

performed solely by NATS. Of particular relevance were the provisions relating to statutory and other undertakers and those relating to Town and Country Planning. It had been intended that any amendments to Scottish legislation which might be required should be incorporated in the first Order; however, it proved impossible to achieve this. Therefore, a separate instrument is necessary, to amend legislation in Scotland. The power in s277 of the Transport Act 2000 which is being used to amend the legislation is exercisable in respect of enactments which extend only to Scotland by virtue of s279 of the 2000 Act. The Scottish legislation affected is:

The Town and Country Planning (Scotland) Act 1997 (c.8)

The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (S.I. 1984/467)

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223)

## **5. Extent**

- 5.1 This instrument extends to Scotland only. The amendments required in respect of legislation applicable in England and Wales, and Great Britain and Northern Ireland as a whole, were made in the Transport Act 2000 (Consequential Amendments) Order 2001 (2001/No. 4050).
- 5.2 This Order is being laid in Westminster because aviation and air traffic services are reserved matters and the Scottish Parliament has no powers to legislate for them. The power in s277 of the Transport Act 2000 is conferred on the Secretary of State rather than on Scottish Ministers.

## **6. European Convention on Human Rights**

- 6.1 The Parliamentary Under Secretary of State for Transport, Karen Buck, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

“In my view the provisions of the Transport Act 2000 (Consequential Amendments) (Scotland) Order 2006 are compatible with the Convention rights.”

## **7. Policy Background**

- 7.1 The relevant policy objective of Part 1 of the Transport Act 2000 was to enable licences to be granted to companies authorising them to provide air traffic services in respect of a managed area (defined in section 40 as being (a) within the United Kingdom; and/or (b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to provide air traffic services). This instrument fulfils this objective by ensuring that appropriate Scottish legislation is amended to reflect the changes in the functions of the CAA from provider of air traffic services to being the regulator of such services. It ensures that the class of licence holders that were brought into effect by

the 2000 Act, have the same rights and responsibilities as the CAA had in planning legislation when it provided these services. This will enable a subsidiary of NATS - NATS En Route Ltd - to site air traffic control equipment, such as radar and navigational aids, in precise locations in order to maximise the safe and expeditious movement of air traffic.

7.2 The amendments are limited to those required to give effect to the changes in Part 1 of the Transport Act 2000.

7.3 The Scottish Executive has been consulted on the Order.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is nil.

## **9. Contact**

9.1 Andrew Ashbourne, of Civil Aviation Authority Sponsorship Branch, Department for Transport, Zone 1/28, Great Minster House, 76 Marsham Street, London SW1P 4DR (Tel: 020 7944 6378 or e-mail: [andrew.ashbourne@dft.gsi.gov.uk](mailto:andrew.ashbourne@dft.gsi.gov.uk)) can answer any queries regarding the instrument.