

Dublin Airport (Passenger Capacity) Bill

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Abstract

The General Scheme of the Dublin Airport (Passenger Capacity) Bill was published on 12 February 2026. The primary purpose of the legislation is to provide the Minister for Transport with the powers to amend or revoke planning conditions that limit passenger capacity at Dublin Airport. This paper examines some of the policy background and provisions set out in the General Scheme, ahead of publication of the Bill.



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Executive Summary

The **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the ‘General Scheme’) was published on 12 February 2026. It proposes to establish a new legislative framework to empower the Minister for Transport (the ‘Minister’), where it is considered to be ‘in the public interest’, to amend or revoke any planning condition that limits the number of passengers that can use Dublin Airport. The proposed legislation would also prohibit the setting of a passenger cap planning condition in the future.

In European law, passenger cap conditions may be imposed to help deal with capacity and congestion, and aircraft noise. An airport would need to be designated as a coordinated or schedule-facilitated airport under the EU **Slots Regulation** before a limit may be imposed on arrival and departure slots in airports. Dublin is the only coordinated airport in Ireland but was one of 113 European coordinated airports (out of 218 worldwide) in the 2025 summer season and one of 89 coordinated airports in Europe over the previous winter season. Where aircraft noise is cited, the decision to impose an operating restriction limiting flight numbers into and out of an airport may only be taken after other noise mitigation measures have been found to be ineffective – a **balanced approach** (as outlined by the International Civil Aviation Organization) must be adopted in line with the EU **Aircraft Noise Regulation**.

Legal challenges have arisen in relation to the setting of passenger caps as a form of operational constraint under both the Slots Regulation and the Aircraft Noise Regulation. The decision of the Irish Aviation Authority to impose the passenger cap, on the allocation of slots at the airport has been the subject of a legal challenge resulting in a reference to the Court of Justice of the European Union. Meanwhile, the use of a planning condition by An Coimisiún Pleanála (ACP) to set a passenger limit on nighttime flights, as a noise abatement mechanism, has been challenged by the European Commission and sent back to ACP for reconsideration.

The passenger cap planning conditions that are the main subject of the General Scheme were imposed by the then An Bord Pleanála (now An Coimisiún Pleanála) on appeal from decisions of FCC to grant planning permission for the development of Terminal 2 at Dublin Airport in 2007, and development associated with extension works to Terminal 1 in 2008. The main reason given at the time for imposing the planning conditions related to surface (road) access capacity constraints around the airport.

If enacted, the General Scheme would provide for the requisite screening of and, if necessary, full assessments to be undertaken (jointly or separately) by ACP prior to the making of an order. The Minister would then need to consider any assessments prior to making an order.

The proposed legislation would also require the Minister to notify the making of an order to FCC, in its capacity as the aircraft noise competent authority (ANCA), allowing ANCA to assess the order in relation to aircraft noise and make a regulatory direction on the order.

Finally, the General Scheme would set an eight-week limit on the lodging of an application for judicial review of the Ministers actions, in line with the provisions of the **Planning and**

Development Act 2024, and it would provide for a derogation from section 15 of the *Climate Action and Low Carbon Development Act 2015*, covering the duty on public authorities to consider climate action when making decisions.

The Department of Transport (the ‘Department’) has **noted** that the legislative proposal was designed to work in parallel with the existing planning application lodged by the Dublin Airport Authority that included a request to increase the passenger cap to 40 million passengers per annum. The General Scheme was sent for pre-legislative scrutiny (PLS) to the Joint Oireachtas Committee on Transport (the ‘Committee’), and on 4 March 2026, the Committee **heard** from representatives of the Department.

There may be a number of implications associated with enacting the proposed legislation. If enacted, the legislation could be the subject of **legal challenges** which may “undermine its utility as a solution”. The legitimacy of the proposed delegated ministerial powers and the proposal to disregard the duty to consider effects on climate change are possible issues. Further, a question remains on how the Minister is expected to determine what is ‘in the public interest’ before making an order under the legislation.

The issue of whether an increase in passenger numbers would result in net economic benefit to Ireland has been the subject of debate. Some of the main ways in which aviation helps facilitate economic growth include the following:

- **Tourism** - air service facilitates the arrival of larger numbers of tourists to a country.
- **Trade** - air transport provides connections to export markets for both goods and services.
- **Direct and indirect employment** – an airport generates and sustains a number of jobs within the boundaries of the airport itself, in the direct vicinity of the airport, and on a local, regional and national level.
- **Investment** - a key factor many companies consider when making decisions about the location of offices, manufacturing plants or warehouses is the proximity of an international airport.
- **Productivity** - air transportation offers access to new markets which in turn enables businesses to achieve greater economies of scale.

However, aviation also has the potential to trigger a number of social, environmental and economic costs, including:

- Congestion costs on the surrounding road infrastructure.
- Environmental costs of an increase in greenhouse gas emissions.
- Health costs associated with local air quality.
- Costs associated with noise pollution.
- Skewed regional development and encroachment into scheduled flights to/from regional airports.

Furthermore, **it has been argued** that growth in the numbers of flights to and from a particular airport has the potential to drive more outbound air tourism, which in turn may result in a drain rather than a net source of spending flows. This trend has been reflected in Ireland, where tourism and travel spending has been **in net deficit** from 2003 to 2024 (except 2021 during the COVID-19 pandemic).

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
A4A	Air Transport Association of America
ABP	An Bord Pleanála
ACL	Airport Coordination Limited – the independent slots coordinator for Dublin Airport
ACP	An Coimisiún Pleanála
Aircraft Noise Regulation	Regulation (EU) No 598/2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach
ANCA	The aircraft noise competent authority in Fingal County Council
CAR	Commission for Aviation Regulation
CJEU	Court of Justice of the European Union
Committee	Joint Oireachtas Committee on Transport
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
DAA	Dublin Airport Authority
Department	Department of Transport
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EEA	European Environment Agency
EPA	Environmental Protection Agency
EU ETS	European Union Emissions Trading System

FCC	Fingal County Council
GBER	General block exemption regulation
General Scheme	General Scheme of the Dublin Airport (Passenger Capacity) Bill
GHG	Greenhouse gas
GVA	Gross Value Added
IAA	Irish Aviation Authority
ICAO	International Civil Aviation Organization
IPCC	Intergovernmental Panel on Climate Change
Minister	Minister for Transport
NAP	2015 National Aviation Policy
NPF	Project Ireland 2040: National Planning Framework
PATM	Passenger Air Traffic Movement
PM	Particulate Matter (soot)
S25 Decision	IAA's Final Decision on Summer 2025 Coordination Parameters at Dublin Airport
SAF	Sustainable aviation fuels
Slots Regulation	Regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports
TII	Transport Infrastructure Ireland
VOC	Volatile organic compound
W24 Decision	Dublin Airport Winter 2024 Coordination Parameters
WHO	World Health Organization

Source: Compiled by L&RS

Introduction

The **Programme for Government - Securing Ireland's Future**, under the Aviation Head, stated that the Government will:

“Work with stakeholders to achieve our objective of lifting the passenger cap at Dublin airport as soon as possible.”¹

On 30 September 2025, the Minister for Transport (the ‘Minister’) secured Government approval to pursue a legislative course of action to address the passenger cap at Dublin Airport.² The **Government Legislation Programme** for Spring 2026 listed the Dublin Airport (Passenger Capacity) Bill as priority for drafting. It was described as a Bill “to address planning constraints impacting continued growth in air connectivity.”³

On 10 February 2026, the **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the ‘General Scheme’) received government approval and was published on 12 February 2026.⁴

The General Scheme was sent for pre-legislative scrutiny (PLS) to the Joint Oireachtas Committee on Transport (the ‘Committee’), and, on 19 February 2026, the Committee invited submissions from members of the public, stakeholders and interested parties.⁵ On 4 March 2026, the Committee heard from representatives of the Department, one of whom stated that the decision to pursue a legislative course of action was taken in recognition of:

“... the strategic importance of Dublin Airport as our primary international gateway, the contribution it makes to our economy, the need to maintain international connectivity and employment and the need to ensure the sustainable growth and development of the airport.”⁶

¹ **Programme for Government - Securing Ireland's Future**, p. 79.

² Department of Transport, ‘**Minister for Transport secures Cabinet approval to progress Dublin Airport Passenger Cap legislation**’, *Press Release*, 30 September 2025.

³ **Government Legislation Programme, Spring 2026**, p. 10.

⁴ Department of Transport, ‘**Minister for Transport secures Cabinet approval to address the Dublin Airport Passenger Cap**’, *Press Release*, 10 February 2026; Department of Transport, ‘**General Scheme for the Dublin Airport (Passenger Capacity) Bill 2026**’, *Press Release*, 12 February 2026.

⁵ Joint Oireachtas Committee on Transport, ‘**Joint Committee on Transport calls for submissions from the public on the Dublin Airport (Passenger Cap) Bill**’, *Press Release*, 19 February 2026

⁶ Joint Oireachtas Committee on Transport, ‘**Pre-legislative Scrutiny of the General Scheme of the Dublin Airport (Passenger Capacity) Bill**’, *Debates*, 4 March 2026.

The Department has stated that the Minister:

“... is committed to the priority drafting of the Dublin Airport (Passenger Capacity) Bill and intends to introduce it for passage through the Houses of the Oireachtas as soon as possible.”⁷

The legislative proposal follows three calendar years for which the number of passengers landing into and departing from Dublin Airport exceeded 32 million passengers per annum, a figure that was first exceeded in 2019.⁸ It also comes at a time when passenger numbers travelling through Dublin Airport were at record 36.4 million for the year 2025, and where there has been an increase of almost 10% in the passenger figures of February 2025 and of February 2026.⁹

The General Scheme does not seek to amend any existing legislation. Rather, if enacted, it would empower the Minister to amend or revoke a planning condition that limits the number of passengers that can use Dublin Airport in any one calendar year to 32 million passengers.¹⁰

The Department has stated:

“The General Scheme empowers the Minister for Transport to make an order to amend or revoke the 32 million passenger cap at Dublin Airport. In advance of making an order, the Minister will engage with An Coimisiún Pleanála who will carry out any relevant assessments required under EU law. The Minister will take the outcome of those assessments into account when making an order. This approach will facilitate the sustainable development of Dublin Airport by ensuring compliance with applicable EU law, while balancing the rights of local residents with the objectives of Ireland’s National Aviation Policy and the needs of business and tourism.”¹¹

This briefing paper is intended to provide Members with analysis of the policy and legislative context of the General Scheme and to provide a high-level analysis of the legislative proposal as set out in the General Scheme.

⁷ Department of Transport, ‘[Minister for Transport secures Cabinet approval to address the Dublin Airport Passenger Cap](#)’, *Press Release*, 10 February 2026.

⁸ DAA, *Passenger Statistics, 2023, 2024, 2025*.

⁹ J Burns, ‘[Dublin Airport handled record 36.4 million passengers in 2025, says DAA](#)’, *Irish Independent*, 16 January 2026; DAA, ‘[Passenger numbers at Dublin Airport up almost 10% in February](#)’, *Press Release*, 9 March 2026.

¹⁰ [General Scheme of the Dublin Airport \(Passenger Capacity\) Bill](#), Head 5.

¹¹ Department of Transport, ‘[Minister for Transport secures Cabinet approval to address the Dublin Airport Passenger Cap](#)’, *Press Release*, 10 February 2026.

Policy and legal context

Background to the Passenger Cap

Dublin Airport is geographically situated within the boundaries of Fingal County Council (FCC). It follows that FCC is the relevant local planning authority charged with assessing planning applications related to development of Dublin Airport. It has been reported that the Minister for Transport, Darragh O’Brien TD, has said that he “wants planning decisions relating to national infrastructure such as Dublin Airport to be taken out of the hands of a local authority and vested in the Minister for Transport of the day.”¹²

Under the current planning conditions, the terminal capacity of Dublin Airport is capped at 32 million passengers per annum (ppa). Passenger numbers include each passenger that lands and each passenger that takes off from Dublin Airport. The cap was imposed in 2007 as a planning condition linked to the construction of Terminal 2. Its purpose was to address concerns on road traffic congestion associated with the airport’s expansion. A timeline of key milestones in the development of the cap is shown in Table 2.

Table 2: Timeline of key milestones relating to the development of Dublin Airport

Date	Description
5 April 1937	Aer Rianta (the first iteration of Dublin Airport Authority) was founded in 1937 as Aer Rianta Teoranta.
19 January 1940	Dublin Airport, then Collinstown Airport, officially opened .
10 May 1972	New Terminal (now Terminal 1) opened .
1 July 1988	Aer Rianta is broken up into Aer Rianta International (ARI) and Aer Rianta.
1 January 1994	Irish Aviation Authority (IAA) established .
27 February 2001	Commission for Aviation Regulation (CAR) established .
1 October 2004	Aer Rianta cpt was split forming Dublin Airport Authority plc.

¹² H McGee, ‘**Senior civil servants resist plan to scrap Dublin Airport passenger cap, Minister says**’, *Irish Times*, 5 January 2026.

31 August 2006	The Dublin Airport Authority (DAA) applied to Fingal County Council (FCC) for permission to build Terminal 2 and make alterations to Terminal 1 (PA FCC ref. F6A/1248).
14 December 2006	Dublin Airport Authority applied to FCC for planning permission for the development and extension of Terminal 1 of Dublin Airport (PA FCC ref. F06A/1843).
29 August 2007	An Bord Pleanála signs appeal decision on granting planning permission for phase 1 of the development of Terminal 2, subject to a condition setting a passenger cap of 32 million passengers per annum.
10 January 2008	An Bord Pleanála signs an appeal decision granting planning permission for the development of Terminal 1, subject to a condition reiterating cap of 32 million passengers per annum.
19 November 2010	Terminal 2 and its connected boarding gate pier opened .
6 November 2014	Dublin Airport Authority officially renamed DAA.
14 June 2019	Section 3 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 commenced, appointing FCC as the competent authority for the purposes of the EU Aircraft Noise Regulation.
December 2019	Annual passenger numbers at Dublin Airport exceed 32 million for the first time.
30 April 2023	The IAA takes over the functions of the CAR.
7 May 2024	IAA publishes Final Decision on Winter 2024 Coordination Parameters at Dublin Airport.
10 October 2024	IAA publishes Final Decision on Summer 2025 Coordination Parameters at Dublin Airport.
4 November 2024	The High Court publishes a ruling that the passenger cap is stayed (halted) pending outcome of substantive judgment.
11 December 2024	The High Court applies to CJEU for ruling in relation to passenger cap case.

20 June 2025	FCC issues enforcement notice to DAA for breach of planning conditions after receiving complaints.
12 February 2026	The Opinion of Advocate General Campos Sánchez-Bordona delivered to the CJEU on the decision of IAA to consider the passenger cap in planning conditions as an operating consideration.

Source: Compiled from various sources by L&RS

A range of different stakeholders are involved or impacted by the development of Dublin Airport. These are shown in Table 3 and include regulatory and administrative bodies, residents' groups, NGOs, and airline and airport representative bodies.

Table 3: Main stakeholders in relation to the development of Dublin Airport

Name	Description
Dublin Airport Authority (DAA)	Dublin Airport Authority is a commercial (for-profit) semi state-owned company that owns and operates Dublin and Cork airports. DAA came into being in 2004, by the State Airports Act 2004 which changed the company name from Aer Rianta cpt to Dublin Airport Authority plc. Dublin Airport Authority was then officially renamed DAA from November 2014. DAA have publicly announced their opposition to the passenger cap and support the decision of the government to remove the cap.
Irish Aviation Authority (IAA)	The Irish Aviation Authority was originally set up under the Irish Aviation Authority Act 1993 . The semi-state body is the sole aviation regulatory authority in Ireland, entrusted with regulating safety and consumer protection.
Minister for Transport	The Minister makes regulations and orders affecting Dublin Airport.
Fingal County Council (FCC)	Fingal County Council have two main roles in regulating the operations of Dublin Airport. They are the local planning authority for the airport, and they are the Aircraft Noise Competent Authority under section 3 of the Aircraft Noise (Dublin Airport) Regulation Act 2019 . Members of FCC have been reported as arguing that removing the passenger cap via a ministerial order would be an attack on democracy at the local government level.

An Coimisiún Pleanála (ABP)	An Coimisiún Pleanála has taken over the functions of An Bord Pleanála as the planning appeals tribunal under the <i>Planning and Development Act 2024</i> .
Airlines	The airlines are affected by the cap as it limits the extent to which they can introduce new routes arriving and departing from Dublin Airport. Aer Lingus, Ryanair and the group formerly known as the Air Transport Association of America now known as A4A have been vocal supporters of removing the passenger cap.
Residents	Residents in North Dublin, and especially those residing in the vicinity of Dublin Airport, within the Fingal County Council area. DAA operates a number of schemes designed to mitigate the effects of aircraft noise on affected communities. Two of the more active groups of residents are the <i>St Margaret's The Ward Residents Group</i> and the <i>Portmarnock Community Association</i> .
Environmental groups	Environmental groups, including <i>Friends of the Irish Environment</i> , and the <i>Labour Party</i> and the <i>Green Party</i> have argued against an increase in passenger caps on the grounds that it would promote more flights, which could be directly linked to an increase in carbon emissions. Groups have also highlighted that removing the cap could also result in an increase in particulate matter emitted from aircraft and noise pollution, which has proven to affect both local communities and ecosystems.
Passengers	Passengers are limited to existing routes and when slots are at a premium, fewer flights would be available, and research suggests that, consequentially, the <i>cost of flights would be higher</i> .

Source: Compiled from various sources by L&RS

Economic impact

According to the *National Aviation Policy for Ireland*, the aviation sector plays an important role in relation to the Irish economy. As a small, open, island-economy, it is an essential facilitator for our tourism industry, for our trading relationships and for connecting Ireland with the rest of the world.¹³

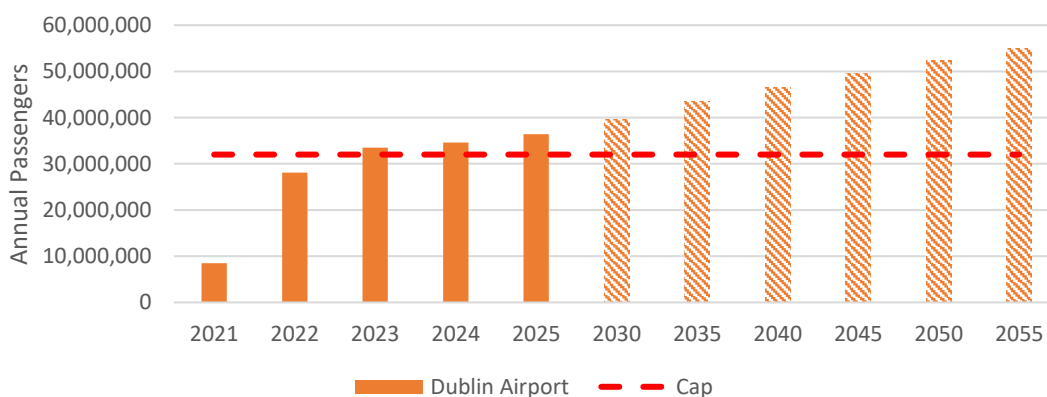
¹³ Department of Transport, Tourism and Sport (2025), '*A National Aviation Policy for Ireland*', p. 6.

Some of the main ways in which aviation helps facilitate economic growth include the following:¹⁴

- **Tourism** - air service facilitates the arrival of larger numbers of tourists to a country.
- **Trade** - air transport provides connections to export markets for both goods and services.
- **Investment** - a key factor many companies consider when making decisions about the location of offices, manufacturing plants or warehouses is the proximity of an international airport.
- **Productivity** - air transportation offers access to new markets which in turn enables businesses to achieve greater economies of scale.

Figure 1 shows the existing and forecast passenger traffic at Dublin Airport. In 2025, a record 36.4 million passengers travelled through Dublin Airport.¹⁵ Based on forecasts provided by the DAA, the number of passengers traveling through Dublin Airport is predicted to rise to 55 million by 2055. The DAA forecast does not provide a split between how many of these are inbound and outbound passengers. However, this increase will have implications for infrastructure too as the DAA already has an infrastructure application with FCC with a number of projects listed to accommodate an increase in passenger numbers to 40 million.¹⁶

Figure 1: Existing and Forecast Passenger Traffic at Dublin Airport, 2021-2055



Source: DAA (historical and forecast)

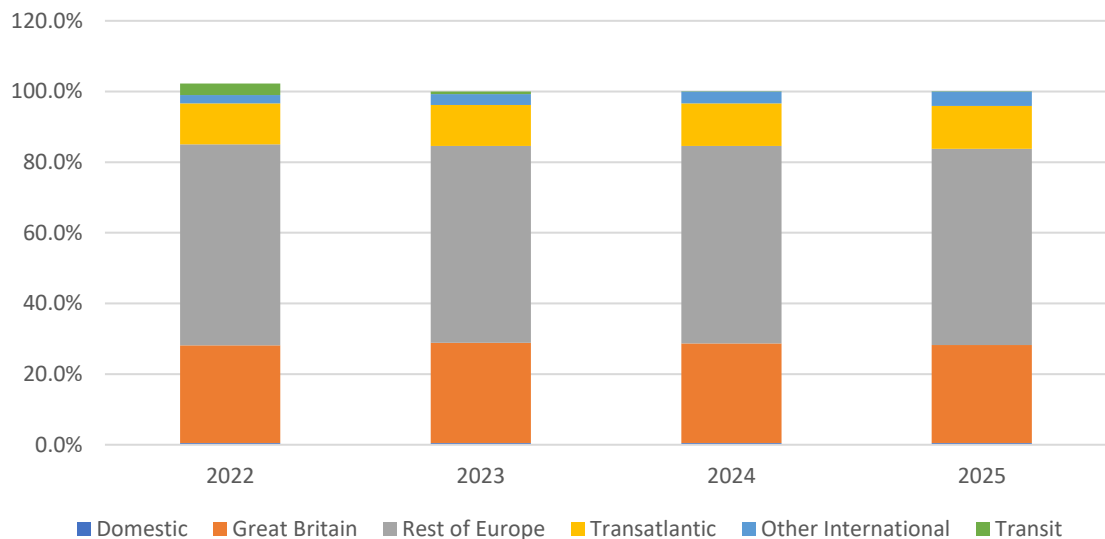
¹⁴ See F Zhang and D Graham, 'Air transport and economic growth: a review of the impact mechanism and causal relationships', 2020, and Dublin Airport Authority, *Dublin Airport Economic Impact Study 2023*, 2023, p. 76.

¹⁵ Dublin Airport, 'Record 36.4 million passengers travelled through Dublin Airport in 2025', 16 January 2026.

¹⁶ Fingal County Council, 'Planning Authority receives Further Information from daa', 13 November 2024.

The largest percentage growth in passenger traffic at Dublin Airport over the last few years has been in the 'Other International' category (international flights that are not to/from the EU, UK or Trans-Atlantic), which has increased by 120% since 2022, albeit from a low base. Transit passengers has been the only category to see a percentage drop (-96%). The percentage shares of each type of passenger are shown in Figure 2. Taken together, Great Britain and Rest of Europe accounted for 83% of passenger traffic in 2025.

Figure 2: Percentage Breakdown of Passenger Traffic at Dublin Airport, 2022-2025



Source: DAA

The total economic impact of Dublin Airport includes activity directly related to the airport, the multiplier impacts that flow from it (indirect and induced effects¹⁷), and the other sectors of the economy facilitated by the airport (catalytic impacts). In an economic impact study commissioned by the Dublin Airport Authority (DAA) in 2023, this has been estimated in 2022 to amount to 116,100 jobs in Ireland, with €9.6 billion generated in Gross Value Added¹⁸ (see Table 4 below).¹⁹

¹⁷ Indirect impacts involve the supply chain of the businesses conducting the primary activity (i.e. those included in the direct impact). Induced impacts capture the economic activity generated by the employees of businesses directly or indirectly connected to the airport spending their income in the national economy.

¹⁸ Gross Value Added (GVA) is conceptually the same aggregate as Gross Domestic Product (GDP). They both measure the added value generated in an economy by the production of goods and services. The difference between the two concepts is that GDP is measured after including product taxes (e.g. excise duties, non-deductible VAT, etc.) and deducting product subsidies while GVA is measured prior to adding product taxes but includes product subsidies.

¹⁹ Dublin Airport Authority, *Dublin Airport Economic Impact Study 2023*, 2023, p. 7.

With the airport based in Fingal, the study estimates that 90% of the direct impact (17,900 jobs out of 19,900) is generated in Fingal. A further 8% of the direct impact jobs is generated in the rest of Dublin and the remaining 2% in Leinster and the rest of Ireland. The wider economic benefits (catalytic impacts)²⁰ are more widely distributed, reflecting the airport's contribution to the entire Irish economy. Approximately 27% of total employment (direct, indirect, induced and catalytic) and 29% of total GVA is located in Fingal, a further 21% of employment and 24% of GVA is located in the rest of Dublin, 22% of employment and 20% of GVA is located in the Rest of Leinster, and 31% of employment and 28% of GVA are located in the Rest of Ireland.²¹

Table 4: Total Economic Impact Generated and Facilitated by Dublin Airport (2022)

Impact	No. of Jobs	Full-Time Equivalent	Wages (€millions)	GVA (€ Millions)	GVA as % of National GDP
Direct	19,900	17,800	€906	€1,832	0.4%
Indirect	11,700	10,300	€534	€1,020	0.2%
Induced	13,300	11,800	€516	€1,024	0.2%
Catalytic	71,200	62,900	€2,919	€5,723	1.3%
Total	116,100	102,800	€4,876	€9,599	2.3%

Source: DAA (2023)

The DAA study also examined the economic implications of maintaining the current 32 million passenger per annum (ppa) cap.²² The DAA has itself called for the removal of the cap²³ and welcomed the recent Government decision to resolve the cap issue.²⁴

²⁰ Wider Economic Benefits captures the way in which specific economic activities facilitates further economic or business impacts in other sectors of the economy. Air transport creates catalytic impacts primarily through increased connectivity and improves national economic performance through the following mechanisms: tourism, trade in goods and services, investment, and increased productivity.

²¹ Dublin Airport Authority, *Dublin Airport Economic Impact Study 2023*, 2023, p. 51.

²² Dublin Airport Authority, *Dublin Airport Economic Impact Study 2023*, 2023, p. 62.

²³ Dublin Airport Authority, 'Dublin Airport passenger cap continues to hinder growth and tourism Cork Airport – Ireland's fastest growing airport – enjoys +6% increase', 5 March 2025.

²⁴ Dublin Airport Authority, 'daa welcomes Government decision to remove the passenger cap at Dublin Airport', 10 February 2026.

The study estimates that with the 32 million ppa cap in place, the Irish economy will forgo 17,800 jobs and €1.5 billion in Gross Value Added (GVA) by 2030, increasing to 53,300 jobs and €4.4 billion in GVA by 2055. In the absence of such a cap, it is forecast that passenger traffic would grow to 55 million by 2055. However, the universal growth benefits of airport expansion have been questioned by others who claim that that the relationship may not be as strong as perceived (see below).²⁵

According to the study, the majority of the forgone economic impact is expected to occur outside of the aviation sector with 59% of the total impact being catalytic impacts (tourism, trade, investment, etc.) and another 22% being indirect and induced impacts (supplier and spending in the wider economy).

It is worth noting that the DAA commissioned study did not acknowledge or consider any negative economic impacts (external costs) arising as a result of increasing the cap. Such impacts may include:²⁶

- congestion costs on the surrounding road infrastructure,
- environmental costs of an increase in greenhouse gas emissions,
- health costs associated with local air quality, and
- noise pollution costs.

As noted by Zhang and Graham (2020), it is important to recognise that air transport also incurs considerable negative spillovers in the economy. They state:

“Air transport has many interactions with other systems, by far the most important of which are those with the environment. There is a growing attention on engine emissions and aircraft noise generated during aircraft operation but less on the material and energy consumption associated with manufacturing, maintaining and ultimately disposing aircraft and aviation infrastructure, and those associated with surface transporting of employees, passengers, freight, goods, and waste...Besides environment, air transport also interacts with ground transport, regional security and public health, which may in turn spill over into the economy. Therefore, an understanding of both positive and negative spillovers of air transport is crucial to a comprehensive assessment of aviation economic impacts.”²⁷

The economic benefits of unconstrained aviation expansion have also been disputed by some stakeholders. A recent study commissioned by Transport & Energy, a European non-governmental organisation campaigning for cleaner transport in Europe, finds that air

²⁵ Business Post, ‘[Growth benefits from Irish airport expansion not guaranteed, research claims](#)’, 17 November 2025.

²⁶ European Commission, *Handbook on the external costs of transport*, January 2019.

²⁷ F Zhang and D Graham, ‘[Air transport and economic growth: a review of the impact mechanism and causal relationships](#)’, 2020, p. 15.

connectivity only drives economic growth in a minority of European regions. The study shows that increases in income mostly drive outbound air tourism, which may be a drain rather than a net source of spending flows.²⁸

One of the key recommendations of the study is for policymakers to consider how a country's tourism strategy can increase economic value while reducing environmental costs, such as by:²⁹

- incentivising lower-volume, higher-quality, international tourism and more domestic tourism;
- extending lengths of stay;
- incentivising in situ spending over air transport spending; and
- ensuring spending takes place in areas served by appropriate tourism infrastructure.

According to the Irish Tourism Industry Confederation, Ireland's tourism and aviation sectors are intrinsically linked and mutually inter-dependent. Tourism relies on aviation to bring in visitors and airlines rely on tourism to fill seats.³⁰ In 2025, total foreign visitor numbers to Ireland fell by 3% to 6.4 million. Expenditure by foreign visitors for the full year 2025 was estimated at €5.5 billion, down 9% compared with 2024 (€6 billion), and up 1% compared with 2023 (€5.4 billion).³¹

An increase in air connectivity can also lead to money flowing out of the economy as a country's residents travel abroad. Tourism and travel spending in Ireland has been in net deficit every year from 2003 to 2024 (except for 2021 during the COVID-19 pandemic). This means that Irish residents have spent more money abroad than foreign visitors have spent in Ireland. In 2024, the last year for which figures are available, this deficit rose to an all-time high of €5.8bn (see Figure 3).³²

²⁸ Transport & Environment, *The Economics of Air Transport in Europe - Part One: Air Transport and Growth*, November 2025, p. 2.

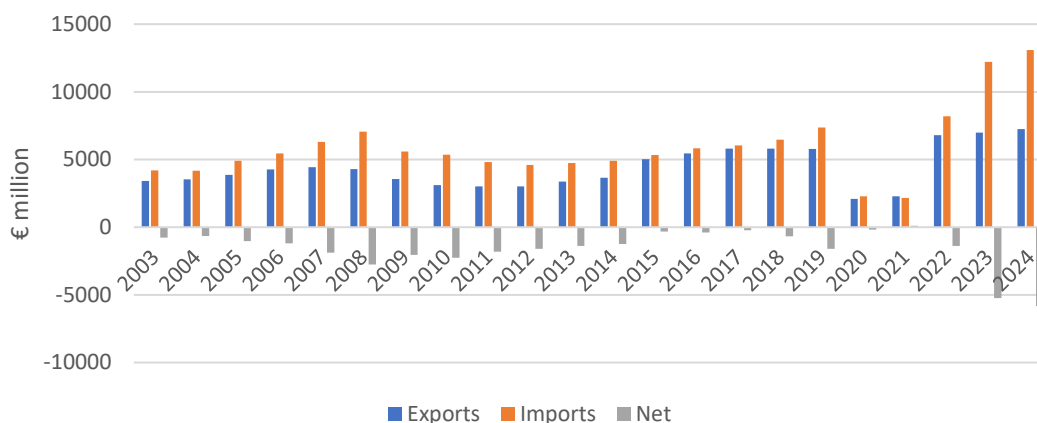
²⁹ Transport & Environment, *The Economics of Air Transport in Europe - Part One: Air Transport and Growth*, November 2025, p. 27.

³⁰ Irish Tourism Industry Confederation, *The Importance of Aviation to Irish Tourism: Interdependent, Symbiotic and Critical*, May 2024.

³¹ Central Statistics Office, *Inbound Tourism December 2025*, 29 January 2026, webpage last accessed on 12 March 2026

³² Central Statistics Office, *International Trade in Services 2024*, 16 January 2026, webpage last accessed on 12 March 2026.

Figure 3: Imports and exports of tourism and travel in Ireland, 2003 – 2024



Source: CSO (BPA03)

Balanced Regional Development

The three goals of the NAP are to enhance connectivity in a safe, competitive, cost-effective and sustainable manner, to maximise the contribution of the aviation sector to Ireland's economic growth and development, and to foster the growth of aviation enterprise in Ireland.

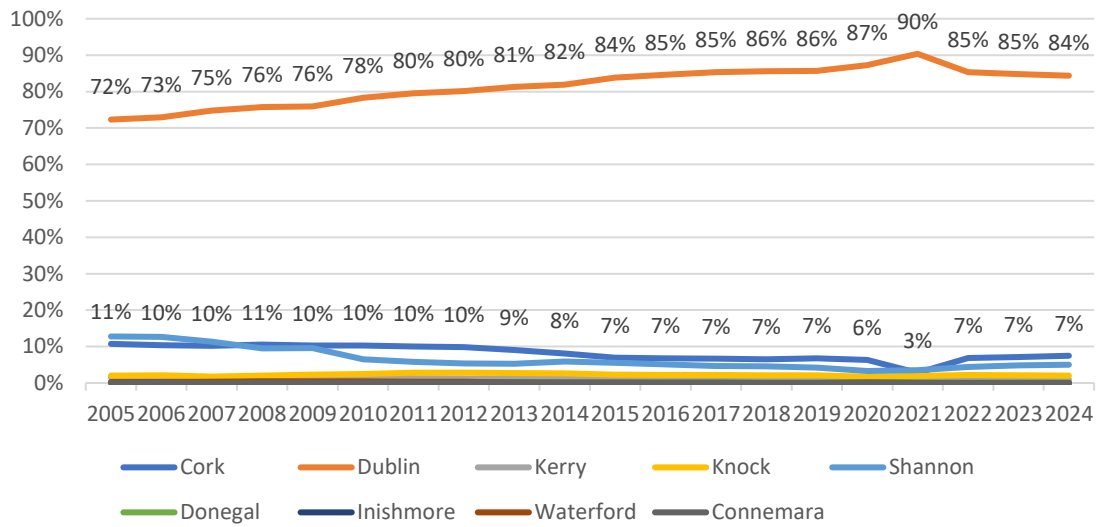
The NAP supports the sustainable development of Dublin Airport while also seeking to optimise conditions for connectivity and regional development, by providing a framework of supports under a Regional Airports Programme.³³ Currently, Ireland's airport network consists of the four airports of Donegal, Ireland West Airport-Knock (IWAK), Kerry and Waterford as well as the three State airports of Dublin, Cork and Shannon.³⁴

The current market share for each of the airports in 2024 is shown in Figure 4. Dublin Airport accounted for 84.4% of total passengers handled in 2024, followed by Cork Airport (7.5%), Shannon Airport (5%), Knock Airport (2%), Kerry Airport (1%) and Donegal Airport (0.1%). The rise in market dominance by Dublin Airport is also apparent with its passenger share increasing since 2005 while in contrast Shannon Airport has seen its passenger share decline over the same period.

³³ Department of Transport, *Regional Airports Programme 2026-2030*, 25 February 2026, p. 2.

³⁴ The L&RS has previously produced an infographic showing an economic profile of Ireland's main airports which is available [here](#), webpage last accessed on 12 March 2026.

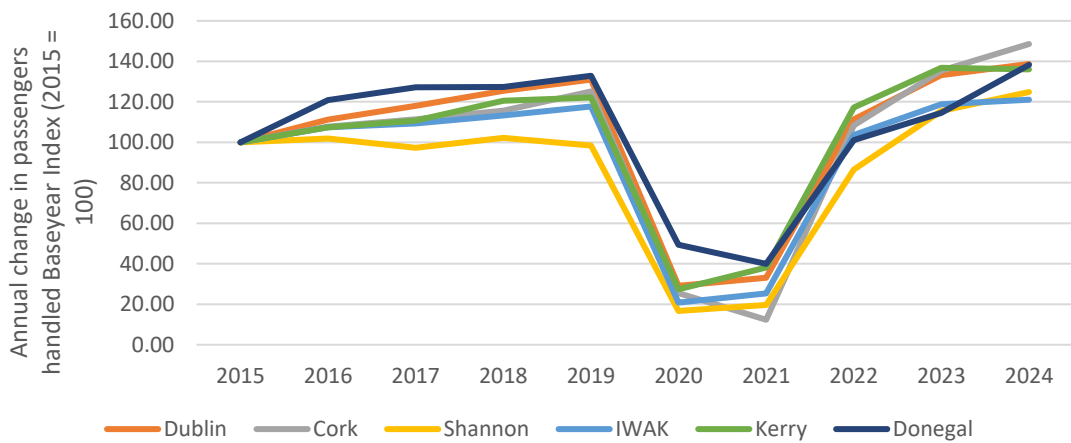
Figure 4: Market share of airports in Ireland (number of passengers per cent share), Dublin and Cork airports highlighted



Source: CSO

Figure 5 shows the annual change in passengers handled for all Irish airports from 2015 to 2024. The general trend for most of the airports was an increase in passenger numbers to 2019, before the Covid-19 pandemic led to a sharp falloff. There was then a continued strong recovery in passenger numbers.

Figure 5: Passengers handled at Irish airports from 2015 to 2024



Source: CSO

Regional Airports Programme

Exchequer support is provided to Ireland's regional airports through a Regional Airports Programme. A new programme was recently launched and covers the period 2026 to 2030.³⁵ The stated objective of the programme is to support connectivity and balanced regional development, while seeking to maximise the use of existing capacity at regional airports.

In announcing the new programme, Minister of State with responsibility for Rural Transport Jerry Buttimer TD, commented:

*“Government recognises the important role regional airports play in their areas and in regional development. Air connectivity is essential for the sustainability of rural communities, connecting remote regions to global markets, attracting investment as well as boosting inbound tourism. This new Programme will continue to support airports in attracting new business, and to make a sustainable contribution to their respective local economies and communities.”*³⁶

The Regional Airports Programme has been broadened to support airports with up to three million passengers. The airports that currently meet the criteria for the new Programme are the following:³⁷

- Shannon
- Ireland West Airport (Knock)
- Kerry
- Donegal

All funding of regional airports by the State must comply with EU Guidelines on State Aid to airports and airlines. Under these State Aid rules, a key distinction in the provision of aid to regional airports is between economic (operation and construction of an airport) and non-economic projects (air traffic control, police, customs, fire services and activities etc). Funding related to non-economic projects and activities is not subject to State Aid rules.³⁸

International comparisons

The market share of passenger traffic at Dublin Airport is relatively high compared to other major EU airports. In 2024, the concentration of Dublin's share of passenger traffic in Ireland

³⁵ Department of Transport, 'Minister O'Brien announces funding under new Regional Airports Programme 2026-2030', *Press Release*, 25 February 2026.

³⁶ Department of Transport, 'Minister O'Brien announces funding under new Regional Airports Programme 2026-2030', *Press Release*, 25 February 2026.

³⁷ Department of Transport, *Regional Airports Programme 2026-2030*, 25 February 2026, p. 5.

³⁸ Department of Transport, *Regional Airports Programme 2026-2030*, 25 February 2026, pp. 2-3.

represented the 12th highest in the EU, behind that of cities such as Helsinki, Vienna, Amsterdam, and Copenhagen.³⁹

There are a number of key issues that arise globally in relation to the role of aviation policy in supporting balanced regional development:⁴⁰

- **Cost reduction** – Measures that can help reduce costs for regional services is one approach which can be taken, subject to compliance with EU State aid guidelines. Lowering airport visit costs and ensuring effective airport charges for domestic services may increase the number of domestic routes profitable to airlines.
- **Size and strength of local area** - Investments that increase the size of the local catchment area can help support regional airports by increasing the level of demand for their services. This can be done through measures such as improving surface access links to the airport, through spatial planning policies, or by consolidation of existing regional airports.
- **Policy** – Where a coherent national aviation policy framework is put in place with a clear set of objectives, governments are better able to make informed decisions about trade-offs resulting in balanced decision making. If there are multiple policy objectives, then policymakers need to carefully consider whether these are compatible and if they can be realistically jointly achieved at the same time.

Environmental considerations

The EU and all its member states have signed and ratified the Paris Agreement⁴¹. By ratifying the agreement, the EU and its countries are legally bound by its goal of keeping global temperatures within safe limits. To help reach this goal, the EU launched the [European Green Deal](#) strategy, which puts in place measures and rules to cut emissions and transform the EU economy to become climate-neutral by 2050.⁴²

Aviation is one of the fastest-growing sources of greenhouse gas (GHG) emissions. In 2022, direct emissions from aviation accounted for 3.8% to 4% of total EU GHG emissions. Aviation

³⁹ Eurostat, [Air passenger transport statistics](#) last accessed 12 March 2026.

⁴⁰ OECD/International Transport Forum, [Influencing Air Connectivity Outcomes](#), September 2017, pp. 12-15.

⁴¹ The Paris Agreement is a legally binding international treaty on climate change which entered into force on 4 November 2016. The overarching goal is to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels” and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.”

⁴² European Council, [‘Paris Agreement on climate change’](#), webpage last accessed on 12 March 2026.

generates 13.9% of transport emissions, making it the second biggest source of GHG emissions in the transport sector, after road transport.⁴³

The overall climate impact from aviation emissions is a combination of both its GHG emissions from CO₂ and also non-CO₂ emissions that include Nitrogen Oxides (NO_x), Particulate Matter (soot), Sulphur Oxides (SO_x) and water vapour as well as the subsequent effects from the formation of condensation-trail cirrus clouds and aerosol-cloud interactions.⁴⁴

Besides climate impacts, other environmental issues affected by aviation include those related to noise and air quality, as well as potential damage to habitats. These are each discussed further below.

Overview of Ireland's aviation emissions

Only domestic aviation emissions are accounted for as part of Ireland's national inventory of GHG emissions as per the guidance from the Intergovernmental Panel on Climate Change (IPCC).⁴⁵ International aviation emissions are also excluded from Member States 2030 GHG emissions reduction targets under the [Effort Sharing Regulation](#)⁴⁶ and are not currently included as part of Ireland's own carbon budget process.⁴⁷ The DAA has predicted that lifting the passenger cap to 40 million passenger journeys per year would increase flight emissions by 24%.⁴⁸

The rise in passenger traffic at Dublin Airport as a result of increasing or removing the cap may also lead to an increase in indirect emissions, such as those associated with access using road transport⁴⁹, which are included under national and EU targets⁵⁰. The Minister for Climate,

⁴³ European Commission, '[Reducing emissions from aviation](#)', webpage last accessed on 12 March 2026.

⁴⁴ European Union Aviation Safety Agency, European Aviation, '[Environmental Report 2025](#)', January 2025, p. 57.

⁴⁵ Memo items of the IPCC reporting format refer to activities for which the emissions are excluded from national totals. All international aviation is reported as a Memo item.

⁴⁶ European Commission, '[Effort sharing 2021-2030: targets and flexibilities](#)', webpage last accessed on 12 March 2026.

⁴⁷ The transport sector was allocated a target of a 50% reduction in CO_{2eq} emissions by 2030 relative to 2018 levels as part of the Government's [carbon budget](#) though this excludes international aviation.

⁴⁸ RTÉ News, '[Legislation to remove Dublin Airport passenger cap expected soon](#)', 14 September 2025.

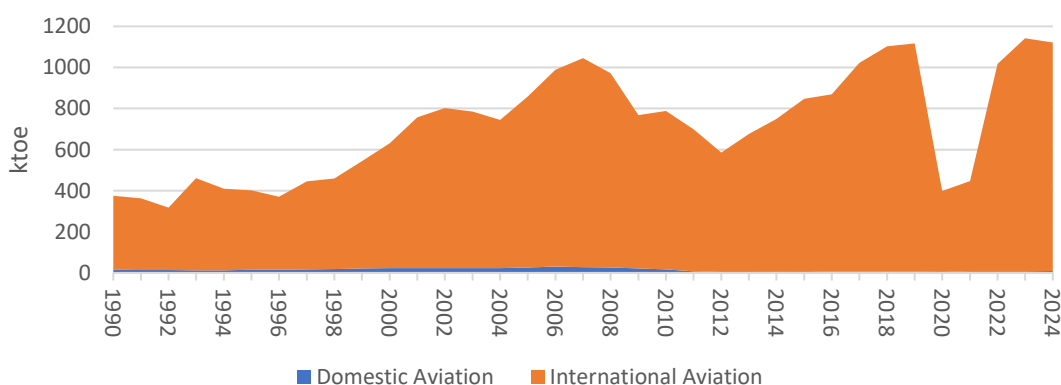
⁴⁹ N Avogrado, S Birolini, R Redondi and P Deforza, '[Assessing airport ground access interventions: An integrated approach combining mode choice modeling and microscopic traffic simulation](#)', 2024.

⁵⁰ Environmental Protection Agency, '[Ireland's Provisional Greenhouse Gas Emissions 1990-2024](#)', July 2025, pp. 8-14.

Energy and the Environment, recently acknowledged that the State will fall significantly short in meeting its 2030 GHG target.⁵¹

While international aviation emissions are not accounted for as part of national emissions in the GHG inventory, energy use from aviation is included in the national energy balance, in line with international practice.⁵² Figure 6 shows energy use for both international and domestic aviation in Ireland from 1990 to 2024. Energy used for air travel increased by nearly 200% from 1990 to 2019. However, due mainly to the impact of Covid-19, it decreased by 64% in 2020, before rebounding from 2022 onwards.

Figure 6: Energy use from international and domestic aviation 1990 - 2024



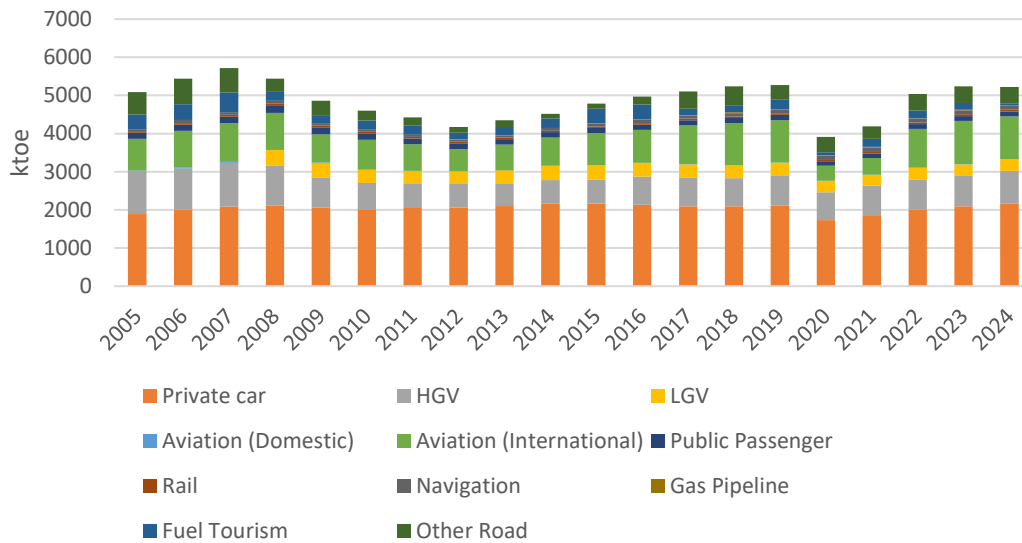
Source: SEAI

In 2019, aviation (domestic and international) accounted for 21% of energy used for transport, second only to private cars, before dropping to 10% in 2020 due mainly to the impact of Covid-19. However, in 2024 aviation once again accounted for the second highest share of energy use in the transport sector at 21% (see Figure 7).

⁵¹ The Irish Times, 'Ireland will miss emissions-cut target by half, says Minister for Climate Darragh O'Brien', 7 January 2026.

⁵² Sustainable Energy Authority Ireland, *Energy in Ireland 2021 Report*, December 2021, p. 51.

Figure 7: Energy use by mode of transport 2005 - 2024



Source: SEAI

Due to the transboundary nature of aviation emissions, as well to avoid any fragmentation of different regulatory approaches, these emissions are generally dealt with at an EU and international level. The main policy mechanisms under which this is done are discussed below.

CORSIA

In October 2016, the International Civil Aviation Organization (ICAO) agreed on a **Resolution** for a global market-based measure to address CO₂ emissions from international aviation as of 2021. The agreed Resolution sets out the objective and key design elements of the global scheme, as well as a roadmap for the completion of the work on implementing modalities.

Under a **resolution** made at the ICAO's 41st Assembly in 2022,⁵³ the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) baseline was set at 85% of 2019 levels of emissions. The baseline applied from the year 2024 requiring airlines to offset the growth of their emissions.

Under the market-based scheme, airlines and aircraft service providers are required to:

- monitor emissions on all international routes;
- offset emissions from routes included in the scheme by purchasing eligible emission units generated by projects that reduce emissions in other sectors (e.g. renewable energy).

⁵³ International Civil Aviation Organization, *Resolutions: Adopted by the Assembly*, Provisional Edition, October 2022, p. 110.

CORSIA is implemented in three phases: a pilot phase (2021-2023), a first phase (2024-2026), and a second phase (2027-2035). For the first two phases (2021-2026), participation has been voluntary. All EU countries have committed to participating in the scheme from the start.

As a result of the adoption of the 2016 [Resolution](#) by ICAO, the EU decided to temporarily limit the geographic coverage of the EU Emissions Trading System (ETS) to intra-EEA flights.

This limitation has been extended several times. During the latest revision, it was extended one last time, until the start of 2027. By July 2026, the European Commission is to carry out an assessment of whether more action is required for flights to and from Europe, in line with criteria set out in the [EU ETS Directive](#). Subject to the outcome of this assessment, the European Commission will make a legislative proposal that could extend the scope of EU emissions trading to departing flights and exempt incoming flights. Alternatively, the proposal could be to maintain the intra-European scope if CORSIA is strengthened and has a high level of global participation and implementation.⁵⁴

EU Emissions Trading System

Carbon dioxide emissions from aviation have been included in the EU ETS⁵⁵ since 2012. Under the EU ETS, aircraft operators operating in the European Economic Area (and the UK and Switzerland) are required to monitor, report and verify their CO₂ emissions and to surrender allowances against those emissions. The Environmental Protection Agency (EPA) is responsible for administering the EU ETS for aircraft operators assigned to Ireland. Non-commercial aircraft operators with total annual emissions lower than 1,000 tonnes CO₂ per year (based on all their flights departing from or arriving into the European Economic Area/EEA) are exempt until 2030.⁵⁶

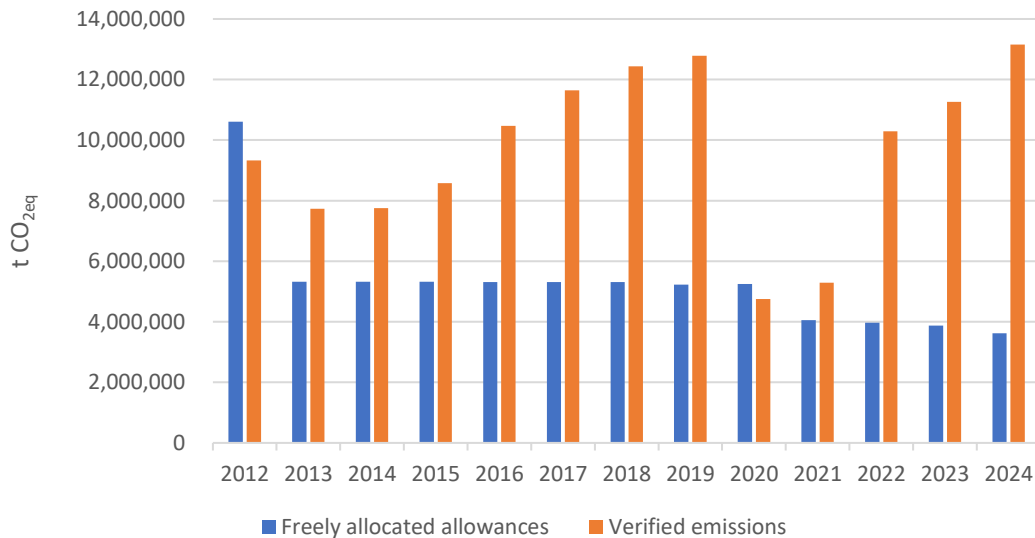
⁵⁴ European Commission, Energy, Climate change, Environment, '[Aviation emissions](#)', *Reducing emissions from aviation*, webpage last accessed on 12 March 2026.

⁵⁵ The EU ETS is a “cap and trade” scheme where a limit (the cap) is placed on the right to emit specified pollutants over a geographic area and companies can trade emission rights within that area. The ETS was established in 2005 (Phase 1) and includes about 11,000 installations (circa 100 in Ireland). It covers around 45% of the EU’s greenhouse gas emissions and approximately 30% of those of Ireland: European Commission, Energy, Climate change, Environment, '[Aviation emissions](#)', *Reducing emissions from aviation*, webpage last accessed on 12 March 2026.

⁵⁶ See Environmental Protection Agency, [Emissions Trading System – Aviation](#), webpage last accessed on 12 March 2026.

Greenhouse gas emissions from aviation operators in Ireland included in the ETS increased by 17% in 2024 compared to the previous year.⁵⁷ Overall, from 2012 to 2024 emissions have increased by 41% to around 13.2 million tonnes CO_{2eq} (see Figure 8).⁵⁸

Figure 8: CO₂ emissions from Irish aircraft operators in EU ETS



Source: EEA

On 14 July 2021, the European Commission adopted a series of legislative proposals setting out how it intends to achieve climate neutrality in the EU by 2050, including the intermediate target of at least a 55% net reduction in greenhouse gas emissions by 2030.⁵⁹ The package proposes to revise several pieces of EU climate legislation, including the EU ETS.

The revision of the ETS for aviation aims to ensure that the sector contributes to the EU's 2030 emissions reduction target. This includes phasing out free allowances granted to airlines and integrating the global CORSIA system into the ETS. The free allowances allocated to airlines mean that they only begin to pay for their emissions once they exceed a certain threshold. Allowances were originally afforded to EU airlines to maintain their competitiveness against non-EU airlines who were not participating in the ETS. Under this proposal, these free

⁵⁷ Environmental Protection Agency, 'Ireland's power generation and industrial greenhouse gas emissions down by seven per cent in 2024', *EPA press releases for 2025*, 4 April 2025.

⁵⁸ Verified emissions data for ETS operators in 2021 is available from the European Commission, 'About the Union Registry', *Union Registry*, webpage last accessed on 12 March 2026.

⁵⁹ European Commission, Energy, Climate change, Environment, 'Aviation emissions', *Reducing emissions from aviation*, webpage last accessed on 12 March 2026.

allowances will be phased out by 2026. The ETS will continue to apply to intra-EU flights and CORSIA will apply as appropriate to extra-EU flights.⁶⁰

ReFuelEU

The ReFuelEU aviation **Regulation** promotes the increased use of sustainable aviation fuels (SAF) to ensure a level playing field for sustainable air transport. The measure is part of the 'Fit for 55' package to meet the emissions reduction target of 55% by 2030. It sets requirements for aviation fuel suppliers to gradually increase the share of SAF blended into the conventional aviation fuel supplied at EU airports, starting at 2% in 2025 and rising to 70% by 2050.⁶¹

The definition of SAF is set out in Article 3(7) of the ReFuelEU aviation regulation and includes synthetic aviation fuels, advanced and other aviation biofuels, as well as recycled carbon aviation-fuels. ReFuelEU aviation replaces any existing national mandates on SAF in Member States.⁶²

The European Commission estimates that the Regulation will bring a substantial reduction of CO₂ emissions of more than 60% by 2050, compared to 1990 levels and will also improve air quality by reducing air pollutants such as Carbon Monoxide (CO), Nitrogen Oxides (NO_x) and Particulate Matter (PM).⁶³

Noise pollution

The World Health Organisation (WHO) has stated that environmental noise features among the top environmental risks to physical and mental health and well-being.⁶⁴ The European Environment Agency (EEA) estimates that noise pollution from transport sources results in the loss of 1.3 million healthy life years annually in Europe, equivalent to an annual economic cost of at least €95.6 billion, representing around 0.6% of the region's gross domestic product (GDP) each year.⁶⁵

⁶⁰ European Commission, Energy, Climate change, Environment, '**Aviation emissions**', *Reducing emissions from aviation*, webpage last accessed on 12 March 2026.

⁶¹ European Commission, Mobility and Transport, *ReFuelEU aviation*, webpage last accessed on 12 March 2026.

⁶² European Commission, Mobility and Transport, *ReFuelEU aviation*, webpage last accessed on 12 March 2026.

⁶³ European Commission, Mobility and Transport, *ReFuelEU aviation*, webpage last accessed on 12 March 2026.

⁶⁴ World Health Organization Regional Office for Europe, *Environmental Noise Guidelines for the European Region*. p. 1.

⁶⁵ European Environment Agency, '**Environmental noise in Europe 2025**', *EEA report 05/2025*, 23 June 2025.

Although individual aircraft have become approximately 75% less noisy over the last 30 years, the growing amount of air traffic means that many EU citizens are still exposed to high noise levels.⁶⁶ While the regulation of aircraft noise has been a feature of international and EU law for decades the European Commission has noted that:

“... noise-related measures constrain not only airport capacity at a particular airport but also the aviation system as a whole through knock-on effects. Therefore, decisions on noise measures and the desired level of noise protection must be balanced against the overall capacity implications.”⁶⁷

Noise from airports is regulated in Ireland under the **European Communities (Environmental Noise) Regulations 2018 (S.I. 549/2018)** which implements the **EU Environmental Noise Directive** for major airports (defined as those with in excess of 50,000 movements per year). The regulations require strategic noise maps and an associated action plan to be produced every five years.

The **Aircraft Noise (Dublin Airport) Regulation Act 2019** designates Fingal County Council (FCC) as the authority for noise regulation in Dublin Airport. The Aircraft Noise Competent Authority (ANCA) was established by FCC to act as a separate and independent directorate within FCC to perform the role as competent authority. ANCA is responsible for preparing and revising the noise action plan. The latest **Noise Action Plan for Dublin Airport** covers the period 2024-2028.

The airport authority for Dublin Airport (DAA) is responsible for preparing strategic noise maps and is designated as the Noise Mapping Body (NMB). **Strategic noise maps** are prepared every five years, with 2021 as the operative year for the current Noise Action Plan for Dublin Airport. However, due to COVID-19 travel restrictions, the 2021 data is supplemented with 2023 data to better reflect the current noise climate.⁶⁸

Although there are no statutory noise limits in Ireland for aircraft noise at Dublin Airport, a **Noise Abatement Objective** (NAO) set by ANCA aims to reduce harmful noise effects compared to 2019 levels. ANCA is currently carrying out an assessment of the noise situation at Dublin Airport and the potential noise impact of planning applications that seek permission for infrastructure and increases to the permitted passenger capacity at the airport.⁶⁹

⁶⁶ European Commission, Mobility and Transport, **Aircraft noise**, webpage last accessed on 12 March 2026.

⁶⁷ European Commission, Mobility and Transport, **Aircraft noise**, webpage last accessed on 12 March 2026.

⁶⁸ Fingal County Council, **Noise Action Plan for Dublin Airport 2024 -2028**.

⁶⁹ **Dáil Éireann Debate**, 15 January 2026, Dublin Airport Authority.

Section 19 of the *Aircraft Noise (Dublin Airport) Regulation Act 2019* provides that DAA is responsible for the implementation of noise mitigation measures. The main compensatory measures currently in operation by DAA at Dublin Airport include the following:

- **Residential Noise Insulation Scheme:** This scheme is designed to improve the sound insulation performance of bedrooms in eligible houses through the provision of specific insulation measures up to a value of €30,000 per house. A reduction in indoor noise levels of at least five (5) decibels is targeted through these upgrades.

To be eligible, the home must be located within the 55Lnight noise contour. It is noted that all new homes within the airport noise zones that received planning permission after 2005 are not eligible for the scheme as the incorporation of enhanced noise insulation has been a standard requirement of policy since the **Fingal Development Plan 2005**.

- **Voluntary Dwelling Purchase Scheme:** This Scheme offers homeowners in certain areas the option to voluntarily sell their properties to Dublin Airport under the following terms:
 - 30% premium on market value: owners will receive 30% above the current market value of their property.
 - Independent valuation: owners can have their property valued independently at Dublin Airport's expense, to ensure transparency and fairness.
 - Additional allowances: Dublin Airport will cover conveyancing fees, stamp duty, tax advice and moving costs.
- **School Insulation Scheme:** This Scheme provides noise insulation solutions for schools and registered pre-schools within the designated noise contour. It aims to ensure noise levels inside classrooms and school buildings do not exceed 45dB LAeq over an 8-hour school day.

DAA operates a number of schemes designed to mitigate the effects of aircraft noise on affected communities. These include the residential sound insulation grant scheme, the voluntary dwelling purchase scheme, the residential noise insulation scheme and the school insulation scheme. The Government's **Delivering Homes, Building Communities 2025-30 An Action Plan on Housing Supply and Targeting Homelessness** makes no mention of the voluntary dwelling purchase scheme. It is not known what the impact of the voluntary dwelling purchase scheme could be on housing supply in the area.

Air quality

Air pollution emissions have declined in the last two decades, resulting in better air quality.⁷⁰ Despite this improvement, air pollution remains the largest environmental health risk in Europe. The EEA estimates that long-term exposure to fine particulate matter, ozone and

⁷⁰ European Environment Agency, 'Air pollution', 3 March 2026.

nitrogen dioxide levels above the WHO recommended levels⁷¹ caused an estimated 206,000, 71,000 and 56,000 premature deaths, respectively, in 2023, in Europe.⁷²

Air pollution also causes morbidity and has been linked to asthma and other respiratory diseases, heart disease, stroke and diabetes. Besides health issues, air pollution can considerably impact Europe's economy due to increased healthcare costs, reduced life expectancy, and lost working days across sectors. It also damages vegetation and ecosystems, water and soil quality, and local ecosystems.⁷³

While a main source of air pollution in the vicinity of airports originates from aircraft operations, air quality is also impacted by ground support equipment, surface access road transport and airport on-site energy generation. Aircraft engines produce similar emissions to other sources of fossil fuel combustion with the most significant from an air quality perspective being nitrogen oxides (NO_x), particulate matter, volatile organic compounds (VOCs), sulphur dioxide (SO₂) and carbon monoxide (CO).⁷⁴

Congestion

The passenger cap which was introduced in 2007 arose from a planning condition linked to concerns about road traffic congestion associated with the airport's expansion.

As widely reported in the press, according to the [TomTom Traffic Index for 2025](#), Dublin ranked as the third most congested city in the world. In 2025, congestion levels in Dublin reached an average of 72.9%, which was a 1.7% increase from 2024.⁷⁵ Transport Infrastructure Ireland (TII) has previously stated that the M50 has reached capacity and that options are limited in what can be done to address this congestion.⁷⁶

A paper published by the Department of Transport estimated the cost of congestion in the Greater Dublin Area to be €336m in 2022 rising to over €1.5bn by 2040. The results reflect an increasing concentration of congestion in more urban areas, as the cost of congestion experienced within the canals and between the canals and M50 is projected to increase significantly over the period 2022-2040.⁷⁷

⁷¹ World Health Organization, *WHO global air quality guidelines*, 2021.

⁷² European Environment Agency, *Air Pollution*, 3 March 2026, webpage last accessed on 12 March 2026.

⁷³ European Environment Agency, *Air Pollution*, 3 March 2026, webpage last accessed on 12 March 2026.

⁷⁴ European Union Aviation Safety Agency, *European Aviation Environmental Report 2025*, pg. 66.

⁷⁵ D Pepper, 'Dublin is the third most congested city and sixth slowest city in the world for traffic', TheJournal.ie, 21 January 2026.

⁷⁶ C McMorro, "'We've done all we can do to fix M50,' warns Transport Infrastructure Ireland', RTÉ, 2 December 2025.

⁷⁷ Department of Transport, *The Economic Cost of Congestion in the Greater Dublin Area 2022-2040: Strategic Research and Analysis Division Department of Transport*, 2023.

Road congestion can also have wider impacts on other externalities. For instance, an increase in the level of road congestion may lead to greater emissions of pollutants from traffic vehicles and road accidents. Therefore, the real cost of congestion to Irish society is likely to be significantly higher than the figures estimated above.⁷⁸

⁷⁸ Department of Transport, *The Economic Cost of Congestion in the Greater Dublin Area 2022-2040: Strategic Research and Analysis Division Department of Transport*, 2023.

Planning history of the passenger cap

The development of Terminal 2

On 31 August 2006, the Dublin Airport Authority (DAA) applied to Fingal County Council (FCC) for a 10-year planning permission for development at Dublin Airport (PA FCC ref. F6A/1248). The proposed Development included the construction of a new passenger terminal (Terminal 2) on the site. On 25 October 2006, FCC granted permission subject to conditions, including a requirement that:

“The year a capacity of 30 million passengers per annum is reached (and assuming an expectation of continuing growth), the applicant shall submit detailed plans for the future expansion of the western campus in accordance with the policies and objectives of the Dublin Airport LAP. Reason: In the interests of proper planning and sustainable development having regard to LAP content and capacity constraints on the eastern campus.”⁷⁹

Dublin Airport Authority appealed the conditions attached to the permission to An Bord Pleanála (ABP). At the same time, St Margaret's Concerned Residents Group, Portmarnock Community Association, An Taisce and a number of individuals also submitted an appeal of the grant of permission on 20 November 2006 to ABP. The Appeal decision was signed by ABP on 29 August 2007.

The appeal decision ordered the grant of planning permission (the ‘2007 Order’) for Phase 1 of the development of Terminal 2 and ancillary works, including the demolition of Corballis House (a protected structure), subject to conditions.

Condition 3, attached to the 2007 Order, considered the operating capacity of the completed airport as a whole:

“The combined capacity of Terminal 2 as permitted together with Terminal 1 shall not exceed 32 million passengers per annum unless otherwise authorised by a further grant of planning permission. Reason: Having regard to the policies and objectives of the Dublin Airport Local Area Plan and capacity constraints (transportation) at the eastern campus.”⁸⁰

The 2007 Order refused permission for Phase 2 of the Proposed Development on grounds that further expansion of terminal capacity would contravene objectives of the Dublin Airport Local Area Plan in place at the time.

⁷⁹ Condition 28 of planning permission F06A/1248 granted by Fingal County Council, 25 October 2006.

⁸⁰ Condition 3 of Appeal Decision pertaining to Case Reference PL06F.220670 of An Bord Pleanála, 29 August 2007.

The extension and development of Terminal 1

On 14 December 2006, the Dublin Airport Authority applied to FCC for planning permission for the development and extension of Terminal 1 of Dublin Airport (PA FCC ref. F06A/1843). The FCC granted permission for the development on 19 April 2007, subject to conditions. The decision was the subject of an appeal to ABP on 16 May 2007. The appeal decision of ABP was signed on 10 January 2008.

The appeal decision of ABP ordered the grant of planning permission with revised conditions. Condition 2 of the permission made the grant subject to the same 32 million passenger cap as provided in the 2007 Order, for the development of Phase 1 of Terminal 2 (PA FCC ref. F6A/1248; ABP ref. PL06F.220670).⁸¹

DAA request to An Bord Pleanála in 2018

In 2018, the Dublin Airport Authority made a request to ABP under section 146A of the *Planning and Development Act 2000* (the '2000 Act') to amend the wording of condition no. 3 of the 2007 Order, to remove 'connecting passengers' from the scope of the condition. The amended wording sought to limit the term passengers to only include 'origin-destination' passengers. The request was rejected by ABP on the grounds that should the request be granted it would have a material effect on the planning condition and therefore the request could not be considered under section 146A of the 2000 Act which is limited to clerical or technical errors and non-material changes.⁸²

In 2019 FCC is appointed as competent authority for the purposes of Aircraft Noise Regulation

On 14 June 2019, section 3 of the *Aircraft Noise (Dublin Airport) Regulation Act 2019* (the '2019 Act') commenced, officially appointing FCC as the competent authority for the purposes of the *Regulation (EU) No 598/2014* (the 'EU Aircraft Noise Regulation').

Under the EU Aircraft Noise Regulation, Member States are required to ensure that the **Balanced Approach** of the International Civil Aviation Organization (ICAO) is adopted in respect of aircraft noise management at airports where a noise problem has been identified. The Balanced Approach aims to strike a balance between the needs of the aviation industry to

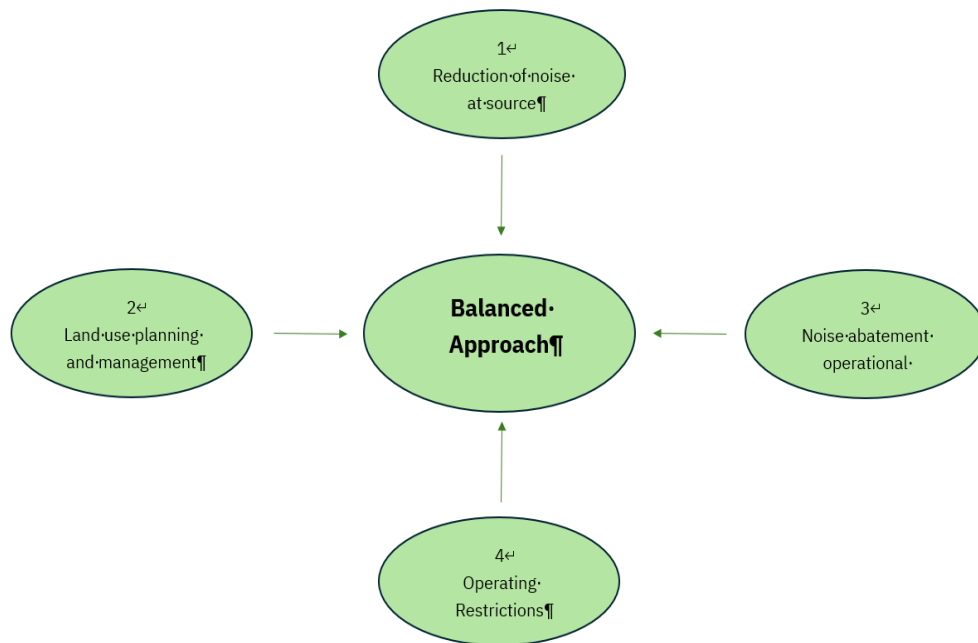
⁸¹ Condition 2 of Appeal Decision pertaining to Case Reference: PL06F.223469 of An Bord Pleanála, 10 January 2008.

⁸² An Bord Pleanála, Board Direction Ref 06F.220670, 27 July 2018. See also Inspector's Report on ABP Ref PL06F.220670 Section 146A request, 2018. Inspector's Report on ABP-305458-19 in response to Planning Authority Reg. Ref. FS5/036/19, 2019.

develop and grow and the need to minimise and reduce noise in communities surrounding airports.⁸³ This includes:

- Using the most cost-effective measures to address the issue; and
- Not applying operating restrictions (such as nighttime bans) as a first resort, but only after consideration of the other measures of the Balanced Approach.⁸⁴

Figure 9: The four principal elements of the International Civil Aviation Organization (ICAO) “balanced approach” to aircraft noise management



Source: ICAO Balanced Approach “Aircraft Noise” (Available [here](#)).

Reference for declaration by An Bord Pleanála in 2019

On 17 September 2019, FCC referred three questions submitted by DAA to ABP for a declaration under **section 5 of the 2000 Act** as to whether certain development could be declared as exempted development.

The questions asked whether certain proposed acts by DAA would comprise development, and if so, whether they would be exempt development under the 2000 Act. The questions looked at:

⁸³ See DAA, *Managing Noise*, webpage last accessed on 12 March 2026.

⁸⁴ Oireachtas Library & Research Service, 2018, *L&RS Note: Airport noise restrictions*. See also International Civil Aviation Organization, *Aircraft Noise: Balanced Approach to Aircraft Noise Management*, webpage last accessed on 12 March 2026.

1. Using the airport as a whole (not just the terminal buildings) to facilitate more than 32 million passengers per annum (ppa), while ensuring the combined capacity of Terminal 1 and Terminal 2 does not exceed 32 million ppa.
2. Using the airport as a whole to facilitate up to three million connecting ppa in excess of the 32 million ppa limit, if those extra connecting passengers are facilitated by a separate building on the grounds of the airport.
3. Counting a connecting passenger using Dublin Airport as a single passenger, not as a passenger for arriving and a separate passenger for departing.⁸⁵

As ABP found that the questions raised in the referral related to the interpretation of conditions that attached to permitted development⁸⁶ it dismissed the referral.⁸⁷

DAA's 2023 Infrastructure Application

On 15 December 2023, DAA made an Infrastructure Application to FCC for permission to undertake development relating to the entirety of Dublin Airport, including greenfield sites on the periphery of the airport, as well as parts of adjoining public roads. The development application included a provision to increase the capacity limits of the airport from the permitted combined capacity of Terminal 1 and Terminal 2 of 32 million ppa to 40 million ppa (PA FCC Ref No F23A/0781).

In response to the Infrastructure Application, FCC issued a request for further information. On 13 and 25 November 2024, DAA submitted responses with additional information and supplementary additional information, respectively. The initial Infrastructure Application comprised 7,000 pages and 700 technical drawings, making it Ireland's largest planning application in 2023.⁸⁸

In March 2024, referring to the Infrastructure Application, the ANCA Directorate of FCC requested from DAA an assessment of the need for a noise related action. DAA had not lodged

⁸⁵ Inspector's Report on ABP-305458-19 in response to Planning Authority Reg. Ref. FS5/036/19, 2019; Tom Phillips Associates on Behalf of Fingal County Council, 'Request for a declaration under section 5 of the Planning and Development Act 2000-2019 relating to connecting passengers at Dublin Airport, Co Dublin', 3 September 2019.

⁸⁶ Condition 3 of PA FCC ref. F6A/1248; ABP Ref No PL06F.220670 and condition 2 of PA FCC ref. F06A/1843; ABP Ref No PL06F.223469 ('the 32 million ppa conditions').

⁸⁷ Under section 138(1)(b)(i) of the *Planning and Development Act 2000*. It follows that the interpretation of these conditions did not come within the scope of a referral under section 5(4) of the 2000 Act, which is restricted to considering whether a particular matter is or is not development or is or is not exempted development: An Bord Pleanála, Board Order ABP-305458-19 on Planning Register Reference Number: FS5/036/19.

⁸⁸ DAA, 'Application to lift Dublin Airport passenger cap to 40 million passes important milestone', Press Release, 13 November 2024.

this assessment as it was awaiting a response to its planning application to amend the use of the North Runway at night ([PA FCC Ref No F20A/0668](#)).⁸⁹

The decision of FCC on the North Runway application was to grant permission (on 8 August 2022), but that was subject to an appeal to ABP (taken on by An Coimisiún Pleanála). On 16 July 2025, An Coimisiún Pleanála (ACP) granted permission subject to conditions ([ABP Ref No PL06F.314485](#); [PA FCC Ref No F20A/0668](#)), one of which was to set an annual night movement cap, constituting an ‘operating restriction’ under the Noise Abatement Legislation. This decision of ACP was the subject of an application for judicial review by Ryanair and was also reviewed by the European Commission, in line with its powers under the EU Aircraft Noise Regulation.⁹⁰

The European Commission found that the ACP decision to impose an ‘operating restriction’ in the form of a nighttime passenger cap was made without any assessment of whether measures from the other three pillars of the Balanced Approach could have achieved a similar objective. Therefore, the European Commission concluded that the conditions were not made in conformity with the EU Aircraft Noise Regulation, returning the matter to ACP for reconsideration.⁹¹

While the nighttime caps issue was being reviewed by the European Commission, DAA furnished to ANCA the relevant noise-related information associated with its Infrastructure Application.

ANCA is currently undertaking a Strategic Environmental Assessment in respect of the amended Noise Abatement Objective arising from an assessment of the noise situation resulting from the Infrastructure Application (see [PA FCC Ref No F23A/0781](#)).⁹²

DAA’s 2024 and 2025 applications to amend relevant planning conditions

While the 2023 planning application remained open, on 20 December 2024, DAA applied to FCC to issue new conditions to supersede and replace the 32 million ppa conditions. The new conditions would increase the permitted capacity of the entire airport to 36 million ppa and to avoid uncertainties, to specify that:

⁸⁹ [Dáil Éireann Debate, Tuesday - 4 March 2025, ‘Airport Policy’](#).

⁹⁰ Ryanair, [‘Ryanair to appeal Bord Pleanála’s unlawful second cap at Dublin Airport’](#), *Press Release*, 9 September 2025.

⁹¹ See [Commission Decision of 10.2.2026 on the process for introducing operating restrictions at Dublin Airport in accordance with Regulation \(EU\) 598/2014 of the European Parliament and of the Council, C \(2026\) 919 final](#). See also An Coimisiún Pleanála, [‘Statement on ABP-314485-22 relating to the night-time use of the runway system at Dublin Airport’](#), *Press Release*, 24 February 2026.

⁹² Aircraft Noise Competent Authority, Fingal County Council, [‘Strategic Environmental Assessment to begin’](#), *Press Release*, 13 January 2026 (a copy of the screening determination may be found [here](#)).

- the existing 32 million ppa limitation is enumerated on a terminal count basis (where one person equals one passenger, but discounting transit passengers, those who do not enter the terminal(s), and the double counting of transfer passengers);
- the requested 36 million ppa limitation is enumerated on an aviation count basis (where a passenger is enumerated as a person carried on an aircraft and covered by a ticket in line with the definition of passenger by the International Air Transport Association), including that a transfer passenger, is counted as two passengers (one arriving and one departing) (PA FCC Ref No F24A/1178E).

FCC dismissed this application as invalid, on grounds that it had failed to comply with articles 18(1)(d), 19(1)(a) and 22 of the *Planning and Development Regulations 2001* (failure to properly notify).⁹³

On 6 February 2025, DAA again applied to FCC for the replacement of the 32 million ppa conditions with conditions that limit the use of the entire infrastructure at Dublin Airport (including Terminals 1 and 2) to 36 million ppa. No works or other interventions involving alterations to the physical aspects of the site were proposed as part of the application. This application was treated by FCC as withdrawn as of 15 January 2026, as no specified additional information had been received by FCC in response to its requests within the requisite six-month period (PA FCC Ref No F25A/0094E).

Matters arising from the planning process

With the exception of the original appeals to ABP, DAA has not challenged the validity of the passenger cap. However, as outlined above, DAA has queried:

- Whether a passenger includes transit passengers and, if it does include transit passengers, are they counted as a single passenger or as two passengers, one arriving passenger and one departing passenger?
- Whether a passenger includes a person who does not leave the aircraft in transit?
- Whether the capacity condition only applies to the capacity of the terminal buildings as the planning conditions only refer to “capacity of Terminal 2 ... together with Terminal 1”?

None of these queries have been formally answered by FCC or ABP/ACP. However, in June 2025, FCC did issue DAA with an enforcement notice in relation to a breach of the passenger cap conditions. The enforcement notice followed a formal investigation by FCC’s Enforcement Unit, initiated to assess compliance with the conditions, after complaints had been received about an alleged breach of the 32 million ppa conditions in the years 2023 and 2024. The

⁹³ Fingal County Council, ‘Dublin Airport application for 36m passengers is invalid’, *Press Release*, 14 January 2025.

enforcement notice specified that DAA had two years from the date of the notice in which to ensure they complied with the 32 million ppa conditions.⁹⁴

The status of Dublin Airport as a coordinated airport

In European law, passenger cap conditions may be imposed to help deal with capacity and congestion, and aircraft noise. The Aircraft Noise Regulation and the balanced approach has been discussed above.

In relation to capacity and congestion, an airport would need to be designated as a coordinated or schedule-facilitated airport under **Regulation (EEC) No 95/93** on common rules for the allocation of slots at Community airports (the ‘Slots Regulation’) before a capacity limit may be imposed on arrival and departure slots.⁹⁵ Currently, Dublin is the only ‘coordinated’ airport in Ireland but was one of 113 European coordinated airports (out of 218 worldwide) in the 2025 summer season and one of 89 coordinated airports in Europe over the previous winter season.⁹⁶

The **Slots Regulation** allows for the relevant competent authority to designate an airport as a ‘schedule facilitated’ airport or a ‘coordinated’ airport. These designations allow for capacity issues to be considered when allocating slots to airlines using the relevant airport. Before a designation is made, the competent authority must conduct a capacity analysis, considering environmental constraints, and the result of that analysis must show a serious shortfall in capacity that cannot be resolved through new or modified infrastructure, operational or other changes within a reasonable time frame.⁹⁷

Dublin Airport has been designated as a ‘coordinated’ airport since the Summer 2006 season.⁹⁸

When an airport is designated as ‘coordinated’, a coordinator, acting in an independent, neutral, non-discriminatory and transparent manner, must be appointed to allocate slots for the arrival and departure of aircraft from the airport.⁹⁹ Under **section 8(1) of the Aviation Regulation Act 2001**, and following the merger of the Commission for Aviation Regulation

⁹⁴ Fingal County Council, ‘**Two-year compliance period issued to daa following breach of planning conditions**’, Press Release, 20 June 2025.

⁹⁵ **Council Regulation (EEC) No 95/93** of 18 January 1993, [1993] OJ L 14.

⁹⁶ Airports Council International, ‘**Airport Slot Allocation**’, *ACI Europe Position Paper*, March 2025, p. 2.

⁹⁷ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 3.

⁹⁸ Commission for Aviation Regulation, ‘**Decision to designate Dublin Airport as a coordinated airport**’, *Commission Notice 3/2005*, 26 April 2005.

⁹⁹ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 4.

(CAR) with the Irish Aviation Authority (IAA),¹⁰⁰ the IAA is the competent authority in Ireland for the purposes of the Slots Regulation.¹⁰¹

Under the **Slots Regulation**, in order to land in or take off from a coordinated airport an airline must have a ‘slot’¹⁰² allocated to it by the coordinator. The coordination parameters for slot allocation must be determined twice yearly (for a summer season and a winter season), taking account of capacity and other relevant technical, operational and environmental constraints.¹⁰³

The slot allocation process adopts a use-it-or-lose-it rule. When the 80% usage of a series of slots cannot be demonstrated or justified, all the slots in that series are placed into the general slot pool (this is referred to as the 80/20 rule). Also, when an airline decides to return a slot, the returned slots will also go into the general slot pool.¹⁰⁴ Slots may be used for different routes and may be transferred to an acquiring company and between related companies. Slots may also be exchanged on a one-for-one bases between airlines. All transfers or exchanges must be notified to the coordinator.¹⁰⁵

Any returned slots or slots lost under the use-it-or-lose-it rule are added to any new slot capacity to create the general slot pool. Airlines may then request the coordinator to allocate slots from the pool. Up to 50% of the slots in the general slot pool must be given to new entrants.¹⁰⁶

¹⁰⁰ See IAA, ‘**CAR to merge with Irish Aviation Authority**’, *Media Release*, 27 April 2023.

¹⁰¹ See B O’Halloran, ‘**What the Dublin Airport passenger cap ruling means, and what happens next**’, *Irish Times*, 5 November 2024. The IAA has appointed Airport Coordination Limited (ACL) as the coordinator for Dublin Airport in accordance with **section 8(2) of the Aviation Regulation Act 2001**.

¹⁰² A ‘slot’ is defined as “permission given by a coordinator ... to use the full range of airport infrastructure necessary to operate an air service ... on a specific date and time for the purpose of landing or take-off”: **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 2(a).

¹⁰³ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 6.

¹⁰⁴ **Council Regulation (EEC) No 95/93** of 18 January 1993, Arts 8, 10.

¹⁰⁵ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 8a.

¹⁰⁶ **Council Regulation (EEC) No 95/93** of 18 January 1993, Art. 10. The term ‘new entrant’ covers airlines:

- holding fewer than five slots at that airport on a relevant day;
- looking to offer a series of direct flights between Member State airports where the airline holds fewer than five slots at that airport on a relevant day for the direct service, and the direct route is only covered by up to two other airlines
- seeking to offer a series of direct flights between the airport and a regional airport, not served by another airline, and where the airline holds fewer than five slots at that airport on a relevant day for the direct service.

However airlines are not new entrants if they hold more than 5% of the total slots available on the relevant day at the airport or 4% of the slots available on the relevant day in an airport system of which the airport forms part: **Council Regulation (EEC) No 95/93** of 18 January 1993, Art 2(b).

The Decision of the Irish Aviation Authority to set a 2025 summer passenger cap

In accordance with the [Slots Regulation](#), the IAA sets the conditions for allocating slots at Dublin Airport, taking account of factors including runway and terminal capacity and airspace breaks.¹⁰⁷ The IAA breaks up the year into a summer season, lasting seven months (from 30 March to 25 October), and a winter season, covering the remaining five months (from 26 October to 29 March).¹⁰⁸

As noted in the IAA's [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) (the 'S25 Decision'), the IAA does not consider itself as being responsible for the enforcement of, or DAA's compliance with, planning conditions, including the 32 million ppa conditions. However, the IAA noted that the 32 million ppa conditions created a 'relevant operational constraint' on capacity. Therefore, the IAA considered the 32 million ppa conditions when setting the conditions for the allocation of slots at Dublin Airport. In its S25 Decision, the IAA established a 'passenger air traffic movement seat capacity coordination parameter' of 25.2 million passengers, for the summer 2025 season.¹⁰⁹

In the S25 Decision, the IAA went on to consider the 80/20 rule to determine whether airlines that operate in line with that rule could assert a right to their historical slots. The IAA expressly stated that it "does not believe that slot series entitlements are in the nature of property rights" and that the 80/20 rule does not guarantee that an airline that operates within the 80/20 rule will automatically be entitled to the same slots allocated to it in the previous season.¹¹⁰

For the 2025 summer season, airlines requested 160,919 slots at Dublin Airport. Of the 160,919 slots requested, the coordinator allocated 97.1% as requested, with the remainder being offered and accepted with an alternative time than originally requested. The total slots allocated for the season was 160,872, equating to a maximum of approximately 28.8 million airline passengers (5.2% higher than the same period in 2024).¹¹¹

¹⁰⁷ [Council Regulation \(EEC\) No 95/93](#) of 18 January 1993, Art .3. See also B O'Halloran, '[What the Dublin Airport passenger cap ruling means, and what happens next](#)', *Irish Times*, 5 November 2024.

¹⁰⁸ [Council Regulation \(EEC\) No 95/93](#) of 18 January 1993, Art. 3. See also B O'Halloran, '[What the Dublin Airport passenger cap ruling means, and what happens next](#)', *Irish Times*, 5 November 2024.

¹⁰⁹ IAA, [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) at [1.1].

¹¹⁰ IAA, [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) at [4.121]. Rather, the IAA stated that slot allocation proceeds from an assessment of capacity and a declaration of coordination parameters flowing from that assessment. Therefore, according to the IAA, historical slot allocation may be affected by coordination parameters which take relevant capacity considerations into account – there is no guarantee that an airline will be allocated the same slots as they received in the previous season even if they satisfy the 80/20 rule: Irish Aviation Authority, [Final Decision on Summer 2025 Coordination Parameters at Dublin Airport](#) at [4.121] and [4.122].

¹¹¹ [Dáil Éireann Debate, Wednesday, 14 May 2025, 'Airport Landing Slots'](#).

The 2024 and 2025 High Court Cases on IAA's seasonal passenger cap restrictions

Aer Lingus, Ryanair, the Air Transport Association of America (now known as A4A) and three separate US-based airlines commenced three sets of judicial review proceedings against the S25 Decision and the IAA's earlier decision addressing the Winter 2024 coordination parameters (the 'W24 Decision'). In each case the applicant sought orders to quash the decisions by the IAA to establish a PATM seat capacity coordination parameter.¹¹²

The application for judicial review did not involve a challenge to the 32 million ppa conditions (the planning conditions imposed by ABP in 2007 and 2008). However, the applicants did challenge the IAA's decision to consider the 32 million ppa conditions in making the W24 Decision and the S25 Decision.¹¹³

The grounds for the substantive challenge were multifaceted and complex and the Court accepted that they would take some time to resolve.¹¹⁴

The airlines applied to the High Court for injunctive relief, in the form of a partial stay of the S25 Decision covering the 25.8 million passenger cap. The application rested on the claims of the applicants that if the stay were not granted, the PATM seat cap had the potential to cause them permanent, irreparable harm, including financial losses, losses of market share, losses of employees, increased passenger fares, reputational damage arising from cancellations and interference with their claimed rights to historic slots. Moreover, it was argued that it might not be possible for the Court to remedy this loss should the airlines succeed in their substantive claims.¹¹⁵

The IAA did not oppose the application for a stay on the PATM seat cap and accepted that the stay would not adversely affect the implementation of the rest of the S25 Decision.¹¹⁶

The Court granted the stay after noting that DAA was the only party responsible for compliance with the planning conditions. The Court found that the potential harm to the airlines outweighed the public interest in requiring IAA to implement measures to ensure compliance with the planning conditions.¹¹⁷

In a further hearing, all parties to the proceedings consented to a decision by the Court to refer three questions to the Court of Justice of the European Union (CJEU).¹¹⁸ The three questions were on:

¹¹² *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [1], [3].

¹¹³ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [2].

¹¹⁴ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [10].

¹¹⁵ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [12].

¹¹⁶ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [88].

¹¹⁷ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 624 at [95].

¹¹⁸ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 758 at [11], [12].

1. the correct interpretation and application of Article 6(1) of the Slot Regulation including what is a “relevant constraint” for the purpose of determining coordination parameters, and that the determination of coordination parameters shall be based on “objective analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at the airport, the airspace congestion likely to occur during the coordination period and the capacity situation”;
2. the status of “historic slots”, which are a series of slots that an airline is entitled to under Article 8(2) of the Slot Regulation where certain conditions and criteria are met, and whether the IAA, as competent authority can set coordination parameters which result in the non-allocation of such slots (or some component thereof) and, if so, in what circumstances; and
3. the question of whether the Slot Regulation prohibits an Airport Management Body from taking unilateral action to close the airport for a period of time, for the purpose of preventing the operation of allocated slots so as to avoid a breach of the annual passenger limitation?”¹¹⁹

On 2 April 2025, the High Court issued a further stay, prohibiting IAA from considering the 32 million ppa conditions when issuing future coordination parameters in its capacity as the competent authority under the Slots Regulation. The stay remains in place until the substantive case is determined.¹²⁰

The Advocate General's Opinion on IAA's passenger cap restrictions

The **Opinion of Advocate General Campos Sánchez-Bordona** (AG) was delivered to the CJEU on 12 February 2026. The AG was of the opinion that:

1. the technical, operational and environmental factors affecting airport capacity are not only comprised of physical or material factors but may also include legal constraints imposed by relevant rules (such as the ABP conditions). The IAA when setting coordination parameters must take the ABP conditions into account as an operational constraint affecting airport infrastructure.¹²¹
2. Historical slots are not property rights. They are simply an authorisation to use airport infrastructure and must not be granted without first having regard to the airport's capacity, defined by the coordination parameters. Furthermore, the elimination or

¹¹⁹ *Aer Lingus Ltd v Irish Aviation Authority* [2024] IEHC 758 Appendix – Preliminary Reference at [7].

¹²⁰ *Aer Lingus Ltd v Irish Aviation Authority* [2025] IEHC 190.

¹²¹ *DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026* at [50], [58] and [59]. See also ‘**Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem**’, Press Release No 17/26, 12 February 2026.

reduction of historical slots does not compromise the freedom to conduct a business under Article 17 of the [Charter of Fundamental Rights of the European Union](#).¹²²

3. The closure of an airport in order to comply with a requirement that is known well in advance would be an excessively drastic and detrimental measure not provided for in the regulation.¹²³

It has been reported that the US lobby group Airlines for America (A4A) have cited the opinion of the AG as having the potential to offer EU planning authorities a “carte blanche” to reduce airport capacity.¹²⁴ The opinion of the AG that the passenger cap represents an ‘operational constraint’ has the potential to affect the manner in which the [Air Transport Agreement between the European Union and the United States of America](#) is applied, as exceptions may be allowed for customs, technical, operational, or prescribed environmental reasons.¹²⁵

It is important to note that an opinion of the Advocate General is not binding on the CJEU and the final decision of the CJEU is pending as at the time of writing this paper.¹²⁶

International experience

Passenger caps have been applied at a number of different European airports, such as those in London and Amsterdam. Typically, these caps are imposed on an airport by authorities for varying reasons, such as pollution, noise reduction or safety concerns. Two of these are now discussed below in more detail.

¹²² [DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026](#) at [73], [77] - [89]. See also ‘[Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem](#)’, Press Release No 17/26, 12 February 2026.

¹²³ [DAA v Irish Aviation Authority C-857/24 SCLI:EU:C:2026](#) at [99] - [102]. See also ‘[Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem](#)’, Press Release No 17/26, 12 February 2026.

¹²⁴ J Mulligan, ‘[US airlines fear EU-wide impact of likely ruling on Dublin Airport passenger cap](#)’, *Irish Independent*, 24 February 2026.

¹²⁵ J Mulligan, ‘[US airlines fear EU-wide impact of likely ruling on Dublin Airport passenger cap](#)’, *Irish Independent*, 24 February 2026. [Air Transport Agreement between the European Union and the United States of America](#) Art. 3(4). See also [Agreement on Air Transport between Canada and the European Community and its Member States](#) Art. 13(2).

¹²⁶ It is the role of an Advocate General to “propose to the Court, in complete independence, a legal solution to the cases for which they are responsible”: see Note to ‘[Advocate General Campos Sánchez-Bordona: An annual passenger limit imposed by a planning authority may be taken into account when allocating slots at an airport with capacity problem](#)’, Press Release No 17/26, 12 February 2026.

Amsterdam Schiphol

In June 2022, the government of the Netherlands publicly announced its intention to set an annual cap of 440,000 take offs and landings at Schiphol Airport to address noise problems around the airport. Following the announcements, the European Commission informed the Dutch authorities that, pursuant to the [EU Aircraft Noise Regulation](#)¹²⁷, the **balanced approach** process is a mandatory step before the introduction and implementation of operating restrictions and that noise operating restrictions must be treated as measures of last resort.¹²⁸

Initially, the noise policy for Schiphol Airport was to be achieved in three phases:¹²⁹

- The first phase would consist of the reduction of annual movements from 500,000 to 460,000 as of March 2024. The decision to implement this phase was the subject of national court proceedings. The Dutch Supreme Court, in its judgement of 12 July 2024, stated that no reduction of movements could be implemented without first carrying out the balanced approach procedure as laid down in the Regulation.¹³⁰
- The second phase would consist of a balanced approach study leading to a set of measures, including operating restrictions, to be introduced as of November 2024, by issuing a new airport traffic decree containing a movement cap for a maximum period of five (5) years.
- The third phase would consist of setting a new “norms based” system. In the long term, the new system would allow movements to increase again in line with improving environmental performance of aircraft.

The Dutch authorities ultimately concluded that the annual cap would have to be set at 478,000 movements to achieve all sub objectives of the noise objective.¹³¹ It has been recently reported that the Dutch Supreme Court, in its judgement of 11 March 2026, has ruled against this noise related restriction on passenger movements following an appeal by airlines.

¹²⁷ [Regulation \(EU\) No 598/2014](#) of the European Parliament and of the Council of 16 April 2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC.

¹²⁸ European Commission, ‘[Commission Decision on the process for the introduction of operating restrictions at Schiphol Airport in accordance with Regulation \(EU\) 598/2014 of the European Parliament and of the Council](#)’, *C(2025) 1355 final*, p. 2.

¹²⁹ European Commission, ‘[Commission Decision on the process for the introduction of operating restrictions at Schiphol Airport in accordance with Regulation \(EU\) 598/2014 of the European Parliament and of the Council](#)’, *C(2025) 1355 final*, p. 2.

¹³⁰ C Van Campenhout, ‘[Dutch court says government must follow EU procedure to reduce flights at Schiphol airport](#)’ Reuters, 12 July 2024.

¹³¹ European Commission, ‘[Commission Decision on the process for the introduction of operating restrictions at Schiphol Airport in accordance with Regulation \(EU\) 598/2014 of the European Parliament and of the Council](#)’, *C(2025) 1355 final*, p. 5.

A reduction in nighttime flights remains in place as none of the parties had appealed that part of the government's decision.¹³²

London City

Although the UK is no longer part of the EU, the (UK) *Airports Slot Allocation (Alleviation of Usage Requirements etc) Regulations 2025* retain the EU Slots Regulation as part of UK law. The UK is also subject to the Open Skies treaties.

London City Airport is London's most central airport, located in London's Royal Docks and six miles from the City of London. In 2024, the airport handled approximately 51,000 Air Transport take offs and landings and 3.6 million passengers.¹³³

The passenger cap is in place for a number of reasons, including the airport's limited take-off and landing capacity, as well as noise and environmental considerations.¹³⁴ In August of 2024 the Government approved London City Airport's plans to increase its annual passenger cap from 6.5 million to 9 million passengers. Total aircraft movements will remain capped at 111,000 flights per year.¹³⁵

The increased passenger cap will be met by an increase in the number of morning flights from 06:00 to 09:00, with the condition that quieter aircraft are used during this time. Another proposal to extend the airport's Saturday cut-off time for flights from 12:30 to 18:30 was rejected.¹³⁶

¹³² B Meijer, 'Dutch court scraps cap on number of flights at Amsterdam airport', *Reuters*, 11 March 2026.

¹³³ *London City Airport Annual Performance Report 2024*, 1 June 2025.

¹³⁴ L Bodell, 'Passenger Caps: 4 Airports that have them & why', *Simply Flying*, 1 January 2025

¹³⁵ J Kelly, 'London City Airport passenger cap to rise by 2.5m', *BBC*, 19 August 2024.

¹³⁶ J Kelly, 'London City Airport passenger cap to rise by 2.5m', *BBC*, 19 August 2024.

Legislative proposal

In the **Government Legislation Programme Spring 2026** the Dublin Airport (Passenger Capacity) Bill was listed as falling under Legislation for Priority Publication Spring Session 2026. The proposed legislation is described as aiming “to address planning constraints impacting continued growth in air connectivity.”¹³⁷

On 12 February 2026, the Department of Transport published a **General Scheme of the Dublin Airport (Passenger Capacity) Bill** (the ‘General Scheme’), comprising 12 Heads.¹³⁸

The General Scheme was sent for pre-legislative scrutiny (PLS) to the Joint Oireachtas Committee on Transport (the ‘Committee’), and on 4 March 2026, the Committee **heard** from representatives of the Department. On 18 March 2026, the Committee heard from a number of stakeholders. A further hearing is scheduled for 25 March 2026.

Key Heads

Head 4 of the legislative proposal would prohibit An Coimisiún Pleanála (ACP) from attaching a planning condition at Dublin Airport that limits passenger numbers on planning applications made in the future. The same head would specify that existing planning conditions related to the passenger cap were put in place to address capacity constraints and do not amount to an operating restriction for the purposes of noise abatement, confirming that the balanced approach for noise-related operating restrictions was not applied when drafting the conditions.

Head 5 of the General Scheme would empower the Minister for Transport to “make an order to revoke or amend a planning condition where the Minister is of the opinion that—

(a) a planning condition is causing or will cause serious harm to:

(i) the international transport connectivity of the State,

(ii) the economy of the State, including without limitation to tourism or foreign direct investment, or

(iii) the State’s ability to comply with obligations under any air transport agreement to which the State is a party, and

(b) the revocation or amendment of the planning condition is necessary in the public interest.”

The Department has confirmed that this wording of the General Scheme will be tightened significantly by the Office of Parliamentary Council when drafting the Bill, to ensure that this

¹³⁷ **Government Legislation Programme Spring 2026**, p. 10.

¹³⁸ Department of Transport, ‘**General Scheme for the Dublin Airport (Passenger Capacity) Bill 2026**’, *Publication*, 12 February 2026.

proposed provision goes no further than allowing the Minister to make an order to amend or revoke the planning conditions on passenger caps.¹³⁹

Before making such an order (a ‘Head 5 order’), the Minister would have to have regard to prescribed environmental assessments and consult with relevant stakeholders. Under Head 4, a Head 5 order would not be subject to the relevant provisions of the *Planning and Development Act 2000* or the *Planning and Development Act 2024*, and under Head 5, the order would have effect as soon as it is made.

Head 5 would require the Minister to lay the Head 5 order before both Houses of the Oireachtas and the Head 5 order could be annulled within 21 working days of laying, not affecting its application from the date the order was made until the date of annulment. However, the majority of secondary legislation made under the planning Acts requires Oireachtas approval under the respective provisions of those Acts. This provision would diverge from that practice.

Under sub-head 5(10), any ongoing planning application that looks to affect a planning condition that is the subject of a Head 5 order would be allowed to continue through the planning process.

Heads 6, 7 and 8 of the General Scheme would allow the Minister to apply to ACP for screening for an environmental impact assessment, an appropriate assessment and an assessment under the **Water Framework Directive**, respectively. ACP would be obliged to complete the screening for the relevant assessment within a specified timeframe. Where a relevant assessment is found to be required, the respective Head of the General Scheme would require the Minister to arrange for the assessment to be undertaken and report published. ACP would then be empowered to request the Minister to include conditions or measures in the order to avoid, prevent, reduce or offset the impact, in accordance with the relevant European legislation. If the Minister could cite imperative reasons of overriding public interest to make the order without further conditions, the Minister would be empowered to put in place compensatory measures in the alternative, to ensure the overall coherence and protection of the Natura 2000 network.¹⁴⁰

Head 9 of the General Scheme would allow ACP to perform any relevant assessments as part of a joint assessment, to avoid unnecessary duplication of effort.

Head 10 of the General Scheme proposes to oblige the Minister to notify FCC (as the designated competent authority for the purposes of the EU Aircraft Noise Regulation) of an order made under Head 5. Once notified of the Head 5 order, FCC would need to consider the

¹³⁹ Representatives of the Department of Transport, ‘**General Scheme of the Dublin Airport (Passenger Capacity) Bill 2026: Discussion**’, *Joint Committee on Transport debate*, 4 March 2026.

¹⁴⁰ The Natura 2000 is a network of nature protection areas within the European Union as designated under the Birds Directive (**Directive 2009/147/EC**) and Habitats Directive (**Council Directive 92/43/EEC**).

Head 5 order when conducting a noise assessment under section 9 of the 2019 Act. This requirement would appear to hold despite Head 4 of the General Scheme proposing that a Head 5 order would **not** be an ‘operating restriction’ or ‘noise mitigation measure’ for the purposes of the 2019 Act.

Head 11 of the General Scheme would impose limits on any legal challenge to the validity of an order made or failure of the Minister to perform a function under the proposed legislation. Judicial review proceedings would need to be taken within 8 weeks, and in accordance with the provisions of the proposed legislation, which would align with the judicial review provisions in **Chapter 1 of Part 9 of the *Planning and Development Act 2024***.

Finally, Head 12 would make any actions or functions performed under the proposed legislation exempt from the provisions of **section 15 of the *Climate Action and Low Carbon Development Act 2015*** (the ‘2015 Act’). That provision requires all public and prescribed bodies, in so far as practicable, to perform their functions in line with approved climate action plans, national long term climate action strategies and overall national climate objectives, with a mind to mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

Implications

There appear to be four main implications of the legislative proposal as it is currently drafted. These are outlined separately below.

Dublin may lose its designation as a coordinated airport

Under **Article 3(5) of the *Slots Regulation***, when capacity sufficient to meet actual or planned operations is provided at a coordinated airport, its designation as a coordinated airport must be lifted. Although there is little commentary on this point, it may be assumed that should the Minister decide to remove the passenger cap, it may be taken by the European Commission as a sign that Dublin Airport does not have a problem with capacity, and it could lead to the airport losing its designation as a coordinated airport.

As **noted by the *Airports Council International***, airlines that already hold slots at a coordinated airport have a major advantage over those trying to enter. For, as long as airlines can meet the 80/20 requirement, they are highly likely to receive the same slots as they did the previous year in the same season, although this would be subject to operational requirements, as stated by the IAA in its W24 Decision and its S25 Decision. This gives those airlines with existing slots a level of commercial certainty from which they can plan their operations. However, it also limits the level of control an airport operator holds over slot

allocation, limiting their ability to optimise capacity for broader economic or public interest goals.¹⁴¹

Although the loss of a designation as a coordinated airport has the potential to allow future slot allocation to be made in consideration of broader economic, social, or environmental goals, it would undermine the historical claims of incumbent slot holders.¹⁴² It follows that the decision to remove passenger caps may have an unexpected consequence of negatively impacting the interests of some of the main advocates for the legislation.

Constitutional legitimacy of delegated ministerial powers

Article 15.2 1° of the Constitution states:

“... the sole and exclusive power of making laws for the State is hereby vested in the Oireachtas: no other legislative authority has power to make laws for the State.”

Irish courts have long accepted that, through primary legislation (Acts), the Oireachtas may delegate legislative powers to a Minister, regulatory body or an authority. In *Laurentiu v Minister for Justice*, Justice Barrington recognised the need for the legislature to delegate responsibility for secondary legislation. However, he qualified this by stating:

“... the legislature should not abdicate its position by simply handing over an absolute discretion to the executive. It should set out standards or guidelines to control the executive discretion and should leave to the executive only a residual discretion to deal with matters which the legislature cannot foresee.”¹⁴³

In the past, the power to enact secondary legislation has been constitutionally limited to procedural matters that give effect to the ‘principles and policies’ of the delegating Act (the ‘Parent Act’).¹⁴⁴

When determining whether a particular delegated legislative power is constitutionally valid, the Supreme Court has acknowledged that although using a ‘principles and policies’ criteria is important, it is preferable to use a more holistic, broader-based consideration of the question

¹⁴¹ S Riopel-Gewelt, Airports Council International, [Why Airport Slots Matter: Strategy, Access and Equity](#), ACI World Insights, 4 March 2025.

¹⁴² S Riopel-Gewelt, Airports Council International, [Why Airport Slots Matter: Strategy, Access and Equity](#), ACI World Insights, 4 March 2025.

¹⁴³ *Laurentiu v Minister for Justice* [1999] IESC 47 at [83] per Barrington J.

¹⁴⁴ See for example, *Kennedy v Law Society of Ireland (No 3)* [2002] 2 IR 458 at 468, per Fennelly J. See also *Cityview Press Ltd v An Chomhairle Oiliúna* [1980] IR 381 at 398-399 per O’Higgins CJ.

of constitutional validity.¹⁴⁵ The Supreme Court has held that this consideration should involve asking the following seven questions:

1. Does the Parent Act contain sufficient principles and policies that govern the exercise of the Minister's power in the provision in question?
2. Does the Parent Act set boundaries, in the sense of defining rules of conduct, or guidelines?
3. Does the Parent Act have defined subject matter and contain basic conditions of fact and law?
4. Is the legislative purpose of the relevant provision discernible by identification of objectives or outcomes as well as principles?
5. Is the power delegated to the Minister sufficiently defined?
6. Does the exercise of the delegated power contain sufficient safeguards?
7. Has the Oireachtas relinquished its constitutional role?¹⁴⁶

On 18 February 2026, it was reported that members of FCC called plans to remove the passenger cap at Dublin Airport “undemocratic”. It was argued that:

*“The original cap came through the planning process and any attempt to remove the cap should have the same level of democratic scrutiny”.*¹⁴⁷

Article 28A of the Irish Constitution recognises the role of local government in providing a forum for the democratic representation of communities and in exercising and performing powers conferred by law.

In *Conway v An Bord Pleanála*,¹⁴⁸ the Supreme Court considered the constitutional validity of a legislative provision empowering the Minister to issue specific planning policy guidelines to which local planning authorities and ABP must have regard in the performance of their functions. The Court held that the relevant legislative provision did **not** constitute an impermissible delegation of legislative power and was not in breach of the Constitution. The Court held that the Oireachtas was fully entitled to ensure local authority powers were exercised in a manner conforming to national policy standards as expressed in the ministerial policy guidelines. In his judgment, Justice Hogan explained the constitutional foundations and limits of local government, noting:

¹⁴⁵ *Bederev v Ireland* [2016] IESC 34; *Náisiúnta Leictreach Contraitheroir Éireann v Labour Court* [2021] IESC 36 and *Conway v An Bord Pleanála* [2024] IESC 34 at [26] per Hogan J. See also C Casey, “The Supreme Court and the Reformation of the Non-Delegation Doctrine” (2022) 4 *Irish Supreme Court Review* 36.

¹⁴⁶ *Bederev v Ireland* [2016] IESC 34; *Náisiúnta Leictreach Contraitheroir Éireann v Labour Court* [2021] IESC 36 at [63] per the Court and *Conway v An Bord Pleanála* [2024] IESC 34 at [26] per Hogan J.

¹⁴⁷ A Riaz, ‘**Fingal councillors claim scrapping Dublin Airport passenger cap would be “undemocratic”**’, *Irish Independent*, 18 February 2026.

¹⁴⁸ [2024] IESC 34.

“... while the State must provide for a system of local government with some real powers which are exercisable at local level, this does not mean that the exercise of these powers by local authorities is in some way inviolable or beyond the reach of ministerial controls.”¹⁴⁹

What is meant by ‘necessary in the public interest’?

If enacted, the relevant provisions of the General Scheme would allow the Minister to revoke or amend a relevant planning condition if the Minister considers it ‘necessary in the public interest’. The term ‘necessary in the public interest’ is not defined in the General Scheme. This leaves open the question of how this concept of ‘necessary in the public interest’ will be determined or measured. The main legal situations where the concept of public interest has been considered involve defamation law, the law of disclosure and freedom of information, and practice and procedure with regards the hearing of an appeal by a superior court. In each case, the concept of whether or not something is found to be in the public interest involves a balancing exercise of public interest considerations with the impact on private rights. It does not appear that much judicial consideration has been dedicated to balancing competing public interests.

A Professor of Law at the University of Bristol Law School has stated:

“The public interest has no single, fixed definition. Even as a technical term of art its sense varies both for being context dependent and for being a question that may be settled by different sorts of institutional actor. ...

The public interest is both found as a part of law, and as a counterpoint to law. It may be the motivating factor for creating law, and the rationale for limiting—or even striking down—a law’s application. In any case, its ultimate practical effect is to define the boundaries of rights, powers, freedoms, and obligations. Howsoever a substantive determination of the public interest is arrived at, it manifests with a focus on institutions, on shared or collective benefit, and—crucially—on rationalisations by reference to consequences: it calls for the articulation of positive drivers in particular directions, and negative barriers that must not be crossed for where that would take us.”¹⁵⁰

A concept of ‘imperative reasons of overriding public interest’ appears in EU legislation, in relation to the **Habitats Directive**.¹⁵¹ In this regard, **section 207 of the Planning and**

¹⁴⁹ *Conway v An Bord Pleanála* [2024] IESC 34 at [54] per Hogan J.

¹⁵⁰ Prof J Coggon, University of Bristol Law School, *The unbearable lightness of being in the public interest*, 8 July 2024.

¹⁵¹ **Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora**, Articles 6, 16. Note that under Article 6, imperative reasons of overriding public interest may include social and economic reasons, but they only come into play if there is an absence of

Development Act 2024, provides that, in relation to a plan affecting a European site that hosts a priority habitat or priority species:

“imperative reasons of overriding public interest” means—

- (a) reasons relating to human health or public safety,
- (b) reasons that the relevant plan will have beneficial consequences of primary importance to the environment, or
- (c) reasons that, in the opinion (given upon a request under subsection (10)) of the European Commission, constitute other imperative reasons of overriding public interest within the meaning of paragraph 4 of Article 6 of the Habitats Directive”.

Proposal to disregard duty to consider effect on climate change

As noted above, Head 12 of the General Scheme proposes to make any actions or functions performed under the proposed legislation exempt from the provisions of [section 15 of the Climate Action and Low Carbon Development Act 2015](#). That particular provision creates a duty on all public bodies to consider climate action and national climate policy objectives when making decisions.

In December 2015, Ireland and all EU Member States committed to the Paris Agreement on Climate Action, to take such actions as are necessary to hold the increase in the global average temperature to well below 2°C (3.6°F) above preindustrial levels, while pursuing efforts to limit the increase to 1.5°C (2.7°F).¹⁵²

In 2024, the [Government’s Ireland’s Long-term Strategy on Greenhouse Gas Emissions Reduction](#) stated “emissions from international aviation and from shipping remain outside national emissions targets for EU Member States and are not covered by the Paris Agreement”.¹⁵³ On 5 June 2023, [Directive \(EU\) 2023/958](#) came into force, aiming to limit and reduce carbon emissions from international aviation by requiring airlines to offset emissions that exceed 2019 levels.¹⁵⁴ As part of this aim, by July 2026, the European Commission has

alternative solutions: See O Doyle, *Land use control measures under the Habitats Directive: The application of Articles 6(3) and 6(4) in Ireland*, September 2009, p. 18.

¹⁵² United Nations Climate Change, *The Paris Agreement*, December 2015.

¹⁵³ Government of Ireland, *Ireland’s Long-term Strategy on Greenhouse Gas Emissions Reduction*, 2024, p. 55.

¹⁵⁴ [Directive \(EU\) 2023/958](#), Article 3.

committed to assessing whether more action is required to regulate emissions from international flights, in line with criteria set in the [EU ETS Directive](#).¹⁵⁵

Also, Ireland, as part of the European Civil Aviation Conference, has committed to a need to mitigate the environmental impacts of the aviation sector and the need to achieve a long-term aspirational goal for international aviation of net-zero carbon emissions by 2050, and to strive for further emissions reductions.¹⁵⁶

In the case of [Verein KlimaSeniorinnen Schweiz v Switzerland](#), the European Court of Human Rights (ECtHR) found that bodies of the Swiss Government had failed to uphold obligations under the Swiss Constitution and European Convention on Human Rights (ECHR), by not steering Switzerland onto an emissions reduction trajectory consistent with the goal of keeping global temperatures below 2°C above pre-industrial levels. The ECtHR considered articles 10 (right to life), 73 (sustainability principle), and 74 (environmental protection) of the [Swiss Constitution](#) and articles 2 (right to life) and 8 (right to respect for private and family life) of the [European Convention on Human Rights](#) (ECHR).¹⁵⁷ The case was initiated by a non-profit association (NPA) together with four individuals.

As the individual claimants did not fulfil the victim-status criteria under article 34 of the ECHR the ECtHR declared their complaints inadmissible.¹⁵⁸ However, it did accept the case of the NPA, finding among other things that there had been a violation of the right to respect for private and family life. In particular, the ECtHR held that the Swiss Confederation had failed to comply with its positive obligations concerning climate change. It noted that although the ECHR does not specifically provide general protection of the environment, it does recognise the right of people to live in a safe and healthy environment.¹⁵⁹

The ECtHR was hesitant to specify the means by which the violation should be rectified, but it did indicate that Switzerland:

“... would need to take all suitable measures to allow it to achieve a level of annual emissions compatible with its target of attaining a minimum reduction of 40% in GHG emissions by 2030, and carbon neutrality by 2050.”¹⁶⁰

¹⁵⁵ European Commission: Energy, Climate Change and Environment, [Reducing emissions from aviation](#), webpage last accessed on 12 March 2026.

¹⁵⁶ Department of Transport, [Ireland State Action Plan on the Reduction of CO2 Emissions from Aviation](#), 2025, p. 4.

¹⁵⁷ See also [European Convention of Human Rights Act 2003](#).

¹⁵⁸ [Verein KlimaSeniorinnen Schweiz v Switzerland](#) at [624] – [625].

¹⁵⁹ [Verein KlimaSeniorinnen Schweiz v Switzerland](#) at [445] – [447].

¹⁶⁰ [Verein KlimaSeniorinnen Schweiz v Switzerland](#) at [653].

The Supreme Court considered the *Verein KlimaSeniorinnen* decision in *Coolglass v An Coimisiún Pleanála*.¹⁶¹ The Supreme Court distinguished the ECtHR decision from the case being heard as:

- the Coolglass case had been brought against ACP, and not the State,
- Coolglass did not claim that ACP had itself breached Article 8 of the ECHR, and
- for Article 8 to apply, there needed to be a victim and Coolglass did not claim to be a victim of a violation of Article 8.¹⁶²

It is also noteworthy, that in both the *Coolglass* case and in *Friends of the Irish Environment v Government of Ireland*,¹⁶³ the Court found that the ECHR is not directly applicable to Ireland, it is a treaty that becomes applicable in Ireland through domestic legislation the *European Convention on Human Rights Act 2003* and it is therefore subject to the Constitution. This means that the judicial interpretation of the application of a derived right in the Constitution that protects the family (**Article 41**) would always take precedence over the interpretation of the ECtHR when looking at an equivalent ECHR right (**Article 8**). In the *Friends of the Irish Environment* case, the Supreme Court rejected an argument that there was a specific constitutional right to a clean environment.¹⁶⁴

¹⁶¹ [2026] IESC 5.

¹⁶² *Coolglass v An Coimisiún Pleanála* [2026] IESC 5 at [148] – [153] per O’Donnell CJ.

¹⁶³ [2020] IESC 49.

¹⁶⁴ *Friends of the Irish Environment v Government of Ireland* [2020] IESC 49; *Coolglass v An Coimisiún Pleanála* [2026] IESC 5 at [155] per O’Donnell CJ.

Conclusion

As a small, open, island-economy, Dublin Airport is of strategic importance to the State due to its role as the country's primary international gateway, the contribution it makes to the economy, and the need to maintain international connectivity. It also has a key role to play in relation to sustainable development and the need to consider growth against any potential impact on the environment and on society at large.

The General Scheme of the Dublin Airport (Passenger Capacity) Bill proposes to provide the Minister for Transport with the power to amend or revoke a planning condition that limits passenger capacity at Dublin Airport. The changes, if enacted, may have important implications for the operation of the airport, democratic principles, the protection of the environment, and the welfare of citizens.

There are polarising views in relation to the growth of Dublin Airport and the challenge of trying to balance multiple policy objectives. These include environmental and quality of life considerations as well as balanced regional development. Policymakers and legislators need to carefully consider whether these are compatible and if they can realistically be achieved at the same time.

Appendix 1

Related legislation

Air Navigation and Transport Act 1936

Air Navigation and Transport Act 1946

Air Navigation and Transport Act 1950

Irish Aviation Authority Act 1993

Air Navigation and Transport (Amendment) Act 1998

Planning and Development Act 2000 (the ‘2000 Act’)

Aviation Regulation Act 2001

European Convention on Human Rights Act 2003

State Airports Act 2004

Climate Action and Low Carbon Development Act 2015 (the ‘2015 Act’)

European Communities (Environmental Noise) Regulations 2018 (S.I. 549/2018)

Aircraft Noise (Dublin Airport) Regulation Act 2019 (the ‘2019 Act’)

Planning and Development Act 2024 (the ‘2024 Act’)

Other law

EU

Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (the ‘Slots Regulation’)

European Convention on Human Rights (ECHR)

Regulation (EU) No 598/2014 of the European Parliament and of the Council of 16 April 2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach (the ‘Aircraft Noise Regulation’)

Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (‘EIA Directive’)

Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (‘Birds Directive’)

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (‘Habitats Directive’)

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ('Water Framework Directive')

Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013

Directive 2023/959/EU of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system

Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation)

Treaties

Air Transport Agreement between the European Community and the United States

Agreement on Air Transport between Canada and the European Community and its Member States

Appendix 2

Key policies, plans and schemes in relation to the development of Dublin Airport

Name	Description
<p>2015 National Aviation Policy (NAP): and the First and Second Progress Reports.</p>	<p>The three goals of the NAP are to enhance connectivity in a safe, competitive, cost-effective and sustainable manner, to maximise the contribution of the aviation sector to Ireland’s economic growth and development, and to foster the growth of aviation enterprise in Ireland.</p> <p>The NAP supports the sustainable development of Dublin Airport. The two progress reports on the NAP concluded that the NAP is robust and capable of meeting any unexpected challenges that may affect the industry. That said, the NAP is now over 10 years old.</p>
<p>Programme for Government 2025 – Securing Ireland’s Future (PFG)</p>	<p>The PFG has committed to a review of the NAP to maximise the use of Ireland’s airports in the regions, including Donegal, Ireland West (Knock), Shannon, Cork and Kerry.</p>
<p>UN Sustainable Development Goals (SDGs)</p>	<p>According to the UN, sustainable development may be defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development balances three core elements: economic growth, social inclusion and environmental protection. These elements are interconnected, and all are crucial for the well-being of individuals and societies.</p>
<p>Fingal Development Plan 2023-2029 (FDP)</p>	<p>The FDP recognises residential areas surrounding the airport and considers the impacts on these communities, committing to creating a balance between the further development and operations of Dublin Airport and the needs of neighbouring communities.</p>
<p>Dublin Airport Local Area Plan 2020 (DALAP)</p>	<p>The DALAP provides a detailed framework within which Dublin Airport may employ sustainable airport growth through enhance capacity and the introduction of operational improvements, within the context of recognising the potential impacts on local communities, the environment, supporting infrastructure and surface access. The DALAP was recognised by FCC as being a robust policy framework and has been renewed until 2030.</p>

<p>Project Ireland 2040: National Planning Framework (NPF)</p>	<p>The NPF stresses the need to promote and protect high-quality international connectivity in line with sectoral policies, including the National Aviation Policy. The NPF labels the main airports, including Dublin, Cork, Shannon and Knock, as key infrastructure for national and regional development. The NPF also stresses the importance of regional airports in their role as key travel and enterprise hubs in their respective regions.</p>
<p>Regional Spatial and Economic Strategy 2019-2031 (RSES) of the Eastern and Midland Regional Assembly</p>	<p>The RSES recognises that there is a need to protect and improve access to Dublin Airport and to promote international connectivity through the airport, to enable enterprise and employment growth in the region.</p>
<p>Aircraft Noise Competent Authority (ANCA) Annual Report 2025</p>	<p>The report states ANCA's commitment to delivering an effective noise management framework for Dublin Airport that balances sustainable aviation operations with the social and economic needs of the communities directly impacted by aircraft noise. It also notes that national and local planning policies already support the growth of Dublin Airport and that any change to existing limits would need to be addressed through the established regulatory process.</p>
<p>Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)</p>	<p>This is a market-based global offsetting scheme adopted by members of the International Civil Aviation Organization (ICAO), under which airlines and aircraft operators offset any growth in carbon dioxide emissions above 85% of 2019 levels from 2024 until 2035, with a mind to stabilising and reducing net emissions. CORSIA only applies to international flights. Domestic emissions are covered by the 2015 Paris Agreement.</p>
<p>Regional Airports Programme 2026-2030</p>	<p>The Regional Airports Programme, administered by the Department of Transport, provides capital and operational funding to smaller regional airports. Its objective is to support connectivity and balanced regional development, while seeking to maximise the use of existing capacity at regional airports.</p>

Source: Compiled from various sources by L&RS

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