EXPLANATORY MEMORANDUM TO

THE TOURIST BOARDS (SCOTLAND) ACT 2006 (CONSEQUENTIAL MODIFICATIONS) ORDER 2007

2007 No. 1103

1. This explanatory memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Order makes provision consequential on the Tourist Boards (Scotland) Act 2006 ("the 2006 Act"). Section 1 of the 2006 Act changes the name of the Scottish Tourist Board to VisitScotland. Section 2 increases the maximum number of members of the VisitScotland Board. The Schedule to the Act makes consequential modifications (for Scotland) to certain Public General Acts and subordinate legislation. This Order makes those consequential modifications as a matter of law in England and Wales, and also a consequential modification to the House of Commons Disqualification Act 1975 which has UK extent. These consequential modifications are set out in the Schedule to the Order.

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

3.1 This Order is to be made in exercise of the powers conferred by sections 104, 112(1) and 113(4) and (5) of the Scotland Act 1998. The instrument is, by virtue of section 115(1) of, and paragraphs 1, 2 and 3 of schedule 7 to, that Act, subject to affirmative resolution procedure in both Houses of the UK Parliament. Section 104 of the Scotland Act provides for subordinate legislation to be made in the UK Parliament, which contains provisions that are necessary or expedient in consequence of any Act of the Scottish Parliament.

3.2 A section 104 Order under the 1998 Act is necessary in consequence of the 2006 Act as the Scottish Parliament does not have the legislative competence under the 1998 Act to make changes to the law of England and Wales or to make changes in relation to the reserved matter of House of Commons disqualification. This Order makes the necessary consequential modifications as set out in the Schedule.

4. Legislative Background

4.1 The 2006 Act was introduced into the Scottish Parliament on 20 March 2006, passed by the Parliament on 25 October 2006 and received Royal Assent on 30 November 2006. The Act is due to come into force on 1 April 2007.

4.2 The Scottish Tourist Board was established by section 1 of the Development of Tourism Act 1969. The Board's main functions were to encourage people to visit and holiday in Scotland and to encourage the provision of tourist amenities and facilities in Scotland. In

addition, section 172 of the Local Government etc. (Scotland) Act 1994 required that there be area tourist boards around the country. Originally, there were 14 such boards. In April 2005, this structure was reorganised with the replacement (by Scottish Statutory Instruments: S.S.I. 2004/396, S.S.I. 2004/397, S.S.I. 2004/464 and S.S.I. 2004/465) of the 14 Area Tourist Boards with two network tourist boards. These network tourist boards operated together with the Scottish Tourist Board under the banner of VisitScotland.

4.3 The purpose of the 2006 Act was therefore to abolish the network tourist boards, allowing the network to become one single organisation. The Act changes the name of the organisation from the Scottish Tourist Board to VisitScotland and increases the maximum size of the Board in view of its increased responsibilities.

4.4 Paragraph 1 of the Schedule to the Order amends the Development of Tourism Act 1969 by replacing all references to "the Scottish Tourist Board" with "VisitScotland" and by replacing "six" with "eleven" in relation to the maximum number of members of the VisitScotland Board.

4.5 Paragraph 2 of the Schedule amends Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) by replacing "the Scottish Tourist Board" with "VisitScotland".

4.6 Paragraph 3 of the Schedule amends the Race Relations Act 1976 by repealing the entry, in Part 2 of Schedule 1A to that Act (list of bodies and other persons subject to a general statutory duty), relating to the "Scottish Tourist Board" and inserting an entry for "VisitScotland".

4.7 Paragraph 4 of the Schedule amends the Tourism (Overseas Promotion) (Scotland) Act 1984 by replacing two references to "the Scottish Tourist Board" with "VisitScotland".

4.8 Paragraph 5 of the Schedule amends the Greater London Authority Act 1999 by replacing the reference to "the Scottish Tourist Board" with "VisitScotland".

4.9 Paragraph 6 of the Schedule amends the Financial Services and Markets Act 2000 (Exemption) Order 2001 by replacing the reference to "the Scottish Tourist Board" with "VisitScotland".

5. Extent

5.1 Save for the amendment to the House of Commons Disqualification Act 1975 which has UK extent, the modifications in the Schedule extend to England and Wales only.

6. European Convention on Human Rights

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

> "In my view the provisions of the Tourist Boards (Scotland) Act 2006 (Consequential Modifications) Order 2007 are compatible with the Convention rights."

7. Policy Background

7.1 Until April 2005, tourism promotion was delivered at a national level by the Scottish Tourist Board and at a local level by 14 Area Tourist Boards. An ad hoc group of Scottish Ministers was set up during the summer of 2003 to examine how the public and private sectors could work better together to achieve long-term vision for Scottish tourism, within the context of growing competition and changing/increasing demands. It also looked at evidence from the review of Area Tourist Boards.

7.2 To compete in an increasingly competitive market, Ministers concluded that Scotland needed good marketing, with a strong brand identity of consistently high quality across every aspect of visitors' experiences, including increased staff skills and training and an integrated support mechanism for tourism.

7.3 It was agreed that it would be beneficial for Scotland to have the public and private sectors working together in partnership. Ministers concluded that, to achieve the aim of a joined up public sector support mechanism, Scottish tourism needed an integrated network which can deliver for the whole of Scotland. The Area Tourist Boards were therefore effectively merged with the Scottish Tourist Board to become the integrated VisitScotland network.

7.4 The VisitScotland network has brought together local, national and international marketing, information, quality assurance and sectoral development services. It builds on the skills and expertise of the staff of the 14 previous Area Tourist Boards and VisitScotland. The priority of the staff in the offices across the tourism network is to provide high quality information to visitors, and to work closely with tourism related businesses of all kinds. Each of the 14 VisitScotland area offices has delegated powers and budgets to respond to circumstances in its own area, and at least 80% of industry engagement with tourism businesses by VisitScotland is delivered through them.

7.5 As a result of these changes, the VisitScotland network now has over 1,000 staff comprising 200 original staff and additional staff in excess of 800 who transferred from the 14 Area Tourist Boards. Its Board has to deal with a much wider range of issues than before, including partnership working with Scotland's local authorities which have an important function in relation to tourism. The size of the VisitScotland Board is currently limited by statute to seven members, but this limit now needs to be raised to reflect the broader role of VisitScotland.

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 There will be no impact on the public sector.

9. Contact

9.1 Adam Pile at the Scotland Office, E-mail: Adam.Pile@scotland.gsi.gov.uk, can answer any queries regarding the instrument.