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*Number 40 of 2022*

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**AIR NAVIGATION AND TRANSPORT ACT 2022**

**REVISED**

**Updated to 20 July 2023**

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This Revised Act is an administrative consolidation of the *Air Navigation and Transport Act 2022*. 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 *Wildlife (Amendment) Act 2023* (25/2023), enacted 20 July 2023, and all statutory instruments up to and including the *Merchant Shipping (Fire Protection) (No. 2) Rules 2023* (S.I. No. 380 of 2023), made 20 July 2023, were considered in the preparation of this Revised Act.

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*Number 40 of 2022*

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## **AIR NAVIGATION AND TRANSPORT ACT 2022**

**REVISED**

**Updated to 20 July 2023**

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An Act to provide for the formation of a company, to be known as Seirbhís Aerloingseoireachta na hÉireann or, in the English language, the Irish Air Navigation Service, to provide air navigation services in relation to civil aviation, to define its functions and to provide for the conferral on it of certain functions of the Irish Aviation Authority; to provide for combining the aviation regulatory functions of the Irish Aviation Authority with the aviation regulatory functions of the Commission for Aviation Regulation; to make consequential and other amendments to the [Irish Aviation Authority Act 1993](#); to amend the [Aviation Regulation Act 2001](#) to confer powers on such Commission to review the market power of airport authorities and to enforce the European Communities (Dublin Airport Charges) Regulations 2011 ([S.I. No. 116 of 2011](#)); to enable the Minister for Transport to review the regulation of airport charges by such Commission; to provide for the dissolution of such Commission; to amend the [Air Navigation and Transport \(Amendment\) Act 1998](#) to increase the aggregate at any one time of moneys that may be borrowed under section 13 of that Act in the case of daa and any of its subsidiaries; and to provide for related matters.

[7th December, 2022]

**Be it enacted by the Oireachtas as follows:**

### **PART 1**

#### **PRELIMINARY AND GENERAL**

##### **Short title, commencement, collective citations and construction**

1. (1) This Act may be cited as the Air Navigation and Transport Act 2022.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.
- (3) The Air Navigation and Transport Acts 1936 to 1998 and this Act (other than [Parts 7 and 10](#) and [Schedules 2 and 3](#)) may be cited together as the Air Navigation and Transport Acts 1936 to 2022 and shall be construed together as one Act.
- (4) The Aviation Regulation Acts 2001 to 2004 and [section 105](#) may be cited together as the Aviation Regulation Acts 2001 to 2022.



**Annotations****Editorial Notes:**

- E1** A table showing commencement dates ordered by section is available at [https://www.irishstatutebook.ie/eli/isbc/2022\\_40.html](https://www.irishstatutebook.ie/eli/isbc/2022_40.html).
- E2** Power pursuant to subs. (2) exercised (1.05.2023) by *Air Navigation and Transport Act 2022 (Commencement) Order 2023* (S.I. No. 220 of 2023).
2. The 1st day of May 2023 is appointed as the day on which the following provisions of the Air Navigation and Transport Act 2022 (No. 40 of 2022) shall come into operation:
- (a) section 8;
  - (b) Part 3;
  - (c) Part 4;
  - (d) Part 5;
  - (e) Part 6;
  - (f) Part 7, insofar as it is not already in operation;
  - (g) section 97.
- E3** Power pursuant to subs. (2) exercised (15.02.2023) by *Air Navigation and Transport Act 2022 (Section 69) (Commencement) Order 2023* (S.I. No. 65 of 2023).
2. The 15th day of February 2023 is appointed as the day on which section 69 of the Air Navigation and Transport Act 2022 (No.40 of 2022) shall come into operation.
- E4** Power pursuant to subs. (2) exercised (22.12.2022) by *Air Navigation And Transport Act 2022 (Commencement) Order 2022* (S.I. No. 741 of 2022).
2. The 22nd day of December 2022 is appointed as the day on which the following provisions of the Air Navigation and Transport Act 2022 (No. 40 of 2022) shall come into operation:
- (a) Part 1 (other than section 8);
  - (b) Part 2;
  - (c) Part 8;
  - (d) Part 9;
  - (e) Part 10 (other than section 97);
  - (f) Part 11.

**Interpretation - general****2. (1)** In this Act—

“Act of 1993” means the [Irish Aviation Authority Act 1993](#);

“Act of 1998” means the [Air Navigation and Transport \(Amendment\) Act 1998](#);

“Act of 2014” means the [Companies Act 2014](#);

“aerodrome” has the meaning assigned to it by the Act of 1993;

“aeronautical communications services” has the meaning assigned to it by the Act of 1993;

“air navigation services” has the meaning assigned to it by the Act of 1993;

“aircraft” has the meaning assigned to it by the Act of 1993;

“airspace” has the meaning assigned to it by the Act of 1993;

“ANT Acts” means the Air Navigation and Transport Acts 1936 to 1998;

“authorised officer” has the meaning assigned to it by the Act of 1993;

“Chicago Convention” has the meaning assigned to it by the Act of 1993;

“Chief Executive” means the chief executive of the IANS appointed under *section 35*;

“contracting state” has the meaning assigned to it by the Act of 1993;

“determination”, in relation to a relevant authority, means a decision of the authority as to whether or not any sum is due to Eurocontrol, the IANS or the Minister in respect of air navigation services or aeronautical communications services provided by Eurocontrol, the IANS, the Minister or any other person;

“electronic device” includes any device which uses any electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data, or both store and transmit data;

“electronic record” includes electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means of storing data, or other forms of related technology, or any combination thereof, by means of which data is stored;

“enactment” has the meaning assigned to it by the [Interpretation Act 2005](#);

“Eurocontrol” has the meaning assigned to it by the Act of 1993;

“Eurocontrol Convention” has the meaning assigned to it by the Act of 1993;

“IAA” means the Irish Aviation Authority;

“IANS” means the company referred to in *section 10*;

“International Civil Aviation Organisation” has the meaning assigned to it by the Act of 1993;

“Irish airspace” has the meaning assigned to it by the Act of 1993;

“licence” has the meaning assigned to it by the Act of 1993;

“Minister” means the Minister for Transport;

“operator” has the meaning assigned to it by the Act of 1993;

“other airspace” means areas of airspace, other than Irish airspace, in which the IANS is authorised to provide air navigation services pursuant to agreements with any, or any combination, of the following:

(a) any persons who manage and control airspace for which states other than the State are responsible or who are responsible for the provision of air navigation services or aeronautical communications services in that airspace;

(b) international organisations;

“recognised trade unions and staff associations” means trade unions and staff associations recognised by the IANS or the IAA, as appropriate, for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions, of employees;

“record” includes, in addition to a record in writing and an electronic record—

(a) a disc, tape, sound-track or other device in which data, sounds or signals are embodied so as to be capable, with or without the aid of some other mechanical or electrical equipment, of being reproduced in legible or audible form,

(b) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electrical equipment, of being reproduced in visual form, and

(c) a photograph, map, plan, drawing or aeronautical chart,

and any reference to a copy of records includes, in the case of a record falling within *paragraph (a)* only, a transcript of the sounds or signals embodied therein, in the case of a record falling within *paragraph (b)*, a still reproduction of the images embodied therein and, in the case of a record falling within both of those paragraphs, such transcript together with such a still reproduction;

“relevant authority”, in relation to a contracting state, means—

(a) any court or tribunal which, under the law of that state, may determine questions as to whether or not a sum is due to Eurocontrol, the IANS or the Minister in respect of air navigation services provided by Eurocontrol, the IANS or the Minister or any other person,

(b) an administrative authority which, under the law of that state, may determine such questions, being a determination which, in that state, is subject to appeal to, or review by, a court or tribunal, or

(c) a court or tribunal which, under the law of that state, may determine an appeal from, or carry out a review of, a determination made in respect of any such questions by another relevant authority;

“State aerodrome” means Cork Airport, Dublin Airport or Shannon Airport;

“State authority” means a Minister of the Government, the Commissioners of Public Works Ireland or an agent of the Minister;

“subsidiary” means a subsidiary (within the meaning of section 7 of the Act of 2014) of the IANS;

“vesting day” means the day appointed under *section 10(3)* to be the vesting day.

(2) A reference in this Act to a certificate or licence includes a reference to an instrument of approval or other authorisation or permission and a reference in this Act to the grant or renewal of a certificate or licence includes a reference to the validation, revalidation or variation of the certificate or licence.

(3) Where any function of the IANS is, under the memorandum of association of a subsidiary, a function of the subsidiary, every provision of, or of any instrument made under, this Act or any other enactment relating to the IANS shall, in respect of that function, apply to the subsidiary as it applies to the IANS.

- (4) Where any function of the IAA is, under the memorandum of association of a subsidiary of the IAA, a function of the subsidiary, every provision of, or of any instrument made under, this Act or any other enactment relating to the IAA shall, in respect of that function, apply to the subsidiary as it applies to the IAA.

#### Application to state aircraft

3. (1) Subject to *subsection (2)*, this Act (other than this section) shall not apply to state aircraft or to aerodromes under the control of the Minister for Defence.
- (2) The Minister may by order declare that specified provisions of, or of instruments made under, this Act shall, with any specified modifications, apply to state aircraft (other than state aircraft of the State), and any such provision so declared shall apply and have effect accordingly.
- (3) In this section, “state aircraft” means aircraft of any state used in the military, customs or police service of that state.

#### Regulations, etc.

4. Every order (other than an order made under *section 1(2)* or *15*) or regulation made by the Minister or the IANS under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

#### Directions by Minister to IANS

5. (1) The Minister may give a direction in writing to the IANS—
- (a) requiring the IANS—
- (i) to comply with policy decisions of a general kind made by the Government in relation to aviation in so far as the decisions affect functions of the IANS, or
- (ii) to do or refrain from doing anything to which a function of the IANS relates specified in the direction the doing, or the refraining from the doing, of which is, in the opinion of the Minister—
- (I) necessary or expedient in the national interest, or
- (II) for the purpose of enabling the Government or the State to—
- (A) become a member of an international organisation whose principal function or one of whose principal functions relates to air navigation,
- (B) become a party to an international agreement relating wholly or mainly to air navigation, or
- (C) discharge its obligations as a member of such an organisation or as a party to such an agreement,

or

- (b) whenever the Minister is satisfied that the interests of the State or the public so require, requiring the IANS to achieve and maintain, in relation to the measures taken by it and the human and material resources employed by it for the purpose of safeguarding civil aviation against acts of unlawful interference, standards not lower than those specified.
- (2) If the IANS considers that compliance by it with a direction under *subsection (1)* would adversely affect the safety of aircraft, it shall so inform the Minister.
- (3) The IANS shall comply with a direction given to it under *subsection (1)*.

#### **Disposal of moneys received by Minister**

6. Moneys received by the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

#### **Expenses**

7. Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

#### **Repeals**

8. (1) Section 43 of the Act of 1993 is repealed.
- (2) Subject to section 44(4) and (5) of the Act of 1993, [section 23](#) of the [Aviation Regulation Act 2001](#) is repealed.

## **PART 2**

### **FORMATION AND ADMINISTRATION OF IRISH AIR NAVIGATION SERVICE**

#### **Definition - Part 2**

9. In this Part, “superannuation benefits” means pensions, gratuities or other allowances payable on resignation, retirement or death.

#### **Formation of Irish Air Navigation Service**

10. (1) The Minister shall, as soon as is practicable after the commencement of this section and after consultation with the Minister for Public Expenditure and Reform, cause a DAC limited by shares, conforming to the conditions laid down in this Act, to be formed and registered under Part 16 of the Act of 2014.
- (2) The name of the company referred to in *subsection (1)* shall be Seirbhís Aerloingseoireachta na hÉireann or, in the English language, the Irish Air Navigation Service.
- (3) The Minister shall, as soon as is practicable after he or she has complied with *subsection (1)*, by order appoint a day to be the vesting day for the purposes of this Act.
- (4) In this section, “DAC limited by shares” has the same meaning as it has in section 963 of the Act of 2014.

**Annotations****Editorial Notes:**

- E5** Power pursuant to subs. (3) exercised (1.05.2023) by *Air Navigation and Transport Act 2022 (Vesting Day) Order 2023* (S.I. No. 218 of 2023), in effect as per art. 2.
2. The 1st day of May 2023 is appointed to be the vesting day for the purposes of the Air Navigation and Transport Act 2022 (No. 40 of 2022).

**Alternative or additional names for IANS**

- 11.** Notwithstanding *section 10*, the IANS may, for operational purposes, describe itself by any of the following, whether as an alternative to, or in addition to, any other name by which it may describe itself by virtue of this Act:
- (a) Air Nav Ireland;
  - (b) AirNav Ireland;
  - (c) ANI.

**Capital formation**

- 12.** (1) The authorised share capital of the IANS shall be such amount as may be determined from time to time by the Minister for Public Expenditure and Reform, after consultation with the Minister, divided into shares of one euro each.
- (2) Section 969(1) of the Act of 2014 shall not apply to the IANS.

**Form of memorandum of association of IANS, etc.**

- 13.** The memorandum of association of the IANS and of any subsidiary shall be in such form, consistent with this Act, as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform.

**Objects of IANS**

- 14.** (1) The principal objects of the IANS shall be stated in its memorandum of association to be—
- (a) to operate and manage air navigation services in a safe and efficient manner and to facilitate their use,
  - (b) subject to section 68 of the Act of 1993, to provide, operate and manage, or arrange for the provision, operation and management of, air navigation services in Irish and other airspace,
  - (c) to such extent as the IANS considers appropriate, to operate and manage terminal services at State aerodromes and licensed aerodromes,
  - (d) to provide, operate and manage aeronautical communications services in accordance with the agreement set out in the Exchange of Notes between the Government of Ireland and the Government of the United Kingdom relating to the Oceanic Control Centres at Shannon and Prestwick which entered into force on the 1st day of April, 1966, and any agreement, whether made before or after 8 December 1993,

amending or replacing that agreement and to provide, operate and manage other aeronautical communications services,

- (e) to impose charges for the use of services provided by the IANS,
  - (f) to advise, on its own initiative or at the request of the Government, the Minister or another Minister of the Government or any other person in relation to any matter to which a function of the IANS relates,
  - (g) to take such measures as it considers necessary or expedient to give effect to the purposes of—
    - (i) the Eurocontrol Convention,
    - (ii) international agreements or conventions to which the State is a party,in so far as those purposes relate to matters to which functions of the IANS relate,
  - (h) to attend (by its directors or staff) whether alone or with others, at meetings with, or arranged or organised by, international organisations or governments of other states in so far as the meetings relate to matters to which functions of the IANS relate,
  - (i) to undertake research and development respecting the environment, and branches of science, in so far as the research and development relates to matters to which functions of the IANS relate, on its own behalf or on behalf of others,
  - (j) to undertake, or participate with others, including governments of other states, in, activities which are related to matters to which its functions relate, are consistent with its other objects and will, in the opinion of the IANS, enhance its effectiveness and profitability,
  - (k) to provide, in relation to matters to which its functions relate, such consultancy, advisory and training services in and outside the State as the IANS thinks fit,
  - (l) to provide aeronautical rescue co-ordination for search and rescue services within the search and rescue region in relation to rescue co-ordination centres, rescue co-ordination sub-centres and joint rescue co-ordination centres established by the State pursuant to Annex 12 to the Chicago Convention, and
  - (m) to utilise, manage and develop the resources available to it in a manner consistent with the objects set out in paragraphs (a) to (l).
- (2) Nothing in this section shall prevent or restrict the inclusion among the objects of the IANS, as stated in its memorandum of association, of all such objects and powers as are reasonably necessary or proper for or incidental or ancillary to the due attainment of the principal objects set out in *subsection (1)* and are not inconsistent with this Act or with the active promotion of air navigation safety and the orderly development of civil aviation.
- (3) Any function conferred on the IANS by or under this Act and which, immediately before the vesting day, was a function of the IAA, shall, upon that day, cease to be a function of the IAA and stand vested in the IANS.
- (4) In this section—
- “licensed aerodrome” means an aerodrome in respect of which a licence under Article 6 of the Irish Aviation Authority (Aerodromes and Visual Aids) Order 2008 (S.I. No. 355 of 2008) is in force;

“terminal services” has the meaning assigned to it by section 2 of the Act of 1993.

#### **Conferral of additional functions on IANS**

15. The Minister may, if he or she so thinks fit to do so and after consultation with the IAA and the IANS, by order—
- (a) confer on the IANS such additional functions relating to civil aviation and connected with the functions for the time being of the IANS as he or she considers appropriate, and
  - (b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the IANS of functions under this section or the performance by the IANS of functions so conferred.

#### **General duty of IANS**

16. (1) It shall be the general duty of the IANS—
- (a) to conduct its affairs so as to ensure that the revenues of the IANS are not less than sufficient taking one year with another to—
    - (i) meet all charges and costs which are properly chargeable to its revenue account,
    - (ii) generate the capital it requires, and
    - (iii) remunerate its capital and pay interest on and repay its borrowings,and
  - (b) to conduct its business at all times in a cost-effective and efficient manner.
- (2) Nothing in *section 14* or *subsection (1)* shall be construed as imposing on the IANS, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.
- (3) (a) The Minister may direct in writing the IANS to pay a dividend to the Exchequer of an amount determined by him or her and the IANS shall comply with the direction (including any period specified in the direction within which the dividend is required to be so paid).
- (b) The Minister may give the Board such general directives concerning the financial objectives of the Board as he or she considers appropriate and the Board shall, in performing its functions, have regard to such directives.

#### **Articles of association**

17. (1) The articles of association of the IANS shall be in such form consistent with this Act as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform.
- (2) The articles of association of the IANS shall provide that—
- (a) the number of directors (including the chairperson) of the IANS shall be 7, 8 or 9,



- (b) subject to *paragraph (c)*, the chairperson and other directors of the IANS—
- (i) shall be appointed by the Minister with the consent of the Minister for Public Expenditure and Reform, and
  - (ii) may be removed from office by the Minister with the consent of the Minister for Public Expenditure and Reform if, in the opinion of the first-mentioned Minister—
    - (I) the director has become incapable through ill health of effectively performing the functions of such director, or
    - (II) the director's removal appears to be necessary for the effective performance of the functions of the IANS,
- (c) subject to *paragraphs (d) and (e)*, each director of the IANS shall be appointed for a period of not more than 5 years but be eligible for reappointment,
- (d) if the Minister appoints, amongst the first directors, a director of the IAA to be a director of the IANS—
- (i) the consent referred to in *paragraph (b) (i)* is not required in respect of that appointment, and
  - (ii) the appointment shall be for the unexpired portion of the period the director of the IAA had left to run as such director at the time his or her appointment takes effect as a director of the IANS,
- (e) of the first directors of the IANS, other than the chairperson or any director to whom *paragraph (d)* applies, one-third (or as near as may be), who shall be selected by lot at the first meeting of directors, shall hold office for a period of 2 years, one-third (or as near as may be), who shall be selected by lot at such meeting, shall hold office for a period of 3 years and one-third (or as near as may be), who shall be selected by lot at such meeting, shall hold office for a period of 5 years,
- (f) the directors may act notwithstanding one or more vacancies in their number,
- (g) the remuneration and allowances for expenses of the chairperson and other directors of the IANS shall be determined by the Minister with the consent of the Minister for Public Expenditure and Reform,
- (h) a person shall not be appointed as auditor of the IANS without the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform,
- (i) the IANS may, in consultation with recognised trade unions and staff associations, review the existing machinery for the purposes of negotiations concerned with the pay and conditions of service of its staff,
- (j) the IANS may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, acquire or establish subsidiaries or invest in other undertakings for the purpose of carrying out its objects as stated in its memorandum of association, and may assign any of its functions to subsidiaries,
- (k) the IANS shall not dispose of a subsidiary to which a function specified in any of *paragraphs (a) to (k)* of *section 14(1)* stands assigned, and

- (l) the aggregate amount standing invested (whether by the purchase of shares or the provision of loans or guarantees of loans) by the IANS in enterprises (including subsidiaries) shall not exceed €25,000,000 without the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, such investments by a subsidiary being regarded for the purposes of this paragraph as investments of the IANS.
- (3) A director of the IANS to whom *subsection (2) (d)* applies shall, by virtue of this subsection and notwithstanding anything contained in the Act of 1993 or the Act of 2014, cease to be a director of the IAA immediately upon the date on which his or her appointment as a director of the IANS takes effect.

#### **Restriction on alteration of memorandum or articles of association**

18. Notwithstanding anything contained in the Act of 2014, an alteration in the memorandum of association or articles of association of the IANS or of a subsidiary shall not be valid or effectual unless made with the prior approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

#### **Issue of shares, and creation of debt due, to Minister for Public Expenditure and Reform in consideration of transfer of property**

19. The IANS shall issue to the Minister for Public Expenditure and Reform on the vesting day such number of shares in the share capital of the IANS as may be agreed upon by the Minister and the Minister for Public Expenditure and Reform and may from time to time thereafter issue to the Minister for Public Expenditure and Reform such number of shares of the IANS as may be so agreed upon.

#### **Issue of share to Minister**

20. (1) The IANS shall issue to the Minister one share of one euro in the share capital of the IANS.
- (2) The Minister may exercise in respect of his or her share in the share capital of the IANS all the rights and powers of a holder of such shares and, where a right or power is exercisable by attorney, exercise it by his or her attorney.
- (3) The cost of such share shall be advanced to the Minister out of the Central Fund or the growing produce thereof.
- (4) The Minister shall not transfer or alienate his or her share in the share capital of the IANS.

#### **Issue of shares to subscribers to memorandum of association of IANS**

21. (1) The IANS shall issue one share of one euro in the share capital of the IANS to each of the subscribers to the memorandum of association of the IANS.
- (2) The cost of such shares shall be advanced to the subscribers out of the Central Fund or the growing produce thereof.

#### **Exercise of powers by Minister for Public Expenditure and Reform in respect of shares**

22. The Minister for Public Expenditure and Reform may, subject to this Act, exercise in respect of the shares of the IANS held by him or her all the

rights and powers of a holder of such shares and, where a right or power is exercisable by attorney, exercise it by his or her attorney.

#### **Transfer by Minister for Public Expenditure and Reform of shares**

- 23.** (1) The Minister for Public Expenditure and Reform may, from time to time as occasion requires, for the purpose of compliance with so much of the Act of 2014 as requires that there shall always be a minimum number of members of the IANS, transfer to any person one of his or her shares in the share capital of the IANS.
- (2) The Minister for Public Expenditure and Reform shall not transfer or alienate his or her shares in the share capital of the IANS other than as authorised by *subsection (1)*.

#### **Obligation of certain shareholders to hold shares in trust**

- 24.** (1) A member of the IANS to whom a share in the share capital of the IANS is issued as a subscriber under *section 21* or transferred under *section 23(1)* or this section shall hold that share in trust for the Minister for Public Expenditure and Reform and shall, accordingly, be bound to pay all dividends and other money which he or she receives in respect of the share to the Minister for Public Expenditure and Reform for the benefit of the Exchequer and to transfer, as and when required by the Minister for Public Expenditure and Reform, the share to him or her or a person nominated in that behalf by him or her.
- (2) A member of the IANS shall not transfer or alienate his or her share in the share capital of the IANS other than as authorised by *subsection (1)*.
- (3) Upon the death of a member of the IANS referred to in *subsection (1)*, the share in the share capital of the IANS held by the member shall, without the necessity for a transfer, vest in the Minister for Public Expenditure and Reform.

#### **Payment of dividends, etc., into Exchequer**

- 25.** All amounts representing dividends or other money received by the Minister for Public Expenditure and Reform in respect of shares held by him or her in the share capital of the IANS and all amounts representing repayment of or interest on repayable advances received or recovered by him or her from the IANS shall be paid into or disposed of for the benefit of the Exchequer in such manner as he or she may direct.

#### **Borrowing by IANS and subsidiaries**

- 26.** (1) Subject to *subsection (2)* and the consent of the Minister and the Minister for Public Expenditure and Reform, the IANS or a subsidiary may, whether by means of the issue of debentures or otherwise, borrow money (including money in a currency other than the currency of the State) for capital purposes including working capital from persons other than the Minister for Public Expenditure and Reform.
- (2) The aggregate at any one time of borrowings under *subsection (1)* shall not exceed—
- (a) such amount as the Minister has, with the consent of the Minister for Public Expenditure and Reform, specified by order, or
- (b) if no such amount stands so specified, €127 million.

- (3) The IANS or a subsidiary may borrow money (including money in a currency other than the currency of the State) temporarily but the aggregate standing unrepaid at any time of such borrowings shall not exceed such amount as may stand approved for the time being by the Minister and the Minister for Public Expenditure and Reform.
- (4) For the purposes of this section, moneys borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed, such equivalent being calculated at the rate of exchange prevailing at the time of the borrowing for that currency and the currency of the State.

#### **Guaranteeing by Minister for Public Expenditure and Reform of borrowing by IANS**

- 27.** (1) In relation to borrowings by the IANS under *section 26*, the Minister for Public Expenditure and Reform, after consultation with the Minister, may guarantee, in such form and manner and in such money (including money in a currency other than the currency of the State) and on such terms and conditions as he or she thinks fit any, or any combination, of the following:
- (a) the due repayment by the IANS of the principal of any money borrowed by the IANS;
  - (b) the due payment of instalments or other amounts of money owed by the IANS under a contract entered into by the IANS;
  - (c) the payment of interest on any money, instalment or amount;
  - (d) both the repayment of principal or payment of such instalments or amounts, as the case may be, and the payment of the interest;
  - (e) the payment of commission and incidental expenses arising in connection with such borrowings or such contract.
- (2) The Minister for Public Expenditure and Reform shall not so exercise the powers conferred on him or her by this section that the amount, or the aggregate amount, of money which he or she may at any one time be liable to pay on foot of any guarantee or guarantees under this section for the time being in force, together with the amount of money (if any) which he or she had previously paid on foot of any guarantee under this section and which has not been repaid by the IANS, exceeds—
- (a) such amount as the Minister has, with the consent of the Minister for Public Expenditure and Reform, specified by order, or
  - (b) if no such amount stands so specified, €102 million.
- (3) For the purpose of calculating the amount of borrowings or instalments or money guaranteed by the Minister for Public Expenditure and Reform under this section by reference to the limit on money in *subsection (2)*, the equivalent in the currency of the State of borrowings or instalments or other money in a foreign currency shall be calculated at the rate of exchange prevailing at the time of the giving of the guarantee for that currency and the currency of the State.
- (4) Where a guarantee under this section is or has been given, the IANS shall, if the Minister for Public Expenditure and Reform so requires, give to him or her such security (including, in particular, debentures) as may be specified in the requirement for the purpose of securing to that Minister the repayment of any money which he or she may be liable to pay or has paid under the guarantee.

- (5) The Minister for Public Expenditure and Reform shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force at, the commencement of that year—
- (a) particulars of the guarantee,
  - (b) in case any payment has been made by him or her under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to him or her on foot of the payment, and
  - (c) the amount of money covered by the guarantee which was outstanding at the end of that year.
- (6) Money paid by the Minister for Public Expenditure and Reform under a guarantee under this section shall be repaid to him or her (with interest thereon at such rate or rates as he or she appoints) by the IANS within such period from the date of payment by that Minister as may be specified by him or her after consultation with the IANS.
- (7) Where the whole or any part of the money required by *subsection (6)* to be repaid to the Minister for Public Expenditure and Reform has not been repaid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.
- (8) Notwithstanding the provision of money under *subsection (7)* to repay an amount to the Central Fund, the IANS shall remain liable to the Minister for Public Expenditure and Reform in respect of that amount and that amount (together with interest thereon at such rate or rates as that Minister appoints) shall be repaid to that Minister by the IANS at such times and in such instalments as he or she appoints and, in default of such repayment and without prejudice to any other method of recovery, shall be recoverable by him or her from the IANS as a simple contract debt in any court of competent jurisdiction.
- (9) In relation to a guarantee under this section in money in a currency other than the currency of the State—
- (a) each of the references to principal, each of the references to instalments or other amounts of money, each of the references to interest and the reference to commission and incidental expenses in *subsection (1)* shall be taken as referring to the equivalent in the currency of the State of the actual principal, the actual instalments or other amounts of money, the actual interest or the actual commission and incidental expenses, as may be appropriate,
  - (b) the reference to the amount of money in *subsection (5) (c)* covered by the guarantee which was outstanding at the end of that year shall be taken as referring to the equivalent in the currency of the State of the actual amount of money, such equivalent being calculated according to the rate of exchange prevailing for the time being for that currency and the currency of the State, and
  - (c) each of the references to money in *subsections (6) to (8)* shall be taken as referring to the cost in the currency of the State of the actual money.

#### **Provision of money for payments out of Central Fund**

- 28.** (1) All money from time to time required by the Minister for Public Expenditure and Reform to meet sums which may become payable by him

or her under *section 27* shall be advanced out of the Central Fund or the growing produce thereof.

- (2) The Minister for Public Expenditure and Reform may, for the purpose of providing for advances out of the Central Fund under this section, borrow on the security of the Central Fund or the growing produce thereof any sums required for that purpose and, for the purpose of such borrowing, he or she may create and issue securities bearing interest at such rate and subject to such conditions as to repayment, redemption or any other matter as he or she thinks fit, and shall pay all sums so borrowed into the Exchequer.
- (3) The principal of and interest on all securities issued under this section and the expenses incurred in connection with the issue of the securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

#### **Accounts and audits**

29. (1) Without prejudice to the requirements of the Act of 2014, the IANS shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts, and shall also keep in such form all such special accounts as the Minister may from time to time direct.
- (2) Accounts kept pursuant to this section shall be submitted annually by the IANS to an auditor for audit and, immediately after the audit, a copy of the accounts and such other (if any) of the accounts kept by the IANS as the Minister may direct and a copy of the auditor's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

#### **Annual report and giving of information to Minister**

30. (1) Not later than 6 months after the end of each accounting year, the IANS shall submit a report in writing to the Minister of its activities and those of any subsidiaries during that year and, not later than 3 months after such submission, the Minister shall cause copies of the report to be laid before each House of the Oireachtas.
- (2) A report of the IANS under this section shall include information, in such form as the Minister may direct after consultation with the IANS and with the consent of the Minister for Public Expenditure and Reform, regarding the operations, cost-effectiveness and financial targets of the IANS and any subsidiaries.
- (3) The IANS shall, if so required by the Minister, give to him or her such information as he or she may require in respect of any balance sheet or other account or any report of the IANS or any subsidiaries or in relation to the policy and operations (other than day-to-day operations) of the IANS or any subsidiaries.

#### **Disclosure by directors of certain interests**

31. (1) (a) *Paragraph (b)* applies where, at a meeting of the directors of the IANS or any subsidiary, any of the following matters arise:
  - (i) an arrangement to which the IANS or a subsidiary is a party or a proposed such arrangement;

- (ii) a contract or other agreement with the IANS or a subsidiary or a proposed such contract or other agreement.
- (b) Any director of the IANS or the subsidiary concerned present at the meeting who otherwise than in his or her capacity as such a director is in any way, whether directly or indirectly, interested in the matter—
  - (i) shall at the meeting disclose to the IANS or the subsidiary, as the case may be, the fact of such interest and the nature thereof,
  - (ii) shall absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
  - (iii) shall take no part in any deliberations of the directors relating to the matter, and
  - (iv) shall not vote on a decision relating to the matter.
- (2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting.
- (3) Where, at a meeting of the directors of the IANS or a subsidiary, a question arises as to whether or not a course of conduct, if pursued by a director of the IANS or the subsidiary, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the chairperson of the meeting whose decision shall be final and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.
- (4) Section 231 of the Act of 2014 shall not apply to a director of the IANS or a subsidiary.
- (5) A person who contravenes *subsection (1)(b)* shall be guilty of an offence.
- (6) (a) *Paragraph (b)* applies to a person who is or was a director of the IANS on the day (in this subsection referred to as the “relevant day”) on which he or she becomes the subject of a ‘*section 31* adverse final determination’.
  - (b) Without prejudice to the generality of *section 17(2)(b)(ii)*, the person shall—
    - (i) on the relevant day, if applicable, cease to be a director of the IANS, and
    - (ii) on and after the relevant day, be disqualified from being a director of the IANS or a subsidiary.
- (7) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of the IANS from having any interest in contracts with the IANS.
- (8) In this section—
  - “relevant proceedings”, in relation to a person, means criminal proceedings instituted against the person for an offence under *subsection (5)*;
  - “*section 31* adverse final determination”, in relation to any relevant proceedings and a person, means—
    - (a) the person is found guilty of an offence under *subsection (5)* at the conclusion of those proceedings without the person making an appeal

against that finding within the ordinary time in the State for making such an appeal, or

(b) if such an appeal is made—

(i) the abandonment or withdrawal of the appeal, or

(ii) the determination of the appeal where such finding is upheld,

whichever first occurs.

#### **Disclosure by members of staff of certain interests**

**32.** (1) (a) Subject to *paragraph (b)*, where a member of the staff of the IANS or a subsidiary has an interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the IANS or the subsidiary is a party, he or she shall—

(i) disclose to the IANS or the subsidiary, as the case may be, his or her interest and the nature thereof,

(ii) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by directors or members of the staff of the IANS or the subsidiary in relation thereto, and

(iii) make no recommendation in relation to the contract, agreement or arrangement.

(b) *Paragraph (a)* shall not apply to contracts, or proposed contracts, of employment of members of the staff of—

(i) the IANS with the IANS, or

(ii) a subsidiary with the subsidiary.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

#### **Prohibition on unauthorised disclosure of information**

**33.** (1) A person shall not disclose confidential information obtained by him or her while performing duties as a director or member of the staff of, or an adviser or consultant to, the IANS or a subsidiary unless he or she is duly authorised by the IANS or the subsidiary, as the case may be, or by a member of the staff of the IANS or the subsidiary, as the case may be, duly authorised in that behalf, to do so.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

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

#### **Membership of either House of Oireachtas or European Parliament**

**34.** (1) Where a director of the IANS is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to the European Parliament, or



(c) regarded, pursuant to section 15 of the Act of 1977, as having been elected to such Parliament to fill a vacancy,

he or she shall thereupon cease to be a director of the IANS.

(2) Where a person employed by the IANS is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to the European Parliament, or

(c) regarded, pursuant to section 15 of the Act of 1977, as having been elected to Parliament to fill a vacancy,

he or she shall thereupon stand seconded from employment by the IANS and shall not be paid by, or be entitled to receive from, the IANS any 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 director of the IANS or for employment in any capacity by the IANS.

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting the reckoning of a period therein mentioned as service with the IANS for the purpose of any superannuation benefits.

(5) In this section, “Act of 1977” means the [European Assembly Elections Act 1977](#).

### Chief Executive

35. (1) There shall be a chief executive of the IANS (who shall be known as and is referred to in this Act as the “Chief Executive”).

(2) The first Chief Executive shall be the existing Chief Executive of the IAA and shall be appointed by the Minister for the unexpired portion of the period that he or she had left to run as the Chief Executive of the IAA at the time that his or her appointment as the Chief Executive of the IANS takes effect, and may be removed from office by the Minister during that period.

(3) Each subsequent Chief Executive of the IANS shall be appointed and may be removed from office by the directors of the IANS after consultation with the Minister.

(4) The functions of the Chief Executive shall be to—

(a) carry on, manage and control generally the administration of the IANS,

(b) advise the directors of the IANS on any matter relating to or affecting the functions of the IANS relating to the safety of air navigation services,

(c) advise the directors of the IANS on any matter relating to or affecting the other functions of the IANS, and

(d) comply with the lawful directions of the directors of the IANS.

- (5) The Chief Executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the directors of the IANS after consultation with the Minister and with the consent of the Minister for Public Expenditure and Reform.
- (6) The existing Chief Executive of the IAA shall, by virtue of this subsection, cease to be the Chief Executive of the IAA immediately upon the date on which his or her appointment as the Chief Executive of the IANS takes effect.

#### Remuneration, etc., of staff

36. (1) Without prejudice to the requirements of *section 37*, the IANS, in determining the remuneration or allowances for expenses to be paid to members of its staff or the other terms or conditions subject to which such members hold or are to hold their employment, shall have regard to Government or nationally agreed guidelines which are for the time being extant or to Government policy concerning remuneration and conditions of employment which is so extant.
- (2) The IANS shall, in addition to complying with *subsection (1)*, comply with any directives with regard to the remuneration, allowances, terms or conditions referred to in that subsection which the Minister may give to the IANS with the consent of the Minister for Public Expenditure and Reform.

#### Transfer of staff of IAA to IANS

37. (1) (a) Every person who is a member of the staff of the IAA working wholly or mainly in connection with air navigation service provision immediately before the vesting day shall, on that day, be transferred to and become a member of the staff of the IANS.
- (b) Every person who is a member of the staff of the IAA who is not working wholly or mainly in connection with air navigation service provision immediately before the vesting day shall, on that day, remain a member of the staff of the IAA.
- (c) (i) *Subparagraph (ii)* applies where—
- (I) a dispute arises in relation to whether a person is, or is not, working wholly or mainly in connection with air navigation service provision, or
- (II) it cannot be determined whether a person is, or is not, working wholly or mainly in connection with air navigation service provision.
- (ii) The IAA shall, following consultation with any recognised trade unions and staff associations concerned, determine whether the person concerned shall—
- (I) be transferred to and become a member of the staff of the IANS, or
- (II) remain a member of the staff of the IAA.
- (iii) In this paragraph, “person” includes a group of persons.
- (d) The Minister may give directions in writing to the IAA as to the criteria to be applied in resolving a situation referred to in *paragraph (c)(i)* or *(ii)* and the IAA shall comply with those directions.

- (2) Except in accordance with a collective agreement negotiated with any recognised trade unions and staff associations concerned, a person referred to in *subsection (1)(a)* shall not, while in the service of the IANS, be brought to less beneficial conditions of service (including conditions in relation to tenure of office) or of remuneration than the conditions of service (including conditions in relation to tenure of office) or remuneration to which he or she was subject immediately before the vesting day.
- (3) In relation to persons transferred to the IANS under *subsection (1)*, previous service with the IAA (and, if section 40(3) of the Act of 1993 applied to any such persons immediately before the vesting day, previous service by them in the civil service) shall be reckonable for the purposes of, but subject to any exceptions or exclusions in the following enactments:
- (a) the Redundancy Payments Acts 1967 to 2014;
  - (b) the [Protection of Employees \(Part-Time Work\) Act 2001](#);
  - (c) the [Protection of Employees \(Fixed-Term Work\) Act 2003](#);
  - (d) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (e) the Unfair Dismissals Acts 1977 to 2015;
  - (f) the Terms of Employment (Information) Acts 1994 to 2014;
  - (g) the [Organisation of Working Time Act 1997](#);
  - (h) the Parental Leave Acts 1998 and 2019;
  - (i) the [Carer's Leave Act 2001](#);
  - (j) the Maternity Protection Acts 1994 and 2004;
  - (k) the Adoptive Leave Acts 1995 and 2005;
  - (l) the [Paternity Leave and Benefit Act 2016](#).

### Superannuation

- 38.** (1) Subject to *subsection (11)*, the IANS shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the IANS as it may think fit.
- (2) Every such scheme 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 such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.
- (4) A scheme submitted by the IANS under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the IANS in accordance with its terms.
- (5) Superannuation benefits granted under schemes under this section to persons who, immediately before the vesting day, were members of the staff of the IAA, and the terms and conditions relating to those benefits, shall not be less favourable to those persons than those to which they were entitled immediately before that day.

- (6) No superannuation benefit shall be granted by the IANS nor shall any other arrangements be entered into by the IANS for the provision of such a benefit to or in respect of a member of the staff of the IANS otherwise than in accordance with a scheme under this section or a scheme for the granting of superannuation benefits to or in respect of a member of staff of the IAA established pursuant to the Act of 1993.
- (7) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable pursuant to a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure and Reform, for determination by him or her.
- (8) Where, in the period beginning on the vesting day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was transferred to the staff of the IANS under *section 37*, the benefit shall be calculated by the IANS in accordance with such scheme, or such enactments in relation to superannuation, as applied to the person immediately before the vesting day and, for that purpose, his or her pensionable service with the IANS shall be aggregated with his or her previous pensionable service and shall be paid by the IANS out of the fund established under *subsection (9)*.
- (9) The IANS shall, as soon as may be after the vesting day, establish a fund administered by trustees who shall be appointed by the IANS from which superannuation benefits payable under a scheme under this section shall be paid.
- (10) A scheme under this section shall be laid before each House of the Oireachtas 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.
- (11) A scheme prepared and submitted under this section shall not provide for the granting of superannuation benefits to or in respect of any person where the Single Public Service Pension Scheme applies to that person by virtue of Chapter 2 of Part 2 of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*.

#### **Acquisition of land and entry onto land by IANS**

- 39.** (1) The IANS may acquire by agreement or, in accordance with the Second Schedule to the Act of 1998 (as applied by this section) compulsorily, any land or any easement or other right over land, or any water right, for the purpose of the performance of the functions conferred on it by this Act.
- (2) Notwithstanding any other enactment, no person shall be entitled to acquire compulsorily any land or any easement or other right in respect of land belonging to the IANS, or to alienate, terminate, restrict or otherwise interfere with, without the agreement of the IANS, any right of the IANS in respect of such land.
- (3) The IANS shall not be entitled to acquire compulsorily under this section any land, easement or other right belonging to the State or a State authority.
- (4) The Second Schedule to the Act of 1998 shall, for the purposes of the acquisition of land by the IANS under this section, apply with the following modifications:

- (a) the reference in subparagraph (1) of paragraph 1 to “section 17” shall be construed as a reference to this section, and
  - (b) a reference to “the company” shall be construed as a reference to the IANS.
- (5) Section 19 of the Act of 1998 shall, for the purposes of this section, apply subject to the following modifications:
- (a) references to an “authorised person” shall be construed as references to an officer of the IANS authorised by the IANS for the purposes of this section, and
  - (b) references to “the company” shall be construed as references to the IANS.

### PART 3

#### FEES AND CHARGES OF IANS

##### **Charges by IANS in respect of air navigation and aeronautical communications services**

- 40.** (1) (a) (i) Subject to *subsection (3)*, the IANS may, with the consent of the IAA, by regulations require the payment to Eurocontrol, the IANS or the Minister of such charges, at such rates and in such currencies as may be prescribed by the IANS in respect of air navigation services and aeronautical communications services which, whether pursuant to international arrangements or otherwise, are provided for aircraft by Eurocontrol, the IANS or the Minister.
- (ii) Regulations made under this section may provide for charges payable by virtue of such regulations to be so payable elsewhere than in the State and to be recoverable in the State wherever they are payable (without prejudice to their recovery elsewhere).
  - (iii) Regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the IANS to be necessary or expedient for the purposes of the regulations.
- (b) Charges prescribed by regulations made under this section may relate to all or part of the period or to all or part of an area of airspace in or in relation to which air navigation services or aeronautical communications services referred to in *paragraph (a)* are provided for aircraft.
- (2) (a) Liability for the payment of any charge payable by virtue of regulations made under this section may be imposed upon the operators of aircraft for which the services concerned are made available which are being operated in a place where they are made available or upon the owners of such aircraft (whether or not, in either case, they are actually used or could be used with the equipment installed in the aircraft) or upon the managers of aerodromes used by such aircraft or upon any 2 of those persons or upon all of them.
- (b) In *paragraph (a)*, “owners”, in relation to an aircraft, means the persons who are registered as the owners of the aircraft in—
- (i) the register established under the [Air Navigation and Transport Act 1946](#),

- (ii) a register established under section 60 of the Act of 1993, or
  - (iii) a corresponding register established in a state other than the State.
- (3) The rates of charge prescribed under this section shall—
- (a) in the case of charges payable to Eurocontrol, be such rates as may be specified pursuant to tariffs approved under any international agreement to which the State is a party, and
  - (b) in the case of charges payable to the Minister, be such rates as the IANS may determine with the consent of the Minister,
- and there may be so prescribed different rates of charge in respect of aircraft of different classes or descriptions or in respect of aircraft used in different circumstances, and the regulations may provide for the payment, with any charges or separately, of interest on the charges in respect of any period during which the charges were due but not paid and may dispense with the payment of charges or interest on charges in such cases as may be specified by or determined under the regulations.
- (4) For the purpose of facilitating the assessment and collection of charges payable by virtue of regulations made under this section, the regulations may make provision for requiring operators of aircraft or managers of aerodromes—
- (a) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as may be specified in the regulations and to preserve those records for such period as may be so specified,
  - (b) to produce for inspection at such times and by such officers of Eurocontrol as may be specified in the regulations, authorised officers, or officers of the IANS authorised by the IANS for the purposes of this section, records which are required by the regulations to be preserved by those operators or managers, and
  - (c) to give to Eurocontrol, the IAA, the IANS or the Minister such particulars of any such records as may be specified in the regulations.
- (5) (a) In any proceedings to which this subsection applies, any record made by any such person as may be designated by regulations made under this section, or by a person acting under the control of such a person, being a record purporting to state—
- (i) the position of any aircraft at any material time, or
  - (ii) the terms or contents of any message or signal transmitted to any aircraft, either alone or in common with other aircraft, or received from any aircraft, by the first-mentioned person, or by a person acting under the control of that person,
- shall, if produced from the custody of the first-mentioned person, be evidence of the matters stated in the record.
- (b) This subsection applies to proceedings in a court for the recovery of any charges payable by virtue of regulations made under this section or for an offence under this Act consisting of a contravention of regulations made under *subsection (4)*.
  - (c) The references in *paragraph (a)* to a record made by or by a person acting under the control of any person include references to a document or article purporting to be a copy of a record so made, and certified to be a true copy by the person who made the record or a person acting under his or her control; and, in relation to such a copy, that paragraph

shall have effect as if the words “, if produced from the custody of the first-mentioned person,” were omitted.

- (6) Liability for compliance with regulations made under this section may be imposed in relation to aircraft registered in the State and aircraft not so registered and whether or not the aircraft concerned are in or over the State at the time when the services to which charges prescribed by such regulations relate are provided and whether or not those services are provided from a place in the State.
- (7) Charges payable to the Minister or the IANS under regulations made under this section may be recovered by the Minister or the IANS, as the case may be, from the person by whom they are payable as a simple contract debt in any court of competent jurisdiction.
- (8) Until regulations made under *subsection (1)* are in force providing for the payment by the users thereof of charges in respect of services provided by the IANS at State aerodromes, the amount of any costs incurred by the IANS in providing the services shall be paid by the IAA to the IANS subject to the deduction by the IAA of such amount as may be agreed on by it and the IANS in respect of the cost of the collection of those charges.
- (9) Regulations made under this section may make such provision as the IANS considers necessary or expedient for the purpose of complying with a direction given under *section 42(1)(a)(ii)*.

#### Other charges by IANS

41. (1) The IANS may charge such amounts as it considers appropriate in respect of any of the following:
  - (a) the performance by it of its functions under this Act or any other enactment;
  - (b) services provided by it to other persons (other than services referred to in *section 40*);
  - (c) property, real or personal, sold, hired or leased by it to other persons.
- (2) The IANS may charge such amounts as the IAA considers appropriate in respect of any functions performed by the IANS pursuant to the European Union Regulations listed in *Schedule 1*.
- (3) Without prejudice to the *European Communities Act 1972*, the Minister may by order amend *Schedule 1*—
  - (a) by the insertion therein of a reference to a European Union Regulation, or
  - (b) by the deletion therefrom of a reference to a European Union Regulation.
- (4) An amount due by a person to the IANS in respect of a charge under this section may be recovered by the IANS from the person as a simple contract debt in any court of competent jurisdiction.

#### Recoupment by Minister of certain costs of IANS

42. (1) (a) The Minister may, with the consent of the Minister for Public Expenditure and Reform, give a direction to the IANS—
  - (i) requiring the IANS to exempt specified classes of users of aeronautical communications services, or specified aeronautical communications

services, provided by the IANS from the payment of fees or charges to the IANS for the provision of those services, or

(ii) requiring the IANS, in accordance with the International Civil Aviation Organisation and Eurocontrol charging principles, to provide by regulations made under *section 40* for the exemption from the payment to the IANS of charges or fees imposed under that section for the provision by the IANS of air navigation services or aeronautical communications services in respect of specified classes of flights by aircraft or specified classes of persons.

(b) The IANS shall comply with a direction given to it under this subsection.

(c) The Minister shall pay to the IANS an amount equal to the amount of any costs incurred by it in the provision of services or the performance of functions to which an exemption specified in a direction under this subsection relates.

(2) Payments under this section shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

(3) In this section, “International Civil Aviation Organisation and Eurocontrol charging principles” means the principles specified in and developed under and in accordance with the provisions of Article 15 of the Chicago Convention and any amendment thereof whether made before or after 8 December 1993 and the principles specified in the document entitled “Conditions of Application of the Route Charges Systems and Conditions of Payment” reference doc. 20.60.02, published by Eurocontrol and any amendment thereof, whether made before or after 8 December 1993.

#### **Detention and sale of aircraft by IANS for unpaid air navigation and aeronautical communications services charges**

**43.** Section 40 of the Act of 1998 shall, for the purposes of this Act, apply subject to the following modifications:

(a) references (other than in paragraph (c) of subsection (9) and subsection (10)) to “charges imposed by the company under section 39” or to “charges” shall be construed as references to charges imposed or levied under *section 40* or *41*;

(b) references (other than in paragraph (c) of subsection (9)) to “the company” shall be construed as references to the IANS.

## **PART 4**

### **PROVISIONS IN RELATION TO EUROCONTROL, INTERNATIONAL AGREEMENTS AND CERTAIN ORGANISATIONS**

#### **CHAPTER 1**

##### *Provisions in relation to Eurocontrol*

#### **Venue for proceedings for recovery of sums due to Eurocontrol**

**44.** (1) Proceedings for the recovery of a sum due by a person to Eurocontrol in respect of air navigation services or aeronautical communications services provided by Eurocontrol or any other person shall be brought—



- (a) if the residence or, as the case may be, the registered office of the first-mentioned person, is situated in a contracting state, in that state,
  - (b) if his or her residence or, as the case may be, his or her registered office is not situated in a contracting state, in any contracting state in which the person has a place of business,
  - (c) if his or her residence or, as the case may be, his or her registered office is not situated, and he or she has no place of business, in a contracting state, in any contracting state in which he or she has assets, or
  - (d) if his or her residence or, as the case may be, his or her registered office is not situated, and he or she has no place of business or assets, in a contracting state, in the contracting state in which Eurocontrol, for the time being, has its headquarters.
- (2) Proceedings in the State for the recovery of a sum due by a person to Eurocontrol may be taken against the person in any court of competent jurisdiction by Eurocontrol, the IANS or the Minister.

## CHAPTER 2

### *Provisions in relation to the International Civil Aviation Organisation, International Agreements and certain organisations*

#### **Expenses of international organisations**

- 45.** (1) Any sums required for the contribution by the State for membership of or for the organisation and operations of—
- (a) Eurocontrol,
  - (b) the European Civil Aviation Conference, or
  - (c) any other international organisation specified by the Minister by order after consultation with the IANS whose functions relate to a matter to which a function of the IANS relates,
- shall be paid by the Minister out of moneys provided by the Oireachtas.
- (2) The IANS shall pay to the Minister an amount equal to the amount of any payments made by him or her under *subsection (1)*.

#### **Attendance of IANS at meetings of or organised by certain international organisations**

- 46.** (1) (a) The IANS may attend a meeting of or organised by any of the organisations specified in *paragraph (b)* in so far as the meeting relates to a matter to which a function of the IANS relates with, in the case of an international organisation specified in *paragraph (b)(ii)*, the consent of the Minister and, if the organisation has functions in addition to those relating to civil aviation, the consent of the Minister for Foreign Affairs.
- (b) The organisations referred to in *paragraph (a)* are:
- (i) Eurocontrol;
  - (ii) any other international organisation of which the State is a member and whose functions relate to a matter to which a function of the IANS relates.

- (2) The IANS may and, if so directed by the Minister, shall attend, as an observer, a meeting of or organised by an international organisation of which the State is not a member if the subject matter of the meeting is or includes a matter to which a function of the IANS relates and such attendance is permitted by the organisation.
- (3) Wherever so requested by the Minister, the IANS shall submit to him or her a report in writing of the proceedings at a meeting referred to in *subsection (1) or (2)* attended by it or in relation to such matters arising at or relating to such a meeting as the Minister may specify.

#### Indemnification of staff

47. Where the IANS is satisfied that any member of the staff of the IANS has discharged his or her duties pursuant to the functions of the IANS in a *bona fide* manner, the IANS shall indemnify such member of staff against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

## PART 5

### MISCELLANEOUS

#### Offences

48. (1) Without prejudice to *subsection (2)*, if in relation to an aircraft there is a contravention of a provision of this Act or an instrument to which this section applies, the operator of the aircraft (not being the State) and the pilot in command thereof shall be deemed to have contravened the provision or instrument, as the case may be.
- (2) A person who contravenes or is deemed to have contravened an instrument to which this section applies or fails to comply with a condition thereof shall be guilty of an offence.
- (3) (a) *Paragraph (b)* applies to a person guilty of—
- (i) an offence under *section 31, 32 or 33*, or
  - (ii) an offence under *subsection (2)* (other than such an offence consisting of a contravention of regulations made under *section 40(4)*).
- (b) The person shall be liable—
- (i) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or
  - (ii) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or to both.
- (4) A person guilty of an offence consisting of a contravention of a regulation made under *section 40(4)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both.
- (5) A person who obstructs or impedes an officer of Eurocontrol, authorised officer or officer of the IANS in the performance of any function conferred on him or her by or under this Act shall be guilty of an offence and shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both.

- (6) In a prosecution of a person for an offence under this Act (other than under [section 31](#), [32](#) or [33](#)), it shall be a defence for the person to prove that the contravention concerned was due to stress of weather or other unavoidable cause and in a prosecution of the operator or pilot in command of an aircraft for such an offence, it shall be a defence for him or her to prove that the contravention concerned took place without his or her actual default or privity.
- (7) On conviction of a person on indictment for an offence under this Act, the court may, in addition to any other penalty, order any apparatus, equipment or other thing, other than an aircraft, used to commit the offence to be forfeited.
- (8) (a) In this section, “an instrument to which this section applies” means—
- (i) an order made under this Act,
  - (ii) the ANT Acts in so far as those Acts relate to a matter to which a function of the IANS relates,
  - (iii) the Air Navigation (Eurocontrol) Acts 1963 to 1983 in so far as those Acts relate to a matter to which a function of the IANS relates, or
  - (iv) a direction or authorisation to aircraft to proceed given under—
    - (I) this Act in so far as the direction or authorisation, as the case may be, relates to a matter to which a function of the IANS relates,
    - (II) the ANT Acts or an order or regulation made under those Acts in so far as the direction or authorisation, as the case may be, relates to a matter which a function of the IANS relates, or
    - (III) the ANT Acts and a certificate, licence or authorisation issued or given under this Act or those Acts in so far as the direction or authorisation, as the case may be, relates to a matter to which a function of the IANS relates.
- (b) The IANS shall not prosecute an offence relating to an authorisation to aircraft to proceed.
- (c) In this subsection, “authorisation to aircraft to proceed” means an authorisation or instruction, whether oral or in writing and by whatever name called given by or on behalf of the IANS to the pilot in charge of an aircraft in relation to the piloting, control or movement of the aircraft or otherwise in relation to the aircraft.
- (9) 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.

#### **Charge of rates on property of IANS**

- 49.** Property vested in the IANS on or after the vesting day shall from the commencement of the financial year (within the meaning of [section 288](#) of the Act of 2014) commencing next after the vesting day, be subject to rates chargeable by a local authority (within the meaning of the [Local Government Act 2001](#)) in the name of the IANS and not the name of the IAA.

## PART 6

## TRANSITIONAL PROVISIONS

**Continuance of certain instruments**

50. (1) An order, regulation, direction, licence, permission, register, registration, certificate, instrument of approval, notice, instruction or other instrument, document or record that was made, given, established, issued or granted under a provision of, or made under, the ANT Acts or the Act of 1993, that relates to a matter to which a function of the IANS relates and that is in force immediately before the vesting day shall, on and after the vesting day, in so far as it so relates, continue in force and may continue to be amended, revoked, cancelled, withdrawn, suspended or endorsed by the IANS.
- (2) References in any enactment or other record or document referred to in *subsection (1)* to the IAA shall, on and after the vesting day, in so far as the reference relates to a matter to which a function of the IANS relates, be construed as a reference to the IANS.

**Continuance of pending legal proceedings**

51. Any legal proceedings relating to a matter to which a function of the IANS relates and pending immediately before the vesting day to which the IAA, the Minister, any other State authority or the State is a party shall be continued with the substitution in the proceedings, in so far as they so relate, for any such party of the IANS.

**Transfer of land**

52. (1) (a) On the vesting day such land which, immediately before that day, was vested in the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners as may be designated by the Minister for the purposes of this section with the consent of the Minister for Public Expenditure and Reform and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, but subject to *subsection (2)*, stand vested in the IANS for all the estate or interest for which, immediately before the vesting day, it was vested in the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners, as the case may be, but subject to all trusts and equities affecting the land subsisting and capable of being performed.
- (b) On such day after the vesting day, but not more than one year thereafter, as may be specified by the Minister with the consent of the Minister for Public Expenditure and Reform, such land vested in the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners as may be designated by the Minister for the purposes of this section with the consent of the Minister for Public Expenditure and Reform and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, but subject to *subsection (2)*, stand vested in the IANS for all the estate or interest for which, immediately before the day so specified, it was vested in the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners, as the case may be, but subject to all trusts and equities affecting the land subsisting and capable of being performed.
- (2) *Subsection (1)* shall not operate to vest in the IANS any minerals or any rights of mining or taking minerals, or any foreshore, within the meaning of the [Foreshore Act 1933](#).

- (3) Where, immediately before the vesting day, land vested in the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners was being used for the purpose of a function of the IAA corresponding to a function of the IANS, the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners, as the case may be, may, upon and subject to such terms and conditions as the IAA, the Minister, the Minister for Public Expenditure and Reform or the Commissioners, as the case may be, determine, lease or let the land to, or license its use by, the IANS or a subsidiary.
- (4) This section shall not operate to vest in the IANS any rights or interests in relation to sovereign airspace.
- (5) In this section, “Commissioners” means the Commissioners of Public Works in Ireland.

#### Transfer of other property

- 53.** (1) On the vesting day all property other than land, including choses-in-action, which, immediately before that day, was the property of the IAA and was used in connection with a function of the IAA corresponding to a function of the IANS shall stand vested in the IANS without any assignment.
- (2) The Minister may on his or her own initiative and shall on the application of the IANS issue a certificate in respect of specified property stating, as he or she thinks proper, that the property vested in the IANS under this section or did not so vest and the certificate shall be conclusive evidence of the facts so stated.
- (3) Every chose-in-action transferred by *subsection (1)* to the IANS may, after the vesting day, be sued on, recovered or enforced by the IANS in its own name and it shall not be necessary for the IANS, the IAA or the Minister to give notice to the person bound by the chose-in-action of the transfer effected by that subsection.

#### Transfer of rights and liabilities

- 54.** (1) Subject to *sections 55* and *56*, all rights and liabilities of the IAA arising by virtue of any contract or commitment (expressed or implied) entered into by the IAA before the vesting day in relation to a function of the IAA corresponding to a function of the IANS shall on that day stand transferred to the IANS.
- (2) The Minister may on his or her own initiative and shall on the application of the IANS issue a certificate in respect of a specified contract or commitment stating, as he or she thinks proper, that the rights and liabilities of the IAA thereunder were transferred on the vesting day to the IANS under this section or were not so transferred and the certificate shall be conclusive evidence of the facts so certified.
- (3) Every right and liability transferred by *subsection (1)* to the IANS may, on and after the vesting day, be sued on, recovered or enforced by or against the IANS in its own name and it shall not be necessary for the IANS, the IAA or the Minister to give notice to the person whose right or liability is transferred by this section of such transfer.

#### Transitional financial provisions

- 55.** (1) The IANS shall pay to or in respect of every member of the staff of the IAA transferred to the staff of the IANS under this Act any amount due to or in respect of that staff member in respect of service as a staff member

and unpaid on the vesting day and the IANS shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, be reimbursed by the IAA in respect of any such payments (other than payments made in respect of untaken leave).

- (2) The IANS may pay any amounts owed by the IAA for goods and services provided to the IAA in the performance of a function of the IAA corresponding to a function of the IANS, and unpaid on the vesting day, and the IANS shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, be reimbursed by the IAA in respect of any such payments.
- (3) The IAA shall, with the consent of the Minister and the Minister for Public Expenditure and Reform, pay to the IANS an amount equal to the amount of any advance payments received by the IAA before the vesting day in respect of goods or services to be provided by the IANS on or after the vesting day less the amount of any costs incurred by the IAA in collecting such payments.
- (4) The IANS shall collect any amount due to the IAA after the vesting day in respect of goods or services provided by the IAA before the vesting day in the performance of a function of the IAA corresponding to a function of the IANS and, for the purposes of this provision, any such amount shall be deemed to be a simple contract debt due to the IANS that may be recovered by the IANS in any court of competent jurisdiction; and the IANS shall pay to the IAA an amount equal to the amount of any sum collected or recovered by it under this provision less the amount of any costs incurred by it in collecting or recovering the amount.
- (5) Where any payments fall to be made by the IANS in respect of overpayments made to the IAA for goods and services provided by the IAA before the vesting day in the performance of a function of the IAA corresponding to a function of the IANS, the IAA shall pay to the IANS an amount equal to the amount of the first-mentioned payments.
- (6) All sums required to be paid under this section shall become due and payable on such date or dates as the Minister, in consultation with the IAA and the IANS and with the consent of the Minister for Public Expenditure and Reform, may determine.
- (7) The IANS shall give to the IAA such records or other information as the IAA may require for the purposes of this section and the IAA or its officers may inspect and take copies of or of extracts from all relevant records of the IANS.
- (8) The IAA shall give to the IANS such records or other information as the IANS may require for the purposes of this section and the IANS or its officers may inspect and take copies of or of extracts from all relevant records held by the IAA, the Minister, his or her Department of the Government or other State authorities.
- (9) In the event of a disagreement as to any amount to be paid by the IAA to the IANS or by the IANS to the IAA under this section, the decision of the Minister, given with the consent of the Minister for Public Expenditure and Reform, shall be final.

#### **Liability for loss occurring before vesting day**

56. (1) Subject to *subsection (2)*, where a claim in respect of any loss, injury or damage arising out of the exercise before the vesting day of functions transferred to the IANS by or under this Act has not been made before that day or, if so made, has not been satisfied or otherwise disposed of, the

claim shall, after that day, lie against the IANS and not against the IAA, the Minister, any other State authority or the State.

- (2) *Subsection (1)* shall not apply in relation to a loss or an injury or damage referred to in that subsection if there is in force a policy of insurance under which the IAA is insured against any sum it is liable to pay by way of damages or costs in respect of the loss, injury or damage.
- (3) Where, before the vesting day, agreement in settlement of a claim to which *subsection (1)* relates has been reached between the parties and the terms of the agreement have not been implemented or judgment has been given in favour of the person making the claim and the judgment has not been enforced, the terms of the agreement or the judgment, as the case may be, shall, in so far as enforceable against the IAA, the Minister, any other State authority or the State, be enforceable against the IANS and not against the IAA, the Minister, any other State authority or the State.
- (4) Any claim made or proper to be made by the IAA, the Minister, any other State authority or the State in respect of any loss, injury or damage arising from the act or default of any person before the vesting day shall, where the claim relates to functions assigned to the IANS by or under this Act or any other enactment, be regarded as made by or proper to be made by the IANS and may be pursued and sued for by the IANS as if the loss, injury or damage had been suffered by the IANS.
- (5) Where, before the vesting day, settlement of a claim to which *subsection (4)* relates has been reached between the parties and the terms of the agreement have not been implemented or judgment has been given in favour of the IAA, the Minister, any other State authority or the State and the judgment has not been enforced, the terms of the agreement or the judgment, as the case may be, shall, in so far as enforceable by the IAA, the Minister, any other State authority or the State, be enforceable by the IANS.
- (6) This section shall not apply to a claim by one State authority against another.
- (7) The IAA shall pay to the IANS a sum equal to the amount of any payment made by the IANS in respect of a claim referred to in *subsection (1)* or *(3)* including any payment in respect of costs necessarily incurred in relation to the claim by any party.

## PART 7

### AMENDMENT OF IRISH AVIATION AUTHORITY ACT 1993

#### Amendment of section 2 of Act of 1993

57. Section 2 of the Act of 1993 is amended, in subsection (1)—

- (a) by the substitution of the following definition for the definition of “authorised officer”:

“‘authorised officer’ means a person authorised, or deemed to be authorised, under section 63B(1) to perform the functions conferred on authorised officers by or under this Act or the *Air Navigation and Transport Act 2022*;”

- (b) by the substitution of the following definition for the definition of “authorised officer of the company”:

“‘authorised officer of the company’ means a person referred to in the definition of ‘authorised officer’ authorised in writing by the company to perform the functions conferred on authorised officers of the company by or under this Act or the *Air Navigation and Transport Act 2022*;”,

(c) by the substitution of the following definition for the definition of “record”:

“‘record’ includes, in addition to a record in writing and an electronic record and—

(a) a disc, tape, sound-track or other device in which data, sounds or signals are embodied so as to be capable, with or without the aid of some other mechanical or electrical equipment, of being reproduced in legible or audible form,

(b) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electrical equipment, of being reproduced in visual form, and

(c) a photograph, map, plan or drawing,

and any reference to a copy of records includes, in the case of a record falling within paragraph (a) only, a transcript of the sounds or signals embodied therein, in the case of a record falling within paragraph (b), a still reproduction of the images embodied therein and, in the case of a record falling within both of those paragraphs, such transcript together with such a still reproduction;”,

and

(d) by the insertion of the following definitions:

“‘electronic device’ includes any device that uses electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data, or both store and transmit data;

‘electronic record’ includes electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means of storing data, or other forms of related technology, or any combination thereof, by means of which data is stored;

‘Irish Coast Guard’ means that part of the Department of Transport that is known by that name;”.

#### **Amendment of section 14 of Act of 1993**

**58.** Section 14 of the Act of 1993 is amended—

(a) in subsection (1)(a), by the substitution of “Schedule 1” for “the Schedule”, and

(b) by the substitution of the following subsections for subsection (6):

“(6) (a) For the avoidance of doubt, the reference to ‘(including making regulations)’ in subsection (3) includes making regulations that apply to the Irish Coast Guard.

(b) The company shall consult with the Irish Coast Guard before it makes regulations that apply to the Irish Coast Guard.



- (c) The company shall, in making regulations that apply to the Irish Coast Guard, have regard to—
- (i) the public benefit of the Irish Coast Guard,
  - (ii) the need to balance safety regulation with the need to provide effective emergency aviation responses to medical emergencies, accidents and serious incidents within the State,
  - (iii) the need to provide for greater specificity in relation to the regulatory framework for the oversight of aviation activities by and for the Irish Coast Guard, and
  - (iv) any regulations made under section 69A.”.

**Amendment of section 16 of Act of 1993**

59. Section 16 of the Act of 1993 is amended by the insertion of the following subsection after subsection (1):

- “(1A) (a) It shall be the duty of the company to provide such assistance and advice as the Minister may require it to provide for the Minister or any other person in connection with any of the Minister’s functions relating to civil aviation.
- (b) A requirement under paragraph (a) may be expressed as a continuing requirement in relation to a type of assistance or advice specified in the requirement.
- (c) It shall be the duty of the company to give the Minister such information as the Minister may specify and the company has or can reasonably be expected to obtain with respect to such matters relating to it or to civil aviation as the Minister may specify.
- (d) It shall be the duty of the company to permit the Minister to have access to all documents which are under its control and relate to matters specified pursuant to paragraph (a), (b) or (c).
- (e) The company shall be entitled to recover expenses reasonably incurred by it in providing assistance or advice to the Minister pursuant to this subsection.”.

**Amendment of section 17 of Act of 1993**

60. Section 17 of the Act of 1993 is amended—

(a) in subsection (2)—

- (i) by the substitution of “Subject to subsection (3), the articles” for “The articles”,
- (ii) in paragraph (a), by the substitution of “7, 8 or 9” for “9”,
- (iii) in paragraph (c)(i), by the substitution of “not more than 5 years” for “4 years”, and
- (iv) by the deletion of paragraph (f),

and

(b) by the insertion of the following subsection after subsection (2):

“(3) Paragraphs (a) and (b) of subsection (2) shall not apply to a director of the company who is such director by virtue of section 38(6).”.

#### **Amendment of section 23 of Act of 1993**

**61.** Section 23 of the Act of 1993 is amended—

(a) in subsection (1), by the deletion of “for the purpose of compliance with so much of the Companies Acts, 1963 to 1990, as requires that there shall always be a minimum number of members of the company,”, and

(b) by the deletion of subsection (2).

#### **Amendment of section 26 of Act of 1993**

**62.** Section 26 of the Act of 1993 is amended, in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) The aggregate at any time of borrowings under paragraph (a) shall not exceed—

(i) such amount as the Minister has, with the consent of the Minister for Public Expenditure and Reform, specified by order, or

(ii) if no such amount stands so specified, €40 million.”.

#### **Amendment of section 27 of Act of 1993**

**63.** Section 27 of Act of 1993 is amended, in subsection (2), by the substitution of the following for “exceeds &#163;80 million.”:

“exceeds—

(a) such amount as the Minister has, with the consent of the Minister for Public Expenditure and Reform, specified by order, or

(b) if no such amount stands so specified, €32 million.”.

#### **Advances and grants by Minister to company**

**64.** The Act of 1993 is amended by the insertion of the following section after section 28:

“**28A.** (1) The Minister may, from time to time, with the consent of the Minister for Public Expenditure and Reform, advance or grant to the company out of moneys provided by the Oireachtas such sums as the Minister may determine for the purposes of expenditure by the company in the performance of its functions.

(2) The sums to be advanced or granted under subsection (1) shall be expended solely for the purpose and exercise of the functions conferred on the company by this Act or as the Minister may direct.

(3) The company shall pay to the Minister, on every sum advanced to it under this section, 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](#).”.

#### **Amendments of Act of 1993 - insertion of new sections 29A and 29B**

65. The Act of 1993 is amended by the insertion of the following sections after section 29:

##### **“Statement of strategy**

**29A.** (1) Subject to subsection (2), the company shall—

(a) as soon as is practicable after the commencement of *section 65* 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 first statement of strategy,

prepare and submit to the Minister for the Minister’s approval a statement of strategy for the company 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 company 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 company’s resources,

(d) identify the relevant performance indicators (financial and non-financial) and specify the manner in which the company 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 company shall consult with stakeholders and may consult with any other 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 company 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.

**Business plan**

- 29B.** (1) Subject to subsections (2) and (3), the company 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 company for the period to which the business plan relates,
  - (b) contain estimates of the number of—
    - (i) employees of company, and
    - (ii) staff members of the company who are not employees of the company,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 company.
- (3) The company shall, in preparing the business plan, have regard to the statement of strategy in operation at that time as approved under section 29A.”.

**Accounts and audits**

**66.** The Act of 1993 is amended by the substitution of the following section for section 30:

- “30.** (1) Without prejudice to the requirements of the [Companies Act 2014](#), the company shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts and shall also keep in such form all such special accounts as the Minister may from time to time direct.
- (2) Accounts kept pursuant to this section shall be submitted annually by the company to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the accounts so audited and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.
- (3) A subsidiary of the company may, subject to the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform following prior consultation by the Minister with the Comptroller and Auditor General, appoint a statutory auditor or statutory audit firm to be a statutory auditor of the subsidiary for the purposes of, and in accordance with, the [Companies Act 2014](#).
- (4) In this section, ‘statutory auditor’ and ‘statutory audit firm’ each has the same meaning as it has in the [Companies Act 2014](#).”.

**Amendment of section 32 of Act of 1993**

67. Section 32 of the Act of 1993 is amended, in subsection (3)—

(a) by the substitution of the following paragraphs for paragraph (a):

“(a) (i) Subject to paragraph (aa), the Minister shall, at least once in the period of 3 years beginning on the relevant day and in each subsequent period of 3 years beginning on the expiration of the last previous period, appoint a person to carry out an examination of the performance by the company of its functions in so far as they relate to the application and enforcement of technical and safety standards in relation to aircraft and air navigation and to report in writing to the Minister the results of the examination.

(ii) In subparagraph (i), ‘relevant day’ means the last day on which a report under this subsection was submitted to the Government and the company before the commencement of section 67 of the *Air Navigation and Transport Act 2022*.

(aa) The Minister may make regulations to specify any of the following:

(i) any aspect of the company’s performance of its functions which shall be the subject of an examination referred to in paragraph (a);

(ii) the scope of such examination;

(iii) the form and manner of the report under paragraph (a).

(ab) Regulations made under paragraph (aa) may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.”,

and

(b) by the insertion of the following paragraph after paragraph (b):

“(bb) The Minister shall cause a copy of the report under paragraph (a) to be published on a website of the Government.”.

**Annual aviation safety performance statements**

68. The Act of 1993 is amended by the insertion of the following section after section 32:

“32A. (1) The company shall, not later than 30 April in each year commencing from 2022, prepare and submit to the Minister a statement relating to its performance in regulating aviation safety (in this section called an ‘aviation safety performance statement’).

(2) An aviation safety performance statement shall be in 2 parts as follows:

(a) details, including the aims and objectives, of regulatory activity planned for the current year (in this subsection called a ‘regulatory performance plan’);

(b) a review of the company’s regulatory performance during the preceding year having regard to the regulatory performance plan for that year and any other relevant matters.

- (3) The review of the company's regulatory performance required by subsection (2)(b) shall include details of the activities carried out during the relevant year and the outcome and follow up from external oversight in relation to—
- (a) the European Aviation Safety Programme referred to in Article 5 of the EASA Basic Regulation,
  - (b) the safety programme established and maintained by the State pursuant to Article 7 of the EASA Basic Regulation,
  - (c) the State Plan for Aviation Safety prepared pursuant to Article 8 of the EASA Basic Regulation,
  - (d) the annual review of aviation safety performance in the State prepared by the company, and
  - (e) the Universal Safety Oversight Audit Programme of the International Civil Aviation Organization.
- (4) An aviation safety performance statement shall be in the form, and relate to the matters, that the Minister directs.
- (5) The Minister shall, within one month after receiving an aviation safety performance statement, lay it before each House of the Oireachtas.
- (6) In this section, 'EASA Basic Regulation' means Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018<sup>1</sup> on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91."

#### Amendment of section 38 of Act of 1993

69. Section 38 of the Act of 1993 is amended—

- (a) by the substitution of the following subsections for subsections (2) to (4):

"(2) The first Chief Executive appointed after the commencement of *section 69* of the *Air Navigation and Transport Act 2022* shall be appointed by the Minister for a period not exceeding 7 years and may, after consultation with the directors of the company, be removed from office by the Minister.

(3) Each subsequent Chief Executive shall be appointed by the Minister, after consultation with the directors of the company, for a period not exceeding 7 years and may, after consultation with such directors, be removed from office by the Minister."

and

- (b) by the insertion of the following subsection after subsection (6):

"(7) Each Chief Executive appointed after the commencement referred to in subsection (2) shall be *ex officio* a director of the company."

<sup>1</sup> OJ L212, 22.8.2018, p.1

**Remuneration, etc., of staff**

70. The Act of 1993 is amended by the substitution of the following section for section 39:

- “39. (1) The company may 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 company shall, in determining the remuneration or allowances for expenses to be paid to members of its staff or the other terms or conditions subject to which such members hold or are to hold their employment, have regard to Government or nationally agreed guidelines which are for the time being extant or to Government policy concerning remuneration and conditions of employment which is so extant.
- (3) The company shall, in addition to complying with subsection (2), comply with any directives with regard to such remuneration, allowances, terms or conditions referred to in that subsection which the Minister may give to the company with the consent of the Minister for Public Expenditure and Reform.
- (4) The company shall submit to the Minister, on an annual basis, a three-year workforce plan that sets out forecast staffing levels for the organisation, as approved by the company.”.

**Other charges by company**

71. The Act of 1993 is amended by the substitution of the following section for section 44:

- “44. (1) The company may charge such amounts as it considers appropriate in respect of any of the following:
- (a) the performance by it of its functions under this Act or any other enactment;
- (b) services provided by it to other persons;
- (c) property, real or personal, sold, hired or leased by it to other persons.
- (2) The company may charge such amounts as it considers appropriate in respect of any functions performed by it pursuant to any European Union Regulations listed in Schedule 2.
- (3) Any amount due by a person to the company in respect of a charge under this section may be recovered by the company from the person as a simple contract debt in any court of competent jurisdiction.
- (4) Regulations made under [section 23](#) of the [Aviation Regulation Act 2001](#) and in force immediately before the commencement of [section 8\(2\)](#) of the *Air Navigation and Transport Act 2022* shall continue in force on and after that commencement as if—
- (a) references in that section to the Commission for Aviation Regulation were references to the company, and
- (b) references in those Regulations to such Commission included references to the company,

and subsection (5) shall be construed accordingly.

- (5) The company may, by regulations made under [section 23](#) of the [Aviation Regulation Act 2001](#), revoke regulations referred to in subsection (4), whether in whole or in part, to take account of when a charge under this section supersedes a levy under that section.”.

#### **Amendment of Act of 1993 - substitution of section 58**

**72.** The Act of 1993 is amended by the substitution of the following sections for section 58:

##### **“Schedule 1 - Annexes to Chicago Convention**

- 58.**(1) Subject to subsection (2), the company, after consultation with the Minister, may make such orders as appear to it to be necessary or expedient for the purpose of giving effect to the Annexes (or any part thereof) to the Chicago Convention specified in Schedule 1.
- (2) Subsection (1) shall not entitle the company to make an order—
- (a) relating to the making of agreements between the State and any other state, or
  - (b) relating to a function of the company which is not a function referred to in that subsection.
- (3) The Minister may by order amend Schedule 1 by the insertion therein of a reference to an Annex (or any part thereof) to the Chicago Convention, whether added to that Convention before or after the commencement of *section 72* of the *Air Navigation and Transport Act 2022*, and references in that Act and this Act to the Annexes to the Chicago Convention shall include references to any Annex to the Chicago Convention to which an order under this subsection relates.

##### **Schedule 2 - European Union Regulations**

- 58A.** (1) The company is the competent authority in the State for the purposes of the European Union Regulations listed in Schedule 2.
- (2) A function of a competent authority under a European Union Regulation listed in Schedule 2 shall be a function of the company under this Act.
- (3) Without prejudice to the [European Communities Act 1972](#), the Minister may by order amend Schedule 2—
- (a) by the insertion therein of a reference to a European Union Regulation, or
  - (b) by the deletion therefrom of a reference to a European Union Regulation.”.

#### **Amendment of section 59 of Act of 1993**

**73.** Section 59 of the Act of 1993 is amended by the substitution of “Schedule 1” for “the Schedule”.



**Amendment of section 60 of Act of 1993**

**74.** Section 60 of the Act of 1993 is amended—

(a) in subsection (1)—

(i) in paragraph (a), by the substitution of “Schedule 1” for “the Schedule”, and

(ii) in paragraph (j), by the substitution of the following subparagraph for subparagraph (i):

“(i) requiring the payment of fees, in such amounts as are specified, by the company for the performance of its functions under this Act or any other enactment, including—

(I) in respect of applications for the grant or renewal of any certificate, licence or instrument of approval,

(II) for the purposes of an order under this section or an Annexe referred to in paragraph (a), or

(III) functions under an Annexe referred to in paragraph (a), and,”

and

(b) by the insertion of the following subsection after subsection (2):

“(3) The company may recover, as a simple contract debt in any court of competent jurisdiction, from a person an amount of any fee due to it by the person.”.

**Amendment of Act of 1993 - insertion of new Part IVA**

**75.** The Act of 1993 is amended by the insertion of the following Part after Part IV:

“PART IVA

Enforcement

**Definitions - Part IVA**

**63A.** In this Part—

‘relevant person’ means—

(a) an officer of the Permanent Defence Force holding a commissioned rank,

(b) an officer of the Minister,

(c) an officer of customs, or

(d) a member of the staff of the company;

‘relevant provision’ means a provision of—

(a) this Act (including a European Union Regulation listed in Schedule 2) relating to a function of the company, or

(b) another enactment (other than the [Aviation Regulation Act 2001](#)) relating to a function of the company.

**Appointment of authorised officers**

- 63B.** (1) The company may authorise in writing a relevant person to perform the functions conferred on authorised officers by or under this Act or the *Air Navigation and Transport Act 2022* and shall, at the same time as such authorisation, furnish the relevant person with a certificate of his or her authorisation.
- (2) A person who was an authorised officer within the meaning of section 2 immediately before the commencement of *section 75* of the *Air Navigation and Transport Act 2022* shall, on and after that commencement, be deemed to be authorised under subsection (1) on the same terms and conditions as he or she was such authorised officer immediately before that commencement.
- (3) The company shall, in the case of an authorised officer who is such by virtue of the operation of subsection (2), as soon as is practicable after the commencement referred to in that subsection, furnish the officer with a certificate of his or her authorisation.
- (4) An authorised officer shall, when performing a function conferred on authorised officers by or under this Act or the *Air Navigation and Transport Act 2022*, if requested by any person thereby affected, produce his or her certificate referred to in subsection (1) or (3), as the case may be, to that person for inspection.

**Powers of authorised officers**

- 63C.** (1) For the purposes of the exercise by the company of its functions under this Act relating to the enforcement of a relevant provision, an authorised officer may—
- (a) enter at any reasonable time any premises or place at which there are reasonable grounds for the officer to believe that a trade or business, or an activity in connection with a trade or business, relevant to the relevant provision is being, or has been, carried on by a person to whom this section applies otherwise than in accordance with that provision and search and inspect the premises or place and any records found therein or thereon,
- (b) require any such person to produce to him or her any records 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 records,
- (c) secure for later inspection any premises or place or part thereof in or on which records are kept or where there are reasonable grounds for the officer to believe that such records are kept,
- (d) inspect and take extracts from or make copies of any such 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 records for such period as may be reasonable for further examination,
- (f) require the person to maintain such 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, or
  - (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 to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material.
- (2) This section applies to the following persons:
- (a) an airport authority;
  - (b) an air navigation service provider;
  - (c) any person responsible for the carriage of passengers, mail or freight by air;
  - (d) a supplier of ground handling services;
  - (e) a tour operator or a travel agent;
  - (f) a trader within the meaning of [section 2 of the Package Holidays and Travel Trade Act 1995](#);
  - (g) an aerodrome operator;
  - (h) a person carrying on the business of the design, manufacture, maintenance, repair or modification of aircraft or parts for aircraft;
  - (i) a person carrying on the business of the production of material (including fuel) for aircraft;
  - (j) a person carrying on the activity of the operation of aircraft;
  - (k) a person engaged in the training of persons engaged in any activities referred to in paragraphs (a) to (d) or (g) to (j).
- (3) 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 63D to the District Court for a warrant to authorise such entry.
- (4) 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 63D from the District Court authorising such entry.

### Search warrants

**63D.** 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 purposes of the exercise by the company of its functions under this Act relating to a relevant provision 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 63C.

**Indemnification**

**63E.** Where the company is satisfied that a member of staff of the company or an authorised officer has discharged his or her duties in pursuance of the functions of the company in a *bona fide* manner, the company shall indemnify the member or officer, as the case may be, against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.

**Fixed charge offences**

**63F.** (1) (a) This section applies to such summary offences under this Act as may be declared by the Minister by regulations, made after consultation with the Minister for Justice, to be fixed charge offences.

(b) Subject to subsection (9), the regulations referred to in paragraph (a) shall prescribe the amount of each fixed charge for each fixed charge offence.

(2) Where an authorised officer has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person—

(a) if the officer identifies the person, the officer shall serve, or cause to be served, personally or by post, on the person a notice under this section,

(b) if the officer does not identify the person and the offence involves the use of a registered aircraft, the officer shall serve, or cause to be served, personally or by post, on the operator or registered owner of the aircraft a notice under this section, or

(c) if the officer does not identify the person and the offence involves the use of an unmanned aircraft registered to an operator, the officer shall serve, or cause to be served, personally or by post, on the registered operator of the unmanned aircraft a notice under this section.

(3) A notice under this section shall be in the form prescribed by regulations made by the Minister and—

(a) shall contain details of the manner of payment of a fixed charge, and

(b) may specify the person to whom and the place where the payment is to be made and whether the payment is to be accompanied by the notice, duly completed.

(4) A notice served pursuant to this section shall contain a statement to the effect that—

(a) the person on whom it is served is alleged to have committed an offence specified in the notice,

(b) the person may, during the period of 28 days beginning on the date of the notice, make a payment of a fixed charge of a prescribed amount as specified in the notice, and

(c) a prosecution in respect of the alleged offence will not be instituted during the periods specified in the notice or, if a payment so specified in accordance with the notice, is made

during the appropriate period so specified in relation to the payment, at all.

- (5) The payment of a fixed charge shall not be accepted after the expiration of the period of 28 days beginning on the date the notice provided for by this section was served.
- (6) Where a notice is served under this section—
- (a) a person or the person to whom the notice applies may, during the period specified in the notice and in accordance with the notice, make a payment specified in the notice,
- (b) the payment—
- (i) may be received in accordance with the notice and the person receiving the payment may issue a receipt for it, and
- (ii) shall be paid into or disposed of for the benefit of the Exchequer as the Minister for Public Expenditure and Reform directs, and shall not be recoverable by the person who made it,
- (c) a prosecution in respect of the alleged offence to which the notice relates shall not be instituted during the periods specified in the notice or, if a payment so specified is made during the period so specified in accordance with the notice, in relation to the payment, at all.
- (7) A fixed charge offence shall be an offence for the purposes of this Act.
- (8) In a prosecution for a fixed charge offence it shall be presumed, until the contrary is shown, that—
- (a) the relevant notice under this section has been served or caused to be served, and
- (b) a payment pursuant to the relevant notice under this section, accompanied by the notice, duly completed (unless the notice provides for payment without the notice accompanying the payment), has not been made.
- (9) Regulations prescribing the amount of a fixed charge may prescribe different amounts in relation to any of the following:
- (a) different fixed charge offences;
- (b) fixed charge offences involving different classes of aircraft.”.

#### **Aviation Stakeholders Forum and Licence Holders Charter**

**76.** The Act of 1993 is amended by the insertion of the following section after section 65:

**“65A.** (1) Subject to subsection (2), the company shall, not less than twice a year, convene a forum, to be known as the Aviation Stakeholders Forum, to foster the maintenance and improvement of aviation safety and to support the development of a positive aviation safety culture within the aviation community.

(2) The company shall, as soon as is practicable after consultation with aviation stakeholders, by notice published on the company’s website—

- (a) specify the organisations invited to participate in the Forum, which shall include recognised aviation stakeholder groups, recognised aviation trade unions and representative bodies, certified aviation organisations and other interested parties, and
  - (b) determine the rules and procedures of the Forum including the composition of membership to ensure a representative participation from each organisation and the publication of minutes of meetings of the Forum.
- (3) The Forum shall meet for the following purposes:
- (a) promoting the sharing of best practice aviation safety initiatives;
  - (b) engaging with the company on matters relating to the regulation of aviation safety in commercial air transport;
  - (c) the provision of views on proposals for European Union or national regulatory changes in relation to aviation safety;
  - (d) the establishment of routine communication channels to enable the sharing of aviation lessons learned, best aviation practices, aviation safety performance indicators and the provision of information on specific aviation safety risks.
- (4) The company shall, as soon as is practicable after consultation with the Forum, publish a charter, to be known as the Licence Holders Charter, on the company's website setting out the standards of engagement that will be undertaken by the company with the holders of licences.
- (5) Without prejudice to the generality of subsection (4), the reference to standards in that subsection includes a reference to standards relating to the following:
- (a) the principle of 'just culture' as defined in Article 2 of Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014<sup>2</sup> on the reporting, analysis and follow-up of occurrences in civil aviation;
  - (b) general principles and policies relating to enforcement actions undertaken by the company;
  - (c) the right to a response in writing from the company in relation to any refusal to grant a licence, suspension or revocation of a licence or amendment of a licence;
  - (d) the right to avail of an appeal mechanism in relation to any refusal to grant a licence, suspension or revocation of a licence or amendment of a licence;
  - (e) the right to make representations in relation to an enforcement action undertaken by the company;
  - (f) the general guidance that the company will give to the holders of licences as regards the discharge of their obligations as such holders.
- (6) In this section, 'Forum' means the Aviation Stakeholders Forum referred to in subsection (1)."

<sup>2</sup> OJ No. L122, 24.4.2014, p.18

**Crew peer support programmes**

77. The Act of 1993 is amended by the insertion of the following section after section 65:

**“65B.** (1) (a) Subject to paragraph (b), the company shall, at such times as it may determine, conduct a review of the effectiveness of airline provisions concerning crew peer support programmes.

(b) The company shall, not later than 12 months after the commencement of *section 76* of the *Air Navigation and Transport Act 2022*, conduct a review.

(c) The company shall publish on the company’s website a report on the results of a review.

(d) A review shall consider the following:

(i) the use of the programme by pilots;

(ii) the pilots’ perception of the programme;

(iii) the protection of confidentiality;

(iv) the promotion, by accountable managers of recognised organisations of aircraft crew members, of the use of the programme and trust in it;

(v) the access and referral to professional advice as necessary, including referral to mental and psychological health professionals;

(vi) confidential arrangements for the temporary cessation of duty;

(vii) the process for returning to work;

(viii) resourcing;

(ix) accessibility, including online access;

(x) the selection and training of peers;

(xi) the independence of peers from management or supervisory functions or any other conflict of interest.

(e) In conducting a review, the company shall seek the direct feedback of pilots and other stakeholders, at the same time protecting the confidentiality of all information provided.

(2) Any deficiencies or opportunities for improvement identified by the company in the course of a review shall be dealt with directly through the company’s oversight programme or through the State Plan for Aviation Safety, as applicable.

(3) Nothing in this section shall be construed to prejudice the generality of Commission Regulation (EU) No. 965/2012 of 5 October 2012<sup>3</sup> laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council.

(4) In this section—

<sup>3</sup> OJ No. L296, 25.10.2012, p.1

‘programme’ means a crew peer support programme referred to in subsection (1)(a);

‘review’ means a review referred to in subsection (1)(a).”

#### **Amendment of section 67 of Act of 1993**

**78.** Section 67 of the Act of 1993 is amended, in paragraph (d), by the substitution of “Schedule 1” for “the Schedule”.

#### **Regulations may be made to give effect to certain provisions of EASA Basic Regulation**

**79.** The Act of 1993 is amended by the insertion of the following section after section 69:

**“69A.** (1) The Minister may make regulations for the purpose of exercising the opt-in provisions of Article 2.6 of the EASA Basic Regulation to give effect to certain provisions of the EASA Basic Regulation relating to the regulation of aviation activities by aircraft (including related engines, propellers, parts, non-installed equipment and equipment to control aircraft remotely) while carrying out search and rescue, firefighting, coastguard or similar activities or services under the control and responsibility of the State, undertaken in the public interest by or on behalf of the Irish Coast Guard and the personnel and organisations involved in the activities and services performed by those aircraft.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(a) make provision in relation to all or any aspect of (including any combination of) the matters set out in sections I, II, III and VII of Chapter III of the EASA Basic Regulation as may be specified in the regulations,

(b) apply either generally or to such class of persons or activities or services as may be specified in the regulations, and

(c) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act, the [European Communities Act 1972](#) and the [European Communities Act 2007](#)).

(3) When making regulations under subsection (1), the Minister shall have regard to the following:

(a) the aim to strengthen the national aviation safety regulatory framework for aviation activities of the Irish Coast Guard and aligning it with European aviation safety regulations;

(b) the need to provide for greater specificity in relation to the regulatory framework of the oversight of aviation activities by and for the Irish Coast Guard;

(c) the need to secure the operation and safety of the aircraft, and persons and property contained therein, operated by or on behalf of the Irish Coast Guard and mitigate the risks pertaining to safety;



- (d) the need to allow for immediate reaction to accidents and serious incidents and balance the safety requirements with search and rescue objectives;
  - (e) the interests and views of the civil aviation sector and the general public;
  - (f) the interest of international cooperation within the European aviation industry and the promotion of European aviation safety standards;
  - (g) the need to promote effectiveness in regulatory, certification and oversight processes.
- (4) The Minister shall consult with the Irish Coast Guard and the company before he or she makes regulations under this section.
- (5) A word or expression which is used in this section and which is also used in the EASA Basic Regulation has, unless the context otherwise requires, the same meaning in this section as it has in the EASA Basic Regulation.
- (6) In this section ‘EASA Basic Regulation’ has the meaning assigned to it by section 32A(6).”.

#### **Accountability of company, etc., to Committees of Oireachtas**

**80.** The Act of 1993 is amended by the insertion of the following section after section 71:

**“71A.** (1) The Chief Executive or a relevant officer shall, whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, attend before and give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the company is required by or under this Act or any other enactment to prepare,
- (b) the economy and efficiency of the company in the use of its resources,
- (c) the systems, procedures and practices employed by the company for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the company referred to in a special report of the Comptroller and Auditor General under [section 11\(2\) of the Comptroller and Auditor General \(Amendment\) Act 1993](#), or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.

(2) From time to time, and whenever so requested, the Chief Executive or a relevant officer shall account for the performance of the company’s functions to a Committee of one or both Houses of the Oireachtas and the company shall have regard to any recommendations of such Committee relevant to its functions.

- (3) (a) Paragraph (b) applies where the Chief Executive or a relevant officer is requested by a Committee of the Oireachtas to—
- (i) attend before that Committee, and
  - (ii) provide that Committee with information relating to the company's functions.
- (b) The Chief Executive or relevant officer, as appropriate, shall—
- (i) appear before the Committee, and
  - (ii) provide the Committee with such information relating to the aviation safety performance statement referred to in section 32A as the Committee requires.
- (4) In this section, 'relevant officer' means an officer of the company nominated by the company for the purposes of one or more of subsections (1) to (3)."

#### **Amendment of section 72 of Act of 1993**

- 81.** Section 72 of the Act of 1993 is amended, in subsection (4)(b), by the substitution of "Schedule 1" for "the Schedule".

#### **Amendment of Act of 1993 - insertion of new sections 74A to 74D**

- 82.** The Act of 1993 is amended by the insertion of the following sections after section 74:

##### **"Definitions - sections 74B to 74D**

##### **74A.** In sections 74B to 74D—

- 'enforcement notice' means a notice under section 74B(2);
- 'IAA' means the company referred to in section 11;
- 'IANS' means the company referred to in *section 10* of the *Air Navigation and Transport Act 2022*;
- 'relevant provision' means a provision of—
  - (a) this Act (including a European Union Regulation listed in Schedule 2) relating to a function of the IANS, or
  - (b) another enactment (other than the *Aviation Regulation Act 2001*) relating to a function of the IANS.

##### **Issue of enforcement notices**

- 74B.** (1) Subsection (2) applies where the IAA is of the opinion (in this section referred to as the 'relevant opinion') that the IANS—
- (a) has failed to comply or fully comply with a relevant provision,
  - (b) is failing to comply or fully comply with a relevant provision,  
or
  - (c) has failed to comply or fully comply with a relevant provision in circumstances that make it likely that the failure will continue or be repeated.
- (2) The IAA may give the IANS a notice in writing—

- (a) stating the relevant opinion,
  - (b) specifying the relevant provision as to which the IAA is of that opinion and the reasons why it is of that opinion,
  - (c) directing the IANS to take such steps as are specified in the notice to remedy the failure concerned or, as the case may be, the matters occasioning it, and
  - (d) specifying a period (ending not earlier than the period specified in section 74C within which an application under that section against any directions specified in the notice may be made) within which those steps must be taken.
- (3) The steps specified in an enforcement notice to remedy any failure or matter to which the notice relates may be framed so as to afford the IANS a choice between different ways of remedying the failure or matter, as the case may be.
- (4) Where the IANS makes an application under section 74C(1) against any direction specified in an enforcement notice, the steps specified in the notice need not be taken by the IANS pending the determination, withdrawal or abandonment of the application.
- (5) The IAA may cancel an enforcement notice by notice in writing given to the IANS.
- (6) Where the IANS fails to take the steps specified in an enforcement notice given to it, the IAA may, on notice to the IANS, apply in a summary manner to the High Court for an order requiring the IANS to take those steps (or to take such varied or other steps for the like purpose as may be specified in the order), and the High Court—
- (a) may—
    - (i) make the order sought,
    - (ii) make the order sought subject to such variations to those steps as may be specified in the order, or
    - (iii) make the order sought subject to such other steps for the like purpose as may be specified in the order,
  - or
  - (b) may dismiss the application,
- and, whether paragraph (a) or (b) is applicable, may make such order as to costs as it thinks fit in respect of the application.
- (7) Without prejudice to the powers of the High Court to enforce an order under subsection (6)(a), if the IANS fails to comply with the order it shall be guilty of an offence and liable on conviction on indictment to a fine not exceeding €150,000.

**Application for cancellation of direction specified in enforcement notice**

- 74C.** (1) The IANS may, on notice to the IAA, not later than 30 days after being given an enforcement notice, apply to the High Court for the cancellation of any direction specified in the notice and, on such an application, the High Court may—
- (a) cancel the direction,
  - (b) confirm the direction, or

(c) vary the direction,

and, whether paragraph (a), (b) or (c) is applicable, make such order as to costs as it thinks fit in respect of the application.

(2) The decision of the High Court on a direction specified in an enforcement notice shall be final save that, by leave of that Court or the Court of Appeal, an appeal by the IAA or the IANS, as the case may be, from the decision shall lie to the Court of Appeal on a point of law.

#### Rules of court

**74D.** Rules of court may make provision for the expedition of the hearing of proceedings under sections 74B and 74C.”.

#### Substitution of Schedule to Act of 1993

**83.** The Act of 1993 is amended by the substitution of the text set out in *Schedule 2* for the Schedule to that Act.

#### Amendment of Act of 1993 - insertion of Schedule

**84.** The Act of 1993 is amended by the insertion of the text set out in *Schedule 3* as Schedule 2 to that Act.

## PART 8

### RESTRUCTURING OF IAA - SUPPLEMENTARY PROVISIONS

#### Definitions - Part 8

**85.** In this Part—

“assets” includes any property (real or personal), subsidiaries (within the meaning of section 7 of the Act of 2014) and any direct or indirect shareholdings of the IAA or of any such subsidiaries;

“restructuring” means the doing of all things as are necessary or convenient for the purposes of giving effect to the other Parts of this Act in providing for full legal autonomy and independence in each of the IAA and the IANS.

#### Restructuring of IAA

**86. (1)** Subject to Chapter 7 of Part 3 of the Act of 2014, the transfer of assets, liabilities, contracts, rights, obligations and other things necessary to give effect to the restructuring shall, as soon as possible with effect from the vesting day, be effected by the IAA or by the Minister under *subsection (2)*, or by a combination of both.

(2) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order or orders, provide for the doing of all such matters as the first-mentioned Minister believes necessary to give effect to the restructuring.

(3) An order under *subsection (2)* may contain such provisions as the Minister considers necessary, including provisions dealing with assets, liabilities, contracts, rights, obligations and other things and provisions specifying the manner, the order in which and the effect of any transfer or transaction

relating to such assets, liabilities, contracts, rights, obligations and other things.

- (4) The IAA may, with the consent of the Minister, or shall, at the Minister's direction, enter into such arrangements with the IANS (including the terms and conditions upon which such arrangements may be entered into) for the purposes of effecting the restructuring and enabling the IANS to perform its functions under this Act.
- (5) The Minister may also give a direction prohibiting the IAA and the IANS from dealing with specified assets in a manner contrary to the direction.
- (6) In addition to section 7 of the Act of 1993, the Minister may give a direction to the IAA or the IANS in relation to any matter relating to or in anticipation of the restructuring.
- (7) The IAA, the Commission for Aviation Regulation and the IANS shall provide to the Minister all such information and other assistance as the Minister may require for the purposes of or in connection with the restructuring.
- (8) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order confer on the IAA and the IANS such additional functions connected with the restructuring as he or she thinks fit, subject to such conditions (if any) as may be specified in the order.
- (9) An order under *subsection (8)* may contain such incidental or supplementary provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

## PART 9

### AMENDMENT OF AIR NAVIGATION AND TRANSPORT (AMENDMENT) ACT 1998

#### Amendment of section 13 of Act of 1998

**87.** Section 13 of the Act of 1998 is amended by—

(a) the substitution of the following subsection for subsection (5):

“(5) The aggregate at any one time of moneys borrowed under this section shall not exceed—

(a) in the case of daa and any of its subsidiaries, from the Dublin appointed day, €5 billion, and

(b) in the case of Cork Airport Authority and any of its subsidiaries, from the Cork appointed day, €100 million.”,

and

(b) by the deletion of subsection (6).

## PART 10

### AMENDMENT OF AVIATION REGULATION ACT 2001, ETC.

#### Definition - Part 10

**88.** In this Part, “Act of 2001” means the [Aviation Regulation Act 2001](#).

**Amendment of Act of 2001**

89. The Act of 2001 is amended by the substitution of “Regulations of 2011” for “European Communities (Dublin Airport Charges) Regulations 2011” in each place where it occurs in sections 8A and 32(2).

**Amendment of section 2 of Act of 2001**

90. Section 2 of the Act of 2001 is amended, in subsection (1)—

(a) by the deletion of the definition of “terminal services”, and

(b) by the insertion of the following definitions:

“‘Regulations of 2011’ means the European Communities (Dublin Airport Charges) Regulations 2011 (S.I. No. 116 of 2011);

‘statement of strategy’ means a statement of strategy prepared and submitted under section 27A;”.

**Amendment of section 7 of Act of 2001**

91. Section 7 of the Act of 2001 is amended by the deletion of “and aviation terminal services charges”.

**Commission to review market power of airport authorities**

92. The Act of 2001 is amended by the insertion of the following section after section 8A:

“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).”.

**Amendment of section 10 of Act of 2001**

93. Section 10 of the Act of 2001 is amended—

(a) in subsection (1), by the deletion of “in the exercise of its functions”, and

(b) by the insertion of the following subsection after subsection (2):

“(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.”.

**Amendment of section 17 of Act of 2001**

94. Section 17 of the Act of 2001 is amended, in subsection (7), in the definition of “interests”, in paragraph (a), by the deletion of subparagraph (iii).

**Amendment of section 26 of Act of 2001**

95. Section 26 of the Act of 2001 is amended, in paragraph (c), by the insertion of “and its implementation of the current strategy statement,” after “the performance of its functions”.

**Amendment of section 27 of Act of 2001**

96. Section 27 of the Act of 2001 is amended, in subsection (2), by the deletion of “(including statements of strategy)”.

**Amendment of Act of 2001 - insertion of new sections 27A and 27B**

97. The Act of 2001 is amended by the insertion of the following sections after section 27:

**“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.

**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.”.



**Amendment of section 32 of Act of 2001**

98. Section 32 of the Act of 2001 is amended, in subsection (14)—

- (a) in paragraph (a), by the insertion of “or extend the period referred to in subsection (5)(a) by not more than 2 years” after “amend the determination”, and
- (b) in paragraph (b), by the insertion of “, or as extended under paragraph (a)” after “referred to in subsection (5)(a)”.

**Amendment of section 33 of Act of 2001**

99. Section 33 of the Act of 2001 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(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.”,

and

- (b) in subsection (2), by—

- (i) the deletion of paragraph (e),
- (ii) the deletion, in paragraph (h), of “and”,
- (iii) the substitution, in paragraph (i), of “daa, and” for “daa.”, and
- (iv) the insertion of the following paragraph after paragraph (i):

“(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.”.

**Minister may review regulation of airport charges by Commission**

100. The Act of 2001 is amended by the insertion of the following section after section 33:

“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.”.

#### **Appeal to High Court**

**101.** The Act of 2001 is amended by the insertion of the following section after section 39:

- “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).”.

**Amendment of section 42 of Act of 2001**

**102.** Section 42 of the Act of 2001 is amended, in subsection (4), by the deletion of paragraph (b).

**Amendment of section 45A of Act of 2001**

**103.** Section 45A of the Act of 2001 is amended by the insertion of the following subsection after subsection (2):

“(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.”.

**Directions - Regulations of 2011**

**104.** The Act of 2001 is amended by the insertion of the following section after section 45A:

**“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.”.

### Repeals and savings

105. (1) Sections 35, 36, 38 and 40 of the Act of 2001 are repealed.

(2) Notwithstanding *subsection (1)*, section 40 of the Act of 2001 shall continue to apply where—

- (a) the determination referred to in section 40(1) of the Act of 2001 was made prior to the commencement of this section, and
  - (b) a request is made under section 40(2) of the Act of 2001 in respect of that determination in accordance with subsection (2A) of that section.
- (3) Where a person may appeal against a determination under section 40 of the Act of 2001, that person shall not be entitled to appeal against the determination under section 39A of the Act of 2001.

## PART 11

### DISSOLUTION OF COMMISSION FOR AVIATION REGULATION

#### Definitions - *Part 11*

**106.** In this Part—

“Commission” means the Commission for Aviation Regulation;

“dissolution day” means the day appointed under *section 107*.

#### Dissolution day

**107.** The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Part.

#### Annotations

##### Editorial Notes:

**E6** Power pursuant to section 107 exercised (1.05.2023) by *Air Navigation and Transport Act 2022 (Dissolution Day) Order 2023* (S.I. No. 219 of 2023), in effect as per art. 2.

2. The 1st day of May 2023 is appointed to be the dissolution day for the purposes of Part 11 of the Air Navigation and Transport Act 2022 (No. 40 of 2022).

#### Dissolution of Commission

**108.** (1) The Commission is dissolved.

(2) This section shall come into operation on the dissolution day.

#### Transfer of functions to IAA

**109.** (1) All functions that, immediately before the dissolution day, were vested in the Commission are transferred to the IAA.

(2) References in any enactment passed before the dissolution day, or in any instrument made before that day under an enactment, to the Commission shall, on and after that day, be construed as references to the IAA.

(3) This section shall come into operation on the dissolution day.

**Transfer of staff of Commission to IAA**

- 110.** (1) Every person who is a member of the Commission or member of the staff of the Commission immediately before the dissolution day shall, on that day, be transferred to and become a member of the staff of the IAA.
- (2) Except in accordance with a collective agreement negotiated with any recognised trade unions and staff associations concerned, a person referred to in *subsection (1)* shall not, while in the service of the IAA, be brought to less beneficial conditions of service (including conditions in relation to tenure of office) or of remuneration than the conditions of service (including conditions in relation to tenure of office) or remuneration to which he or she was subject immediately before the dissolution day.
- (3) In relation to persons transferred to the IAA under *subsection (1)* previous service with the Commission shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following enactments:
- (a) the Redundancy Payments Acts 1967 to 2014;
  - (b) the [Protection of Employees \(Part-Time Work\) Act 2001](#);
  - (c) the [Protection of Employees \(Fixed-Term Work\) Act 2003](#);
  - (d) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (e) the Unfair Dismissals Acts 1977 to 2015;
  - (f) the Terms of Employment (Information) Acts 1994 to 2014;
  - (g) the [Organisation of Working Time Act 1997](#);
  - (h) the Parental Leave Acts 1998 and 2019;
  - (i) the [Carer's Leave Act 2001](#);
  - (j) the Maternity Protection Acts 1994 and 2004;
  - (k) the Adoptive Leave Acts 1995 and 2005;
  - (l) the [Paternity Leave and Benefit Act 2016](#).

**Transfer of land and other property of Commission**

- 111.** (1) On the dissolution day, all lands that, immediately before that day, were vested in the Commission and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the IAA for all the estate or interest therein that, immediately before the dissolution day, were vested in the Commission, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.
- (2) On the dissolution day, all property (other than land), including choses-in-action, that immediately before that day, was vested in the Commission shall stand vested in the IAA without any assignment.
- (3) Every chose-in-action vested in the IAA by virtue of *subsection (2)* may, on and from the dissolution day, be sued on, recovered or enforced by the IAA in its own name, and it shall not be necessary for the IAA, or the Commission, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

**Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by Commission**

- 112.** (1) All rights and liabilities of the Commission arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall, on that day, stand transferred to the IAA.
- (2) Every right and liability transferred by *subsection (1)* to the IAA may, on and after the dissolution day, be sued on, recovered or enforced by or against the IAA in its own name, and it shall not be necessary for the IAA or the Commission to give notice to the person whose right or liability is transferred of such transfer.
- (3) Every lease, licence, wayleave or permission granted by the Commission in relation to land or other property vested in the IAA by or under this Act, and in force immediately before the dissolution day, shall continue in force as if granted by the IAA.

**Liability for loss occurring before dissolution day**

- 113.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the Commission shall, on and after that day, lie against the IAA and not against the Commission.
- (2) Any legal proceedings pending immediately before the dissolution day to which the Commission is a party shall be continued, with the substitution in the proceedings of the IAA for the Commission.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Commission, be enforceable against the IAA and not the Commission.
- (4) Any claim made or proper to be made by the Commission in respect of any loss or injury arising from the act or default of any person before the dissolution day shall be regarded as having been made by or properly made by the IAA and may be pursued and sued for by the IAA as if the loss or injury had been suffered by the IAA.

**Provisions consequent upon transfer of functions, assets and liabilities to IAA**

- 114.** (1) Anything commenced and not completed before the dissolution day by or under the authority of the Commission may be carried on or completed on or after that day by the IAA.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made by the Commission shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made, as the case may be by the IAA.
- (3) Any money, stocks, shares, securities or sureties transferred by *section 111* or that, immediately before the dissolution day, were standing in the name of the Commission shall, on the request of the IAA, be transferred into its name.
- (4) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the IAA under *section 111* or *112*



shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

#### **Saving for certain acts**

**115.** Nothing in this Part affects the validity of any act done before the dissolution day by or under the authority of the Commission and every such act shall, if and in so far as it was operative immediately before that day, have effect on and after that day as if it had been done by or on behalf of the IAA.

#### **Final accounts and final annual report of Commission**

**116.** (1) The IAA shall, in respect of the period that the Minister may specify, which may be a period that is longer or shorter than a financial year of the Commission, prepare final accounts of the Commission.

(2) The IAA shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after the dissolution day.

(3) The IAA shall prepare a final annual report for the Commission and submit the report to the Minister not later than 6 months after the dissolution day.

(4) [Section 26](#) of the [Aviation Regulation Act 2001](#) shall apply, with all necessary modifications, in relation to final accounts and an annual report prepared under this section.

#### **Continuation in force of Commission superannuation schemes or arrangements**

**117.** (1) Every scheme or arrangement in relation to superannuation administered by the Commission immediately before the dissolution day shall, on that day, continue in force as if made by the IAA.

(2) All liabilities, duties, obligations and funding (including pension increases and supplementary pension payments) arising by virtue of the operation of a scheme or arrangement referred to in *subsection (1)* and carried out immediately before the dissolution day by the Commission shall, upon the dissolution day, stand transferred to the IAA.

(3) Every right and liability transferred by this section to the IAA may be sued on, recovered or enforced by or against the IAA in the name of the IAA and it shall not be necessary for the IAA to give notice to any person of the transfer of any right or liability.

(4) This section shall not apply to—

- (a) the Single Public Service Pension Scheme, or
- (b) a person who is a member of that Scheme.

#### **Superannuation schemes or arrangements in relation to members of Commission or staff to whom *section 117* does not apply**

**118.** (1) The IAA shall, as soon as is practicable after the commencement of this section but, in any case, before the dissolution day, make the relevant scheme or arrangement.

(2) The relevant persons shall, on the dissolution day and by virtue of this section, become members of the relevant scheme or arrangement.

(3) In this section—

“relevant persons” means the members of the Commission and members of the staff of the Commission who stand transferred to the IAA under *section 110* as members of the staff of the IAA and who were not members of a scheme or arrangement referred to in *section 117(1)* immediately before the dissolution day;

“relevant scheme or arrangement” means a scheme or arrangement referred to in section 41 of the Act of 1993 made before the dissolution day for the purposes of relevant persons becoming members of such scheme or arrangement on that day and containing terms and conditions in relation to superannuation no less favourable to relevant persons than those terms and conditions in relation to superannuation to which they were entitled immediately before that day.

## SCHEDULE 1

## EUROPEAN REGULATIONS UNDER WHICH IANS MAY IMPOSE CHARGES

*Section 41*

European Regulations under which IANS may impose charges

**European Union Regulation****Air Navigation Service Provision**

1. Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004<sup>4</sup> laying down the framework for the creation of the single European sky (the framework Regulation), as amended by Regulation (EC) No 1070/2009
2. Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004<sup>5</sup> on the provision of air navigation services in the single European sky (the service provision Regulation), as amended by Regulation (EC) No 1070/2009
3. Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004<sup>6</sup> on the organisation and use of the airspace in the single European sky (the airspace Regulation), as amended by Regulation (EC) No 1070/2009
4. Commission Regulation (EC) No 2150/2005 of 23 December 2005<sup>7</sup> laying down common rules for the flexible use of airspace
5. Council Regulation (EC) No 219/2007 of 27 February 2007<sup>8</sup> on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), as amended by Council Regulation (EC) No 1361/2008 and Council Regulation (EU) No 721/2014
6. Commission Regulation (EU) No 255/2010 of 25 March 2010<sup>9</sup> laying down common rules on air traffic flow management, as amended by Commission Implementing Regulation (EU) No 923/2012, Commission Implementing Regulation (EU) 2016/1006 and Commission Implementing Regulation (EU) 2017/2159
7. Commission Regulation (EU) No 176/2011 of 24 February 2011<sup>10</sup> on the information to be provided before the establishment and modification of a functional airspace block
8. Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011<sup>11</sup> laying down requirements on aircraft identification for surveillance for the single European sky, as amended by Commission Implementing Regulation (EU) 2020/587
9. Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011<sup>12</sup> laying down requirements for the performance and the interoperability of surveillance for the single European sky, as amended by Commission Implementing Regulation (EU) No 1028/2014, Commission Implementing Regulation (EU) No 2017/386 and Commission Implementing Regulation (EU) No 2020/587

<sup>4</sup> OJ No. L96, 31.3.2004, p.1

<sup>5</sup> OJ No. L96, 31.3.2004, p.10

<sup>6</sup> OJ No. L96, 31.3.2004, p.20

<sup>7</sup> OJ No. L342, 24.12.2005, p.20

<sup>8</sup> OJ No. L64, 2.3.2007, p.1

<sup>9</sup> OJ No. L80, 26.3.2010, p.10

<sup>10</sup> OJ No. L51, 25.2.2011, p.2

<sup>11</sup> OJ No. L305, 23.11.2011, p.23

<sup>12</sup> OJ No. L305, 23.11.2011, p.35

10. Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012<sup>13</sup> laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010, as amended by Commission Regulation (EU) No 2015/340, Commission Implementing Regulation (EU) No 2016/1185, Commission Implementing Regulation (EU) No 2017/835, Commission Implementing Regulation (EU) No 2020/469, as amended by Commission Implementing Regulation (EU) No 2020/1177 and Commission Implementing Regulation (EU) No 2020/886

11. Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012<sup>14</sup> laying down requirements for voice channels spacing for the single European sky, as amended by Commission Implementing Regulation (EU) No 657/2013, Commission Implementing Regulation (EU) No 2016/2345 and Commission Implementing Regulation (EU) 2017/2160

12. Commission Implementing Regulation (EU) 2017/373 of 1 March 2017<sup>15</sup> laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011, as amended by Commission Implementing Regulation (EU) No 2020/469 amended by Commission Implementing Regulation (EU) No 2020/1177

13. Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018<sup>16</sup> on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, as amended by Commission Delegated Regulation (EU) 2021/1087

14. Commission Implementing Regulation (EU) 2019/123 of 24 January 2019<sup>17</sup> laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No. 677/2011

#### **Air Navigation Communications**

15. Commission Regulation (EC) No 1033/2006 of 4 July 2006<sup>18</sup> laying down the requirements on procedures for flight plans in the pre-flight phase for the single European sky, as amended by Commission Implementing Regulation (EU) No 923/2012, Commission Implementing Regulation (EU) No 428/2013, Commission Implementing Regulation No (EU) 2016/2120 and Commission Implementing Regulation No (EU) 2018/139

16. Commission Regulation (EC) No 1032/2006 of 6 July 2006<sup>19</sup> laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by Commission Regulation (EC) No 30/2009

17. Commission Regulation (EC) No 633/2007 of 7 June 2007<sup>20</sup> laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by Commission Regulation (EU) No 283/2011

<sup>13</sup> OJ No. L281, 13.10.2012, p.1

<sup>14</sup> OJ No. L320, 17.11.2012, p.14

<sup>15</sup> OJ No. L62, 8.3.2017, p.1

<sup>16</sup> OJ No. L212, 22.8.2018, p.1

<sup>17</sup> OJ No. L28, 31.1.2019, p.1

<sup>18</sup> OJ No. L186, 7.7.2006, p.46

<sup>19</sup> OJ No. L186, 7.7.2006, p.27

<sup>20</sup> OJ No. L146, 8.6.2007, p.7

18. Commission Regulation (EC) No 29/2009 of 16 January 2009<sup>21</sup> laying down requirements on data link services for the single European sky, as amended by Commission Implementing Regulation (EU) 2015/310, Commission Implementing Regulation (EU) 2019/1170 and Commission Implementing Regulation (EU) 2020/208
19. Commission Regulation (EC) No 262/2009 of 30 March 2009<sup>22</sup> laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the single European sky, as amended by Commission Implementing Regulation (EU) No 2016/2345
20. Commission Regulation (EU) No 73/2010 of 26 January 2010<sup>23</sup> laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky, as amended by Commission Implementing Regulation (EU) No 1029/2014
21. Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012<sup>24</sup> laying down requirements for voice channels spacing for the single European sky, as amended by Commission Implementing Regulation (EU) No 657/2013, Commission Implementing Regulation (EU) 2016/2345 and Commission Implementing Regulation (EU) 2017/2160

## SCHEDULE 2

### “SCHEDULE 1

Sections 14, 58, 59, 60, 67 and 72

Annexes to Chicago Convention in relation to which functions stand conferred on company

Annexe 1 - Personnel Licensing

Annexe 2 - Rules of the Air

Annexe 4 - Aeronautical Charts

Annexe 5 - Units of Measurement to be used in Ground and Air Operations

Annexe 6 - Operation of Aircraft

Annexe 7 - Aircraft Nationality and Registration Marks

Annexe 8 - Airworthiness of Aircraft

Annexe 10 - Aeronautical Telecommunications

Annexe 11 - Air Traffic Services

Annexe 12 - Search and Rescue (limited to rescue co-ordination centres and rescue sub-centres)

Annexe 14 - Aerodromes

Annexe 15 - Aeronautical Information Services

<sup>21</sup> OJ No. L13, 17.1.2009, p.3

<sup>22</sup> OJ No. L84, 31.3.2009, p.20

<sup>23</sup> OJ No. L23, 27.1.2010, p.6

<sup>24</sup> OJ No. L320, 17.11.2012, p.14

Annexe 16 - Environmental Protection (other than environmental protection which falls within Volume IV, Carbon Offsetting and Reduction Scheme for International Aviation (CORSA))

Annexe 17 - Security

Annexe 18 - The Safe Transport of Dangerous Goods by Air

Annexe 19 - Safety Management”.

### SCHEDULE 3

“SCHEDULE 2

#### Section 58A

European Union Regulations under which company is competent authority

#### European Union Regulation

##### Aviation Safety

1. Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018<sup>25</sup> on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, amended by Commission Delegated Regulation (EU) 2021/1087, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council, and Council Regulation (EEC) No 3922/91
2. Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008<sup>26</sup> on common rules for the operation of air services in the Community (Recast), as amended by Regulation (EU) 2018/1139 of the European Parliament and of the Council, Regulation (EU) 2019/2 of the European Parliament and of the Council, Regulation (EU) 2020/696 of the European Parliament and of the Council, Commission Delegated Regulation (EU) 2020/2114 and Commission Delegated Regulation (EU) 2020/2115
3. Commission Regulation (EU) No 965/2012 of 5 October 2012<sup>27</sup> laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by Commission Regulation (EU) No 800/2013, Commission Regulation (EU) No 71/2014, Commission Regulation (EU) No 83/2014, Commission Regulation (EU) No 379/2014, Commission Regulation (EU) No 2015/140, Commission Regulation (EU) No 2015/640, Commission Regulation (EU) No 2015/1329, Commission Regulation (EU) No 2015/2338, Commission Regulation (EU) No 2016/1199, Commission Regulation (EU) No 2017/363, Commission Regulation (EU) 2018/394, Commission Regulation (EU) 2018/1042, Commission Implementing Regulation (EU) 2018/1975, Commission Implementing Regulation (EU) 2019/1384, Commission Implementing Regulation (EU) 2019/1387 and Commission Implementing Regulation (EU) 2020/2036

<sup>25</sup> OJ No. L212, 22.8.2018, p.1

<sup>26</sup> OJ No. L293, 31.10.2008, p.3

<sup>27</sup> OJ No. L296, 25.10.2012, p.1

4. Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014<sup>28</sup> on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 as amended by Regulation (EU) 2018/1139
5. Commission Implementing Regulation (EU) 2015/1018 of 29 June 2015<sup>29</sup> laying down a list classifying occurrences in civil aviation to be mandatorily reported according to Regulation (EU) No 376/2014 of the European Parliament and of the Council
6. Commission Regulation (EU) No 452/2014 of 29 April 2014<sup>30</sup> laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by Commission Regulation (EU) 2016/1158
7. Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012<sup>31</sup> laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010, as amended by Commission Regulation (EU) 2015/340, Commission Implementing Regulation (EU) 2016/1185, Commission Implementing Regulation 2017/835, Commission Implementing Regulation 2020/469, amended by Commission Implementing Regulation (EU) 2020/1177 and Commission Implementing Regulation (EU) 2020/886
8. Commission Regulation (EU) 2018/395 of 13 March 2018<sup>32</sup> laying down detailed rules for the operation of balloons as well as for the flight crew licensing for balloons pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by Commission Implementing Regulation (EU) 2020/357
9. Commission Implementing Regulation (EU) 2018/1976 of 14 December 2018<sup>33</sup> laying down detailed rules for the operation of sailplanes as well as for the flight crew licensing for sailplanes pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council, as amended by Commission Implementing Regulation (EU) 2020/358
10. Commission Implementing Regulation (EU) 2018/1048 of 18 July 2018<sup>34</sup> laying down airspace usage requirements and operating procedures concerning performance-based navigation
11. Commission Implementing Regulation (EU) 2019/947 of 24 May 2019<sup>35</sup> on the rules and procedures for the operation of unmanned aircraft, as amended by Commission Implementing Regulation (EU) 2020/639, Commission Implementing Regulation (EU) 2020/746 and Commission Implementing Regulation (EU) 2021/1166
12. Commission Delegated Regulation (EU) 2019/945 of 12 March 2019<sup>36</sup> on unmanned aircraft systems and on third-country operators of unmanned aircraft systems, as amended by Commission Delegated Regulation (EU) 2020/1058
13. Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004<sup>37</sup> laying down the framework for the creation of the single European sky (the framework Regulation), as amended by Regulation (EC) No 1070/2009 of the Parliament and of the Council

<sup>28</sup> OJ No. L122, 24.4.2014, p.18

<sup>29</sup> OJ No. L163, 30.6.2015, p.1

<sup>30</sup> OJ No. L133, 6.5.2014, p.12

<sup>31</sup> OJ No. L281, 13.10.2012, p.1

<sup>32</sup> OJ No. L71, 14.3.2018, p.10

<sup>33</sup> OJ No. L326, 20.12.2018, p.64

<sup>34</sup> OJ No. L189, 26.7.2018, p.3

<sup>35</sup> OJ No. L152, 11.6.2019, p.45

<sup>36</sup> OJ No. L152, 11.6.2019, p.1

<sup>37</sup> OJ No. L96, 31.3.2004, p.1

14. Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004<sup>38</sup> on the provision of air navigation services in the single European sky (the service provision Regulation), as amended by Regulation (EC) No 1070/2009 of the Parliament and of the Council

15. Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004<sup>39</sup> on the organisation and use of the airspace in the single European sky (the airspace Regulation), as amended by Regulation (EC) No 1070/2009 of the Parliament and of the Council

16. Commission Regulation (EU) No 1332/2011 of 16 December 2011<sup>40</sup> laying down common airspace usage requirements and operating procedures for airborne collision avoidance, as amended by Commission Regulation (EU) 2016/583

17. Commission Regulation (EU) 2015/340 of 20 February 2015<sup>41</sup> laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011

18. Commission Implementing Regulation (EU) 2017/373 of 1 March 2017<sup>42</sup> laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No. 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011, as amended by Commission Implementing Regulation (EU) 2020/469 amended by Commission Implementing Regulation (EU) 2020/1177

19. Commission Implementing Regulation (EU) 2019/317 of 11 February 2019<sup>43</sup> laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013

#### **Air Passengers**

20. Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006<sup>44</sup> concerning the rights of disabled persons and persons with reduced mobility when travelling by air, and corrected by Corrigendum to Regulation (EC) No 1107/2006

#### **Aerodromes**

21. Commission Regulation (EU) No 139/2014 of 12 February 2014<sup>45</sup> laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, as amended by Commission Regulation (EU) 2017/161, Commission Regulation (EU) 2018/401 and Commission Delegated Regulation (EU) 2020/2148

#### **Airworthiness**

<sup>38</sup> OJ No. L96, 31.3.2004, p.10

<sup>39</sup> OJ No. L96, 31.3.2004, p.20

<sup>40</sup> OJ No. L336, 20.12.2011, p.20

<sup>41</sup> OJ No. L63, 6.3.2015, p.1

<sup>42</sup> OJ No. L62, 8.3.2017, p.1

<sup>43</sup> OJ No. L56, 25.2.2019, p.1

<sup>44</sup> OJ No. L204, 26.7.2006, p.1

<sup>45</sup> OJ No. L44, 14.2.2014, p.1



22. Commission Regulation (EU) No 748/2012 of 3 August 2012<sup>46</sup> laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (recast), as amended by Commission Regulation (EU) No 7/2013, Commission Regulation (EU) No 69/2014, Commission Regulation (EU) 2015/1039, Commission Regulation (EU) 2016/5, Commission Delegated Regulation (EU) 2019/897, Commission Delegated Regulation (EU) 2020/570, Commission Delegated Regulation (EU) 2021/699 and Commission Delegated Regulation (EU) 2021/1088

23. Commission Regulation (EU) No 1321/2014 of 26 November 2014<sup>47</sup> on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended by Commission Regulation (EU) No 2015/1088, Commission Regulation (EU) No 2015/1536, Commission Regulation (EU) No 2017/334, Commission Regulation (EU) 2018/750, Commission Regulation (EU) 2018/1142, Commission Implementing Regulation (EU) 2019/1383, Commission Implementing Regulation (EU) 2019/1384, Commission Implementing Regulation (EU) 2020/270, Commission Implementing Regulation (EU) 2020/1159, Commission Implementing Regulation (EU) 2021/685 and Commission Implementing Regulation (EU) 2021/700

24. Commission Regulation (EU) No 2015/640 of 23 April 2015<sup>48</sup> on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012, as amended by Commission Implementing Regulation (EU) 2019/133, Commission Implementing Regulation (EU) 2020/1159 and Commission Implementing Regulation (EU) 2021/97

#### **Administrative Procedures for Aviation Safety**

25. Council Regulation (EEC) No 3922/91 of 16 December 1991<sup>49</sup> on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, as amended by Regulation (EC) No 1899/2006 of the European Parliament and the Council, Regulation (EC) No 1900/2006 of the European Parliament and the Council, Commission Regulation (EC) No 8/2008 and Commission Regulation (EC) No 859/2008

26. Commission Regulation (EU) No 1178/2011 of 3 November 2011<sup>50</sup> laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 2016/2008 of the European Parliament and of the Council, as amended by Commission Regulation (EU) No 290/2012, Commission Regulation (EU) No 70/2014, Commission Regulation (EU) No 245/2014, Commission Regulation (EU) 2015/445, Commission Regulation (EU) 2016/539, Commission Regulation (EU) 2018/1065, Commission Regulation (EU) 2018/1119, Commission Implementing Regulation (EU) 2018/1974, Commission Implementing Regulation (EU) 2019/27, Commission Implementing Regulation (EU) 2019/430, Commission Implementing Regulation (EU) 2019/1747, Commission Implementing Regulation (EU) 2020/359, Commission Delegated Regulation (EU) 2020/723 Commission Implementing Regulation (EU) 2020/2193 and Commission Implementing Regulation (EU) 2021/1310

27. Commission Delegated Regulation (EU) 2020/723 of 4 March 2020<sup>51</sup> laying down detailed rules with regard to the acceptance of third-country certification of pilots and amending Commission Regulation (EU) No 1178/2011

#### **Aviation Security**

<sup>46</sup> OJ No. L224, 21.8.2012, p.1

<sup>47</sup> OJ No. L362, 17.12.2014, p.1

<sup>48</sup> OJ No. L106, 24.4.2015, p.18

<sup>49</sup> OJ No. L373, 31.12.1991, p.4

<sup>50</sup> OJ No. L311, 25.11.2011, p.1

<sup>51</sup> OJ No. L170, 2.6.2020, p.1

28. Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008<sup>52</sup> on common rules in the field of civil aviation security and repealing Regulation (EC) No. 2320/2002, as amended by Commission Regulation (EU) No 18/2010

29. Commission Regulation (EC) No 272/2009 of 2 April 2009<sup>53</sup> supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council, as amended by Commission Regulation (EU) No 297/2010, Commission Regulation (EU) No 720/2011, Commission Regulation (EU) No 1141/2011 and Commission Regulation (EU) No 245/2013

30. Commission Regulation (EU) No 72/2010 of 26 January 2010<sup>54</sup> laying down procedures for conducting Commission inspections in the field of aviation security, as amended by Commission Implementing Regulation (EU) No 2016/472

31. Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015<sup>55</sup> laying down detailed measures for the implementation of the common basic standards on aviation security, as amended by Commission Implementing Regulation (EU) 2015/2426, Commission Implementing Regulation (EU) 2017/815, Commission Implementing Regulation (EU) 2017/837, Commission Implementing Regulation (EU) 2018/55, Commission Implementing Regulation (EU) 2019/103, Commission Implementing Regulation (EU) 2019/413, Commission Implementing Regulation (EU) 2020/111, Commission Implementing Regulation (EU) 2020/910 and Commission Implementing Regulation 2021/255

32. Commission Regulation (EU) No 1254/2009 of 18 December 2009<sup>56</sup> setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures, as amended by Commission Regulation (EU) 2016/2096

33. Commission Regulation (EC) 748/2009 of 5 August 2009<sup>57</sup> on the list of aircraft operators which performed an aviation activity listed in Annex I to Directive 2003/87/EC on or after 1 January 2006 specifying the administering Member State for each aircraft operator, as amended by Commission Regulation (EU) No 82/2010, Commission Regulation (EU) No 115/2011, Commission Regulation (EU) No. 394/2011, Commission Regulation (EU) No 100/2012, Commission Regulation (EU) No 109/2013, Commission Regulation (EU) No 815/2013, Commission Regulation (EU) No 100/2014, Commission Regulation (EU) 2015/180, Commission Regulation (EU) 2016/282, Commission Regulation (EU) 2017/294, Commission Regulation (EU) 2018/336, Commission Regulation (EU) 2019/225, Commission Regulation (EU) 2019/226, Commission Regulation (EU) 2020/535 and Commission Regulation (EU) 2021/66

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<sup>52</sup> OJ No. L97, 9.4.2008, p.72

<sup>53</sup> OJ No. L91, 3.4.2009, p.7

<sup>54</sup> OJ No. L23, 27.1.2010, p.1

<sup>55</sup> OJ No. L299, 14.11.2015, p.1

<sup>56</sup> OJ No. L338, 19. 12.2009, p.17

<sup>57</sup> OJ No. L219, 22.8.2009, p.1



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Number 40 of 2022

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## AIR NAVIGATION AND TRANSPORT ACT 2022

REVISED

Updated to 20 July 2023

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### 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

***Air Navigation and Transport Acts 1936 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(3)). The Acts in this group are:

- *Air Navigation and Transport Act 1936* (40/1936)
- *Air Navigation and Transport (Amendment) Act 1942* (10/1942) (*Repealed*)
- *Air Navigation and Transport Act 1946* (23/1946)
- *Air Navigation and Transport Act 1950* (4/1950)
- *Air Navigation and Transport Act 1959* (1/1959)
- *Air Navigation and Transport (No. 2) Act 1959* (29/1959) (*Repealed*)
- *Air Navigation and Transport Act 1961* (25/1961) (*Repealed*)
- *Civil Liability Act 1961* (41/1961), Part VI
- *Air Navigation (Eurocontrol) Act 1963* (15/1963), in so far as it amends the *Air Navigation and Transport Acts 1936 to 1961* (*Repealed*)
- *Air Navigation and Transport Act 1965* (6/1965)
- *Air Navigation and Transport Act 1973* (29/1973)
- *Air Navigation and Transport Act 1975* (9/1975)
- *Air Navigation and Transport (No. 2) Act 1975* (21/1975)
- *Air Transport Act 1986* (4/1986)
- *Air Navigation and Transport (Preinspection) Act 1986* (18/1986)
- *Air Navigation and Transport Act 1988* (15/1988)
- *Air Navigation and Transport (Amendment) Act 1998* (24/1998)
- *Air Navigation and Transport Act 2022* (40/2022), other than Parts 7 (ss. 57-84), 10 (ss. 88-105) and Schedules 2, 3

***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
- *Air Navigation and Transport Act 2022* (40/2022), s. 105

### Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at [www.lawreform.ie/annotations](http://www.lawreform.ie/annotations).

#### **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.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to 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](http://www.irishstatutebook.ie).

#### **Acts which affect or previously affected this revision**

None

All Acts up to and including *Wildlife (Amendment) Act 2023 (25/2023)*, enacted 20 July 2023, were considered in the preparation of this revision.

#### **Statutory instruments which affect or previously affected this revision**

- *Air Navigation and Transport Act 2022 (Commencement) Order 2023* (S.I. No. 220 of 2023)
- *Air Navigation and Transport Act 2022 (Dissolution Day) Order 2023* (S.I. No. 219 of 2023)
- *Air Navigation and Transport Act 2022 (Vesting Day) Order 2023* (S.I. No. 218 of 2023)
- *Air Navigation and Transport Act 2022 (Section 69) (Commencement) Order 2023* (S.I. No. 65 of 2023)
- *Air Navigation and Transport Act 2022 (Commencement) Order 2022* (S.I. No. 741 of 2022)

All statutory instruments up to and including *Merchant Shipping (Fire Protection) (No. 2) Rules 2023* (S.I. No. 380 of 2023), made 20 July 2023, were considered in the preparation of this revision.