



STATUTORY INSTRUMENTS.

S.I. No. 116 of 2011



EUROPEAN COMMUNITIES (DUBLIN AIRPORT CHARGES)
REGULATIONS 2011

(Prn. A11/0425)

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I, LEO VARADKAR, Minister for Transport, 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 effect to Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009¹, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Dublin Airport Charges) Regulations 2011.

(2) These Regulations shall come into operation on 15 March 2011.

Interpretation

2. (1) In these Regulations—

“Act of 1998” means the Air Navigation and Transport (Amendment) Act 1998 (No. 24 of 1998);

“airline” means an airport user (within the meaning of the Directive) at Dublin Airport;

“charges” means airport charge (within the meaning of the Directive) levied by Dublin Airport Authority at Dublin Airport;

“Directive” means Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009;

“Dublin Airport” means the State airport known as Dublin Airport;

“Dublin Airport Authority” means Dublin Airport Authority, public limited company.

(2) A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations as it has in the Directive.

Application of regulations

3. These Regulations shall apply to Dublin Airport.

¹OJ No. L70, 14.3.2009, p. 11.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th March, 2011.*

Commission for Aviation Regulation

4. The Commission for Aviation Regulation is the independent supervisory authority for the purposes of the Directive.

Dublin Airport Authority

5. Dublin Airport Authority is the airport managing body for the purposes of the Directive.

Duties of Dublin Airport Authority

6. (1) Dublin Airport Authority—

- (a) shall set the level of charges at Dublin Airport within the terms of section 39(1) (as amended by Regulation 12(b)) of the Act of 1998,
- (b) shall consult with airlines as provided in Regulation 9 and, as part of such consultation process, provide each airline with information on the components serving as a basis for determining the system or the level of all charges,
- (c) shall be non-discriminatory as among airlines,
- (d) shall, where it modulates charges for issues of public and general interest (including environmental issues), do so using relevant, objective and transparent criteria,
- (e) shall consult with airlines before plans for major, new infrastructure projects are finalised, and
- (f) may enter into negotiations with a view to concluding service level agreements with airlines with regard to the quality of services to be provided at Dublin Airport.

(2) The information referred to in paragraph (1)(b) shall include, at a minimum, the following:

- (a) a list of the various services and infrastructure provided by Dublin Airport Authority in return for the charges;
- (b) the methodology used for setting charges;
- (c) the overall cost structure with regard to the facilities and services which charges relate to;
- (d) the revenue of the different charges and the total cost of the services covered by them;
- (e) any financing from public authorities of the facilities and services which charges relate to;
- (f) forecasts of the situation at Dublin Airport as regards the charges, traffic growth and proposed investments;

- (g) the actual use of airport infrastructure and equipment over a given period;
- (h) the predicted outcome of any major proposed investments in terms of their effects on airport capacity.

Information to be submitted by airlines to Dublin Airport Authority prior to consultation

7. (1) Prior to consultation Dublin Airport Authority shall request from the airlines the following information in respect of their activities at Dublin Airport:

- (a) forecasts as regards their traffic there;
- (b) forecasts as to the composition and envisaged use of their fleet there;
- (c) their development projects there;
- (d) their requirements there.

(2) The airlines shall submit the information referred to in paragraph (1) to Dublin Airport Authority.

(3) Dublin Airport Authority may set reasonable time frames within which this information shall be submitted to it by the airlines.

Confidentiality

8. Unless otherwise provided by law, the information provided under Regulations 6 and 7 shall be confidential information.

Consultation between Dublin Airport Authority and airlines

9. (1) Dublin Airport Authority shall, at least once per year, consult with airlines with respect to—

- (a) the operation of the system of charges,
- (b) the level of charges, and
- (c) where appropriate, the quality of service provided.

(2) Dublin Airport Authority and the airlines may agree to have less frequent consultations than that referred to in paragraph (1) where they have agreed to do so in the latest consultation.

(3) Where a multi-annual service level agreement exists between Dublin Airport Authority and the airlines, the consultation shall take place as foreseen under the agreement.

(4) Where an airline so requests, Dublin Airport Authority shall conduct the consultation process, in whole or in part, with a specified representative or a specified association of airlines.

(5) The Minister for Transport may request that a consultation take place pursuant to this Regulation.

Where Dublin Airport Authority wishes to modify charges

10. (1) Dublin Airport Authority shall consult with airlines and take their views into account before deciding to modify—

- (a) the system of charges, or
- (b) the level of charges.

(2) Dublin Airport Authority shall submit any such proposed modification to each airline at least 4 months before these modifications come into operation, unless exceptional circumstances require Dublin Airport Authority to bring them into operation earlier than 4 months.

(3) Where Dublin Airport Authority brings the modifications into operation less than 4 months from their submission, it shall give reasons for doing so.

(4) Dublin Airport Authority shall normally publish its decision at least 2 months before it comes into operation.

(5) Where an airline does not agree to the decision, Dublin Airport Authority shall give reasons for its decision.

Differentiation of services

11. (1) Dublin Airport Authority may vary the quality and scope of particular airport services, terminals or parts of terminals, with the aim of providing tailored services or a dedicated terminal or part of a terminal.

(2) (a) The level of charges may be differentiated according to the quality and scope of such services and their costs or any other objective and transparent justification.

(b) Without prejudice to subparagraphs (c) and (d) of Regulation 6(1), Dublin Airport Authority may set any such differentiated charges.

(3) In the event that the level of charges are differentiated, Dublin Airport Authority shall facilitate an airline that wishes to avail of such tailored services or dedicated terminal or part of a terminal.

(4) Where more airlines wish to avail of such tailored services, a dedicated terminal or part of a terminal than is possible to accommodate due to capacity constraints, access shall be determined by Dublin Airport Authority on the basis of relevant, objective, transparent and non-discriminatory criteria.

Amendment of Air Navigation and Transport (Amendment) Act 1998

12. The Air Navigation and Transport (Amendment) Act 1998 is amended—

- (a) in section 2(1), by substituting the following definition for “airport charges”:

“ ‘airport charges’, in the case of Dublin Airport, means charges (within the meaning of the European Communities (Dublin Airport Charges) Regulations 2011), and in any other case, means—

- (a) charges levied in respect of the landing, parking or taking off of aircraft at an aerodrome including charges for airbridge 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;”, and

- (b) in section 39(1) (as amended by section 34 of the Aviation Regulation Act 2001 (No. 1 of 2001)), by substituting “subject to section 32 of the Aviation Regulation Act 2001 and the European Communities (Dublin Airport Charges) Regulations 2011” for “subject to section 32 of the Aviation Regulation Act 2001”.

Amendment of Aviation Regulation Act 2001

13. The Aviation Regulation Act 2001 is amended—

- (a) by adding after section 8 the following section:

“Functions of Commission under European Communities (Dublin Airport Charges) Regulations 2011

8A. The Commission shall be the independent supervisory authority for the purposes of the European Communities (Dublin Airport Charges) Regulations 2011.”, and

- (b) in section 32(2), by substituting “in respect of Dublin Airport under the European Communities (Dublin Airport Charges) Regulations 2011” for “in respect of Dublin Airport”.



GIVEN under my Official Seal,
15 March 2011.

LEO VARADKAR,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations give effect to Directive 2009/12 of the European Parliament and of the Council of 11 March 2009 on airport charges (the Directive).

The objective of the Directive is to establish a general framework setting common principles for the levying of airport charges at all EU airports with an annual passenger throughput of over 5 million passengers. A key provision of the Directive is to provide for mandatory consultation between airports and airlines. These Regulations apply to Dublin Airport.

As Ireland already has a system of independent airport charges regulation in place, the derogation provided for in Article 6(5) of the Directive regarding dispute resolution procedures is being availed of.

These Regulations come into operation on 15 March 2011.

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