



STATUTORY INSTRUMENTS.

S.I. No. 195 of 2020



EUROPEAN UNION (REPORTING, ANALYSIS AND FOLLOW-UP OF
OCCURRENCES IN CIVIL AVIATION) REGULATIONS 2020

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The Minister for Transport, Tourism and Sport in exercise of the powers conferred on him by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014¹, hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the European Union (Reporting, Analysis and Follow-up of Occurrences in Civil Aviation) Regulations 2020.

Interpretation

2. (1) In these Regulations -

“adjudication officer” means an adjudication officer within the meaning of section 2 of the Workplace Relations Act 2015 (No. 16 of 2015);

“Air Accident Investigation Unit” means the Unit of the Department of Transport, Tourism and Sport which is known by that name;

“Authority” means the Irish Aviation Authority;

“competent authority” means the competent authority referred to in Regulation 4;

“Regulation (EU) No. 376/2014” means Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014¹.

(2) A word or expression which is used in these Regulations and which is also used in Regulation (EU) No. 376/2014 has, unless the context otherwise requires, the same meaning in these Regulations as it has in that Regulation.

¹ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Commission and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007.

Functions of Authority

3. (1) The Authority shall carry out the functions of the State under Articles 4, 5, 7, 8, 9, 13, 15 (other than paragraph (4)) and 16 (other than paragraphs (7), (8) and (12)) of Regulation (EU) No. 376/2014.

(2) In addition to those set out in its memorandum of association under section 14(1) of the Irish Aviation Authority Act 1993 (No. 29 of 1993), the principal objects of the Authority shall also include the carrying out of the functions referred to in paragraph (1) and complying with Regulation (EU) No. 376/2014 and these Regulations.

(3) The Authority shall take such steps under the Companies Act 2014 as may be necessary to alter its memorandum and articles of association to make them consistent with these Regulations.

Competent authority

4. The Authority is designated as the competent authority in the State for the purposes of Regulation (EU) No. 376/2014.

Collection and storage of information

5. (1) Relevant information on accidents and serious incidents collected or issued by the Air Accident Investigation Unit shall be stored by the competent authority in the national database referred to in Article 6(6) of Regulation (EU) No. 376/2014.

(2) The Air Accident Investigation Unit shall have full access to the national database referred to in Article 6(6) of Regulation (EU) No. 376/2014 for the purpose of discharging its responsibilities pursuant to Article 5(4) of Regulation (EU) No 996/2010.

(3) The competent authority shall ensure that in storing occurrence reports in the national database in accordance with Article 6(6) of Regulation (EU) No. 376/2014 no personal details are included.

Designation for purposes of certain provisions of Article 16 of Regulation (EU) No. 376/2014

6. The Authority is designated as the body responsible for the implementation of paragraphs 6, 9 and 11 of Article 16 of Regulation (EU) No. 376/2014.

Redress for contravention of Article 16(9) of Regulation (EU) No. 376/2014

7. (1)(a) Subject to subparagraph (b) the Schedule applies in respect of a contravention of Article 16 (9) of Regulation (EU) No. 376/2014.

(b) The Schedule shall not apply in respect of a contravention of Article 16 (9) of Regulation (EU) No. 376/2014 where the report in relation to which the contravention of Article 16 (9) is alleged

is a protected disclosure within the meaning of the Protected Disclosures Act 2014 (No. 14 of 2014).

(2) The Workplace Relations Act 2015 (No. 16 of 2015) shall, with any necessary modifications, apply in respect of Article 16(9) of Regulation (EU) No. 376/2014 as if that Article was a provision specified in Part 2 of Schedule 1 to that Act and Part 1 of Schedule 5 to that Act and, to the extent that that Act applies in respect of Article 16(9) of Regulation (EU) No. 376/2014, a reference in the Act to employee shall be taken to include a reference to contracted personnel and a reference to employer shall be taken to include a reference to the organisation for which the contracted personnel provide their services and those references shall be construed in accordance with Regulation (EU) No. 376/2014 and section 3 of the Workplace Relations Act 2015 shall be construed accordingly to the extent to which it relates to Article 16(9) of Regulation (EU) No. 376/2014.

(3) The Workplace Relations Act 2015 is amended -

(a) in Schedule 1, in Part 3 by the deletion of the following:

“10. Regulation 9(4) of the European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007)”,

(b) in Schedule 2, in Part 2 by the deletion of the matters in columns (2), (3) and (4) opposite mention of Reference 5,

(c) in Schedule 5, in Part 2 by the deletion of the following:

“6. Regulation 9(4) of the European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007)”,

(d) in Schedule 6, in Part 1 by the substitution of the following for

“5. Paragraph 1 of Schedule 4 to the European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007)”:

“5. In relation to a complaint of a contravention of Article 16(9) of Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014¹, paragraph 1 of the Schedule to the European Union (Reporting, Analysis and Follow-up of Occurrences in Civil Aviation) Regulations 2020 (S.I. No. 195 of 2020)”,

- (e) in Schedule 6, in Part 2 by the substitution of the following for
- “5. Paragraph 2 of Schedule 4 to the European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007)”:
- “5. In relation to a complaint of a contravention of Article 16(9) of Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014, paragraph 2 of the Schedule to the European Union (Reporting, Analysis and Follow-up of Occurrences in Civil Aviation) Regulations 2020 (S.I. No. 195 of 2020).”, and
- (f) in Schedule 7, in Part 2 by the deletion of the matters in columns (2), (3) and (4) opposite mention of Reference 6.

Offences

8. (1) A person who fails to submit a report in accordance with Article 4 of Regulation (EU) No. 376/2014 commits an offence.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Application of Unfair Dismissals Acts 1977 to 2015

9. A person who suffers prejudice in contravention of Article 16(9) of Regulation (EU) No. 376/2014 which constitutes a dismissal of that person within the meaning of the Unfair Dismissals Acts 1977 to 2015 may not be granted relief under the Schedule and those Acts.

Revocations

10. The European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007) is hereby revoked.

Schedule

Regulation 7

Redress for contravention of Article 16(9) of Regulation (EU) No. 376/2014

Decision under section 41 of Workplace Relations Act 2015

1. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint by a person who is an employee or by a person who is contracted personnel of a contravention of Article 16(9) of Regulation (EU) No. 376/2014 in relation to the person shall do one or more of the following, namely -

- (a) declare that the complaint was or, as the case may be, was not well founded,
- (b) require the employer or the organisation for which the person who is contracted personnel provides his or her services, as the case may be, to take a specified course of action,
- (c) require the employer or the organisation for which the person who is contracted personnel provides his or her services, as the case may be, to pay to the employee or the person, as the case may be, compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances but not exceeding 2 years' remuneration in respect of the employee's employment or the person's contract, as the case may be.

Decision of Labour Court on appeal from decision referred to in paragraph 1

2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in paragraph 1, shall affirm, vary or set aside the decision of the adjudication officer.



GIVEN under the Official Seal of the Minister for Transport,
Tourism and Sport,
29 May, 2020.

SHANE ROSS,
Minister for Transport, Tourism
and Sport.

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