

Directive – 2023/958

Information Note from the Department of the Environment, Climate and Communications

1. Directive Title

Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure.

2. Transposition Deadline

31/12/2023

3. Anticipated Transposition date

It is currently the intention to transpose this by 31 December 2023.

4. COM number of original Commission proposal

COM (2021)552

5. Department with primary responsibility

Department of the Environment, Climate and Communications

6. Other Departments involved

Department of Transport

Department of Public Expenditure, National Development Plan Delivery and Reform

Department of Finance

7. Background to, short summary and aim of the directive

Presented by the European Commission on 14 July 2021, the proposed revision of the EU Emissions Trading System (EU ETS) as regards aviation's contribution was part of the Fit for 55' package which will enable the European Union to reduce its net greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels and to achieve climate neutrality in 2050. The Directive seeks to increase emissions reduction from the aviation sector for both intra-EU and extra-EU flights.

Currently free aviation allowances will be gradually phased out from 2024 and all aviation allowances will be auctioned by 2026. A new mechanism to incentivise use of sustainable aviation fuels (SAF) is also introduced. Aircraft operators will be eligible for SAF allowances to cover a portion of the price difference between SAF and fossil fuels. This measure is designed to promote uptake of these fuels.

To address emissions from extra-EU flights CORSIA (Carbon Offsetting and Reduction Scheme for International Aviation) will apply to flights to and from third countries participating in CORSIA from 2022 to 2027. When global aviation emissions under CORSIA offsetting reach levels above 85% of 2019-levels, European airlines will have to offset their proportionate share with corresponding carbon credits, invested in emissions reductions in countries participating in CORSIA offsetting.

8. Legal basis of the Directive

The legal basis for this proposal is Article 192 TFEU. In accordance with Article 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, inter alia, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

9. Category of Directive

Some significance. The Directive amends Directive 2003/87/EC with respect to the aviation sector.

10. Implications for Ireland

The directive will introduce additional administrative requirements for Ireland. These will primarily be an extension to existing functions carried out by the Environmental Protection Agency (EPA) and is subject to ongoing work.

11. Impact on the public

The increased ambition of emissions reductions will likely result in the price of aviation allowances remaining high and increasing during current EU ETS phase (2021-2030). Average prices for aviation allowances have increased from around €60 per tonne of carbon dioxide in 2021 to €85 in 2023. Reduction in free allocation for aviation is likely to have direct price impacts for the public, as costs will be passed onto the consumer.

12. Estimated cost to the Exchequer

Administrative costs can be recovered from the portion of allowances allocated to Member States.

13. Consequences and possible costs, arising from non-transposition

Not Applicable

14. Have consultations taken place with stakeholders or are there any plans to do so?

The Department has engaged in consultation with the relevant Departmental and Agency stakeholders.

15. Are there areas of the Directive where Member States have discretion on implementation?

Member states have discretion for various aspects of implementation. This includes assigning an administering authority as well as compliance and enforcement. For example, S.I. No. 261/2010 and amendments assign the EPA as the administer authority and enable it to issue fines for failures to comply with the Directive.

16. Does Ireland intend to seek any derogations from the provisions of the Directive?

Ireland does not intend to seek any derogations from the provisions of the Directive.

17. Offences or penalties (if any) to be created by the transposition of the Directive

The offences under this Directive are currently intended to match SI 261/2010 - which along with amendments is the current transposition.

18. Competent authorities or market surveillance authorities (if any) to be designated by the transposition of the Directive

The Environmental Protection Agency is the administering authority for the EU ETS in Ireland. Engagement is required on assigning new functions with regards to CORSIA implementation as this may fall under an existing Department of Transport function.

19. Consequences for national legislation?

Legislative changes are required at national level to implement the revised EU ETS Directive. The relevant text for aviation in the EU ETS Directive is transposed using S.I. No. 261/2010 - European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010.

20. Are there any parts of the Directive which are planned to be transposed by primary legislation, and if so, which parts?

No parts of the Directive are planned to be transposed by primary legislation.

21. When is it anticipated that the draft statutory instrument(s) transposing this Directive will be available?

The Statutory instrument transposing this Directive will be sent for legal drafting and will be available after that process is completed.

22. Contact name, telephone number and e-mail address of official in Department with primary responsibility

Date 12/09/2023