

S.I. No. 322 of 1989.

AIR NAVIGATION (TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF STATE OF REGISTRY OF AIRCRAFT) ORDER, 1989.

I, SÉAMUS BRENNAN, Minister for Tourism and Transport, in exercise of the powers conferred on me by sections 5 of the Air Navigation and Transport Act, 1946 (No. 23 of 1946) (as amended by section 9 of the Air Navigation and Transport Act, 1950 (No. 4 of 1950)), and the Communications (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order, 1987 (S.I. No. 92 of 1987), hereby order as follows:

1. This Order may be cited as the Air Navigation (Transfer of Certain Functions and Duties of State of Registry of Aircraft) Order, 1989.
2. This Order shall come into operation on the 8th day of December, 1989.
3. In this Order—

"the Chicago Convention" has the same meaning as in section 2 of the Air Navigation and Transport Act, 1946 (No. 23 of 1946);

"contracting state" means a state party to the Chicago Convention;

"the Minister" means the Minister for Tourism and Transport.
4. (1) The State may, by agreement in writing between the State and another contracting state and subject to the terms and conditions of the agreement—
 - (a) transfer to that other contracting state all or part of the functions and duties of the State under Articles 12, 30, 31 and 32 (a) of the Chicago Convention as the state of registry of one or more specified aircraft registered in the State which are operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in the other contracting state, or
 - (b) undertake the performance of all or part of the functions and duties of the other contracting state under the said Articles 12, 30, 31 and 32 (a) as the state of registry of one or more specified aircraft registered in that state which are operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in the State.
- (2) (a) Any functions or duties transferred under paragraph (1) of this Article to another contracting state may, by agreement in writing between the State and that other contracting state and subject to the terms and conditions of the agreement, be transferred to the State.
- (b) Any functions or duties transferred under paragraph (1) of this Article to the State may, by agreement in writing between the State and the other contracting state from whom they were transferred and subject to the terms and conditions of the agreement, be transferred to that other contracting state.

(c) Any terms or conditions of an agreement under this Article may be revoked or amended by agreement in writing between the parties to that agreement.

5. (1) Whenever an agreement to which paragraph (1) (a) or (2) (b) of Article 4 of this Order relates is in force, the functions and duties specified therein shall not be performed by or on behalf of the State in respect of the aircraft specified in the agreement.

(2) Whenever an agreement to which paragraph (1) (b) or (2) (a) of the said Article 4 relates is in force, the functions and duties specified therein shall be performed in respect of the aircraft specified in the agreement by or on behalf of the State as if the aircraft were registered in the State and an agreement referred to in paragraph (1) of this Article was not in force in relation thereto; and the law of the State carrying out or giving effect to the Chicago Convention shall, insofar as it relates to those functions and duties, apply and have effect accordingly with any necessary modifications.

GIVEN under my Official Seal, this 7th day of December, 1989.

SÉAMUS BRENNAN,
Minister for Tourism and Transport.

EXPLANATORY NOTE.

This Order, made by the Minister for Tourism and Transport, gives effect to the 1980 Protocol to the Chicago Convention on International Civil Aviation.

That Protocol enables States which are party to the Convention by agreement to transfer certain functions and duties under the Convention from the State of Registry to the State of the operator of aircraft on lease, charter or interchange agreement or similar arrangement, so as to avoid inspection and other work in relation to that aircraft for the State of Registry in the State of the operator of the aircraft. Those functions and duties are as follows (with reference to relevant Article of the Convention shown in brackets):

Rules of the Air (Article 12)

Duty of a contracting State to ensure that every aircraft bearing its nationality mark shall, when operating outside that State, comply with the applicable requirements relating to the flight and manoeuvre of aircraft. Duty to ensure the prosecution of all persons who breach those requirements.

Aircraft Radio Equipment (Article 30)

Function of a contracting State to license the installation of radio transmitting apparatus in, and the use of such equipment only by members of the flight crew of, aircraft registered in that State.

Certificates of Airworthiness (Article 31)

Function of a contracting State to provide or validate a certificate of airworthiness for aircraft registered in that State and engaged in international navigation.

Personnel Licensing (Article 32 (a))

Function of a contracting State to license and provide a certificate of competency to the pilot and the other members of the operating crew of aircraft registered in that State and engaged in international navigation.

Ireland is a party to the Chicago Convention since 1946. The Protocol is now of importance to Ireland since Irish-registered aircraft are on lease to operators in other countries in significant numbers.