

ÉIRE.

AN BILLE AERLOINGSEOIREACHTA AGUS AERIOMPAIR, 1946.

AIR NAVIGATION AND TRANSPORT BILL, 1946.

Mar do ritheadh ag dhá Thigh an Oireachtais.

As passed by both Houses of the Oireachtas.

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ÉIRE.

AN BILLE AERLOINGSEOIREACHTA AGUS AERIOMPAIR, 1946.

AIR NAVIGATION AND TRANSPORT BILL, 1946.

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BILL

entitled

AN ACT TO ENABLE EFFECT TO BE GIVEN TO THE
CONVENTION ON INTERNATIONAL CIVIL AVIATION
10 OPENED FOR SIGNATURE AT CHICAGO ON THE
7TH DAY OF DECEMBER, 1944, TO AMEND THE AIR
NAVIGATION AND TRANSPORT ACT, 1936, TO PRO-
VIDE FOR CERTAIN MATTERS IN RELATION TO
AER RIANTA, TEORANTA AND AER LINGUS,
TEORANTA, AND TO PROVIDE FOR OTHER MATTERS
15 (INCLUDING THE CHARGING OF FEES) CONNECTED
WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

20 1.—(1) This Act may be cited as the Air Navigation and Trans-
port Act, 1946.

Short title and
collective citation.

(2) The Air Navigation and Transport Acts, 1936 and 1942, and
this Act may be cited together as the Air Navigation and Trans-
port Acts, 1936 to 1946.

25 2.—(1) In this Act—

Interpretation.

the expression "the Chicago Convention" means the Convention
on International Civil Aviation opened for signature at Chicago
on the 7th day of December, 1944, and includes any amendment of
the said Convention which may be made under Article 94 thereof;

Chicago
Convention.

30 the expression "Irish aircraft" means aircraft registered in the
State;

Irish aircraft.

the expression "the Minister" means the Minister for Industry
and Commerce;

Minister.

35 the expression "the operative date" means the date of the passing
of this Act;

operative date.

the word "prescribed" means prescribed by an order made by
the Minister under this Act;

prescribed.

40 the expression "the Principal Act" means the Air Navigation and
Transport Act, 1936 (No. 40 of 1936), as adapted in consequence
of the enactment of the Constitution and as amended by the Air
Navigation and Transport (Amendment) Act, 1942 (No. 10 of
1942).

Principal Act.

45 (2) References in this Act to any country or territory (including
the State) shall, unless the context otherwise requires, be construed
as including references to the territorial waters (if any) adjacent
to such country or territory.

(3) This Act shall be construed as one with the Air Navigation
and Transport Acts, 1936 and 1942.

Application to State aircraft.

3.—(1) Subject to the provisions of this section, this Act shall not apply to any State aircraft.

(2) The Minister may by order direct that such provisions of this Act or any order made thereunder as may be specified in such order shall, with or without modifications, apply to State aircraft, and whenever any such order is made and is in force, such of the said provisions as may be specified in such order shall, subject to such modifications (if any) as may be specified therein, have the force of law in the State.

Saving for lighthouse authorities.

4.—Nothing in this Act or any order made thereunder shall prejudice or affect the rights, powers or privileges of any general or local lighthouse authority.

General provisions in relation to orders made by the Minister.

5.—(1) An order made by the Minister under this Act may be made applicable to any aircraft in or over the State or to Irish aircraft wherever they may be.

(2) The Minister shall not, in any order made by him under this Act, make provisions in relation to the Customs except with the concurrence of the Minister for Finance.

(3) An order made by the Minister under this Act may authorise the Minister to make regulations and give directions for carrying out the purposes of such order in respect of such matters and things as may be specified in such order.

(4) An order made by the Minister under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of such order.

(5) (a) The Minister may by order under this subsection revoke or amend any instrument to which this subsection applies.

(b) This subsection applies to—

(i) any order or regulations made under Part I of the Air Navigation Act, 1920, as adapted by or under subsequent enactments, which was continued in force by section 15 of the Principal Act and is in force immediately before the operative date,

(ii) any order made by the Government under Part II or under section 63 of the Principal Act,

(iii) any order made by the Government under section 5 of the Principal Act amending any such order or regulation as is referred to in *subparagraph (i)* or *subparagraph (ii)* of this paragraph,

(iv) any order made by the Minister under this Act.

(6) Every order made by the Minister 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 such order is passed by either such House within the next subsequent twenty-one days on which such House has sat after such order is laid before it, such order shall be annulled accordingly but without prejudice to the validity of anything previously done under such order.

Regulations and directions.

6.—The Minister may make regulations or give directions in relation to any matter in respect of which the Minister is authorised by an order made by the Minister under this Act to make regulations or give directions for carrying out the purposes of such order.

Expenses.

7.—All expenses incurred by the Minister in the execution of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II.

PROVISIONS IN RELATION TO THE CHICAGO CONVENTION.

8.—The Chicago Convention shall come into operation in the State on such day as the Minister may by order fix (which said order the Minister is hereby authorised to make).

Coming into operation of the Chicago Convention.

9.—The Minister may from time to time make such orders as appear to him necessary or expedient for carrying out the Chicago convention and for giving effect thereto or to any of the provisions thereof and every such order shall have the force of law in the State.

Power to give effect to the Chicago Convention.

10.—The Minister may from time to time by order direct that the provisions of the Chicago Convention for the time being in force, or any of them, and whether or not those provisions are limited to aircraft of any special description or engaged in any special kind of navigation, shall apply to or in relation to any aircraft in or over the State and whenever any such order is made such of the said provisions as are specified in such order shall apply to or in relation to any aircraft in or over the State.

Power to apply Chicago Convention to internal flying.

11.—Without prejudice to the generality of the powers conferred by sections 9 and 10 of this Act, the Minister may by order made under either of the said sections make provision—

Special provisions which may be made by order of the Minister.

(a) prescribing the authority by which any of the powers exercisable under the Chicago Convention by a contracting State or by any authority therein are to be exercised in the State;

(b) for the licensing, inspection and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting the work therein carried on, for prohibiting or regulating the use of unlicensed aerodromes, and for the licensing of personnel employed at aerodromes in the inspection or supervision of aircraft;

(c) as to the manner and conditions of the issue and renewal of any certificate or licence required by the order or by the Chicago Convention, including the examination and tests to be undergone, and the form, custody, production, cancellation, suspension, endorsement and surrender of any such certificate or licence;

(d) as to the registration of aircraft in the State;

(e) as to the conditions under which aircraft may be used for carrying passengers and goods;

(f) as to the conditions under which aircraft may pass or passengers or goods may be conveyed by aircraft, into or from the State or from one part of the State to another;

(g) exempting from the provisions of the order or of the Chicago Convention, or any of them, aircraft flown for experimental purposes, or any other aircraft or persons where it appears that the same should not apply;

(h) prescribing the scales of charges at licensed aerodromes;

(i) appointing any area to be a prohibited area for the purposes of the order;

(j) prescribing the fees to be paid in respect of the grant of any certificate or licence or otherwise for the purposes of the order or the Chicago Convention;

(k) supplementing the Chicago Convention, in such manner as appears necessary or convenient by regulations designed to promote the safety of aircraft and of persons and property carried therein, and to prevent aircraft endangering other persons and property; 5

(l) for the control and regulation of aerial lighthouses, lights at or in the neighbourhood of aerodromes and aerial lighthouses and lights which are liable to endanger aircraft;

(m) regulating the making of signals and other communications by or to aircraft and persons carried therein, and regulating the use of any ensign established for purposes connected with air navigation;

(n) prescribing any matter or thing referred to in this Part of this Act as prescribed. 15

Power to compel compliance when aircraft disobeys signals.

12.—If any aircraft flies or attempts to fly over any area appointed as a prohibited area under or by virtue of an order made under this Part of this Act or enters or attempts to enter the State in contravention of any such order, the following provisions shall have effect, that is to say:— 20

(a) it shall be lawful for any officer designated for the purpose by such order to cause such signal as may be prescribed by such order to be given, and

(b) if, after such signal has been given, the aircraft fails to respond to such signal by complying with the provisions of such order prescribing the action to be taken on such signal being given, it shall be lawful for such officer to fire at or into such aircraft and to use any and every other means at his disposal to compel compliance; 25 30

(c) no action or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in any court in the State in respect of the doing of anything authorised to be done by any such officer under this section, whether such doing is done personally or by a person acting in aid of or under the direction of such officer. 35

Penalties.

13.—(1) If—

(a) an aircraft flies in contravention of any instrument to which this section applies or any provision of any such instrument, or 40

(b) an aircraft fails to comply with any instrument to which this section applies or any provision of any such instrument, or

(c) any act is committed in respect of any aircraft which is a contravention of any provisions of an instrument to which this section applies or is deemed by any such instrument to be such contravention, 45

then, the owner or hirer (not being the State) of such aircraft and also the pilot or commander thereof shall be deemed to have contravened or, as the case may be, failed to comply with such instrument. 50

(2) Every person who obstructs or impedes any person acting under the authority of the Minister in the exercise or performance of any of the powers or duties conferred or imposed on the Minister by an instrument to which this section applies shall be deemed to have acted in contravention of such instrument. 55

(3) Every person who contravenes or fails to comply with or who is deemed by this section to have contravened or failed to comply with an instrument to which this section applies shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or, at the discretion of the Court, to both such imprisonment and fine.

(4) In any prosecution of a person for an alleged contravention of or failure to comply with any instrument to which this section applies it shall be a defence for such person to prove that such contravention or failure was due to stress of weather or other unavoidable cause, and in any prosecution of the owner, hirer, pilot or commander of an aircraft for such alleged contravention or failure it shall be a defence for such owner, hirer, pilot or commander to prove that such alleged contravention or failure took place without his actual default or privity.

(5) This section applies to any instrument, being—

(a) an order made by the Minister under this Part, or

(b) any regulation made or direction given under any such order.

14.—The following provisions shall have effect in relation to all fees payable under this Part, that is to say— Fees on certificates and licences.

(a) such fees shall be collected in money and taken in such manner as the Minister for Finance may from time to time direct, and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance, and

(b) the Public Offices (Fees) Act, 1879, shall not apply in respect of such fees.

15.—Any sums required for the contribution from the State for the organisation and operations of— Expenses of International Civil Aviation Organisations.

(a) the Provisional International Civil Aviation Organisation set up under the Interim Agreement on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944, or

(b) the International Civil Aviation Organisation set up under the Chicago Convention,

shall be paid by the Minister out of moneys provided by the Oireachtas.

16.—(1) The Minister may by order provide for the detention of aircraft to secure compliance with the Chicago Convention or any order made under this Part or any regulation made or direction given under any such order. Detention of aircraft.

(2) The references, in section 64 and 65 of the Principal Act, to the Principal Act shall be construed as including references to this Act.

Exemption in respect of infringements of patents etc. by certain foreign aircraft

17.—(1) Where—

- (a) a foreign aircraft to which this section applies makes, while engaged in international air navigation, an authorised entry into the territory of the State or an authorised transit across such territory with or without landing, and 5
- (b) the construction, mechanism, parts, accessories or operation of the aircraft infringe any patent, design or model duly granted or registered in the State, 10

then, notwithstanding anything in the Act of 1927, no action or proceedings shall lie or be taken in respect of such infringement.

(2) Where—

- (a) spare parts or spare equipment for a foreign aircraft to which this section applies and which is engaged in international air navigation are or is stored in the State, and 15
- (b) the said spare parts or spare equipment infringe or infringes any patent, design or model duly granted or registered in the State, 20

then, notwithstanding anything contained in the Act of 1927, the following provisions shall have effect—

- (i) no action or proceedings shall lie or be taken in respect of such storage, unless such spare parts or equipment are or is sold or distributed in the State or commercially exported from the State, 25
- (ii) no action or proceedings shall lie or be taken in respect of the user and installation in the State of such parts or equipment in the repair of any such aircraft. 30

(3) Subsection (i) of section 61 of the Principal Act shall not apply to any foreign aircraft to which this section applies which, while engaged in international air navigation, makes an authorised entry into the territory of the State or an authorised transit across such territory with or without landing. 35

(4) In this section— 35

the expression “the Act of 1927” means the Industrial and Commercial Property (Protection) Act, 1927 (No. 16 of 1927), as amended by the Industrial and Commercial Property (Protection) (Amendment) Act, 1929 (No. 13 of 1929);

the expression “foreign aircraft to which this section applies” means aircraft of a State (other than the State) which— 40

- (a) is a party to the Chicago Convention, and
- (b) either—
 - (i) is a party to the International Convention for the Protection of Industrial Property, or 45
 - (ii) has enacted patent laws which recognise and give adequate protection to inventions made by the nationals of the other States parties to the Chicago Convention. 50

PART III.

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT.

- 18.—(1) On the operative date, the powers conferred on the Government by sections 10, 11, 12 and 63 of the Principal Act shall, by virtue of this section, be transferred to, and vest in, the Minister.
- (2) References in sections 10, 11, 12 and 63 of the Principal Act to the Government shall, on and after the operative date, be construed as references to the Minister.
- 10 (3) Subsection (5) of section 5 of the Principal Act shall, in so far as it relates to the revocation or amendment of an order made under sections 10, 11, 12 or 63 of the Principal Act, cease to have effect.
- 19.—(1) Subsection (3) of section 79 of the Principal Act shall be construed and have effect—
- (a) as if the words “seven hundred and fifty thousand pounds” were substituted for the words “five hundred thousand pounds”,
- 20 (b) as if for the reference therein to five years from the date of the passing of the Principal Act there were substituted a reference to five years from the date of the passing of this Act.
- (2) Paragraph (b) of section 2 of the Air Navigation and Transport (Amendment) Act, 1942 (No. 16 of 1942), is hereby repealed.
- Transfer to Minister of powers of Government under sections 10, 11, 12 and 63 of the Principal Act, and consequential amendment of section 5 of the Principal Act.
- Amendment of section 79 of the Principal Act.

PART IV.

PROVISIONS IN RELATION TO AER RIANTA, TEORANTA.

- 20.—In this Part—
- the expression “the Company” means Aer Rianta, Teoranta, being the Company formed in pursuance of section 68 of the Principal Act;
- the expression “new shares” means shares of the Company the issue of which is authorised under section 21 of this Act;
- the expression “old shares” means shares of the Company issued under the Principal Act.
- 21.—(1) Notwithstanding anything to the contrary contained in the Principal Act, or the memorandum or articles of association of the Company, it shall be lawful for the Company to increase its capital to a total of £2,000,000 (two million pounds) divided into two million shares of one pound each, and for that purpose to make such alterations as may be requisite in its memorandum and articles of association and, in particular, to make such alterations in its memorandum and articles of association as may be necessary to authorise the directors to issue shares of one pound each ranking *pari passu* with the old shares.
- (2) No issue of new shares shall be made unless the Minister for Finance, after consultation with the Minister, has authorised such issue.
- (3) Section 112 of the Stamp Act, 1891, shall not operate so as to require the Company to deliver to the Revenue Commissioners any statement or to pay any stamp duty under that section in respect of the increase of the capital of the Company authorised by this section or in respect of the new shares.
- Definitions for purposes of Part IV. Company.
- new shares.
- old shares.
- Increase of capital of the Company.

Power of
Minister for
Finance to acquire
new shares by
subscription and to
underwrite issue of
shares.

22.—(1) The Minister for Finance may from time to time take up by subscription any class or classes of the new shares.

(2) The Minister for Finance may, subject to such conditions as he thinks fit, agree with the Company that, if any new shares of the Company about to be offered at any time for subscription are not within a specified time taken up by the public, he will take up and pay for such new shares or some specified portion thereof.

Provisions in
respect of new
shares held by the
Minister for
Finance.

23.—Sections 73, 74 and 77 of the Principal Act shall apply to new shares held by the Minister for Finance in like manner as they apply to old shares held by him.

Advances of
moneys out of the
Central Fund.

24.—(1) All moneys from time to time required by the Minister for Finance to meet payments required to be made by him to the Company in respect of any new shares subscribed for or taken up by him under this Act shall be advanced out of the Central Fund or the growing produce thereof.

(2) For the purpose of providing moneys for the sums advanced out of the Central Fund under this section the Minister for Finance may borrow from any person any sum or sums, and for the purpose of such borrowing the said Minister may create and issue securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as he thinks fit, and shall pay the moneys so borrowed into the Exchequer.

(3) The principal of and interest on any securities issued by the Minister for Finance under this section and the expenses incurred in connection with the issue of such securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

Extension of
objects of the
Company.

25.—(1) Paragraph 3 of the Second Schedule to the Principal Act is hereby amended by the substitution of the following subparagraph for subparagraph (b), that is to say—

“(b) the principal objects of the Company shall include—

- (i) the establishment, maintenance and working of lines of aerial conveyances between places in the State and between the State and other countries either directly or by means of Aer Lingus, Teoranta and other air transport undertakings (in this paragraph referred to as controlled air transport undertakings) in which the Company has a controlling interest,
- (ii) the acquisition and holding of shares in Aer Lingus, Teoranta,
- (iii) the promotion of and holding of shares in controlled transport undertakings and in aircraft maintenance, repair and manufacture undertakings,
- (iv) the holding of shares in and the making of working arrangements with air transport undertakings (other than controlled air transport undertakings) and aircraft maintenance, repair and manufacture undertakings,
- (v) the giving, with the consent of the Minister for Finance, financial or other assistance to air transport undertakings and aircraft maintenance, repair and manufacture undertakings.”

(2) At any time after the passing of this Act, the Company may, with the approval of the Minister for Finance, given after consultation with the Minister, so alter its memorandum of association as to extend its objects in conformity with the amendment effected by subsection (1) of this section.

Directors.

26.—Paragraph 4 of the Second Schedule to the Principal Act is hereby amended by the substitution of the following subparagraphs for subparagraphs (a) and (b), that is to say:—

“ (a) the number of the directors of the Company shall be not more than seven nor less than three,

(b) so long as the Minister for Finance holds not less than one-tenth (in nominal value) of the issued shares of the Company or so long as any debentures of the Company guaranteed by the said Minister under this Act are outstanding, a majority of the directors of the Company shall be nominated by the said Minister after consultation with the Minister for Industry and Commerce.”

10 27.—(1) In addition to the alterations specifically authorised by this Part to be made in the memorandum and articles of association of the Company, it shall be lawful for the Company to make all such alterations in its memorandum and articles of association as are necessary or proper by way of supplement to, or in consequence of, any alteration so specifically authorised and also such other alterations as shall be necessary or proper to give effect to the provisions of this Part.

Alteration of memorandum and articles of association of the Company.

20 (2) Neither section 78 of the Principal Act nor Clauses 7 and 8 of the memorandum of association of the Company shall apply to alterations made in the memorandum and articles of association of the Company under or in pursuance of this Part, and in lieu thereof it is hereby enacted that all such alterations shall be in such form consistent with this Part as shall be approved by the Minister for Finance, after consultation with the Minister.

25 (3) For the purposes of effecting any alterations in the articles of association of the Company authorised by this Part, section 13 of the Companies (Consolidation) Act, 1908, shall be construed as if the words “ extraordinary resolution ” were substituted for the words “ special resolution ” where the latter words first occur.

30 (4) Section 9 of the Companies (Consolidation) Act, 1908, shall not apply in respect of any alteration authorised by this Part to be made by the Company in its memorandum of association, and in lieu thereof it is hereby enacted that every such alteration may be made by extraordinary resolution, as defined by section 69 of the said Act, and that, in addition to complying with section 70 of the said Act, the Company shall, within the time mentioned in the said section 70, deliver to the registrar of companies a printed copy of the memorandum as so altered and the said registrar shall register it and certify the registration under his hand, and such certificate shall be conclusive evidence that all the requirements of the said Act, as amended by this subsection with respect to such alteration, have been complied with and thenceforth the memorandum as so altered shall be the memorandum of the Company.

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PART V.

PROVISIONS IN RELATION TO AER LINGUS, TEORANTA.

28.—Notwithstanding anything contained in the Companies (Consolidation) Act, 1908, Aer Lingus, Teoranta may, by extraordinary resolution, as defined by section 69 of the said Act, alter its memorandum of association by deleting clauses 6 and 7 thereof

Alteration of memorandum of association of Aer Lingus, Teoranta.

Éire.

Éire.

AN BILLE AER LOINGSEOIREACHTA AGUS
AERIOMPAIR, 1946.

AIR NAVIGATION AND TRANSPORT BILL
1946.

BILLE

dá ngairmtear

Acht dá chumasú éifeacht a thabhairt don Chonbhinsiun ar Eitlíocht Shibhialta Eadar-náisiúnta a hoscfaíodh chun a shíniú i Chicago an 7ú lá de Nollaig, 1944, do leasú an Achta Aerloingseoireachta agus Aeriompair, 1936, do dhéanamh socrúithe i dtaobh nithe áirithe a bhaineas le Aer Rianta, Teoranta, agus le Aer-Lingus, Teoranta agus do dhéanamh socrúithe i gcóir nithe eile (lena n-áirítear táillí a éileamh) a bhaineas leis na nithe réamhráite.

*Réite ag dhá Thigh an Oireachtais,
24ú Iúl, 1946.*

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN rSOLATHAIR.

Le ceannach trí aon díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 3-4 Sráid an Choláiste, Baile Atha Cliath.

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[*Raol Glan.*]

Wt. 197-321. 325. 7/46. C.&Co. (4310).

BILL

entitled

An Act to enable effect to be given to the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944, to amend the Air Navigation and Transport Act, 1936, to provide for certain matters in relation to Aer Rianta, Teoranta and Aer Lingus, Teoranta, and to provide for other matters (including the charging of fees) connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
24th July, 1946.*

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