



STATUTORY INSTRUMENTS.

S.I. No. 460 of 2013



EUROPEAN COMMUNITIES (AIRPORT SLOTS) REGULATIONS 2013

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I, LEO VARADKAR, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Council Regulation (EEC) No. 95/93 of 18 January 1993¹, as amended by Regulation (EC) No. 793/2004 of the European Parliament and of the Council of 21 April 2004², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Airport Slots) Regulations 2013.

2. (1) In these Regulations—

“Act of 2001” means Aviation Regulation Act 2001 (No. 1 of 2001);

“Commission” means Commission for Aviation Regulation;

“coordinator” means the coordinator appointed by the Commission under section 8(2) of the Act of 2001;

“Council Regulation” means Council Regulation (EEC) No. 95/93 of 18 January 1993¹ as amended by Regulation (EC) No. 793/2004 of the European Parliament and of the Council of 21 April 2004²;

“Court” means District Court;

“financial sanction” means the amount to be paid by an air carrier as ordered by the Court under Regulation 3(4) or specified by the coordinator under Regulation 4(2) or (7);

“notice” means a notice under Regulation 4.

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation.

3. (1) Where the coordinator is of the opinion that an air carrier has contravened or is contravening Article 14 of the Council Regulation by repeatedly and intentionally—

(a) operating air services at times significantly different from the allocated slots, or

¹OJ No. L 14, 22.1.1993, p. 1

²OJ No. L 138, 30.4.2004, p. 50

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 6th December, 2013.

- (b) using or having used slots in a significantly different way from that indicated at the time of allocation and thereby has caused or is causing prejudice to airport or air traffic operations,

it shall notify the Commission.

(2) Following notification under paragraph (1) the coordinator, with the consent of the Commission, may, subject to Regulation 4, apply to the Court—

- (a) a determination that a contravention of Article 14 of the Council Regulation as referred to in paragraph (1) has occurred or is occurring, and
- (b) an order imposing a financial sanction on the air carrier.

(3) Where the coordinator makes an application under paragraph (2) it may recommend to the Court the amount of the financial sanction which the coordinator considers appropriate in the circumstances.

(4) The Court, on an application made to it by the coordinator—

- (a) may do one or more of the following:
 - (i) make a determination that the air carrier concerned has contravened or is contravening Article 14 of the Council Regulation as referred to in paragraph (1);
 - (ii) order the air carrier concerned to pay to the Commission a financial sanction (not exceeding €6,000) in respect of the contravention;
 - (iii) make such other order as it considers appropriate,

or

- (b) may dismiss the application.

(5) The Court may make such order as to costs as it thinks fit in respect of the application.

(6) In determining the amount of the financial sanction referred to in paragraph (4)(a)(ii) the Court shall have regard to any amount recommended by the coordinator in its application and to any relevant matters.

(7) The Commission may publish on a website maintained by the Commission such details as it considers appropriate concerning a decision of the Court under paragraph (4).

4. (1) Before the coordinator makes an application to the Court under Regulation 3(2) it shall, with the consent of the Commission, give notice to the air carrier concerned that it is of the opinion that the air carrier has contravened or is contravening Article 14(4) of the Council Regulation as referred to in

Regulations 3(1) and that it intends to make an application under Regulation 3(2).

(2) Where an air carrier that receives a notice under paragraph (1) pays to the Commission within the period of 7 days beginning on the date of service of the notice, or such further period as the coordinator allows, such amount (not exceeding €3,000) as the coordinator may specify in the notice the coordinator shall not make an application under Regulation 3(2) in respect of the contravention specified in the notice.

(3) A notice under paragraph (1) may indicate the amount of the financial sanction (not exceeding €6,000) that the coordinator intends to recommend to the Court, if the matter is dealt with under Regulation 3(4).

(4) An air carrier that receives a notice under paragraph (1) may, not later than 7 days from the date of service of the notice or such further period as the coordinator allows, request the coordinator to lower that amount and the carrier may make representations with the request concerning the amount.

(5) Any request under paragraph (4) is not an admission of liability.

(6) Where an air carrier fails either to make a request under paragraph (4) within the relevant period referred to in that paragraph or informs the coordinator that no such request will be made, the coordinator may make an application under Regulation 3(2).

(7) The coordinator may where it has received a request under paragraph (4), taking into account any submissions made with the request and any other matters it considers relevant, determine, and shall give notice of such determination, that the air carrier concerned pay, not later than 7 days from the date of service of the notice or such further period as the coordinator allows, to the Commission such amount, being either the amount specified under paragraph (2) or a lower amount in respect of the alleged contravention.

(8) If the air carrier concerned pays the amount specified under paragraph (7) or any such lower amount as referred to in paragraph (7), as the case may be, the coordinator shall not apply to the Court under Regulation 3(2).

5. In considering the amount of any financial sanction the Court or the coordinator, as the case may be, shall take into account the circumstances of the contravention or any failure by the air carrier to cooperate with the coordinator and shall, where appropriate in the circumstances, have regard to—

(a) the need to ensure that any financial sanction imposed—

(i) is appropriate and proportionate to the contravention, and

(ii) will act as a sufficient incentive to ensure future compliance in respect of the contravention,

(b) the seriousness and frequency of the contravention or its continuation, and

(c) the turnover of the air carrier concerned.

6. All payments made to the Commission under this Regulation shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

7. Where a notice is required to be given to an air carrier it may be served by sending it to the air carrier by post to, or addressing it to and leaving it at—

(a) in the case of a company, its registered office, and

(b) in any other case, the principal place of business of the body.

8. A copy of a notice, which has endorsed on it a certificate purporting to be signed by an officer or employee of the coordinator (authorised in that behalf by the coordinator), stating that the copy is a true copy of the notice may, without proof of signature of that person, be produced in every court or before the coordinator and in all legal proceedings and is evidence, unless the contrary is shown, of the notice.

9. (1) Where the Commission under section 8(2) of the Act of 2001 appoints a person (“new coordinator”) to replace the coordinator (in this Regulation referred to as the “former coordinator”) and legal proceedings to which the former coordinator is a party are pending and the proceedings relate to these Regulations, the name of the new coordinator shall, in so far as the proceedings relate to these Regulations, be substituted for that of the former coordinator in the proceedings or added in the proceedings, as may be appropriate, and the proceedings shall not abate by reason of such substitution.

(2) Anything commenced by the former coordinator before the appointment of a new coordinator may, in so far as it relates to a matter in these Regulations, be carried on or completed on or after such appointment by the new coordinator.



GIVEN under my Official Seal,
30 November 2013.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

European Communities (Airport Slots) Regulations 2013

The purpose of these Regulations is to establish a sanctions regime for the mis-use of airport slots by an air carrier. These measures are introduced in accordance with Article 14.5 of Council Regulation (EEC) No.93/95 as amended by Regulation (EC) No. 793/2004 of the European Parliament and of the Council of 21 April 2004.

The Regulations provide for administrative sanctions of amounts between €3,000 and €6,000 that can be dealt with in the District Court where necessary.

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