



**AN BILLE AERLOINGSEOIREACHTA AGUS
AERIOMPAIR, 1964
AIR NAVIGATION AND TRANSPORT BILL, 1964**

EXPLANATORY MEMORANDUM

1. The main intentions of the Bill are :—
- (a) to give effect to the Guadalajara Convention, supplementary to the Warsaw Convention;
 - (b) to re-enact, with amendments, section 18 of the Air Navigation and Transport Act, 1936;
 - (c) to provide for control over all air services which may be operated to, from, within or over the territory of the State;
 - (d) to provide for control of the fares and rates to be charged on air services to, from, or within the State; and
 - (e) to make such further provisions as are necessary to secure compliance with the provisions of the Bill.

(a) *Guadalajara Convention : (sections 2, 3 and 5).*

2. The Warsaw Convention, which was made part of Irish law by the Air Navigation and Transport Act, 1936, governs the liability of air carriers for payment of compensation in the event of death or injury of passengers or the destruction or damage of goods in international carriage by air. The Guadalajara Convention done in Mexico in 1961 extends the scope of the Warsaw Convention to include the case where the carrier who contracts for carriage is not, in fact, the carrier who actually performs the carriage. It is desirable that this country should become a party to the Guadalajara Convention and the Bill will give it the force of law in the State.

(b) *Amendment of section 18 of the Air Navigation and Transport Act, 1936 : (section 4).*

3. Section 18 of the Air Navigation and Transport Act, 1936, made certain provisions in relation to claims for compensation in the event of the death of a passenger in international carriage by air to whom the provisions of the Warsaw Convention apply. The section was amended by section 4 of the Air Navigation and Transport Act, 1959, and further amended and then replaced by section 55 of the Civil Liability Act, 1961. The Civil Liability Act, 1964, introduced a further amendment of the general law on this subject by repealing the provision in section 49 of the 1961 Act limiting claims for mental distress to three years. It is desirable to make a similar repeal in respect of air accidents. It is also necessary to take account of the Guadalajara Convention in the application of this section. Rather than further amend it, it is now proposed to re-enact this section, as amended, in the present Bill. The law in regard to fatal air accidents will then be as far as possible in line with the law for ordinary fatal injuries.

(c) *Control of Air Services (sections 6 to 10).*

4. At present the Minister's powers to grant or refuse permission to operate commercial air services to, from, within or over the State derive from the International Lines Order of 1935 (made

under the Air Navigation Act, 1920) and from Parts IX and X of the Air Navigation and Transport Act, 1936. Certain doubts have arisen in regard to the efficacy of these measures in present-day conditions, and it is proposed, therefore, to replace them by more specific controls. Under the Bill, the Minister will exercise control over air services either by means of Orders under section 7 or Authorisations under section 8. It is intended that the Orders to be made under section 7 will approve of the continuation of services permitted by the international air agreements to which Ireland is a party and will thus replace the International Lines Order. The Authorisations under section 8 will replace the existing controls over domestic flights and aviation businesses contained in Parts IX and X of the Air Navigation and Transport Act, 1936 and will also permit of control over the operation of single flights or series of flights (such as charters and inclusive tours) not the subject of international agreements.

(d) *Fares and Rates (sections 9 and 10).*

5. Sections 9 and 10 will enable the Minister, if he so desires, to fix by Order the fares and rates to be charged for the carriage of passengers, goods or mail to, from or over the State and to approve or disapprove of any fares and rates which may be submitted to him.

(e) *Miscellaneous provisions (sections 11 to 18).*

6. Sections 11 to 18 enable the Minister to make regulations about applications for and the issue and renewal of Authorisations to operate air services, the keeping of records and the furnishing of returns, the imposition of penalties, including the detention of aircraft, and other general provisions.

*Department of Transport and Power,
January, 1965.*

(b) Amendment of section 15 of the Air Navigation and Transport Act, 1936. (Section 15.)

3. Section 15 of the Air Navigation and Transport Act, 1936, made certain provisions in relation to claims for compensation in the event of the death of a passenger in international carriage by air to whom the provisions of the Warsaw Convention apply. The section was amended by section 4 of the Air Navigation and Transport Act, 1959, and further amended and then replaced by section 55 of the Civil Liability Act, 1961. The Civil Liability Act, 1961, introduced a further amendment of the general law on this subject by replacing the provision in section 55 of the 1961 Act limiting claims for mental distress to three years. It is desirable to make a similar repeal in respect of air accidents. It is also necessary to take account of the Guadalajara Convention in the application of this section. Rather than further amend it, it is now proposed to repeal this section as amended in the present Bill. The law in regard to fatal air accidents will then be as far as possible in line with the law in regard to other fatal injuries.

(c) *Order of Air Services (sections 7 to 10).*

4. At present the Minister has powers to grant or refuse per-