



Number 24 of 1998

**AIR NAVIGATION AND TRANSPORT (AMENDMENT)
ACT, 1998**

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**AIR NAVIGATION AND TRANSPORT (AMENDMENT)
ACT, 1998**

AN ACT TO PROVIDE FOR THE VESTING OF DUBLIN AIRPORT, SHANNON AIRPORT AND CORK AIRPORT IN AER RIANTA, CUIDEACHTA PHOIBLÍ THEORANTA, THE ASSIGNMENT TO THE SAID COMPANY OF CERTAIN FUNCTIONS HERETOFORE EXERCISED BY THE MINISTER FOR PUBLIC ENTERPRISE RELATING TO THE MANAGEMENT, OPERATION AND DEVELOPMENT OF THOSE AIRPORTS, TO AMEND THE AIR NAVIGATION AND TRANSPORT ACTS, 1936 TO 1988, THE IRISH AVIATION AUTHORITY ACT, 1993, AND OTHER ENACTMENTS, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH. [5th July, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Air Navigation and Transport (Amendment) Act, 1998.

Short title,
collective citation,
collective
construction and
commencement.

(2) The Air Navigation and Transport Acts, 1936 to 1988, and this Act may be cited together as the Air Navigation and Transport Acts, 1936 to 1998, and shall be construed together as one Act.

(3) This Act shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor, either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“the Act of 1919” means the Acquisition of Land (Assessment of Compensation) Act, 1919;

“the Act of 1946” means the Air Navigation and Transport Act, 1946;

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(Amendment) Act, 1998.

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“the Act of 1950” means the Air Navigation and Transport Act, 1950;

“the Act of 1963” means the Companies Act, 1963;

“the Act of 1988” means the Air Navigation and Transport Act, 1988;

“the Act of 1993” means the Irish Aviation Authority Act, 1993;

“aerodrome” has the same meaning as it has in the Air Navigation and Transport Act, 1936;

“aircraft” means a machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface;

“airport” means the aggregate of the lands comprised within an aerodrome and all land owned or occupied by an airport authority, including aircraft hangars, roads and car parks, used or intended to be used in whole or in part for the purposes of or in connection with the operation of such aerodrome;

“airport authority” means the person owning, whether in whole or in part, or managing, either alone or jointly with another person, an airport;

“airport charges” means—

- (a) charges levied in respect of the landing, parking or taking off of aircraft at an aerodrome including charges for air-bridge usage but excluding charges in respect of air navigation and aeronautical communications services levied under section 43 of the Act of 1993,
- (b) charges levied in respect of the arrival at or departure from an airport by air of passengers, or
- (c) charges levied in respect of the transportation by air of cargo, to or from an airport,

as may be appropriate;

“authorised officer” means—

- (a) a member of the Garda Síochána,
- (b) in relation to a State airport—
 - (i) a person, or a person belonging to a class of persons, authorised in writing by the company to perform the functions conferred on an authorised officer by or under this Act or the Act of 1988, or
 - (ii) unless and until the Minister otherwise determines under *subsection (4) of section 48*, a person who immediately prior to the commencement of this section was an authorised officer within the meaning of paragraph (b) of the definition of authorised officer in section 15(1) of the Act of 1950 (as amended by section 25 of the Act of 1988), or

(c) in relation to an airport in the State, other than a State airport, a person, or a person belonging to a class of persons, authorised in writing by the Minister to perform the functions conferred on an authorised officer by or under this Act or the Act of 1988;

“authorised person” means a person appointed in writing by the company to perform the functions conferred on authorised persons by or under this Act;

“the Authority” means the Irish Aviation Authority;

“the Chief Executive” means the chief executive of the company appointed under *section 29*;

“the company” means Aer Rianta, cuideachta phoiblí theoranta;

“the Companies Acts” means the Act of 1963 and every enactment which is to be construed with it as one Act;

“contravene” in relation to a provision of this Act includes, where appropriate, to fail or refuse to comply with that provision and cognate words shall be construed accordingly;

“Eurocontrol” has the same meaning as it has in the Act of 1993;

“functions” includes powers and duties, and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“land” includes land covered by water;

“the Minister” means the Minister for Public Enterprise;

“operator”, in relation to an aircraft, means a person engaged, or proposing to engage, in the operation of aircraft who is for the time being responsible for the management of the aircraft;

“pilot in command”, in relation to an aircraft, means the person who for the time being is lawfully in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“prescribed” means prescribed by regulations under this Act;

“the Principal Act” means the Air Navigation and Transport Act, 1936;

“record” includes, in addition to a record in writing—

(a) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

(b) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and

(c) a photograph;

“registered owner”, in relation to an aircraft, means the person who is registered as the owner of the aircraft in the register established

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(Amendment) Act, 1998.

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under section 9 or 10 of the Act of 1946, section 58 of the Act of 1993, or a corresponding register established in a state other than the State;

“road” has the same meaning as it has in the Roads Act, 1993;

“road authority” has the same meaning as it has in the Roads Act, 1993;

“State airport” means an airport in the State that, on or after the vesting day, is owned, in whole or in part, or managed, either alone or jointly with another person, by the company;

“State authority” means—

(a) a Minister of the Government, or

(b) the Commissioners of Public Works in Ireland;

“subsidiary” means a subsidiary within the meaning of section 155 of the Act of 1963;

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

“terminal services” has the same meaning as it has in the Act of 1993;

“the vesting day” means the day appointed under *section 10* to be the vesting day;

“water right” means a right of impounding, diverting or abstracting water.

(2) A reference in this Act to a Part, section or Schedule is a reference to a Part or section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended.

(3) A reference in this Act to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

(5) Every provision of, or instrument under, this Act or any other enactment relating to a function of the company shall apply in respect of a function of a subsidiary that corresponds to the first-mentioned function in the same manner as it applies to the first-mentioned function.

Regulations, orders and directions.

3.—(1) Every order or regulation made under this Act (other than an order made under *section 1(3)*, *section 10*, *section 25*, or *paragraph 2* or *7* of the *Second Schedule*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next subsequent 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

[1998.] *Air Navigation and Transport* [No. 24.]
(Amendment) Act, 1998.

(2)(a) The Minister may by order amend or revoke an order made by him or her under this Act, (other than an order under *section 1(3)* or *section 10*) including an order under this paragraph. Pt.I S.3

(b) The Minister may by direction amend or revoke a direction given by him or her under this Act, including a direction under this paragraph.

(c) An order or direction under this subsection shall be made or given in the like manner and its making or giving shall be subject to the like (if any) consents and conditions as the order or direction that it is amending or revoking.

(3) Where it is proposed to make an order under *section 25* or an order amending or revoking such an order, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House.

4.—Moneys received by the Minister for Finance under this Act shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct. Disposal of moneys received by Minister.

5.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

6.—(1) The enactments mentioned in the *First Schedule* shall stand repealed as on and from the vesting day to the extent specified in *column (3)* of that Schedule. Repeals.

(2) In so far as any instrument made or other thing whatsoever done under any provision of an enactment repealed by this Act could have been made or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that provision but, if in force immediately before that provision was repealed, shall have effect as if made or done under the corresponding provision of this Act.

7.—(1)(a) A person guilty of an offence under *section 26, 37, 39, 42, 47, 48, 49, 50* or *51* shall be liable— Offences and penalties.

(i) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or to both, or

(ii) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding 2 years, or to both,

(b) A person guilty of an offence under any other provision of this Act shall be liable on summary conviction to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both.

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(2) On conviction on indictment for an offence under this Act the court may, in addition to any other penalty, order any aircraft, apparatus, equipment or other thing used to commit the offence to be forfeited.

(3) An order under *subsection (2)* shall not come into effect until the ordinary time for instituting an appeal against the conviction or order concerned has expired or where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired.

(4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this Act that is not being prosecuted summarily as if, in lieu of the penalties provided for in *subsection (3)(a)* of that section, there were specified therein the penalties provided for in *subsection (1)(a)(i)*, and the reference in *subsection (2)(a)* of the said section 13 to the penalties provided for by *subsection (3)* shall be construed and have effect accordingly.

(5) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of such body corporate or a person who was purporting to act in any such capacity, that officer or person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Proceedings.

8.—(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the company.

(2) Summary proceedings for an offence under *section 34* may be brought and prosecuted by the Minister.

(3) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date on which the offence was committed.

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

(5) References in *section 382* of the Act of 1963 to a “company” shall, for the purposes of this Act, be construed as including references to a body corporate (whether or not a company within the meaning of that section) charged on indictment with an offence under this Act.

PART II

SHARE CAPITAL AND FINANCIAL PROVISIONS

Share capital of company.

9.—(1) The authorised share capital of the company shall be such amount as may be determined from time to time by the Minister for Finance, after consultation with the Minister, divided into shares of £1 each.

(2) Shares in the share capital of the company shall not be issued without the consent of the Minister for Finance given after consultation with the Minister.

10.—(1) The Minister shall by order appoint a day to be the vesting day for the purposes of this Act as soon as practicable following the commencement of this Act.

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Issue of shares by
company to
Minister for
Finance.

(2) The company shall, as soon as may be after the vesting day, in consideration of—

(a) the surrender to the company by the Minister for Finance of all shares held by him or her in the share capital of the company, and

(b) the surrender to the company by the Minister for Finance and the persons who hold shares in trust for him or her in the share capital of the company, of all shares held in trust for the Minister for Finance in the share capital of the company,

issue to the Minister for Finance, without payment by him or her, such number of fully paid-up shares in the share capital of the company as are equal in nominal value to the value of the assets of the company less the liabilities of the company specified in the balance sheet of the company on the vesting day.

(3) The Minister for Finance may, subject to this Act, exercise in respect of the shares of the company held by him or her all of the rights and powers of a holder of such shares and, where a right or power is exercisable by attorney, exercise it by his or her attorney.

(4) The Minister for Finance may, from time to time as occasion requires, for the purpose of compliance with so much of the Companies Acts as requires that there shall always be a minimum number of members of the company, transfer to any person one of his or her shares in the share capital of the company.

11.—(1) A person to whom a share in the share capital of the company is transferred under *section 10(4)* shall hold that share in the company in trust for the Minister for Finance and transfer, as and when required by the Minister for Finance, the share to the said Minister or to a person nominated in that behalf by the said Minister, but shall not transfer or alienate his or her share in the share capital of the company other than in accordance with this subsection.

Obligation of
certain shareholders
to hold shares in
trust.

(2) Where a member of the company dies or otherwise ceases to be a member of the company, the share in the share capital of the company held by such member shall, without the necessity of a transfer, vest in the Minister for Finance.

12.—(1) All amounts representing dividends or other moneys received by the Minister for Finance in respect of shares held by him or her in the share capital of the company, shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

Payment of
dividends, etc. into
Exchequer.

(2) All amounts representing dividends or other moneys received by a person in respect of a share held by him or her, in the share capital of the company, transferred to him or her under *subsection (4)* of *section 10* shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

Pr.II

Borrowing by
company and
subsidiaries.

13.—(1) The company or a subsidiary of the company may, with the consent of the Minister and the Minister for Finance, and upon such terms and conditions as may be approved by the Minister for Finance, raise or borrow money (including money in a currency other than the currency of the State), by means of the issue of debentures or otherwise.

(2) The company or a subsidiary of the company may borrow money temporarily (including money in a currency other than the currency of the State) but the aggregate at any one time of moneys borrowed under this subsection shall not exceed such amount as the Minister, with the consent of the Minister for Finance, by direction specifies.

(3) The terms upon which the company or a subsidiary of the company may borrow moneys may include provisions charging all or part of the moneys borrowed and any related financial obligation, including interest thereon, upon all property, of whatever kind, being the assets for the time being of such body, or upon any particular property, and provisions establishing the priority of such charges among themselves.

(4) For the purposes of this section moneys borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed, such equivalent being calculated according to the rate of exchange, at the time of the borrowing for that currency and the currency of the State.

(5) The aggregate at any one time of moneys borrowed under this section shall not exceed £250 million.

(6) The Minister may, with the consent of the Minister for Finance and after consultation with the company, by order vary the amount specified in *subsection (5)*.

PART III

TRANSFER OF PROPERTY AND CARRYING OUT OF WORKS BY COMPANY

Transfer of land
and other property.

14.—(1) On the vesting day, all lands which immediately before that day were—

(a) vested in the Minister and used or intended to be used in connection with—

(i) a function of the Minister corresponding to a function conferred on the company by *section 16*, or

(ii) the provision of terminal services at an airport,

or

(b) held by the company in trust for the Minister,

(which lands comprise the airports known as Dublin Airport, Cork Airport and Shannon Airport) and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment and, subject to *subsection (2)*, stand vested in the company for all the estate or interest therein which immediately before the vesting day was vested in the Minister but subject to all trusts and equities affecting the lands subsisting and capable of being performed.

(2) *Subsection (1)* shall not operate to vest in the company any minerals or any rights of mining or taking minerals. Pt.III S.14

(3) On the vesting day all property, other than land, including choses-in-action, which immediately before that day was—

(a) vested in the Minister, or

(b) held in trust by the company for the Minister,

and was used or intended to be used in connection with a function of the Minister corresponding to a function conferred on the company by *section 16* shall stand vested in the company without any assignment.

(4) Every chose-in-action vested in the company by virtue of *subsection (3)* may, as on and from the vesting day, be sued on, recovered or enforced by the company in its own name and it shall not be necessary for the company or the Minister to give notice to the person bound by the chose-in-action of the vesting effected by that subsection.

(5) On the vesting day the company shall, in respect of the lands and other property vested in the company under this section, pay to the Minister for Finance such amount as the Minister for Finance, with the consent of the Minister, may determine.

15.—(1) All rights and liabilities of the Minister arising by virtue of any contract or commitment (expressed or implied) entered into by him or her before the vesting day in relation to a function of the Minister corresponding to a function conferred on the company by *section 16* shall on that day stand transferred to the company.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by Minister.

(2) Every right and liability transferred by *subsection (1)* to the company may, on and after the vesting day, be sued on, recovered or enforced by or against the company in its own name and it shall not be necessary for the company or the Minister to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(3) Every lease, licence, wayleave or permission granted by the Minister in relation to land or other property vested in the company by or under this Act, and in force immediately before the vesting day, shall continue in force as if granted by the company.

16.—(1) The company shall manage and develop the airports vested in it by *section 14* and any other airport that may from time to time be established or owned by the company pursuant to *subsection (3)*.

Power of company to manage, develop and establish airports.

(2) The company shall ensure the provision of such services and facilities as are, in the opinion of the company, necessary for the operation, maintenance and development of a State airport, including roads, bridges, tunnels, approaches, water supply works and water-mains, gasworks and gas pipelines, sewers and sewage disposal works, electric lines, telecommunications facilities, lights and signs, apparatus, equipment, buildings and accommodation of whatever kind.

(3) The company may, with the consent of the Minister given after consultation with the Minister for Finance and subject to such conditions as the Minister may determine, establish a new airport or become the owner in whole or in part or manager of an existing airport.

Pr.III S.16

(4) Where the Authority ceases to provide terminal services at a State airport the company shall, with the consent of the Authority, ensure the provision of those services at such airport.

(5) The Authority shall not unreasonably withhold its consent under *subsection (4)*.

(6) In *subsection (3)* a reference to an airport includes a reference to an airport outside the State.

Acquisition of land by company.

17.—(1) The company may acquire by agreement or, in accordance with the *Second Schedule*, compulsorily, any land, easement, interest in or other right over land, or any water right, for any one or more of the purposes described in *section 18*.

(2) Notwithstanding the provisions of *subsection (1)*, the company may acquire by agreement or, in accordance with the *Second Schedule*, compulsorily, any land, easement, interest in or other right over land, or any water right not immediately required for a purpose described in *section 18*, where the Minister is of opinion that there is a reasonable expectation that the land will be required by the company in the future for any one or more of the purposes described in the said section.

(3) Notwithstanding the provisions of any other Act, no person shall be entitled to acquire compulsorily any land, easement, interest in or other right in respect of land belonging to the company, or to alienate, terminate, restrict or otherwise interfere with, without the agreement of the company, any right of the company in respect of such land.

(4) The company shall not be entitled to acquire compulsorily any land, easement or other right belonging to the State or a State authority.

Purposes for which land may be acquired by company.

18.—The purposes for which land may be acquired under *section 17* are as follows:

- (a) to extend or develop an airport belonging to the company or establish an airport;
- (b) to secure that any land adjacent to any of the State airports shall not be used in such manner as would interfere with, or cause danger or damage to aircraft at, approaching or leaving such airport;
- (c) to alter or demolish any building or installation which, in the opinion of the company, is likely to obstruct or otherwise interfere with the navigation of aircraft using a State airport;
- (d) to develop civil aviation at a State airport;
- (e) to carry out the principal objects of the company.

[1998.] *Air Navigation and Transport* [No. 24.]
(Amendment) Act, 1998.

19.—(1) Subject to *subsection (2)*, an authorised person may enter on any land, with or without vehicles, for the purpose of—

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Right of entry on
land by company.

- (a) carrying out on such land a survey, inquiry, investigation or examination preliminary or incidental to the acquisition of such land,
- (b) carrying out a survey on any land which adjoins or is in the vicinity of land acquired by the company or the acquisition of which is contemplated by the company,
- (c) maintaining buildings or facilities, whether situated on that land or not, provided by the company for the safety and efficiency of air transport,
- (d) carrying out on such land any inquiry, investigation or examination or rendering assistance in the event of an accident or incident involving an aircraft occurring on such land or on land adjoining or in the vicinity of such land, or
- (e) enabling the company to carry out any of its functions.

(2) The company shall give reasonable notice to the owner or occupier of land where it is intended that an authorised person shall enter such land for a purpose described at *paragraph (a), (b), (c) or (e)* of *subsection (1)*.

(3) Where damage to property occurs in the exercise of a power to enter land under this section the company shall pay such compensation in respect of such damage to the owner of the property as it considers reasonable.

(4) Where there is a dispute as to—

- (a) whether compensation is payable under this section,
- (b) the reasonableness of such compensation, or
- (c) the person to whom such compensation is payable,

the matter shall be referred to an arbitrator appointed under the Act of 1919 and be determined by him or her under and in accordance with that Act.

20.—(1) The company may sell water from any water supply works maintained by it.

Power to sell water.

(2) Notwithstanding anything contained in the Waterworks Clauses Act, 1847, or the Waterworks Clauses Act, 1863, the company may, from water supplied to it by a sanitary authority, sell the water so supplied with the consent of that sanitary authority to any person and, for that purpose, may affix pipes and apparatus to any pipes used for the conveyance of the water supplied by that sanitary authority.

21.—(1) The company may, in exercise of the functions assigned to it by *section 16*, compulsorily acquire, open, break up, divert, close, remove, alter the level of, or otherwise interfere with, any public road, approach, bridge or tunnel.

Protection of public
roads, bridges and
tunnels.

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(2) If and whenever the exercise by the company of functions conferred on it by *section 16* involves the closure to traffic of any public road, approach, bridge or tunnel the company shall, with the prior consent in writing of the relevant road authority, either—

- (a) construct and maintain a temporary road, approach, bridge or tunnel (whether on land owned by the company or not) in the immediate vicinity of such public road, approach, bridge or tunnel or at some other convenient location capable of carrying, for the duration of such closure, traffic of such volume and character as would normally use the said public road, approach, bridge or tunnel, or
- (b) prescribe an alternative route to be used by traffic for the duration of such closure.

(3) The company shall, at or before the completion of such works giving rise to a closure referred to in *subsection (1)*, with the prior consent in writing of the relevant road authority, do one or more of the following things, that is to say—

- (a) restore the closed road, approach, bridge or tunnel,
- (b) construct a new permanent road, approach, bridge or tunnel in the same or some other convenient location capable of carrying traffic of such volume and character as the said public road, approach, bridge or tunnel was, before its closure, capable of carrying and not substantially less convenient in gradient and curve than such closed road, approach, bridge or tunnel, or
- (c) improve (by reconstruction, widening or otherwise) an existing alternative road, approach, bridge or tunnel so that it will be capable of carrying the traffic which is likely to use it and will not be substantially less convenient in gradient and curve than the said closed public road, approach, bridge or tunnel.

(4) Where the company constructs a permanent road, approach, bridge or tunnel conferring substantially greater advantage on users than the original public road, approach, bridge or tunnel, such road authority or road authorities as the Minister for the Environment and Local Government shall direct shall bear and pay to the company such portion of the cost of the construction of such road, approach, bridge or tunnel and, in the case of two or more such road authorities, in such proportions as the said Minister, after consultation with the company, shall direct.

(5) Where the construction of a new road or approach by the company involves the construction of an embankment or similar work or of a bridge or tunnel and the Minister for the Environment and Local Government is of the opinion that part of the cost of maintaining such embankment, similar work, bridge or tunnel (other than the road surface) should be borne by the company, the company shall pay such portion of the said cost as the said Minister, after consultation with the company, directs.

(6) A consent in writing under this section shall not be unreasonably withheld and may be given subject to such conditions as are specified in the consent.

(7) The company may enter into an agreement with a road authority for the doing by such road authority of anything which the company is authorised by *subsection (1)* to do and may further agree to make to such road authority payment for or towards the cost of the doing of such thing by such road authority. Pt.III S.21

PART IV

ADMINISTRATION OF COMPANY

22.—(1) The company and its subsidiaries shall take such steps as may be necessary under the Companies Acts to alter their memoranda and articles of association for the purpose of making them consistent with this Act. Memorandum and articles of association.

(2) Notwithstanding anything contained in the Companies Acts, no alteration in the memorandum or articles of association of the company shall be valid or effectual unless made with the prior approval of the Minister given with the consent of the Minister for Finance.

(3) The articles of association of the company shall provide that—

- (a) the number of directors of the company shall be not more than 9;
- (b) each such director shall be appointed by the Minister with the consent of the Minister for Finance;
- (c) each such director shall be appointed for a period not exceeding 5 years and shall be eligible for reappointment;
- (d) three of the directors of the company shall be persons appointed under the Worker Participation (State Enterprises) Acts, 1977 to 1993, who are willing to accept office;
- (e) each such director may be removed from office by the Minister with the consent of the Minister for Finance;
- (f) each such director shall hold office upon such terms and conditions as the Minister may, with the consent of the Minister for Finance, determine;
- (g) the company or a subsidiary of the company shall not establish or acquire a subsidiary, or guarantee the borrowings or liabilities of a subsidiary, without the approval of the Minister given with the consent of the Minister for Finance;
- (h) the aggregate amount standing invested (whether by the purchase of shares or the provision of loans or guarantees of loans) by the company and its subsidiaries in undertakings (other than subsidiaries of the company) shall not exceed such amount as may be determined by the Minister from time to time with the approval of the Minister for Finance.

(4) A reference in *paragraph (b)* of *subsection (3)* shall not include a reference to an employee director.

[No. 24.] *Air Navigation and Transport* [1998.]
(Amendment) Act, 1998.

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(5) Notwithstanding anything contained in this section, a person who immediately before the commencement of this Act held office as a director of the company shall, subject to *section 33* and the terms and conditions upon which he or she was appointed, continue in office as such director until the expiration of the period for which he or she was appointed, as if this Act had not been passed.

Principal objects of company.

23.—(1) The principal objects of the company shall be, and shall be stated in its memorandum of association to be—

- (a) to own, either in whole or in part, or manage, alone or jointly with another person, airports whether within the State or not,
- (b) to take all proper measures for the safety, security, management, control, regulation, operation, marketing and development of its airports,
- (c) to provide such facilities, services, accommodation and lands at airports owned or managed by the company for aircraft, passengers, cargo and mail as it considers necessary,
- (d) to promote investment at its airports,
- (e) to engage in any business activity, either alone or in conjunction with other persons and either within or outside the State, that it considers to be advantageous to the development of the company, and
- (f) to utilise, manage and develop the human and material resources available to it in a manner consistent with the objects aforesaid.

(2) Nothing in this section shall prevent or restrict the inclusion among the objects of the company as stated in its memorandum of association of all such objects and powers as are reasonably necessary or proper for, or incidental or ancillary to, the due attainment of the principal objects of the company and are not inconsistent with this Act.

(3) The company shall have power to do anything which appears to it to be requisite, advantageous or incidental to, or which appears to it to facilitate, either directly or indirectly, the performance by it of its functions as specified in this Act or in its memorandum of association and is not inconsistent with any enactment for the time being in force.

General duties of company.

24.—(1) It shall be the general duty of the company—

- (a) to conduct its affairs so as to ensure that the revenues of the company are not less than sufficient taking one year with another to—
 - (i) meet all charges which are properly chargeable to its revenue account,
 - (ii) generate a reasonable proportion of the capital it requires, and
 - (iii) remunerate its capital and pay interest on and repay its borrowings,

[1998.] *Air Navigation and Transport* [No. 24.]
(Amendment) Act, 1998.

- (b) to take such steps either alone or in conjunction with other persons as are necessary for the efficient operation, safety, management and development of its airports, Pt.IV S.24
- (c) to conduct its business at all times in a cost-effective manner, and
- (d) to regulate operations within its airports.

(2) Nothing in *section 23*, this section or the memorandum of association of the company shall be construed as imposing on the company, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

(3) In carrying out its functions, the company shall have regard to—

- (a) the development of air transport,
- (b) any policy, financial or other guidelines given by the Minister to the company, in relation to the functions conferred on the company by or under this Act, and
- (c) the safety standards in relation to the operation of aircraft and air navigation applied and enforced by the Authority.

25.—(1) The Minister may, with the consent of the Minister for Finance, and after consultation with such other Minister of the Government (if any) as he or she considers appropriate, by order, confer on the company such additional functions connected with the functions for the time being of the company as he or she thinks fit subject to such conditions (if any) as may be specified in the order. Conferral of additional functions on company.

(2) An order under this section may contain such incidental and supplementary provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

26.—(1) The company may appropriate any part of an airport vested in it by *section 14* or owned or managed by the company in accordance with *section 16* to the use of any person for the purposes of any trade, profession or other activity in consideration of the payment to it of such charges and in accordance with such conditions as the company considers reasonable. Appropriation of part of company's airports to use of other persons.

(2) No person shall be entitled to engage in any trade or profession in an airport referred to in *subsection (1)* without the consent of the company.

(3) A person who contravenes *subsection (2)* shall be guilty of an offence.

27.—(1) The chairperson of the board of directors of the company (hereafter referred to in this Act as “the chairperson”) shall be appointed by the Minister, with the consent of the Minister for Finance. Chairperson of board of directors.

(2) The chairperson shall be appointed for a period not exceeding 5 years and shall be eligible for reappointment.

[No. 24.] *Air Navigation and Transport* [1998.]
(Amendment) Act, 1998.

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(3) The chairperson may be removed from office at any time by the Minister with the consent of the Minister for Finance.

(4) The chairperson shall hold office upon such terms and conditions as the Minister may, with the consent of the Minister for Finance, determine.

(5) A person who immediately before the commencement of this Act held office as chairperson (whether so described or otherwise) of the company shall, subject to the terms and conditions upon which that person was appointed, continue in office as such chairperson until the expiration of the period for which that person was appointed as if this Act had not been passed.

Directors and chairpersons of subsidiaries of the company.

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

(2) Notwithstanding anything contained in the Companies Acts, the chairperson (whether so described or otherwise) may, on his or her own nomination, and, with the consent in writing of the Minister, be appointed to be chairperson of a subsidiary and may be removed from office by the Minister.

(3) A person who immediately before the commencement of this Act held office as a director or chairperson (whether so described or otherwise) of the board of directors of a subsidiary shall, subject to *section 33* and the terms and conditions upon which that person was appointed, continue in office as such director or chairperson until the expiration of the period for which that person was appointed director or chairperson as if this Act had not been passed.

(4) For the purposes of this section, “subsidiary” means a company all of the issued shares in the share capital of which are held by or on behalf of the company.

Chief Executive.

29.—(1) There shall be a chief executive of the company (who shall be known as and is referred to in this section as “the Chief Executive”).

(2) The Chief Executive shall be appointed and may be removed from office by the directors of the company.

(3) Notwithstanding anything contained in this section, the person who immediately before the commencement of this Act held office as the Chief Executive of the company shall continue in office as such Chief Executive until the expiration of the period for which that person was appointed as if this Act had not been passed.

(4) The Chief Executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the directors of the company with the consent of the Minister given with the approval of the Minister for Finance.

(5) The Chief Executive shall be *ex officio* a director of the company.

30.—(1) Without prejudice to the requirements of the Companies Acts in relation to balance sheets and accounts, the company shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of all money received by or expended by it, including a profit and loss account, an account showing the derivation of the funds of the company and the purposes to which they are applied (referred to in *subsection (2)* as “the cash flow statement”) and a balance sheet and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister may from time to time direct.

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Accounts and
audits.

(2) Accounts kept in pursuance of *subsection (1)* shall be submitted annually by the company to an auditor for audit and, immediately after such audit, copies of the profit and loss account, the cash flow statement, the balance sheet, such other (if any) of the accounts kept by the company as the Minister may direct, the auditor’s report on the accounts and the directors’ report to the shareholders for the accounting year in question, shall be presented by the company to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

(3) The company shall, if so required by the Minister, furnish to the Minister such information as he or she may require in respect of any balance sheet or other account or any report of the company or any of its subsidiaries or in relation to the policy and operations (other than day-to-day operations) of the company or any of its subsidiaries.

31.—(1) The chairperson shall, immediately after an audit referred to in *subsection (2)* of *section 30*, make a report in writing to the Minister of the company’s activities and those of any subsidiaries during that year.

Chairperson’s
report.

(2) A report under this section shall include—

- (a) a statement of all significant developments involving the company which occurred in that year (including the acquisition of shares or establishment of subsidiaries by the company),
- (b) a description of the matters the chairperson anticipates will arise in the accounting year next following the said year (or, where the chairperson considers it appropriate in any particular case, any subsequent accounting year) which may affect the company to any significant extent,
- (c) a statement, to the best of the chairperson’s knowledge or belief, as to whether each of the following, as respects the company, has been complied with or adhered to, that is to say—
 - (i) the requirements of this Act, or any other enactment in relation to the accounts of the company and statements as to the financial affairs of the company,
 - (ii) guidelines issued by the Government, the Minister or the Minister for Finance in relation to the accounts of State enterprises or statements in respect of the financial affairs of the company,

(iii) *section 34*,

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- (iv) any code of conduct for the directors and members of staff of State enterprises issued by the Government, the Minister or the Minister for Finance,
 - (v) regulations for the time being in force under the European Communities Act, 1972, or guidelines issued by the Government, the Minister or the Minister for Finance, in relation to the entering by a public authority into a contract with any person for the provision of goods or services by that person to such authority,
 - (vi) any guidelines issued by the Government, the Minister or the Minister for Finance in relation to the remuneration to be paid by State enterprises to their chief executives,
- (d) where anything referred to in *paragraph (c)* is stated not to have been complied with, an explanation (so far as the chairperson is in a position to give one) as to why there was a failure to comply with it.

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

Superannuation schemes.

32.—(1) The company may prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the company or subsidiaries of the company (including the Chief Executive) as it may think fit, and such scheme shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the company in accordance with its terms.

(2) Every scheme to which *subsection (1)* relates shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) Every scheme under this section, including a scheme under this subsection, may be amended or revoked by a subsequent scheme prepared, submitted and approved in the like manner as a scheme to which *subsection (1)* relates.

(4) A scheme prepared and submitted by the company under *subsection (3)* shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the company in accordance with its terms.

(5) Nothing in this section shall be deemed to invalidate an existing scheme.

(6) A scheme amending or revoking an existing scheme shall not be carried out by the company unless it has been approved by the Minister with the consent of the Minister for Finance.

(7) No superannuation benefit shall be granted by the company nor shall any other arrangements be entered into by the company for the provision of such a benefit to or in respect of a member of the staff of the company or a subsidiary of the company otherwise than—

- (a) in accordance with a scheme under this section or an existing scheme, or
- (b) with the approval of the Minister given with the consent of the Minister for Finance.
- (8) The company shall, on the commencement of a scheme under *subsection (1)*, establish a fund (in this section referred to as the “new fund”), administered by trustees who shall be appointed by the company, from which superannuation benefits payable under such scheme shall be paid.
- (9) On the commencement of a scheme under *subsection (1)* (in this section referred to as the “new scheme”)—
- (a) those members and former members of the staff of the company or subsidiaries of the company who immediately before such commencement were members of the old scheme shall become and be members of the new scheme and shall cease to be members of the old scheme,
- (b) an amount bearing the same proportion to the assets of the old scheme as, in the opinion of the trustees of the old scheme on the advice of the actuary of the old scheme, the liabilities under the old scheme—
- (i) in respect of the members of the old scheme referred to in *paragraph (a)*, and
- (ii) in respect of deceased members,
- bear to the total liabilities under the old scheme, shall be transferred by the said trustees from the old fund to the new fund, and
- (c) any period of service by a person with the company or a subsidiary of the company which was a period of reckonable service for the purposes of the old scheme shall be regarded as a period of reckonable service for the purposes of the new scheme.
- (10) Superannuation benefits granted under the new scheme to persons who immediately before the commencement of such scheme were members of the old scheme and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled under the old scheme.
- (11) (a) Where a dispute arises between the trustees of the old scheme and the company or other company participating in the old scheme as to the amount transferred from the old fund to the new fund under *subsection (9)(b)*, or as to the manner in which such amount has been calculated, the matter may be referred to a person who shall be nominated by the parties to the dispute or, if they are unable to agree as to the person to be nominated for that purpose, to a person who shall be nominated by the Minister.
- (b) The decision of a person nominated under *paragraph (a)* shall be final.

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(12) The spouse, child or dependant of a deceased member who immediately before the commencement of the new scheme was entitled to receive superannuation benefits under the old scheme shall be entitled to receive superannuation benefits under the new scheme on terms and conditions not less favourable to such spouse, child or dependant than those applicable to him or her under the old scheme.

(13) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

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

(15) The trustees of the old scheme shall, as soon as is practicable after the commencement of the new scheme but subject to the approval of the Minister with the consent of the Minister for Finance, make such amendments to the old scheme as they deem necessary arising out of the operation of this section.

(16) In this section—

“deceased member” means, subject to *subsection (17)*, a deceased member of the old scheme who was a member of the staff of the company or a subsidiary of the company;

“existing scheme” means—

- (a) the old scheme, or
- (b) a scheme for the granting of superannuation benefits to or in respect of any members of the staff of Aer Rianta International cuideachta phoiblí theoranta or Great Southern Hotels Limited, in operation at the commencement of this Act, and includes, where the context so admits, a reference to that scheme as amended by a scheme to which *subsection (6)* relates,

as may be appropriate;

“the old fund” means the fund established in respect of the old scheme;

“the old scheme” means the scheme for the granting of superannuation benefits, to or in respect of any members of the staff of the company or a subsidiary of the company (other than Aer Rianta International cuideachta phoiblí theoranta or Great Southern Hotels Limited), in operation at the commencement of this Act and includes, where the context so admits, a reference to that scheme as amended by a scheme to which *subsection (6)* relates.

(17) In this section, a reference to former members of the staff of the company or subsidiaries of the company, or deceased members, shall not include a reference to such former members or deceased members, as the case may be, who after ceasing to be members of the staff of the company or a subsidiary of the company became and were members of the staff of a company, other than the company or a subsidiary of the company, participating in the old scheme.

[1998.] *Air Navigation and Transport* [No. 24.]
(Amendment) Act, 1998.

33.—(1) Where a director of the company or a subsidiary of the company is—

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Membership of
either House of
Oireachtas or
European
Parliament.

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or
- (c) regarded pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to such Parliament to fill a vacancy,

he or she shall thereupon cease to be a director of the company or subsidiary of the company, as the case may be.

(2) Where a person employed by the company or a subsidiary of the company is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or
- (c) regarded pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to such Parliament to fill a vacancy,

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

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

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

34.—(1) Where at a meeting of the directors of the company or of any subsidiary thereof any of the following matters arises, namely—

Disclosure by
directors of certain
interests.

- (a) an arrangement to which the company or a subsidiary of the company is a party or a proposed such arrangement,
- (b) a contract or other agreement with the company or a subsidiary of the company or a proposed such contract or other agreement,

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- (c) the giving, grant or renewal by the company or a subsidiary of the company of a certificate, lease, licence, authorisation or instrument of approval, or
- (d) the revocation, cancellation, withdrawal, suspension or endorsement by the company or a subsidiary of the company of a certificate, licence, authorisation or instrument of approval,

then, any director of the company or the first-mentioned subsidiary present at the meeting who otherwise than in his or her capacity as such a director is in any way, whether directly or indirectly, interested in the matter shall—

- (i) at the meeting disclose to the company or first-mentioned subsidiary the fact of such interest and the nature thereof,
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
- (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
- (iv) take no part in any deliberation of the directors relating to the matter, and
- (v) not vote on a decision relating to the matter.

(2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) Where at a meeting of the directors of the company or a subsidiary of the company a question arises as to whether or not a course of conduct, if pursued by a director of the company or the subsidiary of the company, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(4) Where the Minister is satisfied that a director has contravened *subsection (1)*, the Minister may, if he or she thinks fit, and with the consent of the Minister for Finance, remove that director from office and, in case a person is removed from office pursuant to this subsection, he or she shall thenceforth be disqualified from being a director of the company or a subsidiary of the company.

(5) Section 194 of the Act of 1963 shall not apply to a director of the company or a subsidiary of the company.

(6) A person who fails to comply with this section shall be guilty of an offence.

(7) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

35.—(1) Where a member of the staff of the company or of a subsidiary of the company has an interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the company or the subsidiary is a party or in a matter referred to in *paragraph (c) or (d) of subsection (1) of section 34*, that person shall—

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Disclosure by
members of staff of
certain interests.

- (a) disclose to the company or the subsidiary, as the case may be, his or her interest and the nature thereof,
- (b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by directors or members of the staff of the company or the subsidiary in relation thereto or in relation to the matter aforesaid, and
- (c) neither influence nor seek to influence a decision to be made in the matter nor make any recommendation in relation to the contract, agreement or arrangement or the matter aforesaid.

(2) *Subsection (1)* shall not apply to contracts or proposed contracts of employment of members of the staff of the company with the company or of members of the staff of a subsidiary of the company with that subsidiary.

(3) A person who fails to comply with this section shall be guilty of an offence.

36.—(1) A person shall not disclose confidential information obtained by him or her while performing duties as a director or member of the staff of, adviser or consultant to, the company or a subsidiary of the company unless he or she is duly authorised by the company or the subsidiary, as the case may be, to do so.

Prohibition of
unauthorised
disclosure of
confidential
information.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) In this section “confidential information” includes—

- (a) information that is expressed by the company or the subsidiary concerned to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature or tenders submitted to the company by contractors, consultants or any other person.

37.—(1) A person who communicates with a director or member of the staff of, or a consultant or adviser to, the company or a subsidiary of the company for the purpose of influencing improperly his or her consideration of any matter which falls to be considered or decided by the company or subsidiary, as the case may be, shall be guilty of an offence.

Prohibition of
certain
communications.

(2) If a person to whom a communication is made is of the opinion that that communication is in contravention of *subsection (1)*, it shall be his or her duty not to entertain the communication further and he or she shall inform forthwith the chairperson in writing of the substance of such communication and the chairperson shall acknowledge in writing the receipt of such information.

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Giving of directions
by Minister to
company.

38.—(1) The Minister may give a direction in writing to the company requiring it—

- (a) to comply with policy decisions of a general kind made by the Minister in relation to the functions assigned to the company by or under this Act, or
- (b) to do or refrain from doing anything to which a function of the company relates, the doing, or refraining from doing of which is, in the opinion of the Minister, necessary or expedient in the national interest.

(2) If the company considers that compliance by it with a direction under *subsection (1)* would adversely affect the safety of aircraft it shall so inform the Minister and the Authority.

(3) The Minister shall, in amending or revoking a direction under this section, have regard to any information received by him or her under *subsection (2)*.

(4) The company shall comply with a direction under this section.

PART V

PROVISIONS IN RELATION TO REGULATION OF AIRPORTS

Airport charges.

39.—(1) The company may require the payment to it of airport charges, in respect of the use of a State airport, at such rates as it may, from time to time, with the approval of the Minister, determine.

(2) Liability for the payment of any charge payable by virtue of *subsection (1)*, together with interest on such charges in respect of any period during which the charges were due but not paid, may be imposed upon the operator or registered owner of an aircraft, whether such aircraft is registered in the State or is not so registered, or upon both those persons.

(3) For the purpose of facilitating the assessment and collection of charges payable by virtue of *subsection (1)* the operator or registered owner of an aircraft shall—

- (a) make such records of the movement of aircraft, the tonnage, class and description of aircraft, the number of passengers or volume and types of cargo carried thereon and such other particulars relating to aircraft, passengers or cargo as the company may specify,
- (b) preserve all records to which this subsection applies for such period as may be specified by the company,
- (c) produce records to which this subsection applies for inspection by an authorised person, at such times as required to so do by an authorised person, and
- (d) furnish to the company such particulars of any such records as the company may specify.

(4) (a) Without prejudice to *section 40*, charges payable to the company by virtue of *subsection (1)*, together with interest on such charges in respect of any period during which the charges were due but not paid, shall be recoverable by the company as a simple contract debt in any court of competent jurisdiction.

(b) The reference in *paragraph (a)* to charges payable to the company includes a reference to any balance of an amount of such charges remaining due to the company after it has sold an aircraft under *section 40* to satisfy those charges. Pt.V S.39

(5) (a) An operator or registered owner of an aircraft who refuses or fails to furnish the company with any record referred to in *subsection (3)* when requested by the company to do so shall be guilty of an offence.

(b) An operator or registered owner of an aircraft who defaults in the payment of charges imposed by the company under *subsection (1)* shall, without prejudice to any proceedings or steps taken or to be taken for the purpose of recovering the charges under *subsection (4)* or *section 40*, be guilty of an offence.

(6) The Public Offices (Fees) Act, 1879, shall not apply in respect of airport charges.

40.—(1) Where a person (in this section referred to as “the defaulter”) defaults in paying charges imposed by the company under *section 39*, the company may, subject to the provisions of this section, detain, pending payment of such charges— Detention and sale of aircraft for unpaid airport charges.

(a) the aircraft in respect of which the charges were incurred (whether or not they were incurred by the person who is the operator or the registered owner of the aircraft at the time when detention commences), or

(b) any other aircraft of which the defaulter is the operator or the registered owner,

and if the charges are not paid within 56 days of the date when the detention commences, sell, subject to *subsection (4)*, the aircraft in order to satisfy the charges.

(2) The company shall not detain or continue to detain an aircraft under *subsection (1)* if the operator or registered owner of the aircraft or any person claiming an interest in the aircraft claims that the charges concerned, or any of them, are not due, and gives the company, pending the determination of the question as to whether or not the charges are due, sufficient security as determined by the company for the payment of the charges which the company alleges are due.

(3) For the purpose of effecting the detention of an aircraft under *subsection (1)*, an authorised person may enter the aircraft and do all things in relation to the aircraft necessary for or incidental to the said purpose.

(4) If the company proposes to sell an aircraft that it has detained under *subsection (1)*, it shall apply to the High Court for leave to sell the aircraft and the High Court shall give such leave on it being established that—

(a) a sum is due to the company for airport charges,

(b) default has been made in the payment thereof, and

Pr.V S.40

- (c) the aircraft that the company seeks leave to sell is liable to sale under *subsection (1)* by reason of the said default.
- (5) (a) If the company proposes to apply for leave to sell an aircraft under *subsection (4)*, it shall take such steps as are practicable for bringing the proposed application to the notice of persons whose interests are likely to be affected by the determination of the court thereon.
- (b) Failure by the company to comply with a requirement of this subsection in respect of any sale shall not, after the sale has taken place, be a ground for impugning the validity of such sale, but this paragraph shall not prejudice any action for damages against the company by a person suffering loss in consequence of a failure aforesaid.
- (6) The following provisions shall have effect in respect of an order of a court granting leave under *subsection (4)* for the sale of an aircraft (in this subsection referred to as “the order”) and the sale of the aircraft on foot of such order:
- (a) the order shall contain a declaration that the company shall have the right to transfer the aircraft and the company shall by virtue of such declaration be entitled to transfer the aircraft in the same manner and to the same extent as if it were the owner thereof;
- (b) the sale shall operate to vest the aircraft in the purchaser freed of all mortgages, liens, charges or other interests therein whatsoever, and the purchaser shall not require any other evidence of the title to the aircraft than a copy, certified by the company, of the order.
- (7) Where the company sells an aircraft, registered under section 9 or 10 of the Act of 1946 or section 58 of the Act of 1993, in accordance with this section it shall, by notice in writing, inform the Authority of the sale and such notice shall contain particulars of the sale.
- (8) If the company sells an aircraft under this section it shall ensure that the aircraft is sold for the best price that can reasonably be obtained.
- (9) The proceeds of a sale under this section shall be applied as follows, and in the following order, that is to say—
- (a) in payment of any duty (whether of customs or excise) or value-added tax chargeable on the aircraft, in the State,
- (b) in payment of the expenses incurred by the company in detaining, keeping and selling the aircraft (including the expenses in connection with any application to a court under *subsection (4)*),
- (c) in payment, in accordance with *subsection (10)*, of—
- (i) the airport charges found to be due by the defaulter to the company, on an application under *subsection (4)*, and
- (ii) charges under section 43 or 44 of the Act of 1993 that a court has found to be due by the defaulter to the Authority, Eurocontrol or the Minister,

and the surplus, if any, of such proceeds shall be paid to the person or persons whose interest or interests in the aircraft have been divested. Pt.V S.40

(10) The proceeds of a sale under this section shall, in payment of the charges referred to in *paragraph (c)* of *subsection (9)*, be applied, as between those charges, in such amounts as are proportionate to the sums owing in respect of those charges.

(11) The power of detention and sale conferred by this section in respect of an aircraft shall extend to the equipment of the aircraft and any stores for use in connection with the operation of the aircraft (being equipment and stores carried in an aircraft) whether or not such equipment or stores is or are the property of the person who is the registered owner or operator of the aircraft and accordingly references to an aircraft in *subsections (1) to (9)* shall include, except where the context otherwise requires, references to any such equipment and stores.

(12) The power of detention conferred by this section in respect of an aircraft shall extend to any aircraft documents, and any such documents may, if the aircraft is sold under this section, be transferred by the company to the purchaser of the aircraft.

(13) Nothing in this section shall prejudice any right of the company to recover airport charges or any part thereof, by action.

(14) In this section “aircraft documents” means certificates, records or other documents relating to the use of an aircraft or its equipment, including any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document, and includes any record required to be made by virtue of regulations under section 43 of the Act of 1993.

41.—(1) Where an aircraft is left at a State airport and the company is of opinion that it has been abandoned, the company shall serve a notice in writing on the registered owner or operator of the aircraft requiring either or both of them, within a period specified in the notice, to remove the aircraft from the airport. Abandoned aircraft.

(2) A notice under *subsection (1)* shall state that failure to comply with the notice shall be an offence and that the company may, where the notice is not complied with, remove, sell or otherwise dispose of the aircraft to which the notice relates.

(3) A person who fails to comply with a requirement in a notice under *subsection (1)* shall be guilty of an offence.

(4) Subject to the provisions of this section, the company may after the expiration of the period specified in a notice under *subsection (1)* remove, sell or otherwise dispose of an aircraft to which the notice relates.

(5) A sale under this section shall operate to vest the aircraft in the purchaser freed of all mortgages, liens, charges or other interests therein whatsoever.

(6) Where the company sells an aircraft, registered under section 9 or 10 of the Act of 1946 or section 58 of the Act of 1993, in accordance with this section, it shall, by notice in writing, inform the Authority of the sale and such notice shall contain particulars of the sale.

Pr.V S.41

(7) The proceeds of any sale under this section shall be applied as follows and in the following order, that is to say—

- (a) in payment of any duty (whether of customs or excise) or value-added tax chargeable on the aircraft, in the State,
- (b) in payment of any expenses incurred by the company in the exercise of its functions under this section,
- (c) in payment, in accordance with *subsection (8)*, of—
 - (i) any airport charges owed to the company by the operator or registered owner of the aircraft to which the sale concerned related, and
 - (ii) any charges under section 43 or 44 of the Act of 1993 owed to the Authority, Eurocontrol or the Minister by the registered owner or operator of such an aircraft.

(8) The proceeds of a sale under this section shall, in payment of the charges referred to in *paragraph (c)* of *subsection (7)*, be applied, as between those charges, in such amounts as are proportionate to the sums owing in respect of those charges.

(9) The company shall, after the application of the proceeds of a sale of an aircraft under this section, retain the balance (if any) of such proceeds until claimed by the registered owner of the aircraft or a person authorised by the registered owner to so claim, but if the said balance remains unclaimed for a period of 6 months from the date of the application of such proceeds in accordance with *subsection (7)*, the said balance shall become the property of the company.

(10) A person who obstructs or impedes the company or its servants or agents in the exercise of the functions conferred by this section shall be guilty of an offence.

(11) A notice under this section shall be served on a registered owner or operator, as the case may be, in one of the following ways, that is to say—

- (a) by delivering it to him or her,
- (b) by addressing it to him or her and leaving it at his or her usual or last known residence or place of business,
- (c) by sending it by prepaid registered post, or other form of recorded delivery service prescribed by the Minister, to him or her at his or her usual or last known residence or place of business, or
- (d) in the case of a body corporate—
 - (i) by delivering it or sending it by prepaid registered post, or other form of recorded delivery service prescribed by the Minister, to the secretary or other officer of the body at its registered office or principal place of business, or
 - (ii) where the registered office or principal place of business of the body cannot by reasonable enquiry be ascertained, by affixing it in some conspicuous place on the aircraft to which the notice relates.

42.—(1) The company may make bye-laws in relation to a State airport. Pt.V
Airport bye-laws.

(2) The Minister may make bye-laws in relation to an airport other than a State airport.

(3) Bye-laws under this section may be made for any one or more of the following purposes, that is to say—

- (a) the securing of the safety of aircraft, vehicles and persons using an airport, and the prevention of danger to the public arising from the use or operation of an airport,
- (b) the regulation of the use of an airport or part thereof by persons, including the admission of persons thereto and the exclusion of persons therefrom, and the preservation of order and good conduct in an airport,
- (c) the regulation of vehicular traffic in an airport, in particular in relation to the driving and parking of vehicles and the imposition of fines, and the making of provision for the fixing of an immobilisation device to any vehicle which has been unlawfully parked in any place in an airport,
- (d) the removal to a place inside or outside an airport of any vehicle, animal or other thing which is found in the airport in contravention of a bye-law, including the storing and disposal of such vehicles, animals or things,
- (e) the definition of the duties of the pilot in command of any aircraft which is for the time being on the ground in an airport, or
- (f) the proper management, operation, safety, security and supervision of an airport or part thereof.

(4) The company or the Minister, as the case may be, shall consult the Authority before making bye-laws which in whole or in part relate to, a purpose referred to in *paragraph (e) of subsection (3)*, or the safety of aircraft.

(5) (a) A bye-law made under section 16 (as amended by section 26 of the Act of 1988) or 17 of the Act of 1950, that is in force immediately before the vesting day, shall continue in force as if made under this section and may be amended or revoked by bye-laws made under this section.

(b) References in a bye-law made under the said section 16 or 17 to an “authorised officer” or a “State aerodrome” shall be construed as references to an authorised officer, within the meaning of this Act, or a State airport, as the case may be.

(6) Bye-laws under this section shall be displayed at the airport, in respect of which the bye-laws are made, in such manner as the company (or where the bye-laws are made by the Minister, the Minister) considers best adapted for giving information to the public.

(7) A person who contravenes a provision of a bye-law made under this section shall be guilty of an offence.

[No. 24.] *Air Navigation and Transport* [1998.]
(Amendment) Act, 1998.

Pr.V S.42

(8) A document which purports to be a copy of bye-laws made under this section, and which has endorsed thereon a certificate purporting to be signed by an officer of the company (or where the bye-laws are made by the Minister, an officer of the Minister authorised in that behalf) stating that the document is a true copy of the bye-laws and that the bye-laws were in force on a specified date, shall, without proof of the signature of such officer or that he or she was in fact such officer, be evidence, until the contrary is proved, in every court and in all legal proceedings, of the bye-laws and of the fact that they were in force on that date.

Amendment of
section 33 of Act of
1988.

43.—Section 33 of the Act of 1988 is hereby amended by—

(a) the substitution of “airport” for “aerodrome” in each place where it occurs,

(b) the substitution of the following subparagraph for subparagraph (ii) of paragraph (d) of subsection (1):

“(ii) whom he knows to have, or reasonably suspects of having contravened—

(I) section 19, or

(II) *section 50 of the Air Navigation and Transport (Amendment) Act, 1998, or*”,

(c) the substitution in subsection (5) of “obstructs, impedes or assaults” for “obstructs or impedes”, and

(d) the substitution of the following subsection for subsection (6):

“(6) In this section—

‘authorised officer’ has the same meaning as it has in the *Air Navigation and Transport (Amendment) Act, 1998*; and

‘airport’ means an airport (within the meaning of the *Air Navigation and Transport (Amendment) Act, 1998*).”.

Amendment of
section 18 of Act of
1988.

44.—Section 18 of the Act of 1988 is hereby amended by—

(a) the substitution of “airport” for “aerodrome” in each place where it occurs, and

(b) the substitution of the following subsection for subsection (3):

“(3) In this section—

‘authorised person’ means—

(a) a person, or a person belonging to a class of persons, authorised in writing by the Minister to exercise the powers conferred on an authorised person under this section, or

[1998.] *Air Navigation and Transport (Amendment) Act, 1998.* [No. 24.]

(b) a member of the Garda Síochána; and

Pt.V S.44

‘airport’ means an airport, within the meaning of the *Air Navigation and Transport (Amendment) Act, 1998.*”.

45.—Section 19 of the Act of 1988 is hereby amended by the addition of the following subsection:

Amendment of section 19 of Act of 1988.

“(3) Notwithstanding the provisions of this section an authorised person may take such steps as may be necessary for the purpose of testing security arrangements in an aircraft.”.

46.—(1) Notwithstanding anything contained in the Forestry Acts, 1946 to 1988, the company may lop, cut or remove, or cause to be lopped, cut or removed, any tree, bush, shrub, hedge, plant or other matter growing naturally or with artificial assistance on land in the vicinity of a State airport which, in the opinion of the company, interferes with the operation and development of that airport, or which, following consultation with the Authority, the company considers obstructs or otherwise interferes with the safety or navigation of aircraft using such airport.

Lopping, cutting or removal of certain trees, etc.

(2) The company shall not lop, cut or remove, or cause to be lopped, cut or removed, any tree which is the subject of a tree preservation order within the meaning of the Local Government (Planning and Development) Act, 1963, without first consulting the planning authority for the purposes of that Act in whose functional area the tree is situate.

(3) (a) Before exercising a power under *subsection (1)*, the company shall give to the occupier of the land concerned notice in writing of its intention to so do after the expiration of a period, being a period of not less than twenty-one days, specified in the notice, and in case an occupier of land receives a notice under this section and apart from this subsection would not be entitled to carry out the lopping, cutting or removal referred to in the notice, the occupier may, if he or she so wishes, by virtue of having received the notice, himself or herself carry out or cause to be carried out such lopping, cutting or removal:

Provided that before the expiration of the period specified in the notice, he or she informs the company in writing of his or her intention to so do.

(b) Where an occupier of land to whom a notice under this section is given carries out, or causes to be carried out, whether or not by virtue of the power conferred on him or her in that behalf by *paragraph (a)*, the lopping, cutting or removal referred to in the notice, the reasonable expenses thereby incurred by the occupier shall be paid to the occupier by the company on demand by the occupier.

(4) Where a notice is given under this section, a person appointed in writing by the company to be an authorised person for the purposes of this section and any person acting under that person’s direction may, for the purpose of or in connection with carrying out the lopping, cutting or removal specified in the notice, at any reasonable time after the expiration of the period specified in the notice, enter (with or without vehicles) the land to which the notice relates or any

Pt.V S.46

other land and, in addition to carrying out such lopping, cutting or removal do thereon all things ancillary to or reasonably necessary for the aforesaid purpose.

Interference with anything provided for purpose of operation, management or safety of airport.

47.—(1) It shall not be lawful for a person to interfere in any way with anything provided for the purposes of the operation, management or safety of an airport.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

Authorised officers.

48.—(1) The company may, in relation to a State airport, appoint such persons or classes of persons as it considers appropriate to be authorised officers for the purposes of this Act.

(2) The Minister may, in relation to an airport in the State other than a State airport, appoint such persons or classes of persons as he or she considers appropriate to be authorised officers for the purposes of this Act.

(3) A person appointed under *subsection (1)* or *(2)* shall, on his or her appointment, be furnished by the company or the Minister as may be appropriate, with a warrant of his or her appointment and when exercising a power conferred by this Act shall, if requested by any person thereby affected, produce such warrant to that person for inspection.

(4) A person who is an authorised officer by virtue of *subparagraph (ii)* of *paragraph (b)* of the definition of authorised officer in *section 2* shall cease to be an authorised officer if the Minister so determines in writing, as on and from the date specified in that behalf in the determination.

(5) Any person who obstructs, impedes or assaults an authorised officer in the exercise of any of the powers conferred on him or her by this Act shall be guilty of an offence.

(6) Any person who falsely represents himself or herself to be an authorised officer shall be guilty of an offence.

Power to enter and inspect aircraft.

49.—(1) An authorised officer may enter an aircraft which is within an airport where he or she considers it necessary for the purpose of exercising any power conferred on him or her by or under this Act or the Act of 1988.

(2) *Subsection (1)* is without prejudice to *section 40 (3)*.

(3) An authorised officer may—

(a) at any time require the operator or registered owner of the aircraft to produce for inspection by him or her such documents relating to the aircraft or passengers or goods on board the aircraft as he or she may require; or

(b) inspect the aircraft for the purpose of ensuring compliance with this Act or bye-laws made under this Act.

(4) If the operator or registered owner of the aircraft refuses or fails to comply with a requirement of an authorised officer under *subsection (3)* that person shall be guilty of an offence.

(5) This section shall not apply to aircraft engaged exclusively in the service of the State. Pt.V S.49

50.—(1) An authorised officer may refuse entry to an airport to any person who has in his or her possession any article or substance (including nuclear material within the meaning of the Radiological Protection Act, 1991) which, in the opinion of the authorised officer, is likely to endanger persons or property. Prohibition on bringing certain dangerous articles within airport.

(2) If a person, who has been refused entry into an airport under this section, enters the airport, that person shall be guilty of an offence.

(3) A person shall not have in his or her possession in, or bring or cause to be brought into, any part of an airport—

- (a) a firearm, or any article having the appearance of a firearm, whether capable of being discharged or not,
- (b) an explosive, or any article manufactured or adapted so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not,
- (c) any article marked or labelled so as to indicate that it is, or it contains, an explosive, or
- (d) any article not being an article referred to in *paragraph (a), (b) or (c)* but which is made or adapted for the purpose of causing injury to or incapacitating a person, or damaging or destroying property, or which is intended, by the person in whose possession it is, for such purpose, whether by himself or herself or, by some other person, as the case may be.

(4) A person who contravenes *subsection (3)* shall be guilty of an offence.

(5) In a prosecution for an offence under *subsection (3)* it shall be a defence for an accused to show that he or she had lawful authority to have in his or her possession, or to bring or cause to be brought into an airport a thing or article referred to in the said subsection.

(6) Notwithstanding the provisions of this section an authorised person within the meaning of the Act of 1988 may take such steps as may be necessary for the purpose of testing security arrangements at an airport.

51.—(1) The company may appoint such and so many of its employees as it considers appropriate to be authorised persons for the purposes of this Act. Authorised person.

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the company with a certificate of his or her appointment and when exercising a power conferred by this Act shall, if requested by any person thereby affected, produce such certificate to that person for inspection.

(3) Any person who obstructs, impedes or assaults an authorised person in the exercise of any powers conferred on him or her by this Act shall be guilty of an offence.

Pt.V S.51

(4) Any person who falsely represents himself or herself to be an authorised person shall be guilty of an offence.

PART VI

MISCELLANEOUS

Amendment of section 1 of Air Companies (Amendment) Act, 1993.

52.—Section 1 of the Air Companies (Amendment) Act, 1993, is hereby amended by—

(a) the deletion of the definition of “air companies”, and

(b) the insertion of the following subsection:

“(1A) In this Act, a reference to ‘air companies’ or ‘air company’ shall be construed as a reference to ‘the Holding Company’.”.

Amendment of section 1 of Air Companies Act, 1966.

53.—Section 1 of the Air Companies Act, 1966, is hereby amended by—

(a) the substitution of the following definition for the definition of “air companies” (inserted by section 6 of the Air Companies (Amendment) Act, 1993):

“‘air company’ means Aer Lingus Group public limited company (being the company referred to as the Holding Company in the Air Companies (Amendment) Act, 1993);” and

(b) the addition of the following subsection:

“(2) In this Act a reference to ‘air companies’ shall be construed as a reference to ‘air company’.”.

Amendment of section 1 of Air Companies (Amendment) Act, 1976.

54.—Section 1 of the Air Companies (Amendment) Act, 1976, is hereby amended by—

(a) the substitution of the following definition for the definition of “air companies” (inserted by section 7 of the Air Companies (Amendment) Act, 1993):

“‘air company’ means Aer Lingus Group public limited company (being the company referred to as the Holding Company in the Air Companies (Amendment) Act, 1993);” and

(b) the addition of the following subsection:

“(2) In this Act, a reference to ‘air companies’ shall be construed as a reference to ‘air company’.”.

Charge of rates on property of company.

55.—Property vested in the company on the vesting day under section 14 shall, from the commencement of the next following financial year, cease to be exempt from the rate chargeable by a local authority notwithstanding that the property may appear as exempt on a valuation list.

[1998.] *Air Navigation and Transport* [No. 24.]
(Amendment) Act, 1998.

56.—The provisions of the Landlord and Tenant Acts, 1967 to 1994, or of any Act amending or extending those Acts, shall not apply to lettings effected by the company.

Pt. VI
Exemption of
company lettings
from the Landlord
and Tenant Acts.

57.—Stamp duty shall not be payable in respect of the transfer of an amount from a fund established in respect of a scheme for the granting of superannuation benefits in operation at the commencement of this Act to a fund established under and in accordance with *section 32*.

Exemption from
Stamp Duty.

58.—(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the vesting day of the functions assigned to the company by or under this Act shall after that day, lie against the company and, subject to *subsection (5)* not against the Minister, any other State authority or the State.

Liability for loss
occurring before
vesting day.

(2) Any legal proceedings pending immediately before the vesting day to which the Minister, any other State authority or the State is a party, that relate to a function of the company, shall be continued, with the substitution in the proceedings of the company, in so far as they so relate, for any such party.

(3) Where, before the passing of this Act, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates the terms of which have not been implemented, or judgment has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as it is enforceable against the Minister, any other State authority or the State, be enforceable against the company and, subject to *subsection (5)*, not against the Minister, any other State authority or the State.

(4) Any claim made or proper to be made by the Minister, any other State authority or the State in respect of any loss or injury arising from the act or default of any person before the vesting day shall, where the claim relates to functions assigned to the company by this Act, be regarded as made by or proper to be made by the company and may be pursued and sued for by the company as if the loss or injury had been suffered by the company.

(5) This section shall not apply to a claim by one State authority against another.

59.—For the avoidance of doubt it is hereby declared that—

Road for purposes
of Road Traffic
Acts, 1961 to 1995.

(a) the word “road” includes, for the purposes of the provisions of the Road Traffic Acts, 1961 to 1995, or any regulations made thereunder, a road in a State airport, and

(b) a State airport is, for the purposes of any enactment, a public place.

[No. 24.] *Air Navigation and Transport* [1998.]
(Amendment) Act, 1998.

Pt. VI

Amendment of
Customs-free
Airport Act, 1947.

60.—The Customs-free Airport Act, 1947, is hereby amended by—

(a) the substitution of the following subsection for subsection (3) of section 2:

“(3) For the purposes of this Act, the airport shall comprise land which for the time being belongs to the State and Aer Rianta, cuideachta phoiblí theoranta.”,

(b) the substitution of the following section for section 3:

“3.—For the purposes of this Act, the airport shall be under the management and control of the Minister.”,

and

(c) the substitution of the following subsection for subsection (1) of section 13 (inserted by section 49 of the Act of 1988):

“(1) The Minister may, with the consent of the Minister for Finance, make regulations for the purposes of this Act for the management and control of the airport:

Provided that the power of the Minister to make regulations under this section shall not extend to the making of regulations permitting the carrying on of any trade, business or manufacture within the airport.”.

Amendment of Act
of 1993.

61.—The Act of 1993 is hereby amended—

(a) by the insertion in section 6 of the following after the word “Act”:

“, other than an order made by the Minister under section 15 or 58(2),”,

(b) by the substitution in section 12 of the following subsection for subsection (3):

“(3) Section 6(1)(b) of the Companies Act, 1963, shall not apply to the company.”,

and

(c) by the substitution of the following subparagraph for subparagraph (i) of paragraph (b) of section 60:

“(i) for the licensing of aerodromes and the regulation of aeronautical safety standards at aerodromes.”.

Acquisition of land
by Authority.

62.—The Act of 1993 is hereby amended by the substitution of the following section for section 42:

“42.—(1) The company may acquire by agreement or, in accordance with the *Second Schedule* to the *Air Navigation and Transport (Amendment) Act, 1998* (as applied by this section) compulsorily, any land or any easement or other right over land, or any water right, for the purpose of the performance of the functions conferred on it by this Act.

(2) Notwithstanding the provisions of any other Act, no person shall be entitled to acquire compulsorily any land or any

[1998.] *Air Navigation and Transport (Amendment) Act, 1998.* [No. 24.]

easement or other right in respect of land belonging to the company, or to alienate, terminate, restrict or otherwise interfere with, without the agreement of the company, any right of the company in respect of such land. Pt.VI S.62

(3) The company shall not be entitled to acquire compulsorily under this section any land, easement or other right belonging to the State or a State authority.

(4) The *Second Schedule* to the *Air Navigation and Transport (Amendment) Act, 1998*, shall, for the purposes of the acquisition of land by the company under this section, apply with the following modifications:

- (a) the reference in *subparagraph (1) of paragraph 1* to 'section 17' shall be construed as a reference to this section, and
- (b) a reference to 'the company' shall be construed as a reference to the Irish Aviation Authority."

63.—The Act of 1993 is hereby amended by the insertion of the following section: Right of entry on land by Authority.

"42A.—*Section 19* of the *Air Navigation and Transport (Amendment) Act, 1998*, shall, for the purposes of this Act, apply subject to the following modifications:

- (a) references to an 'authorised person' shall be construed as references to an authorised officer of the company, and
- (b) references to 'the company' shall be construed as references to the company within the meaning of this Act."

64.—The Act of 1993 is hereby amended by the insertion of the following section: Detention and sale of aircraft by Authority for unpaid air navigation and aeronautical communications services charges.

"45A.—*Section 40* of the *Air Navigation and Transport (Amendment) Act, 1998*, shall for the purposes of this Act, apply subject to the following modifications:

- (a) references (other than in *paragraph (c) of subsection (9) and subsection (10)*) to 'charges imposed by the company under *section 39*' or to 'charges' shall be construed as references to charges imposed or levied under *section 43* or *44*, and
- (b) references (other than in the said *paragraph (c)*) to 'the company' shall be construed as references to the company within the meaning of this Act."

65.—The *Air Navigation and Transport Act, 1973*, is hereby amended by the insertion of the following section: Disruptive behaviour on board aircraft in flight.

"2A.—(1) A person on board an aircraft in flight who is intoxicated to such extent as to give rise to a reasonable apprehension that he or she is likely to endanger the safety of himself or herself or the safety of others on board the aircraft shall be guilty of an offence.

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(2) A person on board an aircraft in flight who, without justification, engages in behaviour that is likely to cause serious offence or annoyance to any person on board the aircraft, at any time after having been requested by a member of the crew of the aircraft to cease such behaviour, shall be guilty of an offence.

(3) A person on board an aircraft in flight who engages in behaviour of a threatening, abusive or insulting nature whether by word or gesture with intent to cause a breach of the peace or being reckless as to whether a breach of the peace might be occasioned shall be guilty of an offence.

(4) A person guilty of an offence under this section shall—

(a) in the case of an offence under *subsection (1)* or *(2)*, be liable on summary conviction to a fine not exceeding £500, or

(b) in the case of an offence under *subsection (3)*, be liable on summary conviction to a fine not exceeding £700 or to imprisonment for a term not exceeding 4 months, or to both.”.

FIRST SCHEDULE

Section 6.

REPEAL OF ENACTMENTS

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 40 of 1936	Air Navigation and Transport Act, 1936.	Part V other than sections 42, 45 and 54.
No. 23 of 1946	Air Navigation and Transport Act, 1946.	Section 11(<i>h</i>).
No. 4 of 1950	Air Navigation and Transport Act, 1950.	Sections 6 (2) and 8, Part V.
No. 4 of 1966	Air Companies Act, 1966.	Section 2(<i>c</i>), Sections 6, 8, 9 and 10 insofar as they relate to the company, Section 12(3), Sections 12(4), (5), (6) and (7) insofar as they relate to the company, Sections 13, 14, 16, 17, 18 and 20 insofar as they relate to the company.
No. 36 of 1976	Air Companies (Amendment) Act, 1976.	Section 3, insofar as it relates to the company.
No. 15 of 1988	Air Navigation and Transport Act, 1988.	Sections 12, 27 and 32.
No. 38 of 1993	Air Companies (Amendment) Act, 1993.	Sections 9, 14 and 15 insofar as they relate to the company.

SECOND SCHEDULE

PROVISIONS RELATING TO COMPULSORY ACQUISITION

1. (1) Where the company proposes to acquire compulsorily any land or any easement, interest in, or right over land, or any water right, under *section 17* the company shall apply to the Minister for an order under *paragraph 2* authorising the company to acquire the property, or acquire or use the right compulsorily and the application shall be accompanied by such maps, plans and books of reference as are referred to in *paragraph 5*.

(2) The company shall publish a notice, in such form as the Minister approves, of the application in one or more newspapers circulating in the area of the property concerned and serve a copy of the notice on every person who appears to the company to have an estate or interest in the property, so far as it is reasonably practicable to ascertain such persons.

(3) The notice referred to in *subparagraph (2)* shall include a provision notifying persons having an estate or interest in the property concerned that they have the right to lodge with the Minister, within 1 month of the making of the application by the company, an objection to the making of an order under *paragraph 2* in relation to the property and shall specify the times and places where the maps, plans and books of reference deposited in accordance with *paragraph 5* may be inspected.

(4) The Minister shall consider and determine any objection to the application of the company lodged with him or her within the period referred to in *subparagraph (3)* and the Minister may, if he or she thinks fit, appoint an adviser to assist him or her in relation thereto.

2. The Minister shall, where no objection to the application of the company is lodged with him or her within the period referred to in *paragraph 1(3)* or any such objection is rejected by him or her, make an order (hereafter in this Schedule referred to as an “acquisition order”) authorising the company to acquire the property concerned compulsorily in accordance with the terms of its application or subject to such modifications, if any, as he or she may determine and specify in the acquisition order.

3. (1) At any time after the making of an acquisition order and before conveyance or ascertainment of price, the company may, subject to this paragraph, enter on and take possession of the land to be acquired or exercise the right to be acquired.

(2) The company shall not—

(a) enter on or take possession of any land under this paragraph without giving to the occupier of the land at least 1 month’s previous notice in writing of its intention so to do,

(b) exercise any right under this paragraph without giving the occupier of the land in respect of which the right is to be exercised at least 1 month’s previous notice in writing of its intention so to do.

4. (1) A notice under this Schedule may be served on any person by sending it by registered post in an envelope addressed to him or her at his or her usual or last known address.

(2) Where, for any reason, the envelope cannot be so addressed, SCH.2
it may be served on the person for whom it is intended by sending it
by registered post in an envelope addressed to “the occupier” with-
out stating his or her name, at the land to which the notice relates.

5. (1) The company shall cause maps, plans and books of refer-
ence to be deposited in accordance with this paragraph.

(2) The maps and plans shall be sufficient in quantity and charac-
ter to show on adequate scales the land or right proposed to be
acquired.

(3) The books of reference shall contain the names of the owners
or reputed owners, lessees or reputed lessees, and occupiers of the
land which is proposed to be acquired or in respect of which the
right is proposed to be exercised.

(4) The maps, plans and books of reference shall be deposited at
such place or places as the company, with the consent of the Minister,
considers suitable and shall remain so deposited for at least 1 month
and shall, while so deposited, be open to inspection by any person,
free of charge, between the hours of ten o’clock in the morning and
four o’clock in the afternoon on every day except Saturdays, Sundays
and public holidays.

6. (1) The amount of the price to be paid by the company for any
land acquired pursuant to an acquisition order to the several persons
entitled thereto or having estates or interests therein or for any right
acquired pursuant to an acquisition order to the several persons
entitled to or having estates or interests in the land in respect of
which the right is exercised, shall, in default of agreement, be fixed
under and in accordance with the Act of 1919.

(2) Sections 69 to 83 of the Lands Clauses Consolidation Act,
1845, shall apply to the said price and, subject to *paragraphs 7* and *8*
to the conveyance to the company of the land or right acquired, and
for the purpose of the application of the said provisions the company
shall be deemed to be the promoters of the undertaking.

7. (1) Where the company has entered on and taken possession of
land in accordance with *paragraph 3* and the Minister is satisfied
that—

(a) the several interests in the land have not been conveyed or
transferred to the company,

(b) it is urgently necessary, in connection with the purposes for
which the company has been authorised to acquire the
land compulsorily, that the acquisition of the land should
be completed, and

(c) the company has made a proper offer in writing to each
person having an interest in the land who has furnished
sufficient particulars of his or her interest to enable the
company to make a proper offer for such interest,

then the Minister may make an order (hereafter in this Schedule
referred to as “a vesting order”) vesting the land in the company.

(2) Where the Minister or the company, before the making of the
vesting order, becomes aware that the land to be acquired by the
order is subject (whether alone or in conjunction with other land) to
any annuity or other payment to the Irish Land Commission or to

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the Commissioners of Public Works in Ireland, or to any charge for estate duty, succession duty or inheritance tax payable to the Revenue Commissioners on the death of any person, the Minister or the company, as the case may be, shall forthwith inform the Irish Land Commission, the Commissioners of Public Works in Ireland or the Revenue Commissioners, as the case may be, of his or her intention to make the order.

(3) When a vesting order has been made, the company shall within 7 days after having received notification from the Minister of the making of the order—

- (a) publish in one or more newspapers circulating in the area of the land to which the order relates a notice stating that the order has been made, describing the said land and naming a place where a copy of the order may be seen at all reasonable times, and
- (b) serve on every person appearing to it to have an interest in the land to which the order relates a notice stating the fact of such an order having been made and the effect of the order.

8. (1) A vesting order shall be in the prescribed form and shall have attached thereto a map of the land to which it relates and it shall be expressed and shall operate to vest the said land in the company in fee simple free from encumbrances and all estates, rights, titles and interests of whatsoever kind (other than any public right of way) on a specified date not earlier than 21 days after the making of the vesting order.

(2) Notwithstanding anything in *subparagraph (1)*, where the company has acquired, by a vesting order, land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission or the Commissioners of Public Works in Ireland, the company shall become and be liable, as from the date on which the land is vested in it by the vesting order, for the payment to the Irish Land Commission or the Commissioners of Public Works in Ireland, as the case may be, of the annual sum or such portion thereof as may be apportioned by the Irish Land Commission or by the Commissioners of Public Works in Ireland, as the case may be, on the land as if the land had been transferred to the company by the owner thereof on that date.

(3) When the Minister makes a vesting order in relation to any land, he or she shall cause the order to be sent to the registering authority under the Registration of Title Act, 1964, and thereupon the registering authority shall cause the company to be registered as owner of the land in accordance with the order.