

EXPLANATORY STATEMENT

STATUTORY RULES NO 161

ISSUED BY THE AUTHORITY OF THE MINISTER  
FOR TRANSPORT AND COMMUNICATIONS

CIVIL AVIATION ACT 1988

Civil Aviation (Buildings Control) Regulations

AIR NAVIGATION ACT 1920

Air Navigation (Buildings Control) Regulations (Repeal)

The Air Navigation (Buildings Control) Regulations formerly were administered by the Department of Transport and Communications. With the establishment of the Civil Aviation Authority under the Civil Aviation Act 1988, responsibility for safety functions transfers to the Authority from 1 July 1988. This necessitates the making of civil aviation regulations as provided for in Section 98 of that Act. These regulations, together with the Civil Aviation Act and any Civil Aviation Orders issued under the regulations, provide the necessary framework for the Authority to conduct its activities.

Being safety related, the functions involving buildings control are transferred to the Authority and the new Civil Aviation (Buildings Control) Regulations are the existing Air Navigation (Buildings Control) Regulations, with minor consequential

amendments where necessary, transferring responsibility and powers from the Minister or the Secretary to the Authority. In view of the review of air safety regulation recently established by the Minister, these changes have been kept to a minimum, consistent with the requirements which the Civil Aviation Act imposes.

Since the Department has no residual functions in this area after 1 July 1988, the Air Navigation (Buildings Control) Regulations are repealed.

Details of the regulations are explained in the attachment.

The regulations are effective from 1 July 1988.

S.R. 147/88 and

S.R. 160/88

**ATTACHMENT**

**CIVIL AVIATION (BUILDINGS CONTROL) REGULATIONS**

1988 No. 161

**Citation**

Regulation 1 cites the regulations as the Civil Aviation (Buildings Control) Regulations.

Regulation 2 provides an interpretation of the various terms appearing throughout the regulations as they relate to the regulations generally or in relation to specific regulations.

**Prohibition of the construction of buildings in specified areas**

Regulation 3 prohibits (except with approval) the construction of a building or other structure within an area prescribed in Schedule 1, and imposes a penalty of \$1000 for failure to comply with the requirements of the regulation.

**Prohibition of the construction of buildings of more than a specified height in specified areas**

Regulations 4 to 6 prohibit (except with approval) the construction of a building or structure of a height greater than specified in those areas prescribed in Schedules 2 to 4, and impose requirements of these regulations.

### **Application for approval**

Regulation 7 specifies that applications for the construction of a building or structure shall be made in writing and shall provide relevant information, and requires that the application be made to the Authority or a person authorised in writing by the Authority.

### **Grant or refusal of approval**

Regulation 8 empowers the Authority (or an authorised person) to grant (with or without conditions) an approval to construct a building or structure or to refuse an application to construct. It also empowers the Authority to vary the initial conditions subject to which the approval was given. The Authority may refuse an application or impose conditions only by reference to consideration of the safe flying of aircraft in the area.

### **Review of decisions**

Regulation 9 requires that any decision taken under regulation 8 or regulation 11 be conveyed in writing to a person whose interests are affected by the decision, and that it include a statement that if the person is dissatisfied with the decision application may be made to the Administrative Appeals Tribunal for a review of the decision.

**Penalty for failing to comply with conditions**

Regulation 10 prescribes a fine of \$1,000 as the penalty for contravention of regulation 8.

**Removal or marking of hazards to air navigation**

Regulation 11 empowers the Authority to direct the marking or the removal in whole or in part of a building, structure or object in the vicinity of an aerodrome which constitutes an obstruction, hazard or potential hazard to the safety of aircraft flight, in the areas specified in the schedules to these regulations. It prescribes also the manner in which a notice of such direction must be served, together with the penalty (\$200) for non-compliance with the direction.

**Provisions applicable where notice is not complied with**

Regulation 12 empowers the Authority to carry out the requirement in a notice served under regulation 11, if that requirement has not been complied with by the person on whom the notice was served.

**Compensation for acquisition of property**

Regulation 13 provides that where the operation of a provision of these regulations would result in the acquisition of

property from a person otherwise than on just terms, the Authority shall pay reasonable compensation to the person. The terms "acquisition of property" and "just terms" have the same meaning as in paragraph 51(xxxi) of the Constitution.

#### **Compensation in respect of certain loss, damage or expense**

Regulation 14 makes the Authority liable for payment of compensation for loss, damage or expense incurred through the removal or marking under these regulations of a building, other structure or object.

#### **Authority and authorised persons to have certain powers**

Regulation 15 empowers a person authorised by the Authority to enter upon land for the purpose of giving effect to specified requirements, including the monitoring of compliance with the regulations and the determination of details forming directions served under regulation 11; it authorises also any necessary action and the use of reasonable force in preventing contravention of, or securing compliance with, these regulations.

### **False Statements**

Regulation 16 creates an offence if a person wilfully makes a false or misleading statement in relation to an application under regulation 7, and prescribes a penalty of \$200.

### **Transitional**

Regulation 17 ensures that an approval given under the Air Navigation (Buildings Control) Regulations for the purpose of a provision of those regulations will continue to have effect if that provision is one to which a provision of these regulations corresponds. It provides also that where an application under the Air Navigation (Buildings Control) Regulations had not been dealt with before the commencement of these regulations, that application shall be taken to have been made under the corresponding provision in these regulations.

### **The Schedules**

The schedules in these regulations reproduce those in the former Air Navigation (Buildings Control) Regulations. The schedules identify those areas where there is a prohibition on the construction of buildings or structures and where there are height limitations on buildings or structures which may be constructed.