



DÁIL ÉIREANN

**AN BILLE UM AERFOIRT STÁIT (GRÚPA NA SIONAINNE),
2014**

STATE AIRPORTS (SHANNON GROUP) BILL 2014

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE UM AERFOIRT STÁIT (GRÚPA NA SIONAINNE), 2014 —ROGHFHOCHOISTE

STATE AIRPORTS (SHANNON GROUP) BILL 2014 —SELECT SUB-COMMITTEE

Leasuithe Amendments

SECTION 4

1. In page 7, line 14, to delete “subsequent”.

—An tAire Iompair, Turasóireachta agus Spóirt.

SECTION 18

2. In page 13, between lines 25 and 26, to insert the following:

“(5) All staff previously employed in the public service or civil service, but subsequently transferred by legislation to work in a State Airport as defined in this act will receive the scales of pay and conditions of service applicable to the staff of the public service, civil service or government department immediately before their transfer to the State Airport, as the case may be, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.”.

—Timmy Dooley.

SECTION 31

Section opposed.

—Timmy Dooley.

SECTION 32

Section opposed.

—Timmy Dooley.

SECTION 33

Section opposed.

—Timmy Dooley.

SECTION 34

3. In page 26, between lines 19 and 20, to insert the following:

“Amendment to superannuation schemes

34. (1) Section 32 (as amended by paragraph 16 of the Schedule to the Act of 2004) of the

Act of 1998 is substituted by the following:

“Superannuation schemes

32. (1) A company may prepare and submit to the Minister a scheme or schemes for the granting or provision of superannuation benefits to or in respect of such members of the staff or former members of staff (including chief executives) of the company or subsidiaries of the company as it may think fit, and such scheme shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the company in accordance with its terms.
- (2) A scheme prepared under subsection (1) may apply to one company or more than one company.
- (3) Every scheme to which subsection (1) relates shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.
- (4) Every scheme under this section may be amended or revoked by a subsequent scheme prepared, submitted and approved in the like manner as a scheme to which subsection (1) relates.
- (5) Nothing in this section shall be deemed to invalidate an existing scheme.
- (6) A scheme amending or revoking an existing scheme shall not be carried out by a company (save in the case of a scheme amending or revoking the IAS scheme) unless it has been approved by the Minister with the consent of the Minister for Public Expenditure and Reform.
- (7) No superannuation benefit shall be granted by a company nor shall any other arrangements be entered into by a company for the provision of such a benefit to or in respect of a member of the staff of the company or a subsidiary of the company otherwise than—
- (a) in accordance with a scheme under this section or an existing scheme, or
- (b) with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.
- (8) A company may, on the commencement of a scheme prepared by it under subsection (1), establish a new fund for each such scheme, administered by trustees who shall be appointed by the company, from which superannuation benefits payable under such scheme shall be paid or provided by the application of the fund or any part of it.
- (9) A scheme made by a company under this section shall make provision for appeals.
- (10) A scheme made by a company under this section shall be laid before

each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly without prejudice to anything previously done thereunder.

(11) In this section, a reference to former members of the staff of a company or a subsidiary of a company, does not include a reference to such former members who after ceasing to be members of the staff of the company or a subsidiary of the company became and were members of the staff of any other employer participating in the IAS scheme, unless the company determines otherwise.

(12) In this section—

‘existing scheme’ means—

- (a) the IAS scheme, or
- (b) a scheme for the granting of superannuation benefits to or in respect of any members of the staff of Aer Rianta International, cuideachta phoiblí theoranta, in operation on the passing of the *State Airports (Shannon Group) Act 2014*,

and includes, where the context so admits, a reference to that scheme as amended by a scheme to which subsection (6) relates, as may be appropriate;

‘IAS scheme’ means the Irish Airlines (General Employees) Superannuation Scheme in operation on the passing of the *State Airports (Shannon Group) Act 2014* (including any amendments made to that scheme after such passing).

IAS scheme member joining another occupational pension scheme

32A. (1) In the event that an IAS scheme member who is an employee of a company or any other person who participates as an employer in the IAS scheme agrees to become a member of another occupational pension scheme (referred to in this subsection as ‘the other scheme’) whether—

- (a) in the case of a company, prepared, submitted and carried out in accordance with section 32, or
- (b) in the case of any other employer of an IAS scheme member, established by his or her employer,

then with effect from the date the IAS scheme member becomes a member of the other scheme—

- (i) that IAS scheme member shall cease to accrue any superannuation benefit under the IAS scheme in respect of service after the date of joining the other scheme and such IAS scheme member shall be treated under the provisions of that scheme as though he or she had

left service on that date with an entitlement to a deferred pension, and

- (ii) that IAS scheme member and the employer of that member shall cease to have any liability whatsoever to pay any contribution to the IAS scheme for or in respect of such IAS scheme member in respect of service after the date of joining the other scheme,

if the consequences referred to in subparagraphs (i) and (ii) do not otherwise occur as a matter of law.

- (2) Subsection (1) does not operate to limit the trustees of the IAS scheme in the exercise of any power conferred on them by section 32B.
- (3) In this section 'IAS scheme' has the meaning assigned to it in section 32(12).

Power of trustee to amend provisions of IAS scheme

32B. (1) (a) Notwithstanding anything contained in any provision of the IAS scheme, the trustees of that scheme may make such amendments to the provisions of that scheme as they consider appropriate in the overall interests of the scheme members and with due regard to the interests of the different categories of member, having regard to such matters as the trustees consider relevant including the funding deficit of the scheme, the potential impact of the deficit on the interests of the categories of members and any other superannuation provisions made for such members or any of them, to provide—

- (i) that with effect from a date to be decided by the trustees the accrual of benefits under, and the contribution liability to, the scheme for all or any such members and their employers shall simultaneously cease and any such member or members shall be treated under the provisions of the IAS scheme as though they had left service on that date with an entitlement to a deferred pension, and
- (ii) for such other changes as shall be necessary to give effect to, or which are consequential upon, the amendment referred to in subparagraph (i).

(b) The consent of the members or of a company or other employer participating in the IAS scheme or of any other person referred to in any provision of the IAS scheme shall not be required by the trustees for the exercise of the powers conferred on them by this subsection.

(c) This subsection does not limit any power to amend any provision of the IAS scheme that, apart from this section, vests in the trustees or any other powers of the trustees pursuant to the scheme.

- (2) Where any amendment of the IAS scheme is, in the opinion of the

[SECTION 34]

trustees, necessary to comply with any direction of the Pensions Authority under section 50 of the Pensions Act 1990, following an application by the trustees or otherwise under that section, the consent of the members or of a company, other employer participating in the IAS scheme or any other person referred to in any provision of the scheme is, for the avoidance of doubt, not required.

- (3) In this section 'IAS scheme' has the meaning assigned to it in section 32(12).
- (4) Subsection (1) comes into operation on such day as the Minister may by order appoint."

(2) Section 9 of the Aer Lingus Act 2004 is repealed."

—An tAire Iompair, Turasóireachta agus Spóirt.

[Acceptance of this amendment involves the deletion of section 34 of the Bill.]

4. In page 29, between lines 31 and 32, to insert the following:

- “(4) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or allowances are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.
- (5) Subject to subsection (3), every such scheme may be amended or revoked by a subsequent scheme submitted and approved of under this section.
- (6) A replacement scheme under this section shall provide for not less favourable conditions in respect of persons who, immediately before the vesting day, were members of the staff of the IAS scheme than those to which they were entitled immediately before the vesting day.
- (7) Disbursement of pensions, gratuities and other allowances which may be granted to or in respect of persons who, immediately before the vesting day, were members of the staff of the IAS scheme shall not be on less favourable conditions than would apply if the benefits referred to had continued to be paid out of moneys provided by the IAS Scheme.
- (8) A scheme submitted by a company under this section shall, if approved of by the Minister with the concurrence of the Minister for Public Expenditure and Reform, be carried out by the company in accordance with its terms.
- (9) No pension, gratuity or allowance shall be granted by either company otherwise than in accordance with a scheme under this section.
- (10) Where a superannuation allowance falls due for payment to or in respect of a person to whom subsection (3) applies in the period beginning on the vesting day and ending immediately before the

[SECTION 34]

coming into operation of a scheme submitted by a company and approved of under this section, the allowance shall be calculated and paid by the company in accordance with such superannuation scheme, or such enactments in relation to superannuation, as applied to such person immediately before the vesting day and, for that purpose, his pensionable service with the company shall be aggregated with his previous pensionable service.”.

—Clare Daly.

5. In page 31, line 18, to delete “not”.

—Clare Daly.

6. In page 31, line 30, to delete “not”.

—Clare Daly.

7. In page 31, between lines 41 and 42, to insert the following:

“**32B.** Any proposal to restructure the IAS scheme shall be subject to an appeals mechanism to ensure that—

- (a) deferred members have not been disproportionately impacted in any restructuring arrangement, and
- (b) such appeals mechanism shall be established by regulations that shall also outline the manner by which representatives of deferred members may be selected and recognised for the purpose of the appeal.”.

—Dessie Ellis.

Section opposed.

—Timmy Dooley, Clare Daly, Dessie Ellis.

SECTION 35

8. In page 31, after line 42, to insert the following:

“**35.** The Air Navigation and Transport (Amendment) Act 1998 is amended by inserting a new section 32A as follows:

“**32A.** The IAS scheme shall not be allowed to close its pension scheme except where the scheme has reached a minimum 90 per cent funding standard.”.

—Timmy Dooley.

9. In page 31, after line 42, to insert the following:

“**35.** The Air Navigation and Transport (Amendment) Act 1998 is amended by inserting a new section 32A as follows:

“**32A.**(1) A healthy company or companies under section 32 shall not be allowed to close its pension scheme except where the scheme has reached a minimum 90 per cent funding standard.

[SECTION 35]

- (2) For the purposes of this section a healthy company means an employer that—
- (a) has positive net revenues, or
 - (b) has a parent company with positive net revenues.”.”.

—Dessie Ellis.

SECTION 44

10. In page 37, lines 21 and 22, to delete “, or to imprisonment for a term not exceeding 5 years or to both”.

—An tAire Iompair, Turasóireachta agus Spóirt.

SECTION 46

11. In page 39, lines 13 and 14, to delete “or, with the consent of the Minister, an airport which is not a company,”.

—An tAire Iompair, Turasóireachta agus Spóirt.

SECTION 48

12. In page 39, between lines 35 and 36, to insert the following:

“Powers of authorised officers at airport

48. (1) An authorised officer, in the interest of the proper operation, or the security or safety, of an airport, or the security or safety of persons, aircraft or other property at an airport, may do all or any of the following things:
- (a) stop a person at the airport;
 - (b) require a person at the airport to—
 - (i) give his or her name and address and to produce for inspection other evidence of his or her identity,
 - (ii) where he or she is driving or in control of a mechanically propelled vehicle (within the meaning of the Road Traffic Act 1961), produce his or her driving licence or learner permit (within the meaning of the Road Traffic Act 1961) for inspection,
 - (iii) state the purpose of his or her being at the airport, or
 - (iv) account for any baggage or other property which may be in his or her possession;
 - (c) require a person—
 - (i) who refuses to produce for inspection other evidence of his or her identity, or, if he or she is driving or in control of a mechanically propelled vehicle, to produce for inspection his or her driving licence or learner permit,
 - (ii) who refuses to state the purpose of his or her being at the airport,
 - (iii) who refuses to account for any baggage or other property in his or her

[SECTION 48]

possession,

- (iv) who gives a name or address or states a purpose of his or her being at the airport which is known, or is reasonably suspected, by the authorised officer to be false or fictitious, or
- (v) whom he or she knows not to have, or whom he or she reasonably suspects of not having, a lawful reason for being at the airport,

to leave the airport, or any part of it, or he or she may remove (using reasonable force) such person from the airport, or any part of it, or he or she may arrest that person without warrant;

- (d) arrest without warrant a person—
 - (i) who assaults, or whom he or she reasonably suspects to have assaulted, another person at an airport,
 - (ii) who commits, or whom he or she knows to have, or whom he or she reasonably suspects of having committed an offence under—
 - (I) section 2A (inserted by section 65 of the Act of 1998) of the Air Navigation and Transport Act 1973,
 - (II) section 29 (in relation to a contravention of section 19), 41 or 43 of the Air Navigation and Transport Act 1988,
 - (III) section 47, 48, 49, 50 or 51 of the Act of 1998, or
 - (IV) section 44 of this Act,
 - (iii) who commits or whom he or she reasonably suspects to have committed an offence under section 15(9) of the Act of 2004 in respect of a contravention of bye-laws made under subsection (3)(a), (c), (d), (e) or (g) of that section insofar as the alleged offence relates to the safety or security of the airport, airside operations or aircraft or persons using the airport, or
 - (iv) whom he or she knows to have, or reasonably suspects of having, a stolen article in his or her possession.

(2) Where an authorised officer, who is not a member of the Garda Síochána, arrests a person under this section, he or she shall, as soon as is practicable, deliver the person into the custody of a member of the Garda Síochána to be dealt with in accordance with law.

(3) Where a person is arrested under this section the person shall be taken by the member to a Garda Síochána station and may be detained there or arrested and detained there in accordance with section 4 of the Criminal Justice Act 1984 and, accordingly, the reference in *subsection (2)* (inserted by section 9 of the Criminal Justice Act 2006) of that section to “an offence to which this section applies” is to be read as including a reference to an offence referred to in *subsection (1)*.

(4) Where an authorised officer has reasonable grounds for believing that there is evidence on a person or in a vehicle of an offence committed under the *Airports and*

[SECTION 48]

Aviation Acts 1936 to 2014 or that a stolen article is in the possession of a person or is in a vehicle, the officer may without warrant—

- (a) search or cause to be searched the person and, if the officer considers it necessary, detain the person for such time as is reasonably necessary to carry out the search,
 - (b) search or cause to be searched the vehicle and for the purpose of carrying out the search, if the officer thinks fit, require the person in control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, where the vehicle is already stationary, to refrain from moving it, or
 - (c) seize and retain or cause to be seized and retained anything found in the course of a search under this subsection which any such officer reasonably suspects to be something which might be required as evidence in proceedings for such an offence or to be a stolen article.
- (5) Where an authorised officer decides to search or cause to be searched a person under *subsection (4)*, the officer may require the person to accompany that officer to a place for the purpose of being so searched.
- (6) An authorised officer may stop a vehicle at an airport and may require it to be moved for inspection to such place as he or she directs.
- (7) Where an authorised officer arrests a person pursuant to the powers conferred on him or her by *subsection (1)(d)(iv)*, he or she may retain in his or her possession any article which he or she knows to have been, or reasonably suspects of having been, stolen until it has been established whether or not the article was stolen.
- (8) A person who was required by an authorised officer to leave an airport or part of an airport, or who was removed from an airport or part of an airport by an authorised officer, shall not, on the same day, without the permission of an authorised officer, return to the airport or the part of the airport which he or she was ordered to leave, or from which he or she was removed, as the case may be.
- (9) Any person who obstructs, impedes or assaults an authorised officer in the exercise of any of the powers conferred on him or her by this section, or who fails to comply with any lawful requirement of an authorised officer under this section, commits an offence and is liable on summary conviction—
- (a) in case the officer is obstructed or impeded, to a class C fine, or
 - (b) in case the officer is assaulted, to a class A fine or to imprisonment for a term not exceeding 3 months or to both.
- (10) A person appointed as an authorised officer under section 48 of the Act of 1998 may be appointed as an authorised officer generally for the purposes of the *Airports and Aviation Acts 1936 to 2014* or for specified purposes.
- (11) Sections 33, 42 and 48 of the Air Navigation and Transport Act 1988 are repealed.”.

—An tAire Iompair, Turasóireachta agus Spóirt.