



AN BILLE AERIOMPAIR, 1984
AIR TRANSPORT BILL, 1984

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Charges etc. to which Act applies.
3. Notice requiring particulars of proposed airline tariffs.
4. Temporary direction pending decision under *section 3*.
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ACTS REFERRED TO

Air Navigation and Transport Acts, 1936 to 1975
Companies Act, 1963
Air Navigation and Transport Act, 1965

1963, No. 33
1965, No. 6



AN BILLE AERIOMPAIR, 1984
AIR TRANSPORT BILL, 1984

BILL

entitled

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO 5
THE CONTROL OF RATES AND FARES CHARGED ON
AIR SERVICES TO, FROM AND WITHIN THE TERRI-
TORY OF THE STATE, TO MAKE PROVISION AS
REGARDS THE REGULATION OF THE OTHER CHAR-
GES RELATING TO SUCH AIR SERVICES AND THE 10
CONDITIONS OR OTHER TERMS ON OR SUBJECT TO
WHICH SUCH AIR SERVICES ARE PROVIDED, AND TO
AMEND THE AIR NAVIGATION AND TRANSPORT ACT,
1965, AND TO PROVIDE FOR OTHER MATTERS CON-
NECTED WITH THE MATTERS AFORESAID. 15

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.—In this Act—

“the Act of 1965” means the Air Navigation and Transport Act, 1965;

“air carrier to which this Act applies” means a person—

(a) who operates an air service of a kind for the time being 20
authorised under section 7 of the Act of 1965, or

(b) to whom an authorisation under section 8 of the Act of 1965
has been granted and which is for the time being in force;

“airline tariff” means the fares, rates or other charges which are
payable to or made by either an air carrier to which this Act applies 25
or an intermediary to whom *section 6* of this Act applies as regards
the transport by air of passengers (either with or without luggage or
baggage), mail or other cargo and the conditions (including in partic-
ular conditions as regards agency or other auxiliary services) or other
terms on or subject to which those charges are to be paid or made; 30

“fare” includes a fare net of discount;

“the Minister” means the Minister for Communications;

“the register” has the meaning assigned to it by *section 5*;

“rate” includes a rate net of discount.

Charges etc. to
which Act applies.

2.—This Act applies to any fare, rate or other charge, term or 35

condition contained in an airline tariff which is an airline tariff to which a notice under *section 3* of this Act which is for the time being in force relates.

5 3.—(1) (a) The Minister may, by a notice in writing given to an air carrier to which this Act applies, for so long as the notice remains in force, require such carrier to submit, or cause to be submitted on his behalf, to the Minister, in writing and before its implementation, particulars of any airline tariff proposed to be applied by such air carrier, being an airline tariff to which the notice relates.

Notice requiring particulars of proposed airline tariffs.

10 (b) Where a notice under this section is given, then, for so long as the notice remains in force, the person to whom it is given shall comply with the requirements of the notice.

15 (2) Where an airline tariff is submitted to the Minister pursuant to the requirements of a notice under this section, the Minister may approve of the tariff, or of anything contained therein, with or without modification or refuse to approve of the tariff or of anything so contained: provided that the Minister shall not make a decision under this section in relation to the airline tariff before the day which is twenty-one days after the day on which particulars of the airline tariff are entered in the register pursuant to *section 5* of this Act, or the day immediately following the expiration of the period specified in the relevant notification under *subsection (4)* of this section, whichever is the later.

20 (3) In considering an airline tariff submitted under this section, in addition to having regard to the interests of the air carrier by or on whose behalf the submission is made, the Minister shall have regard to—

30 (a) the reasonable interests of—

 (i) the other air carriers to which this Act applies, and

 (ii) the persons whom he considers will use the passenger service, or the mail or other cargo service, as may be appropriate, to which the proposed airline tariff will relate,

35 (b) the contribution capable of being made to the economy by the tourist industry by reason of the provision (subject to the need to maintain an air transport industry) of airline tariffs which are competitive in the fares, rates or other charges and in the terms and conditions applicable,

40 (c) the necessity, having regard in particular to the public interest, of maintaining the continuity, range, frequency and standard of all or any of the following, namely, particular air services to, from or within the State, such air services generally or airport facilities associated with such air services,

45 (d) any representations or objections regarding the airline tariff which are made to him within the period mentioned in *subsection (2)* of this section (which representations and objections are hereby authorised to be made), and

50 (e) any air transport or other international agreement for the

time being in force, to which the State is a party.

(4) Where under this section the Minister proposes either to approve of with modifications or to refuse to approve of an airline tariff, he shall notify in writing the air carrier or other person from whom the relevant submission was received under this section of his intention and of the reasons therefor and the notification shall state that within such period, beginning on the date of the notification as is specified in the notification (being a period of not less than seven days), representations and objections as regards the proposed refusal or modification may be made to the Minister by such air carrier (which representations and objections are hereby authorised to be made).

(5) A notice under this section may relate to airline tariffs generally or to such tariffs which are of a class or description specified in the notice and, in any case where such a notice relates to airline tariffs of a class or description so specified, the notice shall be given to all air carriers to which this Act applies, which apply or propose to apply airline tariffs of that class or description.

(6) A notice under this section shall remain in force until it is withdrawn by the Minister by a notice in writing.

Temporary
direction pending
decision under
section 3.

4.—(1) Where an airline tariff is submitted to the Minister pursuant to section 3 of this Act by or on behalf of an air carrier, the Minister may give to the person from whom the submission is received a direction under this section in respect of that air carrier prohibiting such air carrier's applying (whether directly or through an agent) the tariff, or, as may be specified in the direction, his collecting, charging, making, applying or imposing any one or more of the fares, rates or other charges, terms or conditions contained in such tariff and so specified, and such direction shall come into force on the expiration of the period of seven days beginning on the day on which a copy of the direction is sent by the Minister unless, not later than the seventh day following the day on which such copy is so sent, the person from whom the submission was received satisfies the Minister that the direction should not come into force.

(2) In case a copy of a direction under this section is sent by the Minister, the Minister shall at the same time send to the person from whom the relevant submission under this section was received a notice in writing stating that the air carrier concerned may, within the time limit specified in subsection (1) of this section, make representations to the Minister stating why the direction should not come into force.

(3) A direction under this section shall remain in force until the expiration of the period of twenty-eight days beginning on the day on which it is given or until the Minister makes a decision under section 3 of this Act as regards the relevant airline tariff, whichever first occurs.

(4) The Minister may, by a notice in writing given to the person from whom the relevant submission under this section was received, extend or further extend, in either case for a period not exceeding twenty-eight days, the period during which a particular direction under this section is to remain in force.

Register.

5.—(1) The Minister shall keep a register (in this Act referred to as "the register") for the purposes of this Act and shall, as soon as may be, enter therein particulars of—

- 5 (a) any application to the Minister by or on behalf of an air carrier for authorisation under section 7 or 8 of the Act of 1965 to operate an air service to, from or within the territory of the State and in respect of which operation the Minister would, if the authorisation were granted, propose to issue a notice under *section 3* of this Act,
- (b) any decision given by the Minister under *paragraph (a)* of this subsection,
- 10 (c) any airline tariff submitted pursuant to the requirements of a notice under *section 3* of this Act and the name of the air carrier by or on whose behalf the submission was made,
- (d) any decision given by the Minister under the said *section 3*, and
- (e) any temporary direction given under *section 4* of this Act.

15 (2) The register shall be kept at such place as the Minister shall direct and shall be available for inspection during such office hours as shall for the time being be specified by the Minister.

6.—(1) Where—

Offences.

- 20 (a) a person collects, charges, makes, applies or imposes any fare, rate or other charge, term or condition to which this Act applies, and
- (b) (i) the fare, rate or other charge, term or condition is not contained in an airline tariff previously submitted by or on behalf of the air carrier concerned to the Minister pursuant to the requirements of *section 3* of this Act, or
- 25 (ii) such an airline tariff has been so submitted but the Minister has refused to approve of the fare, rate or other charge, term or condition, on such submission, or
- 30 (iii) such an airline tariff has been so submitted and has been approved of by the Minister subject to a modification, but in collecting, charging, applying or imposing the charge, term or condition the modification is disregarded by the person,
- 35

the person shall be guilty of an offence.

(2) A person who operates an air service or an intermediary to whom this section applies shall neither—

- 40 (a) print, publish, cause or procure to be printed or published any advertisement advertising any fare, rate or charge which is both—
 - (i) a fare, rate or charge to which this Act applies, and
 - (ii) a fare, rate or charge, the collection, charging or making of which would, if made, constitute an offence
- 45 under this Act, nor
- (b) distribute or otherwise make available to the public any document containing—

(i) an advertisement described in *paragraph (a)* of this subsection, or

(ii) any reference to a fare, rate or charge described in *subparagraphs (i) and (ii)* of the said *paragraph (a)*.

(3) A person who contravenes *subsection (2)* of this section shall be guilty of an offence. 5

(4) In the event of a person, other than the air carrier in whose airline tariff the relevant fare, rate or other charge, term or condition is contained, committing an offence under *subsection (1)* or *(3)* of this section, that air carrier shall, subject to *subsection (5)* of this section, be deemed to have committed an offence under the said *subsection (1)* or *(3)*, as may be appropriate. 10

(5) In any proceedings for an offence under this section it shall be a defence for the defendant to prove—

(i) that at the time of the alleged offence, the fare, rate or other charge, term or condition to which the alleged offence relates stood fixed by an order under section 9 (as amended by *section 10* of this Act) of the Act of 1965, or 15

(ii) that the relevant contravention was committed without his consent, connivance or default or that he took, or caused to be taken, reasonable steps to prevent or avoid the contravention. 20

(6) Any person who contravenes, whether directly or as an agent of an air carrier, a direction under *section 4* of this Act shall be guilty of an offence. 25

(7) Where an offence under *subsection (1)*, *(3)* or *(6)* of this section is, or, by virtue of *subsection (4)* of this section, is deemed to have been, committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by the wilful default on the part of, any director, manager, secretary or other officer of the body, he, as well as the body, shall be deemed to have committed the first-mentioned offence. 30

(8) In this section "intermediary to whom this section applies" means a person who as agent— 35

(a) arranges for the purpose of selling or offering for sale, or

(b) sells or offers for sale, or

(c) purchases or offers to purchase,

accommodation for the transport by air of passengers, mail or other cargo or who holds himself out, by advertising or otherwise, as one who may make available such accommodation, whether alone or in association with other accommodation, or with facilities or services. 40

Evidential value of certain certificates.

7.—In any proceedings for an offence under this Act, the production of a certificate purporting to be signed by an officer of the Minister and certifying that a fare, rate or other charge, term or condition specified in the certificate is a fare, rate or other charge, term or condition, as may be appropriate, to which this Act applies and that— 45

- (a) the fare, rate or other charge, term or condition so specified was not contained in any airline tariff submitted to the Minister pursuant to the requirements of *section 3* of this Act, or
- 5 (b) that on being so submitted the fare, rate or other charge, term or condition was approved of by the Minister subject to a modification (which modification shall be certified in the certificate), or
- 10 (c) that, though it was so submitted, the Minister refused to approve of the fare, rate or other charge, term or condition,

shall, until the contrary is proved, be evidence of any fact certified by the certificate without proof of any signature thereon or that any such signature is that of such an officer.

- 15 8.—(1) Every person guilty of an offence under subsection (2) of section 12 of the Act of 1965 in respect of a contravention of or failure to comply with an order under section 9 of that Act or every person guilty of an offence under *subsection (1) or (6) of section 6* of this Act or who, by virtue of *subsection (4) or (7) of that section*, is deemed
- 20 to have committed such an offence, shall be liable—

Penalties.

(a) on summary conviction, to a fine not exceeding £1,000, or

(b) on conviction on indictment, to a fine not exceeding £50,000.

- (2) Every person guilty of an offence under *section 6 (3) of this Act* or who, by virtue of *subsection (4) or (7) of that section*, is deemed
- 25 to have committed such an offence, shall be liable on summary conviction to a fine not exceeding £1,000.

9.—(1) Where a notice is required by this Act to be given to a person, it shall be addressed to him and shall be given to him in some one of the following ways:

Giving of notices.

- 30 (a) where it is addressed to him by name, by delivering it to him;
- (b) by sending it by telex or other telecommunications message to, or leaving it at, the address at which he ordinarily resides or, in a case in which an address for service has been furnished, that address;
- 35 (c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address.

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

- 45 10.—The Act of 1965 is hereby amended by—

Amendment of Act of 1965.

- (a) the insertion of the following definitions before the definition of "the Minister" in subsection (1) of section 1:

“fares’ includes fares net of discount;

‘rates’ includes rates net of discount;”;

(b) the substitution of the following subparagraphs for subparagraphs (i) and (ii) of section 6 (1) (b):

“(i) if an order under section 9 (as amended by *section 10* of the *Air Transport Act, 1986*) of this Act fixing the fares, rates or other charges, terms or conditions to be charged, made, applied or imposed as regards the carriage of passengers, cargo and mail on the service is in force, the fares, rates or other charges, terms or conditions so fixed are charged, made, applied or imposed, as may be appropriate, as regards the service, or

(ii) if the fares, rates or other charges, terms or conditions to be so charged, made, applied or imposed are fares, rates or other charges, terms or conditions to which the *Air Transport Act, 1986*, applies—

(I) the fares, rates or other charges, terms or conditions are contained in an airline tariff previously submitted to the Minister for his approval pursuant to *section 3* of that Act, and

(II) none of the fares, rates or other charges, terms or conditions is one as regards which on such submission the Minister has refused his approval, or, in case the Minister has given such approval subject to a modification, regard is had to the modification.”;

(c) the substitution of “, rates or other charges, terms or conditions to be charged, made, applied or imposed in respect of or in relation to the carriage” for “or rates to be charged for the carriage” in subsection (1) of section 9;

(d) the substitution of “, rates or other charges, terms or conditions” for “or rates” in subsection (2) of section 9;

(e) the substitution of “, rates or other charges, terms or conditions charged, made, applied or imposed in respect of or in relation to the carriage of passengers, cargo and mail on those services, or proposed so to be charged, made, applied or imposed,” for “or rates charged or proposed to be charged in respect of the carriage of passengers, cargo and mail on those services” in subparagraph (vi) of section 11 (a);

(f) the insertion before “shall be liable” in subsection (2) of section 12 of the Act of 1965 of “, except for a contravention of or failure to comply with an order made under section 9 of this Act,”; and

(g) the substitution in subsection (2) of section 12 of “£1,000” and “£100,000” for “one hundred pounds” and “one thousand pounds”, respectively;

and the said subsection (1), the said subsection (2) of the said section 9, the said subparagraph (vi) of the said section 11 (a), and the said subsection (2) of the said section 12, as so amended, are set out in paragraphs 1, 2, 3 and 4, respectively, of the Table to this section.

TABLE

5 1. (1) The Minister may, by order, fix the fares, rates or other charges, terms or conditions to be charged, made, applied or imposed in respect of or in relation to the carriage of passengers, cargo or mail on air services to, from or within the territory of the State.

10 2. (2) An order under this section may fix different fares, rates or other charges, terms or conditions in respect of different air services or different categories of passengers, cargo or mail and may apply in relation to all air services to, from or within the territory of the State or in relation only to a specified air service or specified air services to, from or within such territory.

15 3. (vi) to furnish to the Minister such information in relation to fares, rates or other charges, terms or conditions charged, made, applied or imposed in respect of or in relation to the carriage of passengers, cargo and mail on those services, or proposed so to be charged, made, applied or imposed, as the Minister may specify, and

20 4. (2) A person who contravenes or fails to comply with or who is deemed by this section to have contravened or failed to comply with a provision of this Act or an order, regulation or direction under this Act shall be guilty of an offence and, except for a contravention of or failure to comply with an order made under section 9 of this Act, shall be liable—

25 (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or, at the discretion of the Court, to both the imprisonment and the fine, or

30 (b) on conviction on indictment to imprisonment for a term not exceeding six months or to a fine not exceeding £100,000 or, at the discretion of the Court, to both the imprisonment and the fine.

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

12.—Section 10 of the Act of 1965 is hereby repealed. Repeal.

13.—(1) This Act may be cited as the Air Transport Act, 1986. Short title and collective citation.

(2) The Air Navigation and Transport Acts, 1936 to 1975, and this Act may be cited together as the Air Navigation and Transport Acts, 40 1936 to 1986.

BILLE

dá ngairtear

Acht do dhéanamh socrú breise i ndáil le rátaí agus táillí a rialú a mhuirearófar ar aersheirbhísí go dtí críoch an Stáit, agus uaithi, agus laistigh di, do dhéanamh socrú maidir leis na muirir eile a rialáil a bhaineann leis na haersheirbhísí sin agus leis na coinníollacha nó na téarmaí eile ar a soláthrófar nó ar faoina réir a sholáthrófar na haersheirbhísí sin, agus do leasú an Achta Aerloingseoireachta agus Aeriompair, 1965, agus do dhéanamh socrú maidir le nithe eile a bhaineann leis na nithe réamhráite.

BILL

entitled

An Act to make further provision in relation to the control of rates and fares charged on air services to, from and within the territory of the State, to make provision as regards the regulation of the other charges relating to such air services and the conditions or terms on or subject to which such air services are provided, and to amend the Air Navigation and Transport Act, 1965, and to provide for other matters connected with the matters aforesaid.

*Ritheadh ag dhá Theach an Oireachtais,
12 Márta, 1986*

*Passed by both Houses of the Oireachtas
12th March, 1986*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

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