



**AN BILLE AERLOINGSEOIREACHTA (EUROCONTROL)
2005
AIR NAVIGATION (EUROCONTROL) BILL 2005**

EXPLANATORY AND FINANCIAL MEMORANDUM

General

This Bill will allow Ireland to ratify the revised Eurocontrol Convention, and will give the revised Convention the force of law in Ireland.

Eurocontrol, the European Organisation for the Safety of Air Navigation, was established by an International Convention in 1960. The provisions of the 1960 Convention were given effect in the Air Navigation (Eurocontrol) Act, 1963. The formal accession of Ireland to the Eurocontrol Organisation came into force on 1 January, 1965. Membership of the Organisation has continued to grow and has now reached 34 States, including all EU member states except Estonia, Latvia and Lithuania. The accession of the European Community to Eurocontrol took place on 8 October 2002.

Since the 1960 Convention a number of further Protocols have been adopted as follows:

- an additional Protocol of 6 July 1970, concerning tax provisions;
- a Protocol of 21 November 1978, amending the additional Protocol of 1970;
- an amending Protocol of 12 February, 1981 on a multilateral Agreement on route charges which provided for a common policy and joint system for the establishment and collection by Eurocontrol, on behalf of the Contracting Parties, of en-route air traffic control charges in European airspace covered by the Agreement.

The provisions of the Convention and its subsequent Protocols were given effect in legislation under the Air Navigation (Eurocontrol) Acts 1963-1983. These Acts were subsequently repealed by and the provisions of the Convention and subsequent Protocols given effect in the Irish Aviation Authority Act, 1993. The Irish Aviation Authority is required under the latter Act to implement specific provisions of the Eurocontrol Convention.

The Final Act to the Convention and the Protocols amending and consolidating the text of the Eurocontrol International Convention were signed by Ireland, subject to ratification, on 27 June 1997. The Revised Convention will come fully into force when it is ratified by all Member States. To date 22 of the 34 Member States have ratified the Revised Convention.

The revised Eurocontrol Convention was concluded following several years in negotiation. The changes are designed to revise and update the Convention to take into account progress made in the area of Air Navigation Services. In particular, the amendments are designed to strengthen the co-operation between Contracting Parties via joint activities in the field of air navigation. These objectives do not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory, nor the capacity of every State to exercise its prerogatives with regard to security and defence in its national airspace.

The main provisions of the Revised Convention include:

- an updating of the objectives of the Organisation, commensurate with its current and possible future activities;
- a new institutional structure for formulating and implementing the Organisation's policy;
- an expansion of the tasks of the Organisation to achieve a European Air Traffic Management system;
- more effective decision-making based on majority voting;
- enabling power for European Community membership of Eurocontrol.

Many of the provisions of the Revised Convention do not require legislative change as they are already provided for in existing legislation or relate to administrative arrangements for the operation of the Eurocontrol Agency.

About the same time as the signature of the Revised Convention (June 1997), EU Member States agreed in principle to Community membership of Eurocontrol (facilitated by the new Article 40 of the Convention) as the most appropriate way for the Community to exercise its ATM competence. Negotiations between the European Commission and Eurocontrol therefore began and these resulted in the text of an agreed Accession Protocol. Signature of the Accession Protocol took place at a Diplomatic Conference held on 8 October 2002. The Bill contains a reference to this Protocol in the definition of the Eurocontrol Convention, which will allow Ireland to ratify the Accession Protocol.

Provisions of the Bill

Section 1 defines the Act of 1993 as the Irish Aviation Authority Act 1993.

Section 2 provides for miscellaneous amendments to the Act of 1993 reflecting the new and more streamlined organisational arrangements within Eurocontrol and updating the penalties contained in Section 74 of the Act of 1993.

Section 3 provides for amendment of Part III (Eurocontrol Convention) of the Act of 1993 to delete references to the Statute of the Agency and the Multilateral Agreement on Route Charges, which are incorporated into the new Convention. This Section also empowers the Minister to make Regulations for the purpose of giving effect to the common European air traffic flow management system at a common international center, specified in Articles 2(e), 7.2(d) and 19 of the new Convention, and ensuring compliance with that system by way of random checks and inspections and evidence in

proceedings. Eurocontrol already operates such a centre, the Central Flow Management Unit based in Brussels, which has worked well with national air traffic service providers over a number of years.

Section 4 repeals Section 67 of the Act of 1993 on detention of aircraft. Subsections (a), (b) and (c) of Section 67 refers to Section 32 of the Air Navigation and Transport Act 1988, which was repealed by the Air Navigation and Transport Act 1998. Subsections (d) and (e) of Section 67 of the Act of 1993 comprise textual amendments to Section 41 of the 1988 Act and, as such, are spent provisions. Consequently, Section 67 of the Act of 1993 can be repealed in its entirety.

Section 5 is a standard provision in legislation providing for the short title.

The Schedule to the Bill reproduces the text of the consolidated Eurocontrol Convention.

Estimated Exchequer costs

It is not expected that the Act will give rise to any additional costs for the Exchequer.

Staffing implications for the Department or State Body

The Act will not give rise to any additional staffing requirements.

An Roinn Iompair,
Meitheamh, 2005