



Number 1 of 2001

AVIATION REGULATION ACT 2001

REVISED

Updated to 1 May 2023

This Revised Act is an administrative consolidation of the *Aviation Regulation Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 (10/2023)*, enacted 2 May 2023, and all statutory instruments up to and including the *Air Navigation and Transport Act 2022 (Commencement) Order 2023 (S.I. No. 220 of 2023)*, made 27 April 2023, were considered in the preparation of this Revised Act.

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AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE COMMISSION FOR AVIATION REGULATION OR, IN THE IRISH LANGUAGE, AS AN COIMISIÚN UM RIALÁIL EITLÍOCHTA, TO DEFINE ITS FUNCTIONS, TO AMEND THE IRISH AVIATION AUTHORITY ACT, 1993, THE FREEDOM OF INFORMATION ACT, 1997, THE AIR NAVIGATION AND TRANSPORT (AMENDMENT) ACT, 1998, AND THE AIR NAVIGATION AND TRANSPORT ACT, 1973, AND TO PROVIDE FOR CONNECTED MATTERS. [21st February, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

- Short title. **1.**—This Act may be cited as **the Aviation Regulation Act, 2001**.
- Interpretation. **2.**—(1) In this Act—
- “Act of 1998” means Air Navigation and Transport (Amendment) Act, 1998;
- “airport” has the meaning assigned to it by the Act of 1998;
- “airport authority” has the meaning assigned to it by the Act of 1998;
- “airport charges” has the meaning assigned to it by the Act of 1998;
- “authorised officer” means a person appointed under **section 42** to be an authorised officer;
- “Commission” means Commission for Aviation Regulation established under **section 5**;
- “commissioner” means a member of the Commission;
- “Council Regulation (EEC) No. 95/93” means Council Regulation (EEC) No. 95/93 of 18 January 1993¹;
- “deputy commissioner” means a member of the staff of the Commission appointed as a deputy member of the Commission under **section 13**;

¹ O.J. No. L14, 22.1.93, p.1

F1[“Dublin appointed day” is to be construed in accordance with the State Airports Act 2004;]

“establishment day” means the day appointed under *section 3* to be the establishment day;

“functions” includes powers and duties, and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“local authority” has the meaning assigned to it by the *Local Government Act, 1941*;

“Minister” means Minister for Public Enterprise;

F2[...]

F3[“Regulation (EC) No. 261/2004” means Council Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004¹, establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights;]

F4[“Regulations of 2011” means the European Communities (Dublin Airport Charges) Regulations 2011 (S.I. No. 116 of 2011);]

F4[“statement of strategy” means a statement of strategy prepared and submitted under *section 27A*;]

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death;

F5[...]

“tour operator” and “travel agent” have the meanings assigned to them, respectively, in the *Transport (Tour Operators and Travel Agents) Act, 1982*;

F6[“trader” has the meaning assigned to it by *section 2* of the *Package Holidays and Travel Trade Act 1995*.]

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended,
- (c) a reference to an enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act, and
- (d) a reference to a statutory instrument shall be construed as a reference to that instrument as amended, adapted or extended by any subsequent statutory instrument.

Establishment day.

3.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Expenses of Minister.

4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

¹ O.J. No. L46, 17.2.2004, p.1

PART 2

THE COMMISSION FOR AVIATION REGULATION

- Establishment of Commission. **5.**—(1) There shall stand established on the establishment day a body to be known as the Commission for Aviation Regulation or, in the Irish language, An Coimisiún um Rialáil Eitlíochta to perform the functions assigned to it under this Act.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.
- (3) The Commission shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.
- (4) In carrying out its functions, the Commission shall ensure that all determinations, conditions attaching thereto, amendments thereof and requests shall be objectively justified and shall be non-discriminatory, proportionate and transparent.
- Independence of Commission. **6.**—Subject to this Act, the Commission shall be independent in the exercise of its functions.
- Principal function of Commission. **7.**—The principal function of the Commission shall be to regulate airport charges F7[...].
- Functions of Commission under certain Council Regulations. **8.**—(1) The Commission shall be the competent authority in the State for the purposes of Council Regulation (EEC) No. 95/93 other than the functions of the coordinator.
- (2) The Commission shall have the function of appointing a coordinator under Article 4 of Council Regulation (EEC) No. 95/93.
- (3) F8[...]
- F9[(4) The Commission is designated for the purposes of Article 16 of Regulation (EC) No. 261/2004.]
- F10[Functions of Commission under European Communities (Dublin Airport Charges) Regulations 2011] **8A.**—The Commission shall be the independent supervisory authority for the purposes of the F11[Regulations of 2011].]
- F12[Commission to review market power of airport authorities] **8B.**—(1) The Commission may from time to time carry out a review to assess the market power held by an airport authority in a relevant market in order to assist the Commission in carrying out its functions under this Act.
- (2) The Commission shall carry out a review under *subsection (1)* when requested to do so by the Minister.
- (3) The Commission shall specify the relevant market for the purposes of a review under *subsection (1)*.
- (4) Before carrying out a review under *subsection (1)*, the Commission shall publish a notice setting out—
- (a) that the Commission proposes to carry out a review to assess the market power held by an airport authority in a relevant market, and

(b) that submissions in respect of the review may be made to the Commission in writing before a date specified in the notice (being not less than one month from the date of publication of the notice).

(5) When carrying out a review under *subsection (1)*, the Commission shall consider any submissions made to it under *subsection (4)(b)*.

(6) The Commission shall furnish a report of the findings of the review to the Minister and shall, in that report, make recommendations on the regulation of airport charges.

(7) An airport authority shall, upon a request from the Commission, provide the Commission with such information as the Commission may reasonably require for the purposes of a review under *subsection (1)*.]

Transfer of functions.

9.—(1) The administration and business in connection with the exercise, performance or execution of any of the functions transferred by *subsection (2)* are hereby transferred, on the establishment day, to the Commission.

(2) There are hereby transferred, on the establishment day, to the Commission the functions vested in the Minister by or under each of the following—

(a) the **Transport (Tour Operators and Travel Agents) Act, 1982**,

(b) the **Package Holidays and Travel Trade Act, 1995**,

(c) the European Communities (Access to the groundhandling market at Community airports) Regulations, 1998 (S.I. No. 505 of 1998), and

(d) F13[...]

(4) Anything commenced before the establishment day by or under the authority of the Minister may, in so far as it relates to functions transferred by this section, be carried on or completed on or after such day by the Commission.

(5) Where, immediately before the establishment day, any legal proceedings are pending to which the Minister is the plaintiff or the prosecutor and the proceedings have reference to functions transferred by this section to the Commission, the name of the Commission shall, in so far as the proceedings relate to any functions transferred by this section, be substituted in those proceedings for that of the Minister, or added in those proceedings as may be appropriate, and those proceedings shall not abate by reason of such substitution.

(6) Where, immediately before the establishment day, any legal proceedings are pending to which the Minister is a defendant and the proceedings have reference to any functions transferred to the Commission by this section, the Commission shall not be substituted for the Minister in those proceedings notwithstanding the transfer of functions under this Act.

(7) Every document (including any certificate or licence) granted or made in the exercise of a function transferred by this section shall, if and in so far as it was operative immediately before the establishment day, have effect on and after that day as if it had been granted or made by the Commission.

Directions by Minister to Commission.

10.—(1) The Minister may give such general policy directions (including directions in respect of the contribution of airports to the regions in which they are located) to the Commission as he or she considers appropriate to be followed by the Commission F14[...].

(2) The Commission shall comply with any direction given under *subsection (1)*.

F15[(3) The Minister shall not give a policy direction under *subsection (1)* in respect of the exercise of the principal function of the Commission specified in *section 7*.]

Members of
Commission.

11.—(1) The Commission shall consist of at least one but not more than 3 members, each of whom shall be appointed by the Minister on such terms and conditions of appointment, including remuneration, as the Minister may fix, with the consent of the Minister for Finance, to hold office in a full-time capacity for a period of not less than 3 and not more than 5 years.

(2) Each member of the Commission shall be known as a commissioner for Aviation Regulation and is in this Act referred to as a “commissioner”.

(3) Where there is more than one commissioner, the Minister shall appoint one of them to be chairperson of the Commission on such terms and conditions of appointment, including remuneration, as the Minister may fix, with the consent of the Minister for Finance, to hold office in a full-time capacity for a period of not less than 3 and not more than 5 years.

(4) A person shall not be appointed as a commissioner F16[unless the Public Appointments Service or other licence holder concerned under the Public Service Management (Recruitment and Appointments) Act 2004], after holding a competition, have selected him or her for appointment as a commissioner.

(5) A commissioner, including the chairperson, whose term of office expires by effluxion of time shall be eligible for re-appointment to serve a second term, subject to a limit of serving no more than 10 years on the Commission.

(6) A commissioner shall not be entitled to serve more than 2 terms of office.

(7) A commissioner may—

(a) at any time resign his or her office by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later, and

(b) be removed from office by the Minister if, in his or her opinion, the member has become incapable through ill-health of effectively performing his or her duties or for stated misbehaviour and the Minister shall cause to be laid before each House of the Oireachtas a statement of the reasons for such removal.

(8) Where the chairperson of the Commission ceases to be a commissioner he or she shall also thereupon cease to be chairperson of the Commission.

(9) The chairperson of the Commission may at any time resign his or her office as chairperson by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later.

(10) The Commission may act notwithstanding a vacancy in its membership.

(11) A commissioner shall not hold any other office or employment in respect of which emoluments are payable.

(12) A commissioner shall not, for a period of 12 months following his or her resignation, removal or retirement from the office of commissioner, hold any office or employment or act as a consultant where he or she may be likely to use or disclose information acquired by him or her in the exercise of the functions of the Commission.

(13) No action or other proceedings shall lie or be maintainable (except in the case of wilful neglect or default) against any commissioner arising from a failure to perform or to comply with any of the functions conferred on the Commission by this Act.

Staff of
Commission.

12.—(1) The Commission may, subject to the consent of the Minister and the Minister for Finance, appoint such and so many persons to be members of its staff as it considers necessary to assist it in the performance of its functions on such terms and

conditions including terms and conditions as to remuneration and grading as may be agreed.

(2) The Commission may perform such of its functions as it may deem proper through or by any member of its staff.

Deputy
commissioner.

13.—The Commission shall designate a member of its staff as a deputy member of the Commission (“deputy commissioner”) who shall assume and carry out with the authority of the Commission all of the functions of the Commission F17[, *except in accordance with section 40(8B),*] in the absence of the commissioners or when the membership of the Commission is vacant.

Consultants.

14.—The Commission may, from time to time, engage such consultants or advisers as it may consider necessary to assist it in the discharge of its functions and any fees due to a consultant or adviser engaged under this section shall form part of the expenses of the Commission.

Codes of conduct.

15.—(1) The Commission shall, following consultation with the Minister, draw up a code of conduct in respect of controls on staff interests and ethical behaviour to apply to each member of its staff.

(2) The Commission shall publish any code of conduct drawn up under *subsection (1)*.

Membership of
Houses of
Oireachtas,
European
Parliament and
local authorities.

16.—(1) Where a commissioner is—

- (a) nominated as a member of Seanad Éireann,
- (b) nominated to stand as a candidate for election as a member of either House of the Oireachtas or to the European Parliament,
- (c) regarded pursuant to Part XIII of the Second Schedule to the *European Parliament Elections Act, 1997*, as having been elected to the European Parliament to fill a vacancy, or
- (d) becomes a member of a local authority,

he or she shall thereupon cease to be a member of the Commission.

(2) Where a person employed by the Commission—

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or to the European Parliament,
- (c) is regarded pursuant to Part XIII of the Second Schedule to the *European Parliament Elections Act, 1997*, as having been elected to the European Parliament to fill a vacancy, or
- (d) becomes a member of a local authority,

he or she shall thereupon stand seconded from his or her employment by the Commission and shall not be paid by, or be entitled to receive from, the Commission, remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected, as the case may be, and ending when he or she ceases to be a member of either such House or such Parliament.

(3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament

shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of, or a member of the staff of, the Commission.

(4) A person who is a member of a local authority shall be disqualified from becoming a member of the Commission.

(5) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, among other things, the reckoning of a period mentioned in that subsection as service with the Commission for the purposes of any superannuation benefits.

Declaration of interests.

17.—(1) On his or her offer of appointment, each commissioner shall make a declaration in writing of his or her interests to the Minister, in such form as the Minister, following consultation with the Minister for Finance, may specify.

(2) On his or her offer of appointment, each consultant and adviser and each member of the staff of the Commission at a grade or level specified before the appointment by the Commission, following consultation with the Minister, shall declare his or her interests in writing to the Commission and, within one month of such declaration, the Commission shall inform the Minister of the interests declared and the names of those making the declarations.

(3) A person to whom *subsection (1)* or *(2)* applies shall, throughout the tenure of his or her appointment, amend and update his or her declarations of interests as required by the Minister or the Commission, as the case may be, in respect of any changes in the interests held by the person.

(4) (a) A statement of the interests declared under *subsection (1)* shall be included in the next report prepared in accordance with *section 26(c)* following the making of the declaration and any subsequent change in a declaration shall also be included in a statement in the next available report.

(b) The form and content of the statement to be included in such report shall be agreed between the Commission, the Minister and the Minister for Finance.

(c) Notwithstanding *paragraph (b)*, it shall not be necessary to specify in a statement in such report the amount or monetary value of any interest, or the remuneration of any trade, profession or employment included in the statement.

(5) Where a person to whom *subsection (1)* applies, fails to make a declaration in accordance with that subsection, the Minister shall decide the appropriate action (including removal from office) to be taken.

(6) Where a person to whom *subsection (2)* applies, fails to make a declaration in accordance with that subsection, the Commission shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(7) In this section—

“employment” includes—

(a) full-time employment,

(b) part-time paid employment, where such employment is on-going in the year of appointment or which arises in subsequent years,

(c) temporary paid employment, being for a period of 16 weeks or more in the year of appointment or in subsequent years, or

(d) being retained under contract, directly or indirectly, in any capacity as an adviser, consultant or lobbyist, or for the provision of services;

“interests” includes—

- (a) employment by or on behalf of—
 - (i) an airline,
 - (ii) an airport authority,
 - (iii) F18[...]
 - (iv) a provider of groundhandling services,
 - (v) a travel agent or tour operator,
 - (vi) an F19[trader],
 - (vii) a coordinator under Article 4 of Council Regulation (EEC) No. 95/93,
- (b) shares in, bonds or debentures of, or other like investments in an undertaking mentioned in *paragraph (a)*, where the aggregate of such holdings exceeds £10,000,
- (c) a directorship or shadow directorship (within the meaning of the Companies Acts, 1963 to 1999), in such an undertaking, held currently or during the previous two years, or
- (d) gifts of travel, holidays, transport, money (in excess of £500) or other benefits, including benefits from any beneficial interest in or connected with such an undertaking, during the previous two years which were received by the person being appointed or by his or her spouse F20[or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.]

Disclosure of interests.

18.—(1) Where a commissioner, a member of the staff of the Commission, or a consultant, adviser or other person engaged by the Commission, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Commission, he or she shall—

- (a) disclose to the Commission, or where there is only one commissioner, that commissioner shall disclose to the Minister, the nature of his or her interest in advance of any consideration of the matter,
- (b) neither influence nor seek to influence a decision in relation to the matter,
- (c) take no part in any consideration of the matter,
- (d) if he or she is a commissioner or a member of the staff of the Commission, withdraw from the meeting for so long as the matter is being discussed or considered by the Commission, and shall not vote or otherwise act as such member in relation to the matter.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

- (a) he or she or any member of his or her household, or any nominee of his or her's or any member of his or her household, is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection, or
- (b) he or she or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter, or
- (c) he or she or any member of his or her household is in the process of acquiring land or property to which such a matter relates.

(3) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or material to, any matter, by reason only of an interest of his or her's or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the Commission, or, where there is only one commissioner, in the case of that commissioner, by the Minister.

(5) Where a disclosure is made to the Commission, particulars of the disclosure shall be recorded in the minutes of any meeting concerned.

(6) Where a person, other than a commissioner, referred to in this section fails to make a disclosure in accordance with this section, the Commission shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(7) Where a commissioner fails to make a disclosure in accordance with this section, the Minister shall decide the appropriate action (including removal from office) to be taken.

Prohibition on unauthorised disclosure of information.

19.—(1) Save as otherwise provided by law, a person shall not disclose confidential information obtained by him or her while performing duties as a commissioner, member of the staff of, or an adviser or consultant to, or as an authorised officer of, the Commission, unless he or she is duly authorised by the Commission to do so.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months, or to both.

(3) (a) In this section, “confidential information” means that which is expressed by the Commission to be confidential either as regards particular information or as regards information of a particular class or description.

(b) In expressing information to be confidential, the Commission shall have regard to the requirement to protect information of a confidential commercial nature.

Superannuation (commissioners).

20.—(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of a commissioner ceasing to hold office or for the making of contributions to a pension scheme approved of by the Minister with the consent of the Minister for Finance which has been entered into by a commissioner.

(2) The Minister may, with the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this section, including a scheme under this subsection.

(3) If any dispute arises as to the claim of a commissioner to, or the amount of, any pension, gratuity or other allowance payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

(4) A scheme under this section shall be carried out by the Minister in accordance with its terms.

(5) No pension, gratuity or other allowance shall be granted by the Minister to or in respect of any commissioner ceasing to hold office otherwise than in accordance

with a scheme under this section or as otherwise may be approved of by the Minister with the consent of the Minister for Finance.

(6) A scheme under this section shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Superannuation
(staff).

21.—(1) The Commission may prepare and submit to the Minister a scheme or schemes or may make such other arrangements with the approval of the Minister given with the consent of the Minister for Finance, for the granting of superannuation benefits to or in respect of such members of staff of the Commission, including the deputy commissioner, as he or she may think fit.

(2) Every scheme made under this section shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) Every scheme made under *subsection (1)* may, with the consent of the Minister for Finance, be amended or revoked by a subsequent scheme prepared, submitted and approved under *subsection (1)*.

(4) A scheme made under *subsection (1)* submitted by the Commission to the Minister shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Commission in accordance with its terms.

(5) No superannuation benefits shall be granted by the Commission nor shall any other arrangements be entered into by the Commission for the provision of such a benefit to or in respect of a member of the staff of the Commission otherwise than in accordance with a scheme under *subsection (1)* or otherwise as may be approved of by the Minister with the consent of the Minister for Finance.

(6) If any dispute arises as to the claim of any person to, or the amount of any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

(7) As soon as may be, the Commission shall establish a fund administered by trustees who shall be appointed by the Commission from which superannuation benefits payable in respect of a member of the staff of the Commission ceasing to hold office, under a scheme under *subsection (1)* shall be paid.

(8) A scheme under this section shall be laid before each House of the Oireachtas by the Commission as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Resources made
available by
Minister.

22.—(1) The Minister may make available to the Commission, on a request being made by the Commission, such staff, premises, equipment, services and other resources as the Minister may determine from time to time in consultation with the Minister for Finance.

(2) The Commission shall pay to the Minister such sum or sums as the Minister may specify to be the expenses incurred by the Minister in establishing the Commission and in making available to the Commission such staff, premises, equipment, services and other resources under *subsection (1)*.

(3) Where the Minister makes available to the Commission under *subsection (1)* any officer of the Minister, that officer shall remain an officer of the Minister and shall not be considered to be a member of the staff of the Commission.

F21[(4) Notwithstanding *subsection (3)*, the Commission may perform such of its functions as it may deem proper through or by any officer of the Minister made available to the Commission under *subsection (1)*.]

Levy.

23.—F22[...]

Advances by
Minister to
Commission.

24.—(1) The Minister may, from time to time, with the consent of the Minister for Finance, advance to the Commission out of moneys provided by the Oireachtas such sums as the Minister may determine for the purposes of expenditure by the Commission in the performance of its functions.

(2) The sums to be advanced under *subsection (1)* shall be expended solely for the purpose and exercise of the functions conferred on the Commission by this Act.

(3) The Commission shall pay to the Minister, on every sum advanced to the Commission under this Act, interest from the date of the advance of such sum until the same is repaid at such rate and in such manner as shall be appointed by the Minister at the time of the advance and at such rate as may be determined from time to time, and such rate of interest shall not at any time exceed that fixed by an order under *section 20 of the Courts Act, 1981*.

Borrowings.

25.—The Commission may, for the purpose of the performance of its functions, borrow money, but shall not do so without the consent of the Minister and the Minister for Finance.

Accounts.

26.—The Commission shall—

- (a) keep in such form as may be approved by the Minister, with the concurrence of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it including an income and expenditure account and balance sheet,
- (b) submit accounts kept under *paragraph (a)* in respect of each year to the Comptroller and Auditor General for audit and those accounts when so audited, shall, together with the report of the Comptroller and Auditor General thereon, be presented within 6 months of the end of the financial year, to the Minister, who shall cause copies of the accounts and report to be laid before each House of the Oireachtas, and
- (c) within the first 3 months of each year make a report to the Minister in relation to the performance of its functions F23[and its implementation of the current strategy statement,] in the previous year and its proposed work programme for the following year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas as soon as practicable.

Reports.

27.—(1) The Commission shall, whenever so requested by the Minister, furnish to the Minister information in relation to such matters as the Minister may specify concerning the scope of its activities generally or in respect of any account or report prepared by the Commission.

(2) The Commission may publish such reports F24[...] on matters related to its activities and functions as may from time to time be considered relevant and appropriate by the Commission.

(3) From time to time, and whenever so requested, the Commission shall account for the performance of its functions to a Joint Committee of the Oireachtas and shall have regard to any recommendations of such Joint Committee relevant to its functions.

F25[Commission to prepare statement of strategy

27A.—(1) Subject to *subsection (2)*, the Commission shall—

- (a) as soon as is practicable after the commencement of section 97 of the Air Navigation and Transport Act 2022 but, in any case, not later than 6 months after that commencement, and
- (b) thereafter, not earlier than 6 months before and not later than 6 months later than each subsequent period of 3 years following the laying before each House of the Oireachtas in accordance with subsection (4) of the statement of strategy,

prepare and submit to the Minister for the Minister's approval a statement of strategy for the Commission for the ensuing period of 3 years.

(2) A statement of strategy shall—

- (a) comply with any directions issued from time to time by the Minister in respect of the form and manner of the statement's preparation,
- (b) set out the key objectives, outputs and related strategies of the Commission for performing its functions under this Act during the period to which the statement relates, including the use of resources,
- (c) have regard to the need to ensure the most beneficial, effective and efficient use of the Commission's resources,
- (d) identify the relevant performance indicators (financial and non-financial) and specify the manner in which the Commission proposes to assess its performance in respect of the objectives, outputs and strategies referred to in *paragraph (b)*,
- (e) except for the first statement of strategy, include a review of the outcomes and effectiveness of the preceding statement of strategy, and
- (f) include any other matters that the Minister may from time to time direct.

(3) When preparing the statement of strategy, the Commission may consult with any persons it considers appropriate.

(4) The Minister shall, as soon as is practicable after a statement of strategy has been submitted to him or her in accordance with *subsection (1)* and he or she has approved it, cause a copy of the statement to be laid before each House of the Oireachtas.

(5) The Commission shall, as soon as practicable after the statement of strategy has been laid before each House of the Oireachtas, arrange for the statement to be published on the internet.]

F26[Business plan

27B.—(1) Subject to *subsections (2) and (3)*, the Commission shall, in each year—

- (a) prepare and adopt a business plan in respect of that year or of such other period as may be determined by the Minister, and
- (b) submit the plan to the Minister.

(2) A business plan shall—

- (a) indicate the activities of the Commission for the period to which the business plan relates,

- (b) contain estimates of the number of—
 - (i) employees of the Commission, and
 - (ii) staff members of the Commission who are not employees of the Commission,for the period and the business to which the plan relates, and
- (c) accord with policies and objectives of the Minister and the Government as they relate to the functions of the Commission.

(3) The Commission shall, in preparing the business plan, have regard to the statement of strategy in operation at that time as approved under *section 27A*.]

Separation of accounts.

28.—(1) The Commission may seek that a person in respect of whom it has been given a function under this Act shall keep accounts in such manner as the Commission may determine, in respect of the activities regulated by the Commission, separate from its other activities, and shall produce audited annual accounts in respect of its regulated activities which shall be submitted to the Commission within 6 months of the end of the accounting year.

(2) The Commission may arrange to have examined, on an annual basis, the aforesaid accounts to ensure that a separation of accounts has been carried out.

Premises of Commission.

29.—The Commission may, for the purposes of providing premises necessary for the performance of its functions, lease, equip and maintain offices and premises with the consent of the Minister and the Minister for Finance.

Seal of Commission.

30.—(1) The Commission shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal shall be authenticated by the signature of—

- (a) a commissioner, or
- (b) a member of the staff of the Commission, authorised by the Commission to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Commission and every document purporting to be an instrument made by and to be sealed with the seal of the Commission (purporting to be authenticated in accordance with this section) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

PART 3

REGULATION OF AIRPORT AND AVIATION TERMINAL SERVICES CHARGES

Application.

31.—(1) This Part applies to any airport in the State open to commercial traffic and having an annual passenger throughput of in excess of one million passengers in the previous calendar year.

(2) The Minister, after consultation with the Commission, may, by regulations, vary the annual passenger throughput mentioned in *subsection (1)*.

(3) Every regulation made by the Minister under *subsection (2)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be

annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Airport charges. **32.**—(1) In this section and *section 33*, “determination” means a determination under *subsection (2)*.

F27[(2) The Commission shall—

(a) as soon as is practicable, but not later than 12 months after the Dublin appointed day, make a determination, and

(b) upon the expiration of that determination and each subsequent determination, make a determination,

specifying the maximum levels of airport charges that may be levied by F28[daa] F29[in respect of Dublin Airport under the F30[Regulations of 2011]].]

(3) F31[...]

(4) F31[...]

F32[(5) A determination shall—

(a) be in force for such period of not less than 4 years, and

(b) come into operation on such day, as the Commission specifies.]

(6) A determination may—

(a) provide—

(i) for an overall limit on the level of airport charges,

(ii) for limits to apply to particular categories of such charges, or

(iii) for a combination of any such limits,

(b) operate to restrict increases in any such charges, or to require reductions in them, whether by reference to any formula or otherwise, or

(c) provide for different limits to apply in relation to different periods of time falling within the period to which the determination relates.

(7) Prior to making a determination the Commission shall—

(a) give notice to any person concerned stating that it proposes to make a determination.

(b) publish such notice in a daily newspaper published and circulating in the State, and

(c) specify the period (being not less than one month from the publication of the notice) within which representations with respect to the proposed determination may be made by interested parties or the public.

(8) The Commission—

(a) shall consider any representations which are made under *subsection (7)* and not withdrawn, and

(b) may either accept or reject any representations made under *subsection (7)*.

(9) On making a determination the Commission shall make a report on the determination giving an account of its reasons for making that determination together

with its reasons for accepting or rejecting any representations made under *subsection (7)*.

(10) A report under *subsection (9)* shall be sent by the Commission to the Minister and to the airport authority concerned.

(11) The Commission shall as soon as may be—

(a) give notice that it has made a report under *subsection (9)*, and

(b) make the report available on request to interested parties or to the public.

(12) A notice under *subsection (11)* shall be given by publishing the notice in a daily newspaper published and circulating in the State and by such other means as the Commission may determine.

(13) For the purposes of this section, the Commission may request an airport authority in writing to provide information (including accounts, estimates, returns, projections or any other records) to it which is in the possession of or which can be obtained by the airport authority.

(14) (a) The Commission may F33[...] after the making of a determination—

(i) at its own initiative, or

(ii) at the request of an airport authority or user concerned in respect of the determination,

if it considers that there are substantial grounds for so doing, review the determination and, if it sees fit, amend the determination F34[or extend the period referred to in *subsection (5)(a)* by not more than 2 years].

(b) An amendment made under *paragraph (a)* shall be in force for the remainder of the period of the determination referred to in *subsection (5)(a)* F34[, or as extended under *paragraph (a)*].

(c) *Subsection (5)(b)* and *subsections (7) to (13)* shall apply to an amendment made under *paragraph (a)*.

(15) Any airport charges imposed by an airport authority, which are in force immediately before the establishment day, shall continue in force until any determination has been made.

Regulatory objectives in respect of airport charges.

F35[33.—F36[(1) In making a determination, the principal objectives of the Commission shall be to protect and promote the reasonable interests of current and prospective users of Dublin Airport and the Commission shall seek to—

(a) promote safety and security at Dublin Airport,

(b) facilitate the efficient and economic development and operation of Dublin Airport,

(c) promote high-quality and cost-effective airport services at Dublin Airport, and

(d) take account of the policies of the Government on aviation, climate change and sustainable development.]

(2) In making a determination the Commission shall have due regard to—

(a) the restructuring including the modified functions of [daa],

(b) the level of investment in airport facilities at Dublin Airport, in line with safety requirements and commercial operations in order to meet the needs of current and prospective users of Dublin Airport,

(c) the level of operational income of [daa] from Dublin Airport, and the level of income of [daa] from any arrangements entered into by it for the purposes of the restructuring under the State Airports Act 2004,

(d) costs or liabilities for which [daa] is responsible,

(e) F37[...]

(f) policy statements, published by or on behalf of the Government or a Minister of the Government and notified to the Commission by the Minister, in relation to the economic and social development of the State,

(g) the cost competitiveness of airport services at Dublin Airport,

(h) imposing the minimum restrictions on [daa] consistent with the functions of the Commission, F37[...]

(i) such national and international obligations as are relevant to the functions of the Commission and F38[daa, and]

F39[(j) the need to encourage competition at Dublin Airport to—

(i) improve capacity,

(ii) provide choice on routes,

(iii) provide choice between airlines, and

(iv) improve international connectivity.]

(3) Having regard to **section 5(2)** of the State Airports Act 2004, *subsection (2)(a)* does not apply in relation to the first determination made after the Dublin appointed day.

(4) The Commission shall not later than 6 months or such lesser period, after consultation with the Commission, as the Minister decides—

(a) after the making of the first determination, where it is made after the Cork or Shannon appointed day (within the meaning of the State Airports Act 2004), and

(b) where the first determination is made before either of those appointed days, after that appointed day,

have due regard to the restructuring, including the modified functions of [daa]. Where it considers it appropriate it may amend the determination.

(5) In this section—

"restructuring" is to be construed in accordance with the State Airports Act 2004;

"user" means any person—

(a) for whom any services or facilities the subject of airport charges are provided at Dublin Airport,

(b) using any of the services for the carriage by air of passengers or cargo provided at Dublin Airport, or

(c) otherwise providing goods or services at Dublin Airport;

"operational income" includes airport charges and commercial revenues associated with the operation of Dublin Airport.]

F40[Minister may review regulation of airport charges by Commission

33A.—(1) The Minister may, at any time, carry out a review of the regulation of airport charges by the Commission under this Act.

(2) Before carrying out a review under *subsection (1)*, the Minister shall publish a notice setting out—

(a) that the Minister proposes to carry out a review of the regulation of airport charges, and

(b) that submissions in respect of the review may be made to the Minister in writing before a date specified in the notice (being not less than one month from the date of publication of the notice).

(3) When carrying out a review under *subsection (1)*, the Minister shall—

(a) consider any submissions made to the Minister under *subsection (2)(b)*,

(b) consider the most recent report prepared by the Commission under *section 8B*, if applicable,

(c) have regard to the policies of the Government on aviation,

(d) assess the effectiveness of the regulation of airport charges by the Commission under this Act, and

(e) make recommendations to the Government on legislative change or any other policy matters concerning the regulation of airport charges, as appear to the Minister to be appropriate as a result of the review.

(4) As soon as may be following the completion of a review under this section, the Minister shall prepare a report setting out the findings of the review.

(5) The Minister shall submit a copy of the report under *subsection (4)* to the Government and the Minister shall cause a copy of the report to be laid before each House of the Oireachtas as soon as may be after it is approved by the Government.

(6) After the report has been laid before each House of the Oireachtas, the Minister shall arrange for the report to be published on the internet.]

Amendment of section 39 of Act of 1998.

34.—Section 39(1) of the Act of 1998 is amended by the substitution of “subject to *section 32* of the *Aviation Regulation Act, 2001*” for “with the approval of the Minister”.

Aviation terminal services charges.

35.—F41[...]

Regulatory objectives in respect of aviation terminal services charges.

36.—F42[...]

Amendment of Irish Aviation Authority Act, 1993.

37.—Section 43(1)(a) of the *Irish Aviation Authority Act, 1993*, is amended by the insertion of “and *section 35* of the *Aviation Regulation Act, 2001*” after “subject to subsection (3)”.

Judicial review.

38.—F43[...]

Application to High Court.

39.—Where a person fails to comply with a determination or a request made by the Commission under this Part, the Commission may apply to the High Court for an order requiring the person to comply with the determination or request.

F44[Appeal to
High Court

39A.—(1) A relevant person who is aggrieved by a determination of the Commission under *section 32(2)* may, not later than 3 months after notice has been given under *section 32(11)*, appeal to the High Court against that determination.

(2) The High Court shall hear and determine an appeal under this section and may make such orders as it considers appropriate.

(3) The orders that may be made by the High Court on the hearing of an appeal under this section include (but are not limited to) one or more of the following:

(a) an order affirming the determination, subject to such modifications, if any, as it considers appropriate;

(b) an order setting aside the determination;

(c) an order amending the determination;

(d) an order remitting the determination to the Commission for review in accordance with any directions of the Court;

(e) such order as to costs as it thinks fit.

(4) Where the High Court makes an order remitting the determination to the Commission for review under *subsection (3)(d)*, the Commission shall review the determination in accordance with any directions of the Court.

(5) A decision of the High Court under this section shall be final save that an appeal shall lie to the Court of Appeal on a point of law.

(6) An appeal under *subsection (1)* shall not affect the operation of the determination unless, upon an application to the High Court, the Court makes an order staying or otherwise affecting the operation or implementation of the determination pending the hearing of the appeal.

(7) In this section, "relevant person" means—

(a) daa, or

(b) a user within the meaning of *section 33(5)*.]

Appeal panel.

40.—F45[...]

Service of
notices.

41.—(1) Where a notice is required under this Part to be given to a person, the notice shall be addressed to that person and shall be given to the person in one of the following ways—

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or carries on business,

(c) by sending it by post in a pre-paid registered letter addressed to the person at the address at which the person ordinarily resides or carries on business,

(d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to the person to, that address,

F50[(e) in any case where the Commission considers that the immediate giving of the notice is required, by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily resides

or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's—

- (i) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
- (ii) facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.]

(2) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

PART 4

ENFORCEMENT

Authorised officers.

42.—(1) The Commission may appoint persons to be authorised officers for the purposes of this Act.

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the Commission with a certificate of his or her appointment and when exercising a power conferred by *subsection (3)* shall, if requested by any person thereby affected, produce such certificate to that person for inspection.

(3) For the purposes of the exercise by the Commission of its functions under this Act, an authorised officer may—

- (a) enter at any reasonable time any premises or place owned or occupied by a person to whom this section applies and search and inspect the premises and any books, documents or records found therein,
- (b) require any such person to produce to him or her any books, documents or records F51[...] which are in the person's power or control, and in the case of information in a non-legible form to reproduce it in a legible form, and to give to the officer such information as he or she may reasonably require in relation to any entries in such books, documents or records,
- (c) secure for later inspection any premises or part thereof in which books, documents or records F51[...] are kept or there are reasonable grounds for believing that such books, documents or records are kept,
- (d) inspect and take extracts from or make copies of any such books, documents or records (including in the case of information in a non-legible form a copy of or extract from such information in a permanent legible form),
- (e) remove and retain such books, documents or records for such period as may be reasonable for further examination,
- (f) require the person to maintain such books, documents or records for such period of time, as may be reasonable, as the authorised officer directs,
- (g) require the person to give to the officer any information which he or she may reasonably require F51[...],
- (h) require any person on the premises or place having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation thereto.

(4) This section applies to the following persons:

- (a) an airport authority,
- (b) F52[...]
- (c) any person responsible for the carriage of passengers, mail or freight by air to or from an airport,
- (d) a supplier of ground handling services,
- (e) a tour operator or a travel agent,
- (f) an F53[trader].

(5) Where an authorised officer in exercise of his or her powers under this section is prevented from entering any premises or place, an application may be made under *section 43* for a warrant to authorise such entry.

(6) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling, unless he or she has obtained a warrant under *section 43* authorising such entry.

(7) A person to whom this section applies who—

- (a) obstructs, impedes or assaults an authorised officer in the exercise of a power under this section,
- (b) fails or refuses to comply with a requirement under this section,
- (c) alters, suppresses or destroys any books, documents or records which the person concerned has been required to produce, or may reasonably expect to be required to produce,
- (d) gives to the Commission or to an authorised officer information which is false or misleading, in a material respect, or
- (e) falsely represents himself or herself to be an authorised officer,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

Search warrants. **43.**—If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that information required by an authorised officer for the purpose of this Act is held at any premises or place, the judge may issue a warrant authorising the authorised officer, accompanied if the officer considers it necessary by other authorised officers or members of the Garda Síochána, at any time or times, within one month from the date of issue of the warrant, on production, if so required, of the warrant, to enter, if need be by reasonable force, the premises or place and exercise all or any of the powers conferred on an authorised officer under *section 42*.

Indemnification. **44.**—Where the Commission is satisfied that any member of the staff of the Commission or an authorised officer has discharged his or her duties in pursuance of the functions of the Commission in a *bona fide* manner, the Commission shall indemnify such member of staff or authorised officer, against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

Offences of bodies corporate. **45.**—Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and

shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

F54[Directions—
Regulation (EC)
No. 261/2004.]

45A.—(1) Where the Commission either on its own initiative or following a complaint by a passenger is of the opinion that an operating air carrier is failing to comply with or is infringing Regulation (EC) No. 261/2004, it may issue a direction to the carrier to comply with the Regulation or cease the infringement and to comply with any instructions contained in the direction. The carrier may, within 14 days of the issue of the direction, make representations to the Commission, which the Commission shall consider. The Commission shall, where it has received such representations, reply in writing to the carrier within 2 months of such receipt. The Commission in its reply may confirm, vary or withdraw the direction. Where the direction is confirmed (with or without variation) the direction takes effect on the date the reply is given.

(2) Where a direction has been issued to an operating air carrier who—

(a) has not made representations to the Commission within the period of 14 days of the issue of the direction to the carrier, after such period, or

(b) has made such representations and the Commission has replied to the carrier confirming the direction with or without variation, after the reply is given,

fails to comply with the direction, the carrier commits an offence and is liable—

(i) on summary conviction, to a fine not exceeding €5,000, or

(ii) on conviction on indictment, to a fine not exceeding €150,000.

F55[(2A) Where an operating air carrier having been convicted of an offence under *subsection (2)*, after the commencement of this subsection, continues to fail to comply with the direction to which the offence relates, the operating air carrier commits a further offence on each day that the failure to comply continues and for each such offence is liable on summary conviction to a class E fine.]

(3) Where a direction or reply is required to be given to an operating air carrier, the direction or reply shall be addressed to the carrier and shall be given to the carrier in one of the following ways—

(a) by delivering it to the carrier,

(b) by leaving it at the address at which the carrier carries on business,

(c) by sending it by post in a pre-paid registered letter addressed to the carrier at the address at which the carrier carries on business,

(d) if an address for the service of a direction or reply has been furnished by the carrier, by leaving it at, or sending it by pre-paid registered post addressed to the carrier to, that address,

(e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the carrier carries on business or, if an address for the service of a direction or reply has been furnished by the carrier, that address:

provided that—

(i) the sender's—

(I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or

(II) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or reply,

and

(ii) the direction or reply is also given in one of the other ways mentioned in any of the preceding paragraphs.

(4) For the purposes of *subsection (3)*, a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

(5) A copy of a direction or reply, which has endorsed on it a certificate purporting to be signed by a commissioner, the deputy commissioner or an officer of the Commission (authorised in that behalf by the Commission) stating that the copy is a true copy of the direction or reply may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or reply.

(6) In this section—

"direction" means a direction under *subsection (1)*;

"operating air carrier" has the meaning assigned to it in Article 2 of Regulation (EC) No. 261/2004;

"passenger" means a passenger to whom Article 3 of Regulation (EC) No. 261/2004 applies;

"reply" means a reply by the Commission under *subsection (1)*.]

F56[(7) For the purpose of the exercise of jurisdiction in relation to an offence under this section, the act constituting the offence shall be deemed to have been committed within the area of the Dublin Metropolitan District.]

F57[Directions -
Regulations of
2011

45B.—(1) Where the Commission either, on its own initiative or following a complaint, is of the opinion that daa has failed to comply with Regulation 6, 9, 10 or 11 of the Regulations of 2011, the Commission may issue a direction in writing to daa.

(2) The direction shall—

(a) state that the Commission is of the opinion that daa has failed to comply with Regulation 6, 9, 10 or 11 of the Regulations of 2011 and state the reason for that opinion,

(b) specify the steps or measures to be taken by daa to remedy the failure concerned,

(c) specify a period (ending not earlier than the end of the period within which an appeal may be made under *subsection (7)*) within which those steps or measures shall be taken,

(d) include information regarding the making of an appeal under *subsection (7)*, and

(e) state that a failure to comply with the direction is an offence under *subsection (12)*.

(3) Daa may, within 14 days of the issue of the direction under *subsection (1)*, make representations in writing to the Commission in relation to the direction.

(4) The Commission shall, within 2 months of the receipt of representations under *subsection (3)*, confirm, vary or withdraw the direction.

(5) Daa shall notify the Commission in writing that the direction has been complied with, as soon as practicable after so complying, and in any case not later than 7 days after the end of the period specified in the direction.

(6) The Commission shall, within one month of receipt of a notification under *subsection (5)*, on being satisfied that daa has complied with the direction, give notice to daa confirming that compliance.

(7) Daa may, within 21 days from the date the direction was issued under *subsection (1)*, or confirmed or varied under *subsection (4)*, appeal against the direction to the High Court.

(8) Where daa makes an appeal under *subsection (7)*, it shall at the same time notify the Commission of the appeal and the grounds for the appeal and the Commission shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(9) The orders that may be made by the High Court on the hearing of an appeal under this section include (but are not limited to) one or more of the following:

- (a) an order affirming the direction, subject to such modifications, if any, as it considers appropriate;
- (b) an order setting aside the direction;
- (c) an order amending the direction.

(10) Where an appeal under *subsection (7)* is made, the direction, as affirmed or amended by the Court, shall take effect on the later of—

- (a) the day next following the day on which the direction is affirmed or amended on appeal or the appeal is withdrawn, or
- (b) the date specified in the direction.

(11) The Commission may withdraw a direction by notice in writing to daa.

(12) Where daa fails to comply with a direction issued under *subsection (1)*, daa commits an offence and is liable—

- (a) on summary conviction, to a class A fine,
- (b) on conviction on indictment, to a fine not exceeding €150,000.

(13) Where daa has been convicted of an offence under *subsection (12)* and continues to fail to comply with the direction to which the offence relates, daa commits a further offence on each day that the failure to comply continues and for each such offence is liable on summary conviction to a class E fine.

(14) Where a direction or notice is required to be given to daa under this section, the direction or notice shall be addressed to daa and shall be given in one of the following ways—

- (a) by delivering it to daa,
- (b) by leaving it at the address at which daa carries on business,
- (c) by sending it by post in a pre-paid registered letter addressed to daa at the address at which daa carries on business,
- (d) if an address for the service of a direction or notice has been furnished by daa, by leaving it at, or sending it by pre-paid registered letter addressed to daa to, that address,

(e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which daa carries on business or, if an address for the service of a direction or notice by electronic mail or facsimile machine has been furnished by daa, that address:

provided that—

(i) the sender's—

(I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or

(II) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or notice,

and

(ii) the direction or notice is also given in one of the other ways mentioned in any of the preceding paragraphs.

(15) A copy of a direction or notice, which has endorsed on it a certificate purporting to be signed by a commissioner, the deputy commissioner or an officer of the Commission (authorised in that behalf by the Commission) stating that the copy is a true copy of the direction or notice may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or notice.]

Prosecution of summary offences.

46.—Summary proceedings for offences under this Act may be brought and prosecuted by the Commission.

PART 5

MISCELLANEOUS AMENDMENTS

Repeal.

47.—Subsection (11) of [section 5 of the Irish Aviation Authority Act, 1993](#), is repealed.

Amendment of Freedom of Information Act, 1997.

48.—The [Freedom of Information Act, 1997](#), is amended in the Third Schedule, by the insertion in Part I at the end thereof in the second column of "*Aviation Regulation Act, 2001*" and opposite in the third column of "*Section 19*".

Amendment of Act of 1998.

49.—The Act of 1998 is amended in section 7(4) by the deletion of "that is not being prosecuted summarily".

Amendment of Air Navigation and Transport Act, 1973.

50.—Section 2A (inserted by section 65 of the Act of 1998) of the [Air Navigation and Transport Act, 1973](#), is amended—

(a) by the insertion after subsection (3) of the following subsection:

"(3A) Where an aircraft lands, on the territory of the State and a member of the Garda Síochána has reason to believe that there is on board the aircraft a person who has committed an offence under this section, the member, together with any other members of the Garda Síochána, may, without warrant, enter the aircraft and may, without warrant, arrest any such person whom he or she finds on the aircraft.",

and

(b) in subsection (4), by the substitution—

- (i) in paragraph (a) for “£500” of “£1,500”, and
- (ii) in paragraph (b) for “£700” of “£1,500”.



Number 1 of 2001

AVIATION REGULATION ACT 2001

REVISED

Updated to 1 May 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Aviation Regulation Acts 2001 to 2022: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Air Navigation and Transport Act 2022* (40/2022), s. 1(4)). The Acts in this group are:

- *Aviation Regulation Act 2001* (1/2001)
- *State Airports Act 2004* (32/2004), Part 3 (ss. 20-24)
- *Air Navigation and Transport Act 2022* (40/2022), s. 105

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.