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**An Bille um Aerfoirt Stáit (Grúpa na Sionainne), 2014**  
**State Airports (Shannon Group) Bill 2014**

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*Mar a leasaíodh sa Roghfhochoiste um Iompar, Turasóireacht agus Spórt*  
*As amended in the Select sub-Committee on Transport, Tourism and Sport*

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AN BILLE UM AERFOIRT STÁIT (GRÚPA NA SIONAINNE), 2014  
STATE AIRPORTS (SHANNON GROUP) BILL 2014

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# Bill

*entitled*

An Act to provide for the establishment of a body known in the English language as Shannon Group, public limited company, or in the Irish language as *Grúpa na Sionainne, cuideachta phoiblí theoranta*, to define its functions, to provide for the transfer of shares held by the Minister for Public Expenditure and Reform in Shannon Airport Authority, public limited company and in Shannon Free Airport Development Company Limited to Shannon Group public limited company, to provide for the transfer of the ownership of lands held by the Minister for Transport, Tourism and Sport at the Shannon Customs-Free Airport to Shannon Commercial Enterprises, to enable the Government by order to give effect to Article XI (Alternative A) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment that was opened for signature at Cape Town on 16 November 2001, to re-name the Dublin Airport Authority public limited company, to re-name Shannon Free Airport Development Company Limited, to provide for the dissolution and reestablishment of Cork Airport Authority public limited company, to amend the Airports and Aviation Acts 1936 to 2004 and the Customs-free Airport Act 1947, to provide for consequential amendments to certain other enactments, to amend the Transport (Tour Operators and Travel Agents) Act 1982 and the Package Holidays and Travel Trade Act 1995 and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

## PART 1

### PRELIMINARY AND GENERAL

#### Short title and collective citation

1. (1) This Act may be cited as the State Airports (Shannon Group) Act 2014.
- (2) The Airports and Aviation Acts 1936 to 2004 and this Act (other than *Parts 8 and 9*) may be cited together as the Airports and Aviation Acts 1936 to 2014 and are to be read as one.

## Definitions

### 2. In this Act—

“Act of 1998” means Air Navigation and Transport (Amendment) Act 1998;

“Act of 2001” means Aviation Regulation Act 2001;

“Act of 2004” means State Airports Act 2004; 5

“airport” and “authorised officer” have the meanings assigned to them, respectively, in the Act of 1998;

“chief executive” means chief executive of the Shannon Group appointed under *section 19*;

“Cork Airport Authority” means Cork Airport Authority, public limited company; 10

“Cork appointed day” means the day appointed under section 5(1)(a) of the Act of 2004 to be the appointed day in respect of Cork Airport Authority;

“daa” means daa, public limited company;

“Dublin Airport Authority” means Dublin Airport Authority, public limited company;

“joint venture” means a contractual agreement joining together two or more parties for the purpose of executing a particular business undertaking; 15

“material interest” shall be construed in accordance with section 2(3) of the Ethics in Public Office Act 1995;

“Minister” means Minister for Transport, Tourism and Sport;

“recognised trade union or staff association” means a trade union or staff association recognised by Shannon Group, Shannon Airport Authority or Shannon Development and, after the Shannon Commercial Enterprises transfer day, Shannon Commercial Enterprises or a subsidiary of any of those bodies for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees; 20 25

“Shannon Airport” means the State airport known as Shannon Airport;

“Shannon Airport Authority” means—

(a) before the day of its re-registration under the Companies Acts as a private company limited by shares, Shannon Airport Authority, public limited company, and 30

(b) on and from that day, Shannon Airport Authority Limited;

“Shannon Airport transfer day” has the meaning assigned to it in *section 28(1)*;

“Shannon Commercial Enterprises” means Shannon Commercial Enterprises Limited;

“Shannon Commercial Enterprises transfer day” has the meaning assigned to it in *section 28(1)*; 35

“Shannon Development” means Shannon Free Airport Development Company Limited;

“Shannon Group” means Shannon Group, public limited company referred to in *section 6*;

“Shannon Group formation day” means the day Shannon Group is formed and registered under the Companies Acts;

“subsidiary”, other than in *section 20*, has the same meaning as in section 155 of the Companies Act 1963;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation or retirement. 5

### **Expenses**

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. 10

### **Laying of orders**

4. Every order (other than an order made under *section 28* or *38*) made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. 15

### **Repeals**

5. The enactments mentioned in *Schedule 1* are repealed.

## **PART 2**

### **SHANNON GROUP 20**

#### **Formation of Shannon Group Company**

6. (1) The Minister shall, after consultation with the Minister for Public Expenditure and Reform, as soon as may be after the passing of this Act, cause a public company limited by shares to be formed and registered under the Companies Acts.
- (2) The name of the public company referred to in *subsection (1)* shall be in the English language, Shannon Group, public limited company, or in the Irish language, Grúpa na Sionainne, cuideachta phoiblí theoranta. 25

#### **Share capital of Shannon Group**

7. (1) The authorised share capital of Shannon Group shall be such amount as may be determined from time to time by the Minister for Public Expenditure and Reform, after consultation with the Minister, divided into shares of €1 each. 30
- (2) Shares in the share capital of the company shall not be issued without the consent of the Minister for Public Expenditure and Reform given after consultation with the Minister.
- (3) Shannon Group may, with the consent of the Minister for Public Expenditure and 35

Reform given after consultation with the Minister, divide shares into different classes and attach to those classes any rights, privileges or conditions.

- (4) Shannon Group shall issue 38,100 shares to the Minister for Public Expenditure and Reform and may, from time to time thereafter, issue to the Minister for Public Expenditure and Reform such number of shares as may be agreed upon by the Minister and the Minister for Public Expenditure and Reform. 5
- (5) Shannon Group shall issue one share to each of the subscribers to the memorandum of association.

#### **Obligation to hold shares in trust**

- 8. (1) A person to whom a share in the share capital of Shannon Group is issued under subsection (5) of section 7 shall— 10
  - (a) hold that share in Shannon Group in trust for the Minister for Public Expenditure and Reform, and
  - (b) transfer the share, as and when required by the Minister for Public Expenditure and Reform, to that Minister of the Government or to a person nominated in that behalf by that Minister of the Government, but shall not transfer or alienate his or her share in the share capital of Shannon Group other than in accordance with this subsection. 15
- (2) Where a member of Shannon Group dies, the share in the share capital of Shannon Group held by such member shall, without the necessity of a transfer, vest in the Minister for Public Expenditure and Reform. 20

#### **Payment of dividends, etc. into Exchequer**

- 9. (1) Shannon Group may pay such dividends to the Minister for Public Expenditure and Reform as may be decided by the Board of Shannon Group.
- (2) All amounts representing dividends or other moneys received by the Minister for Public Expenditure and Reform in respect of shares held by him or her in the share capital of the company shall be paid into, or disposed of, for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct. 25
- (3) All amounts representing dividends or other moneys received by a person in respect of a share held by him or her in the share capital of the company, issued to him or her under subsection (5) of section 7, shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct. 30

#### **Purposes, functions and general duties of Shannon Group**

- 10. (1) The purposes of Shannon Group shall be— 35
  - (a) to promote and facilitate air transport and aviation services in and around Shannon Airport, and
  - (b) to optimise the return on its land and property and on its share-holding in any

subsidiary company.

- (2) The principal functions of Shannon Group shall be—
- (a) to oversee the exercise by Shannon Airport Authority of its functions as set out in the *Airports and Aviation Acts 1936 to 2014*,
  - (b) to oversee the exercise by Shannon Commercial Enterprises of its functions as set out in its memorandum and articles of association, 5
  - (c) to promote the development of other business activities, including aviation related businesses, in the vicinity of Shannon Airport,
  - (d) to manage and develop its assets and exploit commercial opportunities associated with its land and property and that of its subsidiaries, and 10
  - (e) to utilise, manage and develop the resources available to it in conformity with the functions aforesaid.
- (3) It shall be the general duty of Shannon Group—
- (a) to conduct its affairs so as to ensure that the revenues of Shannon Group are sufficient taking one year with another to— 15
    - (i) meet all charges which are properly chargeable to its revenue account and to provide adequately for future liabilities,
    - (ii) generate a reasonable proportion of the capital it requires,
    - (iii) remunerate its capital, and
    - (iv) pay interest on and repay its borrowings, 20and
  - (b) to conduct its business at all times in a cost-effective manner.
- (4) Shannon Group shall, as soon as is practicable after its formation and thereafter within 6 months before each fifth anniversary of the Shannon Group formation day, prepare and submit to the Minister, for approval by the Minister with or without amendment, a strategic plan for the next period of 5 years from that anniversary. 25
- (5) Nothing in this section or in the memorandum of association of Shannon Group shall be construed as imposing on Shannon Group, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject. 30

### **Powers of Shannon Group**

11. (1) Shannon Group may, in consideration of the performance of its functions, make such charges as it considers appropriate, to its subsidiaries or any other person, other than the Minister, for services rendered by it and the carrying out by it of activities. Shannon Group shall record receipts from such charges as income. 35
- (2) The aggregate amount standing invested (whether by the purchase of shares, the provision of loans or guarantees of loans) by Shannon Group and its subsidiaries in undertakings (other than subsidiaries of Shannon Group) shall not exceed such amount as may be determined by the Minister from time to time with the approval of

the Minister for Public Expenditure and Reform.

### **Conferral of additional functions on Shannon Group**

12. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, confer on Shannon Group, by order, such additional functions connected with the functions for the time being of Shannon Group as he or she thinks necessary for the achievement of its purposes, subject to such conditions (if any) as may be specified in the order. 5
- (2) An order under this section may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order. 10

### **Borrowing by Shannon Group**

13. (1) Shannon Group or a subsidiary of Shannon Group may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, and upon such conditions as may be approved by Minister for Public Expenditure and Reform with the consent of the Minister for Finance, raise or borrow money (including money in a currency other than the currency of the State) including, by means of the issue of debentures (or other debt security) or otherwise. 15
- (2) Shannon Group, or a subsidiary of Shannon Group, may borrow money temporarily (including money in a currency other than the currency of the State) but the aggregate at any one time of moneys borrowed under this subsection shall not exceed such amount as the Minister, with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, by direction specifies. 20
- (3) The aggregate of moneys standing borrowed under this section at any one time shall not exceed €100 million. 25
- (4) The Minister may, with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, having regard to the performance of Shannon Group in relation to its functions and its future investment plans, by order vary the amount specified in *subsection (3)*.

### **Formation of subsidiaries** 30

14. (1) Shannon Group may, with the consent of the Minister and the Minister for Public Expenditure and Reform, and subject to any conditions of either of them, either by itself or with other persons, promote, take part in the formation of, or acquire a shareholding in, a company (wherever incorporated) including a subsidiary. 35
- (2) The memorandum and articles of association of a subsidiary of Shannon Group shall be in such form as is in conformity with this Act and as may be approved of by Shannon Group.
- (3) A subsidiary of Shannon Group shall make such reports to Shannon Group as Shannon Group may require.
- (4) A subsidiary of Shannon Group may enter into joint ventures with other persons. 40

- (5) A subsidiary of Shannon Group shall not guarantee the borrowings or liabilities of any of its subsidiaries, without the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance.
- (6) Shannon Group may, with the consent of the Minister and the Minister for Public Expenditure and Reform, and subject to any conditions of either of those Ministers, 5  
wind up any of its subsidiaries.

## PART 3

### ADMINISTRATION OF SHANNON GROUP

#### **Memorandum and Articles of Association**

- 15. (1) In the formation of Shannon Group the Minister shall, with the consent of the 10  
Minister for Public Expenditure and Reform, draw up a memorandum and articles of  
association for Shannon Group and its principal objects shall be stated in its  
memorandum of association.
- (2) Shannon Commercial Enterprises shall alter its memorandum and articles of 15  
association for the purpose of making them conform to this Act.
- (3) Subsidiaries of Shannon Commercial Enterprises shall take such steps as may be  
necessary under the Companies Acts to alter their memoranda and articles of  
association for the purpose of making them conform to the provisions of this Act.
- (4) Shannon Airport Authority shall take such steps as may be necessary under the 20  
Companies Acts to alter its memorandum and articles of association for the purpose of  
making them conform to the provisions of this Act.
- (5) Notwithstanding anything contained in the Companies Acts, no alteration of the 25  
memorandum of association or the articles of association of Shannon Group, Shannon  
Airport Authority or Shannon Commercial Enterprises shall be valid or effectual  
unless made with the prior approval of the Minister given with the consent of the  
Minister for Public Expenditure and Reform.

#### **Board of Shannon Group**

- 16. (1) The board of Shannon Group shall consist of not more than 10 directors.
- (2) The Minister may, with the consent of the Minister for Public Expenditure and 30  
Reform following consultation with such trade union representatives as he or she  
believes appropriate, appoint 2 persons representing the employees of Shannon Group  
and its subsidiaries, as directors of Shannon Group.
- (3) The chief executive shall, for the duration of his or her appointment, be *ex officio* a  
director of Shannon Group.
- (4) The directors of Shannon Group (other than the chief executive) shall be appointed by 35  
the Minister, with the consent of the Minister for Public Expenditure and Reform.
- (5) The first directors shall be appointed as soon as may be after the formation and  
registration of Shannon Group.

- (6) There shall be paid to the directors of Shannon Group such remuneration (if any) and such allowances for expenses incurred by them as the Minister, with the consent of the Minister for Public Expenditure and Reform, may from time to time determine.
- (7) Each director of Shannon Group shall hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister determines at the time of his or her appointment. The Minister, when appointing a director of Shannon Group under *subsection (2) or (4)*, shall fix such director's period of office which shall not exceed 5 years. 5
- (8) A director of Shannon Group (other than the chief executive) shall not serve for more than a period of 10 years in total. 10
- (9) A director of Shannon Group shall be disqualified from being such a director where he or she—
- (a) is adjudicated bankrupt in the State or another jurisdiction, and if so adjudicated, has not obtained a certificate of discharge from the bankruptcy in that jurisdiction, 15
  - (b) is convicted of an indictable offence in relation to a company (within the meaning of the Companies Acts),
  - (c) is convicted of an offence involving fraud or dishonesty,
  - (d) is disqualified or restricted from being a director of any company (within the meaning of the Companies Acts), or 20
  - (e) has, in the opinion of the Minister, a conflict of interest that is of such importance that it requires him or her to cease to hold such office.
- (10) A director of Shannon Group may at any time resign his or her directorship by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later. 25
- (11) A director of Shannon Group may at any time for stated reasons be removed from office by the Minister, with the consent of the Minister for Public Expenditure and Reform, if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the board of Shannon Group of the functions of Shannon Group. 30
- (12) If a director of Shannon Group dies, resigns, retires, becomes disqualified or is removed from office, the Minister may, with the consent of the Minister of Public Expenditure and Reform, appoint a person to be a director of Shannon Group to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the director of Shannon Group who occasioned the casual vacancy. 35
- (13) The Minister shall, in so far as is practicable and having regard to relevant experience, ensure an equitable balance between men and women in the composition of the board of Shannon Group. 40
- (14) Directors of Shannon Group may also be appointed to serve on one or more of the boards of the subsidiaries of Shannon Group, including on the boards of Shannon



### **Chairperson of Board of Shannon Group**

17. (1) The chairperson of the board of Shannon Group (referred to in this Part as the “chairperson”) shall be appointed by the Minister, with the consent of the Minister for Public Expenditure and Reform. 5
- (2) The chairperson shall be appointed for a period not exceeding 5 years and, subject to *subsection (8) of section 16*, shall be eligible for reappointment.
- (3) The chairperson may be removed from office at any time by the Minister with the consent of the Minister for Public Expenditure and Reform.
- (4) The chairperson shall hold office upon such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine. 10

### **Staff**

18. (1) Shannon Group shall appoint such members of staff as Shannon Group thinks fit.
- (2) A member of staff of Shannon Group shall hold his or her office or employment on such terms and conditions as Shannon Group determines. 15
- (3) There shall be paid by Shannon Group to its members of staff such remuneration and allowances for expenses as the company thinks fit, subject to, in the case of its chief executive, *subsection (5) of section 19*.
- (4) The transfer of ownership of Shannon Airport Authority or of Shannon Development to Shannon Group shall not operate to worsen the scales of pay and conditions of service applicable to the staff of those companies immediately before the Shannon Airport transfer day or the Shannon Commercial Enterprises transfer day, as the case may be, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned. 20

### **Chief Executive**

19. (1) There shall be a chief executive of Shannon Group (who shall be known as and is referred to in this Part as the “chief executive”). 25
- (2) The chief executive shall be appointed by the board of Shannon Group and may be removed from office at any time for stated reasons by the board of Shannon Group, with the consent of the Minister. 30
- (3) The chief executive shall, on his or her appointment, stand appointed as chief executive of—
- (a) Shannon Airport Authority, and
- (b) Shannon Commercial Enterprises.
- (4) (a) Notwithstanding anything contained in this section, the person who holds office as the chief executive of Shannon Airport Authority, immediately before the formation of Shannon Group, shall be appointed by the board of Shannon Group as the first chief executive of Shannon Group, and as chief executive of Shannon 35

Commercial Enterprises.

- (b) The person referred to in *paragraph (a)* shall serve as chief executive of Shannon Group, and as chief executive of Shannon Commercial Enterprises, for the remainder of his or her term as chief executive of Shannon Airport Authority.
- (5) The chief executive shall hold office for such term and upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by the board of Shannon Group with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform and shall be paid out of moneys at the disposal of Shannon Group. 5 10
- (6) Other than as provided for elsewhere in this Part, the chief executive shall not hold any other office or position in respect of which emoluments are payable without the consent of the board of Shannon Group.
- (7) If the chief executive is removed from office, he or she is deemed to be removed from the office of chief executive of Shannon Airport Authority and Shannon Commercial Enterprises at the same time. 15

#### **Chairperson and directors of subsidiaries**

- 20.** (1) The board of a subsidiary of Shannon Group shall consist of not more than 6 directors, including a chairperson.
- (2) Notwithstanding anything contained in the Companies Acts and subject to *subsection (3)*, the directors or chairperson, or both, of any subsidiary of Shannon Group which the Minister in writing specifies, shall be appointed, and may be removed from office, by Shannon Group, with the prior written consent of the Minister. 20
- (3) Notwithstanding anything contained in the Companies Acts, the chairperson of the board of Shannon Group may, on his or her own nomination, and with the consent in writing of the Minister, be appointed as chairperson of the board of a subsidiary of Shannon Group and may be removed from office by the Minister. 25
- (4) For the purposes of this section, “subsidiary” means Shannon Airport Authority, Shannon Commercial Enterprises and its subsidiaries, and any other subsidiary formed or acquired under *section 14* all of the issued shares in the share capital of which are held by, or on behalf of, Shannon Group. 30

#### **Accounts and audits**

- 21.** (1) Shannon Group shall keep all proper and usual accounts in accordance with the requirements of the Companies Acts.
- (2) Accounts kept in pursuance of *subsection (1)* shall be submitted annually by Shannon Group to an auditor for audit and, immediately after such audit, copies of the profit and loss account, the cash flow statement, the balance sheet, such other (if any) of the accounts kept by Shannon Group as the Minister may direct, the auditor’s report on the accounts and the report to the shareholders for the accounting year in question, shall be presented by Shannon Group to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas. 35 40

- (3) Shannon Group shall, if so required by the Minister, furnish to the Minister, in such form, as may be approved of by the Minister, and for such period, such information as he or she may require, in respect of any balance sheet or other account or any report on its accounts of Shannon Group or any of its subsidiaries or in relation to the policy and operations (other than day-to-day operations) of Shannon Group or any of its subsidiaries. 5

### **Chairperson's report**

22. (1) The chairperson shall, immediately after an audit referred to in *section 21(2)*, make a report in writing to the Minister of Shannon Group's activities and those of any subsidiaries during that year. 10
- (2) A report under this section shall include—
- (a) a statement of all significant developments involving Shannon Group which occurred in that year (including the acquisition of shares or establishment of subsidiaries by Shannon Group),
  - (b) a statement of Shannon Group's borrowings, 15
  - (c) a description of the matters the chairperson anticipates will arise in the accounting year next following that year (or, where the chairperson considers it appropriate in any particular case, any subsequent accounting year) which may affect Shannon Group to any significant extent,
  - (d) a statement, to the best of the chairperson's knowledge or belief, with regard to Shannon Group, as to whether— 20
    - (i) each of the following has been complied with or adhered to, that is to say—
      - (I) the requirements of this Act, or any other enactment, in relation to the accounts of Shannon Group and statements as to the financial affairs of Shannon Group, 25
      - (II) *section 25*,
      - (III) directions under *section 27(1)*,
      - (IV) the requirements of any enactment or instrument made under an enactment, in relation to the entering by a public authority into a contract with any person for the provision of goods or services by that person to such authority, 30
      - (V) any code of conduct for the directors and members of staff of State enterprises issued by the Government, the Minister or the Minister for Public Expenditure and Reform,
- and 35
- (ii) regard has been had to—
    - (I) guidelines issued under *section 27(4)*,
    - (II) guidelines issued by the Government or the Minister for Public Expenditure and Reform, in relation to the entering by a public authority into a contract with any person for the provision of goods or services by 40

that person to such authority,

(III) guidelines issued by the Government or the Minister for Public Expenditure and Reform, in relation to the accounts of State enterprises or statements in respect of the financial affairs of Shannon Group,

(IV) guidelines issued by the Government or the Minister for Public Expenditure and Reform in relation to the remuneration to be paid by State enterprises to their chief executives, 5

(e) where anything referred to in—

(i) *paragraph (d)(i)* is stated not to have been complied with or adhered to, or

(ii) *paragraph (d)(ii)* is stated that regard has not been given to, 10

an explanation as to why there was a failure to comply with it or adhere to it or have regard to it, as the case may be.

(3) In this section “State enterprise” means a company (within the meaning of the Companies Acts) in which one or more than one share in the shareholding is held by a Minister of the Government and the principal objects of which (as stated in its memorandum of association) are prescribed in whole or in part by statute. 15

#### **Superannuation schemes – Shannon Group**

23. (1) Subject to *subsection (8)*, Shannon Group shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff (including chief executives) of Shannon Group and of its subsidiaries as it decides. 20

(2) Every such scheme 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.

(3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section. 25

(4) A scheme submitted to the Minister under this section shall, if approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, be carried out by Shannon Group in accordance with its terms.

(5) A scheme made under this section shall make provision for appeals. 30

(6) Superannuation benefits shall not be granted by Shannon Group nor shall any other arrangements be entered into by Shannon Group for the provision of such benefit to a member of the staff of Shannon Group, or of a subsidiary of Shannon Group, otherwise than in accordance with a scheme under this section, or otherwise as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform. 35

(7) A scheme 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, but without prejudice to the validity of anything previously done thereunder. 40

- (8) Should Shannon Airport Authority have a scheme, other than a replacement scheme (within the meaning of section 32A(13) (inserted by *section 34*) of the Act of 1998) in operation immediately before the establishment of a scheme under this section, for the granting of superannuation benefits to or in respect of members of its staff in accordance with section 32 (inserted by *section 34*) of the Act of 1998, that scheme may be provided for the benefit of such members of staff (including chief executives) of Shannon Group and of all or any of its subsidiaries as Shannon Group decides. 5

## **Membership of Houses of Oireachtas or European Parliament**

**24.** (1) Where a director of Shannon Group or a subsidiary of Shannon Group is—

- (a) nominated as a member of Seanad Éireann, 10
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a director of Shannon Group or any subsidiary of Shannon Group, as the case may be. 15

(2) Where a person employed by Shannon Group or a subsidiary of Shannon Group is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or 20
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon stand seconded from employment by Shannon Group or any subsidiary of Shannon Group, as the case may be, and shall not be paid by, or be entitled to receive from, Shannon Group or any subsidiary of Shannon Group any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected (as the case may be), and ending when such person ceases to be a member of either House or such Parliament. 25

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a director of Shannon Group or a subsidiary of Shannon Group or from employment in any capacity by Shannon Group or a subsidiary of Shannon Group. 30

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting the reckoning of a period therein mentioned as service with the company or a subsidiary of the company for the purposes of any pensions, gratuities or other allowances payable on resignation, retirement or death. 35

(5) In this section “Act of 1997” means European Parliament Elections Act 1997.

## Disclosure by directors of certain interests

25. (1) Where at a meeting of the directors of Shannon Group or of any subsidiary thereof any of the following matters arises, namely—
- (a) an arrangement to which Shannon Group or a subsidiary of Shannon Group is a party or a proposed such arrangement, 5
  - (b) a contract or other agreement with Shannon Group or a subsidiary of Shannon Group or a proposed such contract or other agreement,
  - (c) the giving, grant or renewal by Shannon Group or a subsidiary of Shannon Group of a certificate, lease, licence, authorisation or instrument of approval, or
  - (d) the revocation, cancellation, withdrawal, suspension or endorsement by Shannon Group or a subsidiary of Shannon Group of a certificate, licence, authorisation or instrument of approval, 10
- then, any director of Shannon Group or the first-mentioned subsidiary present at the meeting who otherwise than in his or her capacity as such a director has a material interest in the matter shall— 15
- (i) at the meeting disclose to Shannon Group or the first-mentioned subsidiary the fact of such interest and the nature thereof,
  - (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
  - (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed, 20
  - (iv) take no part in any deliberation of the directors relating to the matter, and
  - (v) not vote on a decision relating to the matter.
- (2) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting. 25
- (3) Where at a meeting of the directors of Shannon Group or a subsidiary of Shannon Group a question arises as to whether or not a course of conduct, if pursued by a director of Shannon Group or the subsidiary of Shannon Group, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may, subject to *subsection (4)*, be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting. 30
- (4) Where, at a meeting of Shannon Group or a subsidiary of Shannon Group the chairperson of the meeting is the director in respect of whom a question to which *subsection (3)* applies falls to be determined, then the other directors of Shannon Group or the subsidiary of Shannon Group attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned. 35 40
- (5) In the case of a director of Shannon Group or of a subsidiary of Shannon Group who is also a director of any subsidiary of Shannon Group or Shannon Group as the case

may be, the interest thereby created is not to be considered an interest to be disclosed and acted upon under *subsection (1)*.

- (6) Where the Minister is satisfied that a director has contravened *subsection (1)*, the Minister may, if he or she thinks fit, and with the consent of the Minister for Public Expenditure and Reform, remove that director from office and, in case a person is removed from office pursuant to this subsection, he or she shall thenceforth be disqualified from being a director of Shannon Group or a subsidiary of Shannon Group. 5
- (7) Section 194 (as amended by section 2 of the Companies (Amendment) Act 2009) of the Companies Act 1963 does not apply to a director of Shannon Group or a subsidiary of Shannon Group. 10
- (8) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of Shannon Group or a subsidiary of Shannon Group from having any interest in contracts with Shannon Group or a subsidiary of Shannon Group.

#### **Disclosure by members of staff of certain interests**

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26. (1) Where a member of the staff of Shannon Group or of a subsidiary of Shannon Group has a material interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement or proposed contract, agreement or arrangement to which Shannon Group or the subsidiary is a party, or in a matter referred to in *paragraph (c) or (d) of subsection (1) of section 25*, that person shall— 20
- (a) disclose to Shannon Group or the subsidiary, as the case may be, his or her interest and the nature thereof,
- (b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by members of the staff of Shannon Group or the subsidiary in relation thereto or in relation to the matter aforesaid, and 25
- (c) neither influence nor seek to influence a decision to be made in the matter nor make any recommendation in relation to the contract, agreement or arrangement or the matter aforesaid.
- (2) *Subsection (1)* shall not apply to contracts or proposed contracts of employment of members of the staff of Shannon Group with Shannon Group or of members of the staff of a subsidiary of Shannon Group with that subsidiary. 30
- (3) Where a person contravenes this section, Shannon Group or the subsidiary of Shannon Group, as the case may be, may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment. 35

#### **Giving of directions and issuing of guidelines by Minister to Shannon Group**

27. (1) The Minister may give a direction in writing to Shannon Group, in relation to the performance by Shannon Group of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.
- (2) Subject to *subsection (3)*, a direction under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made. 40

- (3) *Subsection (2)* does not apply to a direction which the Minister considers relates to the security of the State or the security of, or safety at, Shannon Airport.
- (4) The Minister may issue guidelines to Shannon Group (including policy and financial guidelines) in respect of carrying out its functions.
- (5) Shannon Group shall— 5
  - (a) comply with a direction given to it under *subsection (1)*, and
  - (b) have regard to any guidelines issued to it under *subsection (4)*.

## PART 4

### TRANSFER OF SHARES TO SHANNON GROUP

#### **Shannon Airport transfer day and Shannon Commercial Enterprises transfer day** 10

- 28.** (1) As soon as may be following the Shannon Group formation day, and after consultation with the Minister for Public Expenditure and Reform, the Minister shall by order provide that, without the need for any conveyance or assignment—
- (a) ownership of all shares—
    - (i) held by the Minister for Public Expenditure and Reform in the share capital of Shannon Airport Authority stand vested in Shannon Group, and 15
    - (ii) held in trust by persons for the Minister for Public Expenditure and Reform in the share capital of Shannon Airport Authority stand vested in Shannon Group,
  - on such day as the Minister appoints in the order (in this Act referred to as the Shannon Airport transfer day) and 20
  - (b) ownership of all shares—
    - (i) held by the Minister for Public Expenditure and Reform in the share capital of Shannon Development stand vested in Shannon Group, and
    - (ii) held in trust by persons for the Minister for Public Expenditure and Reform in the share capital of Shannon Development stand vested in Shannon Group, 25
    - on such day as the Minister appoints in the order (in this Act referred to as the Shannon Commercial Enterprises transfer day).
  - (2) No consideration shall be payable by Shannon Group in respect of the shares vested in Shannon Group under this section. 30
  - (3) Shannon Group shall not dispose of the shares transferred under *subsection (1)* without the consent of the Minister given after consultation with the Minister for Public Expenditure and Reform.

#### **Cessation of membership of boards of Shannon Airport Authority and Shannon Development** 35

- 29.** (1) The members of the board of Shannon Airport Authority who hold office immediately



before the Shannon Airport transfer day, shall on that day cease to hold office.

- (2) The members of the board of Shannon Development who hold office immediately before the Shannon Commercial Enterprises transfer day, shall on that day cease to hold office.

### **Shannon Airport Authority Limited**

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30. As soon as maybe after the Shannon Airport Authority transfer day, Shannon Airport Authority shall be re-registered under the Companies Act 1963 as a private company limited by shares and on or from the day of its re-registration as such shall be known as, in the English language, Shannon Airport Authority Limited, or in the Irish language, Údarás Aerfort na Sionainne Teoranta.

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## **PART 5**

### **RESTRUCTURING OF AIRPORT COMPANIES**

### **Cork Airport Authority**

31. (1) In this section (other than *subsections (7) and (9)*) “Cork Airport Authority” means Cork Airport Authority, public limited company established under section 6(2) of the Act of 2004.

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- (2) Cork Airport Authority is dissolved on such day as the Minister may appoint by order.

- (3) After the dissolution of Cork Airport Authority and the discharge of its liabilities (if any)—

(a) all monies remaining shall be paid into the Exchequer, and

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(b) any assets remaining shall be disposed of as the Minister, with the consent of the Minister for Public Expenditure and Reform, directs.

- (4) Following the dissolution of Cork Airport Authority a company shall not be formed and registered under the Companies Acts under that name save in accordance with this section.

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- (5) Upon the dissolution of Cork Airport Authority any arrangement entered into between Cork Airport Authority and Dublin Airport Authority under section 8(1)(a) of the Act of 2004 ceases.

- (6) The Minister may, after consultation with the Minister for Public Expenditure and Reform, before the Cork appointed day, cause a public company limited by shares—

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(a) to be formed and registered under the Companies Acts under and in accordance with the conditions laid down by this section and the Act of 2004, and

(b) on and from the Cork appointed day to have vested in it, manage, operate and develop Cork Airport.

- (7) The name of the company to have vested in it, manage and operate Cork Airport, shall be in the English language, Cork Airport Authority, public limited company, or in the Irish language, Údarás Aerfort Chorcaí, cuideachta phoiblí theoranta.

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- (8) Section 6 of the Act of 2004 is amended—
- (a) in subsection (2), by deleting paragraph (a), and
  - (b) in subsection (3), by deleting paragraph (a).
- (9) A reference in the Act of 2004 to Cork Airport Authority is a reference to Cork Airport Authority formed and established under this section. 5
- (10) The Act of 1998 is amended in section 10, by substituting for subsection (2) (inserted by paragraph (4) of the Schedule to the Act of 2004) the following:
- “(2) Cork Airport Authority, public limited company shall, as soon as may be, after the Cork appointed day under section 5 of the State Airports Act 2004, issue to the Minister for Public Expenditure and Reform, without payment by him or her, such number of shares in the share capital of the company as shall be determined by that Minister of the Government on that day.”. 10
- (11) The Act of 2004 is amended in section 12, by substituting for subsections (4) and (5) the following: 15
- “(4) Every person who is a member of the staff of daa working wholly or mainly in connection with Cork Airport immediately before the Cork appointed day shall, on that day, be transferred to and become a member of the staff of Cork Airport Authority.
- (5) Every person who is a member of the staff of daa who is not working in connection with Dublin Airport, or immediately before the Cork appointed day, Cork Airport but whose work involves shared services in a State airport shall remain or be transferred to and become a member of the staff of the company which continues to provide the shared services or which is designated by the Minister to provide such services.”. 20 25
- (12) *Subsections (3) to (11) have effect on the day appointed under subsection (2).*
- (13) The following is substituted for section 10 of the Act of 2004—
- “10.** (1) The authorised share capital of Cork Airport Authority shall be such amount as may be determined from time to time by the Minister for Public Expenditure and Reform, after consultation with the Minister, divided into shares of €1 each. 30
- (2) Cork Airport Authority may, with the consent of the Minister of Public Expenditure and Reform given after consultation with the Minister, divide shares into different classes and attach to those classes any rights, privileges or conditions. 35
- (3) Cork Airport Authority shall issue 38,100 shares to the Minister for Public Expenditure and Reform and may, from time to time, thereafter issue to the Minister for Public Expenditure and Reform such number of shares as may be agreed upon by the Minister and the Minister for Public Expenditure and Reform. 40
- (4) Cork Airport Authority shall issue one share to each of the subscribers

to its memorandum of association who shall hold such shares in trust for and shall act in relation to such shares as may be directed by the Minister for Public Expenditure and Reform.

(5) Notwithstanding section 6(4), sections 9, 10 and 11 (as amended by the Schedule) of the Act of 1998 apply to Cork Airport Authority.”. 5

(14) From the Cork appointed day a reference in any enactment or instrument made under an enactment to Aer Rianta in respect of Cork Airport is to be read as a reference to Cork Airport Authority.

(15) Before the Cork appointed day a reference in any enactment or instrument made under an enactment to Aer Rianta in respect of Cork Airport is to be read as a reference to daa. 10

### **Re-naming Dublin Airport Authority as daa**

32. (1) Dublin Airport Authority, public limited company, known in the Irish language as Údarás Aerfort Bhaile Átha Cliath, cuideachta phoiblí theoranta shall be re-named as, in the English language, daa, public limited company, and in the Irish language, daa, cuideachta phoiblí theoranta. daa shall amend its memorandum and articles of association to reflect this change of name. 15

(2) A reference in the Act of 2004 or any other enactment, statutory instrument or any other document or proceedings to Dublin Airport Authority is to be read as a reference to daa. 20

### **Consequential amendments relating to preceding sections**

33. (1) The Act of 2004 is amended—

(a) in section 4—

(i) in the definition of “company” by substituting “daa” for “Dublin Airport Authority”, 25

(ii) by substituting for the definition of “Dublin Airport Authority” the following:

“ ‘daa’ means daa, public limited company;”,

(iii) by substituting for the definition of “Shannon Airport Authority” the following: 30

“ ‘Shannon Airport Authority’ has the meaning assigned to it in *section 2 of the State Airports (Shannon Group) Act 2014*;”,

and

(iv) by substituting for the definition of “State Airport” the following:

“ ‘State Airport’ means an airport in the State, managed and controlled by a company;”, 35

(b) in section 6, by substituting for subsection (5) the following:

“(5) A reference in any other enactment or instrument made under an

enactment to Aer Rianta is to be read as a reference to—

- (a) daa,
- (b) Shannon Airport Authority, and
- (c) from the Cork appointed day, Cork Airport Authority,  
or any of them, as the case may be.”,

5

(c) in section 8—

- (i) by deleting subsections (1) to (4), and
- (ii) by substituting for subsection (5) the following:

“(5) daa shall have vested in it, manage, operate and develop Dublin  
Airport and, until the Cork appointed day, Cork Airport.”,

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(d) in section 9—

- (i) by substituting for subsections (1) and (2) the following:

“(1) The memorandum and articles of association of daa and, from its  
appointed day, Cork Airport Authority, shall be in such form consistent  
with the *Airports and Aviation Acts 1936 to 2014* as may be approved  
of by the Minister with the consent of the Minister for Public  
Expenditure and Reform.

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(2) The articles of association of daa and from its appointed day, Cork  
Airport Authority, shall be consistent with section 22(3) of the Act of  
1998.”,

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and

- (ii) in subsection (9), by deleting “and Shannon Airport Authority”,

and

(e) in section 14, by inserting after subsection (6) the following:

“(7) In this section ‘company’ means daa or Cork Airport Authority, as the  
case may be.”.

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(2) The Act of 2001 is amended—

- (a) in section 32(2) (inserted by section 22(1)(a) of the Act of 2004) by substituting  
“daa” for “Dublin Airport Authority”, and
- (b) in section 33 (inserted by section 22(3) of the Act of 2004) by substituting “daa”  
for “Dublin Airport Authority” in each place it occurs.

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(3) The Act of 1998 (as amended by the Schedule to the Act of 2004) is amended—

- (a) in section 2(1), by substituting for the definition of “company” the following:

“ ‘company’ means—

- (a) in Part II, in sections 22, 27 to 31 and 33 to 35 of Part IV—

35

- (i) daa, public limited company, and

- (ii) daa, public limited company, and from the Cork appointed day, Cork Airport Authority, public limited company,
- and
- (b) in any other provision—
  - (i) daa, public limited company, 5
  - (ii) Shannon Airport Authority (within the meaning of *section 2* of the *State Airports (Shannon Group) Act 2014*), and
  - (iii) from the Cork appointed day, Cork Airport Authority, public limited company;”,
- (b) in section 8, by substituting for subsection (1) the following: 10
  - “(1) Proceedings for an offence may be brought and prosecuted summarily by—
  - (a) where the offence relates to Dublin Airport, daa,
  - (b) where the offence relates to Shannon Airport, Shannon Airport Authority, or 15
  - (c) where the offence relates to Cork Airport, before the Cork appointed day, daa, and from that day, Cork Airport Authority.”,
- (c) in section 9, by substituting “daa” for “Dublin Airport Authority” in each place it occurs,
- (d) in section 13, by substituting for subsection (5) the following: 20
  - “(5) The aggregate at any one time of moneys borrowed under this section shall not exceed—
  - (a) in the case of daa and any of its subsidiaries, from the Dublin appointed day, €1.8 billion, and
  - (b) in the case of Cork Airport Authority and any of its subsidiaries, 25
    - from the Cork appointed day, €100 million,”,
- (e) in section 22(1), by substituting “daa, public limited company” for “Dublin Airport Authority, public limited company”,
- (f) in section 48, by substituting for subsection (1), the following:
  - “(1) For the purposes of this Act— 30
    - (a) daa, in relation to Dublin Airport,
    - (b) Shannon Airport Authority, in relation to Shannon Airport, and
    - (c) daa, before the Cork appointed day and from that day, Cork Airport Authority, in relation to Cork Airport,
  - may appoint such persons or classes of persons as it considers 35
    - appropriate to be authorised officers.”,

and

(g) in section 51, by substituting for subsection (1) the following:

“(1) For the purposes of this Act—

- (a) daa, in relation to Dublin Airport,
- (b) Shannon Airport Authority, in relation to Shannon Airport, and
- (c) before the Cork appointed day, daa, and from that day, Cork Airport Authority, in relation to Cork Airport,

may appoint such and so many of its employees as it considers appropriate to be authorised persons for the purposes of this Act.”.

(4) A reference in any other enactment or instrument made under an enactment (other than an enactment referred to in this section) to— 10

(a) Aer Rianta, is to be read as a reference to—

- (i) daa,
  - (ii) Shannon Airport Authority, and
  - (iii) from the Cork appointed day, Cork Airport Authority,
- or any of them, as the case may be, and 15

(b) Dublin Airport Authority is to be read as a reference to daa.

(5) A reference to the company in any instrument made under the Act of 1998 shall be construed as a reference to a company (within the meaning of section 2(1) of that Act inserted by *subsection (3)(a)*).

#### **Amendment to superannuation schemes** 20

**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. 25 30

(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. 35

(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. 5
- (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— 10
- (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. 15
- (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. 20
- (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. 25
- (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. 30 35
- (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*, 40

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). 5

#### **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— 10

(a) in the case of a company, prepared, submitted and carried out in accordance with section 32, or 15

(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 20 25

(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. 30

(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). 35

#### **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 40



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 5 10

(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. 15

(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. 20

(2) Where any amendment of the IAS scheme is, in the opinion of the 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. 25

(3) In this section ‘IAS scheme’ has the meaning assigned to it in section 32(12). 30

(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.

## PART 6

SHANNON COMMERCIAL ENTERPRISES 35

### **Re-naming Shannon Free Airport Development Company Limited as Shannon Commercial Enterprises Limited**

35. (1) Shannon Free Airport Development Company Limited, known in the Irish language as Cuideachta Forbartha Aerfort Neamhchustam na Sionna Teoranta, shall be re-named as, in the English language, Shannon Commercial Enterprises Limited, or in the Irish 40

language, Fiontair Thráchtála na Sionainne Teoranta. The company shall amend its memorandum and articles of association to reflect this change of name.

- (2) A reference in any enactment, statutory instrument or other document or proceedings, to Shannon Free Airport Development Company Limited is to be read as a reference to Shannon Commercial Enterprises Limited.

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### **Shannon Commercial Enterprises liable to tax on income**

**36.** The Taxes Consolidation Act 1997 is amended—

- (a) by inserting after section 229 the following section:

#### **“Shannon Commercial Enterprises Ltd.**

**229A.** (1) In this section—

10

‘company’ means Shannon Commercial Enterprises Limited;

‘qualifying period’, in relation to an asset, means the period beginning on the date of the acquisition of the asset, or if the asset was held on 6 April 1974, that date, and ending on 31 December 2013;

‘period of ownership’, in relation to an asset, means the period beginning on the date of the acquisition of the asset, or if the asset was held on 6 April 1974, that date, and ending on the date of disposal of the asset;

15

‘relevant profits or gains’ means so much of the profits or gains of the company as are attributable to any rent in respect of any premises or any receipts in respect of any easement.

20

- (2) Exemption shall be granted from tax chargeable under Case V of Schedule D in respect of relevant profits or gains in the period beginning 1 January 2014 and ending 31 December 2015.

- (3) Where the company is chargeable to tax under Case V of Schedule D in respect of relevant profits or gains, the relevant profits or gains shall be reduced by an amount equal to—

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- (a) as respects accounting periods falling wholly or partly in the year 2016, two-thirds of those relevant profits or gains, and

- (b) as respects accounting periods falling wholly or partly in the year 2017, one-third of those relevant profits or gains.

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- (4) For the purposes of the Capital Gains Tax Acts, where a gain accrues to the company from the disposal of an asset after 31 December 2013, such portion of the gain shall not be a chargeable gain as represents the same proportion of the gain as the length of the qualifying period bears to the length of the period of ownership.”

35

- (b) in Schedule 4, by deleting paragraph 92, and

- (c) in Schedule 15, by deleting paragraph 25.

## **Amendment of certain enactments**

37. (1) Section 165 of the Planning and Development Act 2000 is amended in the definition of “development agency” by deleting “the Shannon Free Airport Development Company Limited,”.
- (2) The definition of “public authority” in section 4 of the Residential Tenancies Act 2004 is amended—
- (a) in paragraph (g) by substituting “Science;” for “Science, or”, and
  - (b) by deleting paragraph (h).
- (3) The First Schedule of the Comptroller and Auditor General (Amendment) Act 1993 is amended by deleting “Shannon Free Airport Development Company Limited” from the list contained in the Schedule. 10
- (4) The First Schedule (inserted by section 24 of the Worker Participation (State Enterprises) Act 1988) to the Worker Participation (State Enterprises) Act 1977 is amended—
- (a) by— 15
    - (i) deleting “Aer Rianta cuideachta phoiblí theoranta” from the list contained in Part II of that Schedule, and
    - (ii) inserting in the list contained in that Part the following:  
“daa, public limited company  
daa, public limited company before the Cork appointed day (within the meaning of the State Airports Act 2004) and after that day, Cork Airport Authority, public limited company”, 20
  - (b) by deleting “Shannon Free Airport Development Company Limited” from the list contained in Part III of that Schedule.
- (5) The reference in Article 2 of the Worker Participation (State Enterprises) Acts 1977 and 1988 (Appointed Day) (Aer Rianta) Order 1989 (S.I. No. 96 of 1989) to Aer Rianta shall be read as a reference to— 25
- (a) daa, and
  - (b) after the Cork appointed day, Cork Airport Authority.

## **Transfer of land**

38. (1) The Minister may by order, transfer, without conveyance or assignment, to Shannon Commercial Enterprises, at any time after the Shannon Commercial Enterprises transfer day, all or any lands in the vicinity of Shannon Airport, or property other than land, vested in the Minister and used or intended to be used by Shannon Commercial Enterprises in the performance of its functions. 30 35
- (2) *Subsection (1)* does not operate to vest in Shannon Commercial Enterprises any minerals or any rights of mining or taking minerals.
- (3) Every lease, licence, wayleave or permission granted by the Minister in relation to land, or property other than land, transferred under this section to Shannon

Commercial Enterprises, and in force immediately before the transfer, continues in force as if granted by Shannon Commercial Enterprises.

- (4) The Minister may on his or her own initiative, and shall on the application of Shannon Commercial Enterprises, issue a certificate in respect of either specified land or specified property, or both, certifying as he or she thinks proper, that the land or property, or both, vested in Shannon Commercial Enterprises did so vest and the certificate shall be conclusive evidence of the facts so certified. 5
- (5) Upon the transfer of land to Shannon Commercial Enterprises under *subsection (1)* all choses-in-action in respect of that land, which immediately before that day were vested in the Minister, shall stand vested in Shannon Commercial Enterprises without any conveyance or assignment. 10
- (6) Every chose-in-action vested in Shannon Commercial Enterprises by virtue of *subsection (5)* may, as on and from the transfer made under *subsection (1)*, be sued on, recovered or enforced by Shannon Commercial Enterprises in its own name and it shall not be necessary for Shannon Commercial Enterprises or the Minister to give notice to the person bound by the chose-in-action of the vesting effected by that subsection. 15
- (7) In this section “transfer” in respect of land or property other than land means the transfer, sale or lease of such, with or without consideration.

#### **Amendment of Customs-free Airport Act 1947**

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- 39.** (1) The Customs-free Airport Act 1947 is amended in section 2, by substituting for subsection (3) (inserted by section 25(1) of the Act of 2004) the following:

“(3) For the purposes of this Act, the airport shall comprise—

- (a) land which for the time being belongs to Shannon Commercial Enterprises Limited, and
- (b) land which for the time being belongs to Shannon Airport Authority, public limited company.”.

25

- (2) Section 25(1) of the State Airports Act 2004 is repealed.
- (3) This section comes into operation upon the day of the transfer of land to Shannon Commercial Enterprises under *section 38*. 30

#### **Transfer of equity holdings**

- 40.** (1) All shares of whatever class in each of the companies specified in *Schedule 2* that, immediately before the Shannon Commercial Enterprises transfer day, vested in Shannon Development, shall upon that day stand vested in Enterprise Ireland.
- (2) Enterprise Ireland shall, as soon as practicable after the Shannon Commercial Enterprises transfer day, notify each of the companies specified in *Schedule 2* of the vesting in Enterprise Ireland of shares in the company concerned by virtue of *subsection (1)* and particulars of such vesting shall be entered by that company in any register required to be maintained by the company in respect of the shares. 35
  - (3) This section shall apply to each of the companies specified in *Schedule 2* 40

notwithstanding any restriction in its memorandum of association or articles of association or any other instrument relating to the vesting or transfer of shares in the company concerned.

- (4) All rights and liabilities of Shannon Commercial Enterprises arising by virtue of any contract in force immediately before the Shannon Commercial Enterprises transfer day and relating to any shares transferred by virtue of this section shall upon that day stand transferred to Enterprise Ireland. 5
- (5) Every right and liability transferred by this section to Enterprise Ireland may be sued on, recovered or enforced by or against Enterprise Ireland in its own name and it shall not be necessary for Enterprise Ireland to give notice to any person of the transfer of any right or liability by this section. 10

#### **Transfer of rights and obligations of Shannon Commercial Enterprises**

- 41. All of the rights, duties and obligations of Shannon Commercial Enterprises in relation to any grant agreement, grant letter of offer or grant approval entered into or approved by Shannon Development before the Shannon Commercial Enterprises transfer day shall transfer either to the Industrial Development Agency (Ireland) or Enterprise Ireland as determined by the Minister for Jobs, Enterprise and Innovation. 15

#### **Continuance of Shannon Development superannuation schemes**

- 42. (1) Every scheme or arrangement in relation to superannuation administered by Shannon Development immediately before the Shannon Commercial Enterprises transfer day shall on that day continue in force as if made by the Minister for Jobs, Enterprise and Innovation. 20
- (2) (a) All liabilities, duties, obligations and funding (including pension increases and supplementary pension payments) arising by virtue of the operation of a scheme or arrangement referred to in *subsection (1)* and carried out immediately before the Shannon Commercial Enterprises transfer day by Shannon Development shall upon the Shannon Commercial Enterprises transfer day stand transferred to the Minister for Jobs, Enterprise and Innovation. 25
- (b) Every right and liability transferred by this section to the Minister for Jobs, Enterprise and Innovation may be sued on, recovered or enforced by or against the Minister for Jobs, Enterprise and Innovation in the name of that Minister of the Government and it shall not be necessary for the Minister for Jobs, Enterprise and Innovation to give notice to any person of the transfer of any right or liability by this section. 30
- (3) The Minister for Jobs, Enterprise and Innovation may require a relevant body to carry out, on his or her behalf, such pension administration services as the Minister for Jobs, Enterprise and Innovation may specify in writing in relation to a scheme or arrangement to which *subsection (1)* relates. 35
- (4) A relevant body shall, when required by the Minister for Jobs, Enterprise and Innovation to do so, carry out such pension administration services as he or she specifies under *subsection (3)* in relation to a scheme or arrangement to which *subsection (1)* relates. 40

- (5) The Minister for Jobs, Enterprise and Innovation may give directions in writing to a relevant body in relation to any pension administration service specified by him or her under *subsection (3)*.
- (6) A relevant body shall comply with any directions given by the Minister for Jobs, Enterprise and Innovation under *subsection (5)*. 5
- (7) Where the Minister for Jobs, Enterprise and Innovation requires a relevant body to carry out the pension administration service specified in *paragraph (b) of subsection (9)* in relation to a scheme or arrangement to which *subsection (1)* relates, he or she shall provide the relevant body with a sum of money equal to the total amount of the benefits due under that paragraph to enable that body to make such payment. 10
- (8) A relevant body shall provide such information to the Minister for Jobs, Enterprise and Innovation, relating to pension administration services which it carries out under *subsection (4)*, as the Minister for Jobs, Enterprise and Innovation may from time to time require.
- (9) In this section— 15
- “pension administration service”, in relation to a scheme or arrangement to which *subsection (1)* relates, means—
- (a) calculation of any superannuation benefit payable to, or in respect of, any member of that scheme or arrangement,
- (b) payment, on behalf of the Minister for Jobs, Enterprise and Innovation, of any superannuation benefit due to, or in respect of, any member of that scheme or arrangement to the member or other person concerned, 20
- (c) maintenance of records relating to, or in respect of, members of that scheme or arrangement, or
- (d) such other service as may be specified by the Minister for Jobs, Enterprise and Innovation for the purposes of administering that scheme or arrangement on his or her behalf; 25
- “relevant body” means—
- (a) Enterprise Ireland,
- (b) IDA, 30
- (c) Science Foundation Ireland,
- (d) the National Standards Authority of Ireland.

### **Commencement of *Part 6***

43. This Part (other than *section 39*) comes into operation on the Shannon Commercial Enterprises transfer day. 35

## PART 7

### MISCELLANEOUS AMENDMENTS – AIRPORTS

#### **Prohibition on dazzling aircraft**

- 44.** (1) A person who deliberately or recklessly directs or shines a light at or in the direction of— 5
- (a) a pilot or co-pilot of an aircraft,
  - (b) a person involved in the operation of the flight of an aircraft, or
  - (c) a person carrying out air traffic control services,
- so that the light may dazzle, distract or confuse the pilot or person in the performance of his or her duties commits an offence. 10
- (2) A person who commits an offence under this section is liable—
- (a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or
  - (b) on conviction on indictment—
- (i) where the person is an individual – to a fine not exceeding €50,000, or to imprisonment for a term not exceeding 5 years or to both, or 15
  - (ii) where the person is a body corporate – to a fine not exceeding €250,000.
- (3) In this section—
- “aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface; 20
- “air traffic control service” means a service provided for the purposes of—
- (a) preventing collisions between aircraft and, on the manoeuvring area, between aircraft and obstructions, and
  - (b) expediting and maintaining an orderly flow of air traffic.

#### **Airport bye-laws**

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- 45.** Section 15 of the Act of 2004 is amended—

- (a) in subsection (3), by substituting for paragraph (o) the following:

“(o) the making of provision for—

- (i) the fixing of an immobilisation device to any vehicle which has been parked contrary to bye-laws made under this section or parked without payment of the charge fixed for its parking, 30
- (ii) the removal of such an immobilisation device,
- (iii) the removal, detention, storage and release of a vehicle so immobilised, and
- (iv) the disposal of vehicles detained.”, 35

(b) by substituting for subsection (9) the following:

“(9) A person who contravenes a provision of a bye-law made under this section which is stated in the bye-laws to be a penal provision commits an offence and is liable on summary conviction to a class C fine.

(9A) Where, in relation to the parking of a mechanically propelled vehicle at an airport there is a contravention of a provision referred to in subsection (9) each of the following commits an offence and is liable on summary conviction to a class C fine— 5

(a) the registered owner of the vehicle, and

(b) if the vehicle is the subject of a hire-drive agreement on the occasion in question, the person to whom the vehicle is hired under the agreement, and 10

(c) if the person who parked the vehicle is not its registered owner or the person to whom it is hired under a hire-drive agreement, the first-mentioned person. 15

(9B) Where a person is charged with an offence—

(a) under subsection (9A)(a), it shall be a defence for him or her to show that the vehicle was being used on the occasion in question by another person and that—

(i) the use of the vehicle which contravened the provision was unauthorised, or 20

(ii) the vehicle was on that occasion the subject of a hire-drive agreement,

or

(b) under subsection (9A)(b), it shall be a defence for him or her to show that the vehicle was being used on the occasion in question by another person and that the use of the vehicle which contravened the provision was unauthorised.”, 25

and

(c) by substituting for subsection (16) the following: 30

“(16) In this section—

‘company’ means—

(a) daa, in relation to Dublin Airport,

(b) Shannon Airport Authority, in relation to Shannon Airport, or

(c) daa before the Cork appointed day, and Cork Airport Authority, from the Cork appointed day, in relation to Cork Airport; 35

‘immobilisation device’ means a device or appliance designed or adapted for fixing to a vehicle, onto a part of it, for the purpose of preventing it being driven or otherwise put in motion.



- (17) In this section and sections 27 and 27A ‘hire-drive agreement’, ‘mechanically propelled vehicle’ and ‘registered owner’ have the meanings assigned to them, respectively, by the Road Traffic Act 1961.”.

**Airport may make charges for vehicle parking and removal of immobilisation devices, etc.** 5

46. A company (within the meaning of section 15 of the Act of 2004) may provide parking facilities and fix charges in respect of the parking of a vehicle at its airport and for the removal of an immobilisation device fixed to a vehicle or a vehicle removed, detained, stored, released or disposed of under bye-laws made under section 15(3)(o) of the Act of 2004. 10

**Requirement to move unlawfully parked vehicles in certain circumstances**

47. (1) Where an authorised officer finds a vehicle remaining stationary or parked in a place in an airport in contravention of bye-laws made under section 15 of the Act of 2004, he or she may— 15
- (a) if the person in apparent control of the vehicle is in or near the vehicle, require the person to move the vehicle from that place, or
  - (b) if the vehicle is unoccupied and there appears to be no person in control of the vehicle in the vicinity of the vehicle, cause the vehicle to be moved from that place. 20
- (2) Where a person in apparent control of a vehicle, upon a requirement made of him or her under *subsection (1)*, fails to move the vehicle immediately, an authorised officer may cause the vehicle to be moved.
- (3) Where a vehicle is moved under this section the costs of moving the vehicle shall be borne by the owner or person in apparent control of the vehicle and the vehicle may not be released until such costs have been discharged. 25
- (4) A person who fails, without reasonable excuse, to comply with a requirement made of him or her by an authorised officer under *subsection (1)* commits an offence and is liable on summary conviction to a class C fine.

**Powers of authorised officers at airport** 30

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— 35
    - (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; 5
- (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, 10
- (iii) who refuses to account for any baggage or other property in his or her 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 15
- (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; 20
- (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— 25
- (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 30
- (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 35
- (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)*. 5
- (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 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— 10
- (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, 15
- (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 20
- (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. 25
- (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. 30
- (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. 35
- (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— 40
- (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. 5
- (11) Sections 33, 42 and 48 of the Air Navigation and Transport Act 1988 are repealed.

### **Immunity of authorised officers and authorised persons**

- 49. An authorised officer or an authorised person is not liable in any proceedings for anything done in the purported exercise of the powers of such officer or person under the *Airports and Aviation Acts 1936 to 2014* if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it. 10

### **Authorised officers and authorised persons**

- 50. (1) Section 2(1) of the Act of 1998 is amended by substituting for the definition of “authorised officer” and “authorised person” the following:
  - “ ‘authorised officer’ means— 15
    - (a) a member of An Garda Síochána,
    - (b) in relation to a State airport, a person, or a person belonging to a class of persons, authorised in writing to perform the functions of an authorised officer by or under the *Airports and Aviation Acts 1936 to 2014*, by— 20
      - (i) in respect of Dublin Airport, daa,
      - (ii) in respect of Shannon Airport, Shannon Airport Authority, and
      - (iii) in respect of Cork Airport, before the Cork appointed day, daa, and from that day, Cork Airport Authority,
    - or 25
    - (c) in relation to an airport in the State, other than a State airport, a person, or a person belonging to a class of persons, authorised in writing by the Minister to perform the functions conferred on an authorised officer by or under the *Airports and Aviation Acts 1936 to 2014*; 30
  - ‘authorised person’ means a person appointed in writing to perform the functions conferred on an authorised person by or under this Act by—
    - (a) in respect of Dublin Airport, daa,
    - (b) in respect of Shannon Airport, Shannon Airport Authority, and
    - (c) in respect of Cork Airport, before the Cork appointed day, daa, and 35
      - from that day, Cork Airport Authority;”.
- (2) A person appointed as an authorised officer in relation to a State airport under the *Airports and Aviation Acts 1936 to 2004*, who, immediately before the passing of this

Act, is an authorised officer at a State airport, shall, on such passing, be deemed to be an authorised officer for that airport.

### **Fixed payment notice and declarations**

**51.** The following sections are substituted for section 27 of the Act of 2004:

#### **“Fixed payment notice**

5

#### **27. (1) Where—**

(a) an authorised officer in relation to a State airport for which he or she is such an officer, or

(b) an officer of the Minister or other person appointed by the Minister for the purposes of this section in relation to an airport which is not a State airport,

10

has reasonable grounds for believing that a person is committing or has committed an offence under—

(i) section 15(9) for contravening or failing to comply with a provision of a bye-law made under that section,

15

(ii) section 2A(1) or (2) (inserted by section 65 of the Act of 1998) of the Air Navigation and Transport Act 1973, or

(iii) *section 47 of the State Airports (Shannon Group) Act 2014,*

he or she may serve the person or cause the person to be served with a notice (‘fixed payment notice’) in the prescribed form, in the manner mentioned in subsection (2).

20

(2) Where a fixed payment notice is to be served under this section it shall be—

(a) served personally or by post on the person who is alleged to have committed the offence, or

25

(b) where the alleged offence involved the parking of a mechanically propelled vehicle at an airport—

(i) served on the person who parked the vehicle, or

(ii) where the person cannot be identified, affixed to the vehicle and, as soon as practicable thereafter, served personally or by post on the registered owner of the vehicle.

30

(3) A fixed payment notice shall state that—

(a) the person is alleged to have committed the offence, or, if the notice is affixed to a mechanically propelled vehicle under subsection (2) (b)(ii), the offence specified in the notice is alleged to have been committed,

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(b) the person may make to the relevant company or the Minister, as the case may be, at the address specified in the notice a payment, accompanied by the notice, of the relevant amount, during the

- period of 21 days beginning on the date of the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted. 5
- (4) Where a fixed payment notice is served under subsection (1)—
- (a) a person to whom the notice applies may, during the period specified in the notice, make to the relevant company concerned or the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice, 10
  - (b) the relevant company or the Minister, as the case may be, may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
  - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted. 15
- (5) In a prosecution for an offence under a provision referred to in subsection (1) the onus of proving that a payment pursuant to a fixed payment notice has been made lies with the defendant. 20
- (6) In any proceedings in respect of an offence referred to in subsection (1) a document purporting to be a certificate or receipt of posting or delivery by or on behalf of An Post or another postal service is evidence of the posting or delivery of a fixed payment notice. 25
- (7) For the purposes of subsection (3)(b) the relevant amount is—
- (a) in respect of an offence mentioned in subsection (1)(i) or (iii) – €100, and
  - (b) in respect of an offence mentioned in subsection (1)(ii) – €250, or such other amount in respect of either of those amounts standing specified for the time being in regulations made by the Minister. 30
- (8) For the purposes of prescribing the form of a fixed payment notice—
- (a) the relevant company, in respect of a State airport, may make bye-laws, or
  - (b) the Minister, in respect of an airport which is not a State airport may make regulations, 35
- prescribing the form of the notice.
- (9) The payment of relevant amounts under this section shall be disposed of in a manner determined by the relevant company or the Minister, as the case may be. 40

- (10) In this section ‘relevant company’ means—
- (a) daa, in relation to Dublin airport,
  - (b) Shannon Airport Authority, in relation to Shannon airport, and
  - (c) before the Cork appointed day, daa, and from that day Cork Airport Authority, in relation to Cork airport.

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### **Declaration**

- 27A.** (1) Where a fixed payment notice is affixed to a mechanically propelled vehicle or served on the registered owner of the vehicle in accordance with section 27(2)(b)(ii) in respect of an alleged offence under section 15(9) for contravening a provision of bye-laws under that section relating to the parking of the vehicle at an airport, the notice shall contain or be accompanied by a statement requiring the registered owner, if he or she wishes to show—
- 10
- (a) that he or she was not at the time of the commission of the alleged offence concerned driving, in control of or otherwise using the vehicle, and

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  - (b) if—
    - (i) the use of the vehicle was authorised by the registered owner, the name and address of the person in control of the vehicle at the material time, or

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    - (ii) such use was unauthorised, that fact,

give or send, not later than 21 days after the date of service on the registered owner of the notice, to an authorised officer at the address contained in the notice, a declaration, in the manner specified in the notice, signed by the registered owner, stating such.

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- (2) An authorised officer may require such reasonable information of the person on whom the fixed payment notice referred to in subsection (1) is served as to the whereabouts of the person in control of the vehicle at the time of the commission of the alleged offence.
- (3) Where the registered owner of the mechanically propelled vehicle concerned does not give or send to an authorised officer the information specified in subsection (1)(b)(i) or (2), then, in a prosecution of that registered owner for the offence to which the fixed payment notice relates, it shall be presumed, until the contrary is shown that he or she was driving, in control of or otherwise using the vehicle at the time of the commission of the alleged offence.
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- 35
- (4) Where the registered owner of a mechanically propelled vehicle complies with a requirement of this section, to the satisfaction of an authorised officer, the payment of the relevant amount specified in the the fixed payment notice need not be made by the registered owner and a prosecution of the registered owner in respect of the alleged offence to which the notice relates shall not be initiated.
- 40

- (5) A person who gives information in a declaration under subsection (1) or upon a requirement under subsection (2), which he or she knows is false or misleading, commits an offence and is liable on summary conviction to a class D fine.”.

#### **Directors of company and subsidiary of company**

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- 52.** (1) Section 28 of the Act of 1998 is amended by substituting for subsection (1) (inserted by paragraph 13 of the Schedule to the Act of 2004) the following:

“**28.** (1) Notwithstanding anything contained in the Companies Acts, the directors of the board of any subsidiary which the Minister by direction in writing specifies, shall be appointed, and may be removed from office, by the chairperson with the prior written consent of the Minister.”.

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- (2) Section 34 of the Act of 1998 is amended by inserting after subsection (3) the following:

“(3A) In the case of a director of a company or of a subsidiary of a company who is also a director of both of them the interest thereby created is not to be considered an interest to be disclosed and acted upon under subsection (1).”.

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- (3) Paragraph 13(a) of the Schedule to the Act of 2004 is deleted.

#### **PART 8**

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#### **ARTICLE XI (ALTERNATIVE A) OF PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (CAPE TOWN CONVENTION) – THE AIRCRAFT EQUIPMENT PROTOCOL**

#### **Powers of Government to make order to give effect to Article XI (Alternative A) of Aircraft Protocol to Cape Town Convention**

- 53.** Section 5 of the International Interests in Mobile Equipment (Cape Town Convention) Act 2005 is amended by inserting after subsection (2) the following:

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“(2A) The Government may make an order providing that the Aircraft Protocol shall have force of law in the State as provided under section 4 as if the entirety of Alternative A in Article XI of the Aircraft Protocol was in force as respects the State and applied to insolvency proceedings. The order may specify the waiting period required under Article XI of the Protocol as a period of 60 days.”.

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## PART 9

### AMENDMENT OF TRANSPORT (TOUR OPERATORS AND TRAVEL AGENTS) ACT 1982 AND PACKAGE HOLIDAYS AND TRAVEL TRADE ACT 1995

#### **Amendment of Transport (Tour Operators and Travel Agents) Act 1982**

**54.** The Transport (Tour Operators and Travel Agents) Act 1982 is amended— 5

(a) in section 2(1), after the definition of “overseas travel contract” to insert the following:

“ ‘retailer’ and ‘organiser’ have the meaning assigned to each of them, respectively, in the Package Holidays and Travel Trade Act 1995;

‘sufficient evidence of security’, in relation to a package, means 10  
sufficient evidence of security for the refund of money paid over and  
for the repatriation of a consumer in the event of insolvency of the  
retailer or organiser of the package in compliance with the  
requirements of—

(a) section 22 of the Package Holidays and Travel Trade Act 1995, or 15

(b) if the retailer or organiser is established in another Member State,  
measures giving effect to Article 7 of Council Directive No.  
90/314/EEC of 13 June 1990<sup>1</sup> in the other Member State;”,

(b) by substituting for sections 4 and 5 the following:

#### **“Restriction on carrying on business as tour operator” 20**

**4.** A person established in the State, shall not carry on business as a tour  
operator in the State or hold himself or herself out, by advertisement or  
otherwise, as carrying on such business unless he or she—

(a) is the holder of a licence granted under section 6 to carry on such  
business, or 25

(b) being a retailer or organiser of packages established in the State,  
has—

(i) sufficient evidence of security in respect of packages offered for  
sale or sold by him or her, and

(ii) has provided a notification to that effect, in the English 30  
language, to the Commission for Aviation Regulation before  
carrying on such business.

#### **Restriction on carrying on business as travel agent**

**5.** A person established in the State, shall not carry on business as a travel  
agent in the State or hold himself or herself out, by advertisement or 35  
otherwise, as carrying on such business unless he or she—

(a) is the holder of a licence granted under section 6 to carry on such  
business, or

<sup>1</sup> OJ No. L158, 23.6.1990, p. 59

- (b) being a retailer or organiser of packages established in the State, has—
  - (i) sufficient evidence of security in respect of packages offered for sale or sold by him or her, and
  - (ii) has provided a notification to that effect, in the English language, to the Commission for Aviation Regulation before carrying on such business.

**Requirements on a retailer or organiser of packages established in another Member State carrying on business in State**

- 5A.** (1) A retailer or organiser of packages whose place of establishment is in another Member State shall not carry on business, including on a temporary basis, either physically or at a distance, as a retailer or organiser of packages or hold himself or herself out, by advertisement or otherwise, as carrying on such business in the State unless he or she—
- (a) has sufficient evidence of security in respect of packages offered for sale or sold by him or her in the State, and
  - (b) has provided a notification to that effect, in the English language, to the Commission for Aviation Regulation before carrying on such business in the State.
- (2) A tour operator or travel agent, whose place of establishment is in another Member State, other than a retailer or organiser of packages, may carry on business in the State, including on a temporary basis, either physically or at a distance.
- (3) In this section, ‘carrying on business in the State’ means the sale of travel services in the State for travel which commences within the State to destinations outside the State.”,

and

- (c) by substituting for section 20 the following:

**“Offence – contravening section 4 or 5 and penalties**

- 20.** (1) A person who carries on business, or holds himself or herself as carrying on business—
- (a) as a tour operator, retailer or organiser of packages, in contravention of section 4, or
  - (b) as a travel agent, retailer or organiser of packages, in contravention of section 5,
- commits an offence and is liable—
- (i) on summary conviction, to a class A fine, or
  - (ii) on conviction on indictment, to a fine not exceeding €250,000.
- (2) A person who for the purposes of obtaining for himself or herself or any other person a licence under section 6 makes a statement which he

or she knows to be false or misleading or who recklessly makes a statement which is false in a material particular commits an offence and is liable—

(a) on summary conviction, to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €50,000, 5

and any such licence obtained by him or her as a result of that statement is void and of no effect.

(3) Where a person is convicted of an offence under this section the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order that person to pay to the Minister the costs and expenses, measured by the court, incurred by the Minister in relation to the investigation, detection and prosecution of the offence.”. 10

### **Amendment of Package Holidays and Travel Trade Act 1995**

**55.** The Package Holidays and Travel Trade Act 1995 is amended—

(a) in section 6, by substituting for subsections (1) and (2) the following: 15

“(1) A person who commits an offence under this Act (other than section 22(3)) is liable on summary conviction to a class A fine.

(2) A person who commits an offence under section 22(3) is liable—

(a) on summary conviction to a class A fine, or

(b) on conviction on indictment, to a fine not exceeding €250,000.”, 20

(b) by inserting after section 21 the following:

#### **“Search warrant**

**21A.** (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing that— 25

(a) evidence of or relating to the commission or intended commission of an offence under this Act or the Act of 1982 is to be found on land or a premises, or

(b) a record related to anything to which paragraph (a) refers is or may be on the land or premises, 30

then the judge may issue a search warrant.

(2) A search warrant under this section shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter, using reasonable force if necessary, the land or premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under section 21.”. 35

and

(c) in section 22, by substituting—

(i) in subsection (2), for paragraph (b) the following:

“(b) if the package is one in respect of which a provider established in the State holds a licence under the Act of 1982 and is covered by arrangements entered into for the purposes of that Act.”, 5

and

(ii) for subsection (3) the following:

“(3) A package provider, in respect of a package provided by or through the package provider, who fails to— 10

(a) make one of the arrangements made described in subsection (2), or

(b) ensure that such arrangements are in force,

commits an offence.”,

(d) by deleting section 32.

# SCHEDULE 1

Section 5

## ENACTMENTS REPEALED

<b>Number and Year (1)</b>	<b>Short Title (2)</b>	
No. 36 of 1959	Shannon Free Airport Development Company Limited Act 1959	5
No. 31 of 1961	Shannon Free Airport Development Company Limited (Amendment) Act 1961	
No. 27 of 1963	Shannon Free Airport Development Company Limited (Amendment) Act 1963	10
No. 14 of 1965	Shannon Free Airport Development Company Limited (Amendment) Act 1965	
No. 13 of 1968	Shannon Free Airport Development Company Limited (Amendment) Act 1968	
No. 9 of 1970	Shannon Free Airport Development Company Limited (Amendment) Act 1970	15
No. 21 of 1974	Shannon Free Airport Development Company Limited (Amendment) Act 1974	
No. 3 of 1978	Shannon Free Airport Development Company Limited (Amendment) Act 1978	20
No. 28 of 1980	Shannon Free Airport Development Company Limited (Amendment) Act 1980	
No. 12 of 1983	Shannon Free Airport Development Company Limited (Amendment) Act 1983	
No. 20 of 1986	Shannon Free Airport Development Company Limited (Amendment) Act 1986	25
No. 13 of 1989	Shannon Free Airport Development Company Limited (Amendment) Act 1989	

## SCHEDULE 2

### *Section 40*

#### *SHAREHOLDINGS TO BE TRANSFERRED TO ENTERPRISE IRELAND*

1. Bustec Production Limited
2. Gentian Consultancy Services Ltd 5
3. VLyte Holdings Limited
4. Linkresq Limited
5. Vanderbrook and Co (Ireland) Limited
6. Glass Innovation Limited



# BILLE

(mar a leasáíodh sa Roghshchoiste um Iompar,  
Turasóireacht agus Spórt)

*dá ngairtear*

Acht do dhéanamh socrú maidir le comhlacht a bhunú ar a dtabharfar, sa Bhéarla, *Shannon Group, public limited company* nó, sa Ghaeilge, Grúpa na Sionainne, cuideachta phoiblí theoranta, do mhíniú a fheidhmeanna, do dhéanamh socrú maidir le scaireanna a shealbhaíonn an tAire Caiteachais Phoiblí agus Athchóirithe in Údarás Aerfort na Sionna, cuideachta phoiblí theoranta agus i gCuideachta Forbartha Aerfort Neamhchustam na Sionna Teoranta a aistriú chuig Grúpa na Sionainne, cuideachta phoiblí theoranta, do dhéanamh socrú maidir le húinéireacht tailte a shealbhaíonn an tAire Iompair, Turasóireacht agus Spóirt in Aerfort Neamhchustam na Sionna a aistriú chuig Fiontair Thráchtála na Sionainne, do chumasú don Rialtas éifeacht a thabhairt, le hordú, d'Airteagal XI (Malairt A) den Phrótacal a ghabhann leis an gCoinbhinsiún ar Leasanna Idirnáisiúnta i dTrealamh Soghluaiste maidir le Nithe a bhaineann go sonrach le Trealamh Aerárthaí a osclaíodh lena shíniú in Cape Town an 16 Samhain 2001, d'athainmniú Údarás Aerfort Bhaile Átha Cliath, cuideachta phoiblí theoranta, d'athainmniú Chuideachta Forbartha Aerfort Neamhchustam na Sionna Teoranta, do dhéanamh socrú maidir le hÚdarás Aerfort Chorcaí, cuideachta phoiblí theoranta, a dhíscaoileadh agus a athbhunú, do leasú na nAchtanna Aerfort agus Eitlíochta, 1936 go 2004 agus an Acht Aerphoirt Neamhchustam, 1947, do dhéanamh socrú maidir le leasuithe iarmhartacha ar achtacháin áirithe eile, do leasú an Acht Iompair (Tionscnóirí Turas agus Gníomhairí Taistil), 1982 agus an Acht um Shaoirí Réamháirithe agus an Trádáil Taistil, 1995, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Mar a leasáíodh sa Roghshchoiste um Iompar,  
Turasóireacht agus Spórt*

*3 Iúil, 2014*

# BILL

(as amended in the Select sub-Committee on Transport,  
Tourism and Sport)

*entitled*

An Act to provide for the establishment of a body known in the English language as Shannon Group, public limited company, or in the Irish language as *Grúpa na Sionainne, cuideachta phoiblí theoranta*, to define its functions, to provide for the transfer of shares held by the Minister for Public Expenditure and Reform in Shannon Airport Authority, public limited company and in Shannon Free Airport Development Company Limited to Shannon Group public limited company, to provide for the transfer of the ownership of lands held by the Minister for Transport, Tourism and Sport at the Shannon Customs-Free Airport to Shannon Commercial Enterprises, to enable the Government by order to give effect to Article XI (Alternative A) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment that was opened for signature at Cape Town on 16 November 2001, to re-name the Dublin Airport Authority public limited company, to re-name Shannon Free Airport Development Company Limited, to provide for the dissolution and reestablishment of Cork Airport Authority public limited company, to amend the Airports and Aviation Acts 1936 to 2004 and the Customs-free Airport Act 1947, to provide for consequential amendments to certain other enactments, to amend the Transport (Tour Operators and Travel Agents) Act 1982 and the Package Holidays and Travel Trade Act 1995 and to provide for related matters.

*As amended in the Select sub-Committee on Transport,  
Tourism and Sport*

*3rd July, 2014*

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

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