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**AN BILLE AERLOINGSEOIREACHTA AGUS AERIOMPAIR  
(GÉILLEADH NEAMHGHNÁCH A CHOSC) 2008**  
**AIR NAVIGATION AND TRANSPORT (PREVENTION OF  
EXTRAORDINARY RENDITION) BILL 2008**

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*Mar a tionscnaíodh*  
*As initiated*

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Section

1. Short title and collective citation and construction.
  2. Interpretation.
  3. Purposes of Act.
  4. Duty of State to advance purposes of Act.
  5. Diplomatic assurances.
  6. Powers under Air Navigation and Transport Acts to be exercised to advance purposes of Act.
  7. Power to enter and inspect aircraft.
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ACTS REFERRED TO

Air Navigation and Transport Act 1988

1988, No. 15

Air Navigation and Transport Acts 1936 to 1998



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**BILL**

*entitled*

AN ACT TO PROVIDE FOR THE EXERCISE OF POWERS  
UNDER THE AIR NAVIGATION AND TRANSPORT  
ACTS 1936 TO 1998 IN ACCORDANCE WITH THE INTER-  
NATIONAL LEGAL OBLIGATIONS OF THE STATE IN  
RESPECT OF SECRET DETENTION FACILITIES AND  
INTER-STATE TRANSPORT OF PRISONERS; AND TO  
PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

15 **1.**—(1) This Act may be cited as the Air Navigation and Trans- Short title and  
port (Prevention of Extraordinary Rendition) Act 2008. collective citation  
and construction.

(2) This Act and the Acts may be cited together as the Air Navi-  
gation and Transport Acts 1936 to 2008 and shall be construed  
together as one Act.

20 **2.**—(1) In this Act— Interpretation.

“the Act of 1988” means the Air Navigation and Transport Act 1988;

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

25 “breach of human rights” means a breach of a right, liberty or free-  
dom conferred on, or guaranteed to, persons by the Constitution or  
by an international agreement to which the State is a party;

“state” means a state other than the State.

(2) A person is in state custody if he or she is in the custody of  
another person who is a member of, employed by, acting on behalf  
of, or acting under the direct or indirect control of the public admini-  
stration or the military, police or other security services of a state  
30 other than the State.

**3.**—The purposes of this Act are to ensure, so far as is reason- Purposes of Act.  
ably practicable—

- (a) that persons are not transported by aircraft out of the State in state custody otherwise than in accordance with the laws of the State and the international agreements to which it is a party,
- (b) that aircraft suspected of being used for the transport of persons in state custody to a place where they may be exposed to the risk of a breach of human rights are not permitted to enter the airspace of the State or, if such aircraft are within the airspace of the State, that all practicable measures are taken to prevent the commission of a breach of human rights within the territory of the State.

Duty of State to advance purposes of Act.

4.—(1) It is the duty of the State, the Minister for Transport, the Irish Aviation Authority, the Garda Síochána and of every person concerned with the implementation of the Acts and this Act to advance the purposes of this Act.

(2) Compliance with the duty referred to in *subsection (1)* is cognisable by the High Court and on appeal by the Supreme Court.

Diplomatic assurances.

5.—Where there are reasonable grounds for concern that a state may be responsible for the transport of persons in custody into, through or out of the State including its airspace to places where they may be exposed to the risk of a breach of human rights (including but not limited to the right to security of the person, freedom from torture and inhuman or degrading treatment or punishment and the right to life), the seeking and obtaining of diplomatic assurances from the government of that state do not of themselves constitute sufficient compliance with the duty referred to in *section 4(1)*.

Powers under Air Navigation and Transport Acts to be exercised to advance purposes of Act.

6.—The powers conferred by the Acts on the Minister for Transport, the Irish Aviation Authority, authorised officers and authorised persons shall, in addition to the purposes for which they were conferred under those Acts, be exercised for the purposes of this Act, in conformity with—

- (a) the Opinion on the International Legal Obligations of Council of Europe Member States in Respect of Secret Detention Facilities and Inter-State Transport of Prisoners, adopted by the European Commission for Democracy through Law (the Venice Commission) at its 66th Plenary Session in Venice on the 17th and 18th March 2006), and
- (b) the Convention on International Civil Aviation opened for signature on the 7th day of December 1944, as amended, and in particular Article 16 of the Convention, which relates to the search of aircraft, and

references in the Acts to the exercise of such powers for the purposes of the enforcement of any provision of the Acts, or of any instrument made or given under the Acts, shall be construed as including a reference to the exercise of those powers for the purposes of this Act.

Power to enter and inspect aircraft.

7.—(1) For the purposes of this Act an authorised officer of the Irish Aviation Authority, an authorised officer within the meaning of section 33 of the Irish Navigation and Transport Act 1988 and an authorised person within the meaning of section 18 of that Act—

- 5 (a) may exercise any of the powers conferred by section 18 of the Act of 1988 on an authorised person within the meaning of that section and, for the purposes of such exercise, subsections (2) and (4) of that section shall apply in relation to an authorised officer as they apply in relation to an authorised person,
- (b) may enter any aircraft for the purpose of carrying out random checks and inspections,
- 10 (c) shall enter an aircraft and carry out a check and inspection if he or she is satisfied that such action is warranted or appropriate.

15 (2) In the exercise of the power conferred by *subsection (1)*, an authorised officer or authorised person shall have particular regard to flights into and out of the State by aircraft which are not State aircraft within the meaning of the Acts but which may be under the direct or indirect control of the public administration or the military, police or other security services of a state.