



# **DÁIL ÉIREANN**

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**AN BILLE AERLOINGSEOIREACHTA AGUS AERIOMPAIR,  
2020**

**AIR NAVIGATION AND TRANSPORT BILL 2020**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE AERLOINGSEOIREACHTA AGUS AERIOMPAIR, 2020 —ROGHCHOISTE

### AIR NAVIGATION AND TRANSPORT BILL 2020 —SELECT COMMITTEE

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*Leasuithe  
Amendments*

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#### SECTION 10

1. In page 12, lines 11 and 12, to delete “*an tSeirbhís Aerloingseoireachta na hÉireann*” and substitute “*Seirbhís AerLoingseoireachta na hÉireann*”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

#### SECTION 11

2. In page 12, between lines 18 and 19, to insert the following:

#### “Alternative or additional names for IANS

11. Notwithstanding *section 10*, the IANS may, for operational purposes, describe itself by any of the following, whether as an alternative to, or in addition to, any other name by which it may describe itself by virtue of this Act:

- (a) Air Nav Ireland;
- (b) AirNav Ireland;
- (c) ANI.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

#### SECTION 15

3. In page 14, between lines 27 and 28, to insert the following:

“(3) (a) The Minister may direct in writing the IANS to pay a dividend to the Exchequer of an amount determined by him or her and the IANS shall comply with the direction (including any period specified in the direction within which the dividend is required to be so paid).

- (b) The Minister may give the Board such general directives concerning the financial objectives of the Board as he or she considers appropriate and the Board shall, in performing its functions, have regard to such directives.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

[SECTION 47]

SECTION 47

4. In page 34, between lines 27 and 28, to insert the following:

“(b) The IANS shall not prosecute an offence relating to an authorisation to aircraft to proceed.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

5. In page 34, line 28, to delete “(b) In paragraph (a)(iv)” and substitute the following:

“(c) In this subsection”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 56

6. In page 40, line 6, to delete “stored;” and substitute the following:

“stored;

‘Irish Coast Guard’ means that part of the Department of Transport that is known by that name;”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 57

7. In page 40, between lines 6 and 7, to insert the following:

**“Amendment of section 14 of Act of 1993**

57. Section 14 of the Act of 1993 is amended—

- (a) in subsection (1)(a), by the substitution of “Schedule 1” for “the Schedule”, and  
(b) by the substitution of the following subsections for subsection (6):

“(6) (a) For the avoidance of doubt, the reference to ‘(including making regulations)’ in subsection (3) includes making regulations that apply to the Irish Coast Guard.

(b) The company shall consult with the Irish Coast Guard before it makes regulations that apply to the Irish Coast Guard.

(c) The company shall, in making regulations that apply to the Irish Coast Guard, have regard to—

(i) the public benefit of the Irish Coast Guard,

(ii) the need to balance safety regulation with the need to provide effective emergency aviation responses to medical emergencies, accidents and serious incidents within the State,

(iii) the need to provide for greater specificity in relation to the regulatory framework for the oversight of aviation activities by and for the Irish Coast Guard, and

(iv) any regulations made under section 69A.”.

[SECTION 57]

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

*[Acceptance of this amendment involves the deletion of section 57 of the Bill.]*

SECTION 58

8. In page 40, between lines 9 and 10, to insert the following:

**“Licence Holders Forum Section**

58. The Act of 1993 is amended by the insertion of section 14A:

“14A. (1) The Irish Aviation Authority shall establish a standing body to serve as the collective statutory collaborative and consultative forum in relation to air safety and its regulation between the Irish Aviation Authority and persons or bodies that it licenses or authorises who are active in commercial aviation, to be known as the Licence Holders Forum.

(2) Without prejudice to subsections (6) and (7), the Licence Holders Forum shall meet at least twice per annum at which the Irish Aviation Authority shall be represented by its Chief Executive and be accompanied by such other staff of the Irish Aviation Authority as necessary. Secretariat services shall be provided to it by the Irish Aviation Authority.

(3) Each of the following may appoint one representative on the Licence Holders Forum—

(a) any air carrier holding an Air Carrier Operating Licence issued under Regulation (EC) No. 1008/2008,

(b) any recognised trade union or recognised stakeholder group representing fifty or more persons authorised to hold a commercial pilot’s licence or an airline transport pilot’s licence,

(c) any recognised trade union or recognised stakeholder group representing 50 or more persons licenced or authorised by the Irish Aviation Authority other than holders of commercial pilot licences or airline transport pilot licences. Where the particular class of licensed person is less than 50 then 50 per cent of their actual number by function shall suffice.

(4) The Licence Holders Forum shall also comprise such other representatives of stakeholders in aviation safety as determined jointly by the representative of the Irish Aviation Authority and those persons appointed pursuant to subsection 3.

(5) The Licence Holders Forum shall adopt its own procedures including arrangements with respect to the promotion of candour and the treatment of confidential information.

(6) The Irish Aviation Authority shall consult the Licence Holders Forum at least 28 days in advance in relation to the following—

[SECTION 58]

- (a) its proposal of a draft statement of strategy pursuant to section 29A. (1),
  - (b) its submission to the Minister of any report pursuant to section 32(1) or 32(2),
  - (c) its submission to the Minister of an aviation safety performance statement in accordance with section 32A(1),
  - (d) the adoption of a State Plan for Aviation Safety in accordance with Article 8 of Regulation (EU) 2018/1139,
  - (e) the making of a decision pursuant to section 36,
  - (f) in respect of its adoption of any implementing measures (including orders pursuant to section 58) to give effect to any domestic, European Union, or international law requirement concerning or relating to authorisation or licensing, and
  - (g) all proposed or requested initiatives concerning the authorisation of licencing of personnel or carriers.
- (7) The Irish Aviation Authority shall keep the Licence Holders Forum informed in relation to the following matters—
- (a) the Irish Aviation Authority’s fulfilment of its regulatory performance plan as an element of its aviation safety performance plan,
  - (b) the implementation and operation of the Licence Holders Charter adopted under section 14B,
  - (c) any concern of any representative as to technical or safety standards for aircraft or air navigation or anything affecting or likely to affect the safety of civil aviation, and
  - (d) any guidance, clarifications, or direction issued under the Charter adopted under section 14B.
- (8) Each representative on the Licence Holders Forum may propose for discussion anything in relation to—
- (a) the licensing of persons or carriers involved in civil aviation,
  - (b) safety concerns associated with any licence or authorisation issued by the Irish Aviation Authority, and
  - (c) any issue concerning the safety of aircraft or air operations, whether or not regulated or subject to the oversight of the Irish Aviation Authority.”.

—Duncan Smith, Darren O’Rourke.

9. In page 40, between lines 9 and 10, to insert the following:

**“The Licence Holders Charter**

**58.** The Act of 1993 is amended by the insertion of section 14B:

**“14B.** (1) For the purpose of ensuring that the system of authorisation and licensing is operated in an integrated and transparent manner consistent with the protection of safety, the Irish Aviation Authority shall adopt and operate a Licence Holders Charter.

(2) In this section a Licence shall refer to any licence, permit, or authorisation that is granted by the Irish Aviation Authority to any person or body in connection with commercial aviation.

(3) The Licence Holders Charter shall make provision for—

(a) the right of a Licence holder and their recognised stakeholder groups to obtain written general guidance from the Irish Aviation Authority as to any matter related to compliance with its Licence,

(b) the right of a Licence holder and recognised stakeholder groups to obtain specific written guidance from the Irish Aviation Authority, and where appropriate, direction on the interpretation of relevant legal requirements,

(c) the right of a Licence holder, in respect of any matter that arose or is arising in the course of the exercise of rights or the discharge of obligations under that Licence, to obtain a written ruling from the Irish Aviation Authority as to its compliance therewith, its duties, or authority,

(d) In respect of paragraph (c), a right to reconsideration of any such ruling by the Irish Aviation Authority, which to the fullest extent practicable, and such reconsideration shall be by persons other than the original decision maker,

(e) a procedure for regular publication of anonymised general guidance under paragraph (a) of specific guidance under paragraph (b), and subject to paragraph (d) any rulings under paragraph (c), and

(f) any incidental matters, including procedures.

(4) The Irish Aviation Authority shall be bound by the Licence Holders Charter in respect of its dealings with Licence holders. It shall be without prejudice to the requirements of law in relation to the termination, withdrawal, or suspension of any Licence.

(5) Any right of a Licence Holder under this section may be exercised on its behalf by a recognised trade union or by a recognised stakeholder group.

(6) The Licence Holders Charter shall reflect and take due account of each

of the following—

- (a) legal obligations of the relevant Licence holder and their corresponding duties independently of those of other Licence holders,
  - (b) the responsibilities of all Licence holders to take action where necessary to ensure compliance with their legal obligations,
  - (c) the need to approach compliance in an integrated manner by recognising the individual and collective role and responsibilities of all Licence holders, and
  - (d) the Just Culture requirements of EU Regulation 376/2014.
- (7) Within three months of the date of the enactment of the Air Navigation and Transport Act 2021 (the enactment date), following consultation of the Licence Holders Forum, the Irish Aviation Authority shall publish a draft Licence Holders Charter for public consultation and specify a period of not less than two months within which representations with respect to the draft Charter may be made by interested parties or the public.
- (8) The Irish Aviation Authority shall consider each of the representations made and provide written reasons for adopting, modifying or rejecting each submission before adopting the Licence Holders Charter, which shall occur no later than six months from the enactment date and whereupon it shall become effective.
- (9) Any amendments to the Licence Holders Charter shall be subject to the consultation requirements of subsections (7) and (8).”.

—Duncan Smith, Darren O’Rourke.

10. In page 40, between lines 9 and 10, to insert the following:

**“Crew Peer Support Programmes**

58. The Act of 1993 is amended by the insertion of section 14C:

“14C. (1)The Irish Aviation Authority shall periodically review the crew peer support programmes provided by the holders of air carrier licences or otherwise made available by them to crew pursuant to the requirements of CAT.GEN.MPA. 215 to Annex IV (Part – CAT) of Regulation (EU) No. 965/2012.

- (2) A comprehensive review of each such support programme shall be conducted by the Irish Aviation Authority at least every three years and no more frequently than at one year intervals, in respect of which it shall consider the following—
- (a) the nature of the programme having regard to the size and diversity of the air carrier in question,

[SECTION 58]

- (b) the ability of the programme to provide access to the requisite range of expert supports,
  - (c) the accessibility of such a programme including encouragement as to its use and the freedom of crew to access an alternative crew peer support programme to meet their personal needs,
  - (d) the adequacy of confidentiality arrangements,
  - (e) the involvement of crew representatives and recognised stakeholder groups in establishing and supporting the programme,
  - (f) the selection and training of peers, and their independence from any conflicting management or supervisory functions within the Air Operator's Certificate holder or otherwise,
  - (g) the provision of adequate resources to the programme,
  - (h) the provision of mental health professionals to support peers when required by programme users, and
  - (i) the accessibility of programmes services and support by online and other electronic means.
- (3) In conducting these comprehensive reviews, the Irish Aviation Authority shall seek feedback from users of the programme to the maximum extent feasible, consistent with maintaining strict confidentiality concerning the identity of crew and their personal circumstances.
- (4) In the event of any deficiency in a crew peer support programme being found during a comprehensive review, the Irish Aviation Authority may direct changes to any such programme, which shall be binding. That shall be without prejudice to the ability to the Irish Aviation Authority's power to direct changes in respect of deficiencies other than those identified during a periodic comprehensive review.
- (5) The Irish Aviation Authority shall convene the Crew Peer Support National Forum which shall be chaired by the Irish Aviation Authority's Chief Medical Officer and include representatives of:
- (a) the air carriers that it regulates and any persons engaged in the provision of support services to them or on their behalf;
  - (b) pilot associations and other recognised stakeholder groups and any persons from those associations engaged in the provision of support services to them or on their behalf.
- (6) The Crew Peer Support National Forum, which shall receive secretariat services from the Irish Aviation Authority, has the following functions—
- (a) the sharing of best practice on crew peer support programmes,

[SECTION 58]

- (b) encouraging the implementation of cooperation and joint resource sharing between different crew peer support programmes,
- (c) the development of a common (anonymised) data base to identify trends and to monitor the effectiveness of crew peer support programmes,
- (d) making recommendations to the Irish Aviation Authority as to the requirements of crew peer support programmes, and
- (e) creating or encouraging the provision of a national crew peer support programme under a separate structure, whether through co-operation between programmes, or by other means, and to be accessible—
  - (i) by all crew irrespective of their employer,
  - (ii) by crew not willing to use the programme made available by their employer for personal confidentiality or other reasons, and
  - (iii) to crew who are out of work.”.

—Duncan Smith, Darren O’Rourke.

SECTION 60

11. In page 41, between lines 3 and 4, to insert the following:

**“Amendment of section 23 of Act of 1993**

60. Section 23 of the Act of 1993 is amended—

- (a) in subsection (1), by the deletion of “for the purpose of compliance with so much of the Companies Acts, 1963 to 1990, as requires that there shall always be a minimum number of members of the company,”, and
- (b) by the deletion of subsection (2).”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 65

12. In page 44, line 33, to delete “the plan for aviation safety prepared by the State” and substitute “the State Plan for Aviation Safety prepared”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 72

13. In page 51, line 24, to delete “or”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

14. In page 51, line 27, after “operator” to insert “or registered owner”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

15. In page 51, line 28, to delete “section.” and substitute “section, or”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

[SECTION 72]

16. In page 51, between lines 28 and 29, to insert the following:

“(c) if the officer does not identify the person and the offence involves the use of an unmanned aircraft registered to an operator, the officer shall serve, or cause to be served, personally or by post, on the registered operator of the unmanned aircraft a notice under this section.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 73

17. In page 52, between lines 35 and 36, to insert the following:

**“Investigations and administrative penalties**

73. The Act of 1993 is amended by the insertion of the following:

“63G. (1) For the purposes of ensuring compliance with air carrier operating licence obligations (which is deemed for these purposes to include an air operator certificate) and compliance with any other obligation of any air carrier the Irish Aviation Authority may cause such investigation as it thinks fit to be carried out.

(2) The Irish Aviation Authority may, for the purposes of subsection (1), direct one or more authorised officers—

(a) to carry out the investigation, and

(b) to submit to the Irish Aviation Authority an investigation report following the completion of the investigation.

(3) The Irish Aviation Authority may define the scope and terms of the investigation to be carried out, whether as respects the matters or the period to which it is to extend or otherwise, and may, in particular, limit the investigation to matters connected with particular circumstances.

(4) Where more than one authorised officer has been directed to carry out an investigation, the investigation report shall be prepared jointly by the authorised officers so directed and this section and sections 63H to 63J shall, with all necessary modifications, be construed accordingly. The Irish Aviation Authority may designate one authorised officer as the principal investigator. Any reference to an officer is a reference to one or more officers as authorised.

(5) As soon as is practicable after being appointed to carry out an investigation, the authorised officer shall—

(a) give the air carrier concerned notice in writing—

(i) where the examination concerned is being carried out in respect of a complaint, setting out the particulars of the complaint concerned, or

(ii) where the examination is being carried out of the Irish Aviation Authority's own volition, setting out the matters to which the investigation relates,

and

(b) afford to the air carrier an opportunity to respond to the notice under paragraph (a) within seven days from the date on which the notice was given (or such further period not exceeding 28 days as the authorised officer allows).

**63H.** (1) An authorised officer who has been directed under section 63G(2) to carry out an investigation may, for the purposes of the investigation—

(a) require a person, being an air carrier, or an employee or agent of such an air carrier, who, in the authorised officer's opinion—

(i) possesses information that is relevant to the investigation, or

(ii) has any record or document within the person's possession or control or within the person's procurement that are relevant to the investigation,

to provide that record or document, as the case may be, to the authorised officer,

and

(b) where the authorised officer thinks fit, require that person to attend before him or her for the purpose of so providing that information, record or document, as the case may be,

and the person shall comply with the requirement.

(2) A requirement under subsection (1) shall specify—

(a) a period within which, or a date and time on which, the person the subject of the requirement is to comply with the requirement, and

(b) as the authorised officer concerned thinks fit—

(i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the record or document concerned, or

(ii) the place to which the person shall send the information, record or document concerned.

(3) A person required to attend before an authorised officer under subsection (2)—

(a) is also required to answer fully and truthfully any question put by the authorised officer, and

(b) if so required by the authorised officer, shall answer any such question under oath.

[SECTION 73]

- (4) Where it appears to an authorised officer that a person has failed or is failing to comply or fully comply with a requirement under subsection (2) or (3), the authorised officer may, on notice to the person and with the consent of the Irish Aviation Authority, apply in a summary manner to the Circuit Court for an order under subsection (5).
- (5) The Circuit Court, on hearing an application under subsection (4), where satisfied that the person concerned has failed or is failing to comply or fully comply with the requirement concerned, may—
  - (a) make an order requiring the person, within such period as the Court may specify, to comply or fully comply, as the case may be, with the requirement, or
  - (b) substitute a different requirement for the requirement concerned.
- (6) The administration of an oath referred to in subsection (3)(b) by an authorised officer is hereby authorised.
- (7) A person the subject of a requirement under subsection (1) or (3) shall be entitled to the same immunities and privileges in respect of compliance with such requirement as if the person were a witness before the High Court.
- (8) Any statement or admission made by a person pursuant to a requirement under subsection (1) or (3) shall not be admissible in evidence in proceedings for an offence (other than an offence under subsection (12) brought against the person, and this shall be explained to the person in ordinary language by the authorised officer concerned.
- (9) Nothing in this section shall be taken to compel the production by any person of statements, records or other documents or other information which would be exempt from production in proceedings in a court on the ground of legal professional privilege.
- (10) For the purposes of an investigation, an authorised officer may, if he or she thinks it proper to do so, of his or her own volition conduct an oral hearing.
- (11) Schedule 3 shall have effect for the purposes of an oral hearing referred to in subsection (10).
- (12) Subject to subsection (9), a person who—
  - (a) withholds, destroys, conceals or refuses to provide any information or statements, records or other documents required for the purposes of an investigation,
  - (b) fails or refuses to comply with any requirement of an authorised officer under this section,
  - (c) in purported compliance with a requirement under this section, gives to an authorised officer information, documents or records

[SECTION 73]

which the person knows to be false or misleading in a material respect, or

- (d) otherwise obstructs or hinders an authorised officer in the performance of functions under this Act,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding five years or both.

- (13) In this section, a reference to a document or record includes a reference to copies of such document or record.

- (14) The powers conferred under this section on an authorised officer to whom subsection (1) applies are in addition to the powers conferred on such an authorised officer under section 63C.

- 63I.** (1) Where an authorised officer has completed an investigation, he or she shall, as soon as is practicable after having considered, in so far as they are relevant to the investigation—

- (a) any information, records or other documents provided to him or her,
- (b) any statement or admission made by any person,
- (c) any submissions made, and
- (d) any evidence presented (whether at an oral hearing or otherwise),

prepare a draft, in writing, of the investigation report (“draft investigation report”) and give, or cause to be given, to the air carrier to which the investigation relates—

- (i) a copy of the draft investigation report, and
- (ii) a notice in writing stating that the air carrier concerned may, not later than 28 days from the date on which the notice was served on it (or such further period not exceeding 28 days as the authorised officer allows), make submissions in writing to the authorised officer on the content of the draft investigation report.

- (2) An authorised officer shall—

- (a) as soon as is practicable after the expiration of the period referred to in subsection (1)(ii), and
- (b) having—

[SECTION 73]

- (i) considered the submissions (if any) made in accordance with subsection (1)(ii), and
  - (ii) made any revisions to the draft investigation report which, in the opinion of the authorised officer, are warranted following such consideration,  
  
prepare the investigation report and submit it to the Irish Aviation Authority with any such submissions annexed to it.
- (3) An investigation report and a draft investigation report under this section shall be in writing and shall state—
  - (a) whether the authorised officer—
    - (i) is satisfied that an infringement of a relevant provision or, as the case may be, a relevant obligation of the air carrier to which the investigation relates has occurred or is occurring, or
    - (ii) is not so satisfied,
  - (b) where paragraph (a)(i) applies, the grounds on which the authorised officer is so satisfied, and
  - (c) where paragraph (a)(ii) applies—
    - (i) the basis on which the authorised officer is not so satisfied, and
    - (ii) the authorised officer’s opinion, in view of such basis, on whether or not a further investigation of the air carrier is warranted and, if warranted, the authorised officer’s opinion on the principal matters to which the further investigation should relate.

**Irish Aviation Authority to consider investigation report**

- 63J.** (1) The Irish Aviation Authority on receipt under Section 63I(2) of an investigation report, shall, for the purposes of the inquiry concerned, consider the report and any submissions annexed to it.
- (2) Where the Irish Aviation Authority, in considering the documents referred to in subsection (1), forms the view that further information is required for the purpose of enabling it to make a decision as to the existence of an infringement, it may, as it considers appropriate, do one or more of the following:
- (a) conduct an oral hearing;
  - (b) give the air carrier to which the investigation concerned relates—
    - (i) a copy of the investigation report, and
    - (ii) a notice in writing stating that the air carrier, within 21 days from the date on which the notice was served on it (or such further period not exceeding 21 days as the Irish Aviation Authority allows), make submissions in writing to the Irish

Aviation Authority in relation to such matters as the Irish Aviation Authority may specify in the notice;

or

- (c) direct an authorised officer to conduct such further investigation into such matters as the Irish Aviation Authority considers necessary having regard to the investigation report and submissions (if any) annexed to it.
- (3) Schedule 3 shall, with any necessary modification, have effect for the purposes of an oral hearing referred to in subsection (2)(a).
- (4) Sections 63H and 63I and this section shall apply to a further investigation conducted in compliance with a direction under subsection (2)(c), as if the reference to an authorised officer in those sections was a reference to an authorised officer directed under subsection (2)(c) to conduct the further investigation.

**Power of the Irish Aviation Authority to decide to impose administrative fine**

**63K.** (1) The Irish Aviation Authority, in considering—

- (a) whether to make a decision to impose an administrative fine, and
- (b) where applicable, the amount of such a fine,

shall act in accordance with this section.

- (2) Where the Irish Aviation Authority has considered a report and any submissions in accordance with section 63J(1) and, as applicable, having regard to its exercise of any of its powers under section 63J(2) and the outcome thereof, it may decide to impose an administrative fine in respect of any violation by an air carrier of an applicable requirement.
- (3) The maximum amount of a fine that may be imposed in respect of a violation is 10 per cent of the turnover of the air carrier in the most recent financial year for which audited accounts are available.
- (4) In setting the amount of an administrative fine, the Irish Aviation Authority shall take into account the following—
  - (a) the nature, gravity and duration of the infringement,
  - (b) whether it occurred negligently or intentionally,
  - (c) the degree to which the infringement endangered public safety,
  - (d) any relevant previous infringements by the air carrier, and
  - (e) the principle of proportionality
- (5) The Irish Aviation Authority, as soon as practicable after—
  - (a) a decision to impose an administrative fine is confirmed under

section 63L(3)(a) or

- (b) the court decides, under section 63L(3)(b), to impose a different fine,

shall give the air carrier concerned a notice in writing, requiring the air carrier to pay the amount of the fine concerned to the Irish Aviation Authority within the period of 28 days commencing on the date of the notice.

- (6) An air carrier shall comply with a requirement referred to in subsection (5).
- (7) All payments received by the Irish Aviation Authority under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.
- (8) In this section and section 63L a reference to a decision to impose an administrative fine shall be construed as a reference to a decision by the Irish Aviation Authority to impose such a fine.

#### **Appeal against administrative fine**

- 63L.** (1) An air carrier that is the subject of a decision to impose an administrative fine may, within 28 days from the date on which notice of the decision concerned was given to it under section 63K(5) appeal to the court against the decision.
- (2) The court, on hearing an appeal under subsection (1), may consider any evidence adduced or argument made by the air carrier, whether or not already adduced or made to an authorised officer or the Irish Aviation Authority.
- (3) Subject to subsections (4) and (5), the court may, on the hearing of an appeal under subsection (1)—
- (a) confirm the decision the subject of the appeal,
- (b) replace the decision with such other decision as the court considers just and appropriate, including a decision to impose a different fine or no fine, or
- (c) annul the decision.
- (4) The court shall, for the purposes of subsection (3), take into account the matters set out in section 63K(4).
- (5) In this section, “court” means—
- (a) the Circuit Court, where the amount of the administrative fine the subject of the appeal does not exceed €75,000, or
- (b) in any other case, the High Court.

#### **Circuit Court to confirm decision to impose administrative fine**

- 63M.** (1) Where an air carrier does not appeal in accordance with 63L(1) against

a decision by the Irish Aviation Authority to impose an administrative fine on the air carrier, the Irish Aviation Authority shall, as soon as is practicable after the expiration of the period referred to in that subsection, and on notice to the air carrier concerned, make an application in a summary manner to the Circuit Court for confirmation of the decision.

- (2) The Circuit Court shall, on the hearing of an application under subsection (1), confirm the decision the subject of the application unless the Court sees good reason not to do so.”

—Duncan Smith, Darren O’Rourke.

#### SECTION 74

18. In page 52, after line 38, to insert the following:

#### **“Regulations may be made to give effect to certain provisions of EASA Basic Regulation**

74. The Act of 1993 is amended by the insertion of the following section after section 69:

“69A. (1) The Minister may make regulations for the purpose of exercising the opt-in provisions of Article 2.6 of the EASA Basic Regulation to give effect to certain provisions of the EASA Basic Regulation relating to the regulation of aviation activities by aircraft (including related engines, propellers, parts, non-installed equipment and equipment to control aircraft remotely) while carrying out search and rescue, firefighting, coastguard or similar activities or services under the control and responsibility of the State, undertaken in the public interest by or on behalf of the Irish Coast Guard and the personnel and organisations involved in the activities and services performed by those aircraft.

- (2) Without prejudice to the generality of subsection (1), regulations under this section may—

(a) make provision in relation to all or any aspect of (including any combination of) the matters set out in sections I, II, III and VII of Chapter III of the EASA Basic Regulation as may be specified in the regulations,

(b) apply either generally or to such class of persons or activities or services as may be specified in the regulations,

and

(c) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act, the European Communities Act 1972 and the European Communities Act 2007).

[SECTION 74]

- (3) When making regulations under subsection (1), the Minister shall have regard to the following:
  - (a) the aim to strengthen the national aviation safety regulatory framework for aviation activities of the Irish Coast Guard and aligning it with European aviation safety regulations;
  - (b) the need to provide for greater specificity in relation to the regulatory framework of the oversight of aviation activities by and for the Irish Coast Guard;
  - (c) the need to secure the operation and safety of the aircraft, and persons and property contained therein, operated by or on behalf of the Irish Coast Guard and mitigate the risks pertaining to safety;
  - (d) the need to allow for immediate reaction to accidents and serious incidents and balance the safety requirements with search and rescue objectives;
  - (e) the interests and views of the civil aviation sector and the general public;
  - (f) the interest of international cooperation within the European aviation industry and the promotion of European aviation safety standards;
  - (g) the need to promote effectiveness in regulatory, certification and oversight processes.
- (4) The Minister shall consult with the Irish Coast Guard and the company before he or she makes regulations under this section.
- (5) A word or expression which is used in this section and which is also used in the EASA Basic Regulation has, unless the context otherwise requires, the same meaning in this section as it has in the EASA Basic Regulation.
- (6) In this section ‘EASA Basic Regulation’ has the meaning assigned to it by section 32A(6).”.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 78

19. In page 56, between lines 11 and 12, to insert the following:

“(2) The Act of 1993 is amended by the insertion of the text set out in *Schedule 4* as Schedule 3 to that Act.”.

—Duncan Smith, Darren O’Rourke.

[SECTION 81]

SECTION 81

20. In page 57, between lines 17 and 18, to insert the following:

“PART 9

AMENDMENT OF AIR NAVIGATION AND TRANSPORT (AMENDMENT) ACT 1998

**Amendment of section 13 of Act of 1998**

81. Section 13 of the Act of 1998 is amended by—

(a) the substitution of the following subsection for subsection (5):

“(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, €5 billion, and

(b) in the case of Cork Airport Authority and any of its subsidiaries, from the Cork appointed day, €100 million.”,

and

(b) by the deletion of subsection (6).”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 92

21. In page 61, to delete lines 11 to 14 and substitute the following:

“(b) facilitate the efficient and economic development and operation of Dublin Airport,

(c) promote high-quality and cost-effective airport services at Dublin Airport, and

(d) take account of the policies of the Government on aviation, climate change and sustainable development.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

22. In page 61, to delete lines 19 to 23 and substitute the following:

“(iii) the substitution, in paragraph (i), of “daa, and” for “daa.”, and

(iv) the insertion of the following paragraph after paragraph (i):

“(j) the need to encourage competition at Dublin Airport to—”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 110

23. In page 70, to delete lines 5 to 9 and substitute the following:

“(4) This section shall not apply to—

[SECTION 110]

- (a) the Single Public Service Pension Scheme, or
- (b) a person who is a member of that Scheme.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

NEW SECTION

24. In page 70, after line 9, to insert the following:

**“Superannuation schemes or arrangements in relation to members of Commission or staff to whom *section 110* does not apply**

111. (1) The IAA shall, as soon as is practicable after the commencement of this section but, in any case, before the dissolution day, make the relevant scheme or arrangement.
- (2) The relevant persons shall, on the dissolution day and by virtue of this section, become members of the relevant scheme or arrangement.
- (3) In this section—

“relevant persons” means the members of the Commission and members of the staff of the Commission who stand transferred to the IAA under *section 103* as members of the staff of the IAA and who were not members of a scheme or arrangement referred to in *section 110(1)* immediately before the dissolution day;

“relevant scheme or arrangement” means a scheme or arrangement referred to in section 41 of the Act of 1993 made before the dissolution day for the purposes of relevant persons becoming members of such scheme or arrangement on that day and containing terms and conditions in relation to superannuation no less favourable to relevant persons than those terms and conditions in relation to superannuation to which they were entitled immediately before that day.”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

NEW SCHEDULE

25. In page 77, after line 16, to insert the following:

“SCHEDULE 4

“SCHEDULE 3

*PROVISIONS APPLICABLE TO ORAL HEARING CONDUCTED BY AN AUTHORISED OFFICER UNDER SECTION 63H*

1. The authorised officer conducting an oral hearing under section 63H(10) for the purposes of an investigation may take evidence on oath, and the administration of such an oath by the authorised officer is hereby authorised.
2. The authorised officer may by notice in writing require a person to attend the oral hearing at such time and place as is specified in the notice to give evidence in respect of any matter in issue in the

[NEW SCHEDULE]

investigation or to produce any documents, records, statements or other information within his or her possession or control or within his or her procurement.

3. Subject to paragraph 4, a person referred to in paragraph 2 may be examined and cross-examined at the oral hearing.
4. A person referred to in paragraph 2 shall be entitled to the same immunities and privileges in respect of compliance with any requirement referred to in that paragraph as if the person were a witness before the High Court. That shall include the right to be accompanied by a lawyer and or by another adviser or assistant.
5. Where a person referred to in paragraph 2 does not comply or fully comply with a requirement referred to in that paragraph, the authorised officer may apply in a summary manner to the Circuit Court, on notice to that person, for an order requiring the person to comply or fully comply, as the case may be, with the requirement within a period to be specified by the Court, and the Court may make the order sought or such other order as it thinks fit or refuse to make any order.
6. The oral hearing shall be held otherwise than in public.”.”.

—Duncan Smith, Darren O’Rourke.

TITLE

26. In page 7, line 5, to delete “*Seirbhis*” and substitute “*Seirbhís*”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.

27. In page 7, line 16, to delete “and to provide” and substitute the following:

“to amend the Air Navigation and Transport (Amendment) Act 1998 to increase the aggregate at any one time of moneys that may be borrowed under section 13 of that Act in the case of daa and any of its subsidiaries; and to provide”.

—An tAire Iompair agus An tAire Comhshaoil, Aeráide agus Cumarsáide.