

STATUTORY INSTRUMENTS

S.I. No. 776 of 2005

IRISH AVIATION AUTHORITY

**(EUROCONTROL) (CONSOLIDATED ROUTE CHARGES)
REGULATIONS, 2005**

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IRISH AVIATION AUTHORITY**(EUROCONTROL) (CONSOLIDATED ROUTE CHARGES) REGULATIONS, 2005****S.I. No. 776 of 2005**

The Irish Aviation Authority, in exercise of the powers conferred on it by sections 43 and 49 of the Irish Aviation Authority Act, 1993 (No. 29 of 1993) as amended by the Air Navigation and Transport (Amendment) Act, 1998 (No. 24 of 1998) and the Aviation Regulation Act, 2001 (No. 1 of 2001), hereby makes the following regulations (the charges thereunder being specified in pursuance of tariffs approved under an international agreement to which the State is a party):

1. These Regulations may be cited as the Irish Aviation Authority (Eurocontrol) (Consolidated Route Charges) Regulations, 2005 and shall come into operation on the 1st day of January, 2006.

2. (1) In these Regulations:

“the Act” means the Irish Aviation Authority Act, 1993 (No. 29 of 1993) as amended;

“flight level” means a surface of constant atmospheric pressure which is related to a specific pressure datum, 1013.2 hectopascals (hPa) and is separated from other such surfaces by specific pressure intervals;

“Maximum Take Off Weight” means, in relation to an aircraft, the highest maximum take off weight, expressed in metric tons, authorised by the certificate of airworthiness of the aircraft, the flight manual or other equivalent document;

“military aircraft” means, in relation to a state, an aircraft used in the military service of that state and includes naval, military and air force aircraft and every aircraft commanded by a person in the naval, military or air force service of that state;

“the Multilateral Agreement” has the meaning assigned to it by section 2 of the Act;

“Eurocontrol” has the meaning assigned to it by section 2 of the Act;

“the relevant airspace” means the airspace the lateral and vertical extent of which are as follows:

- (a) the lateral extent shall be the area provided by straight lines joining the following co-ordinates:

- (i) 552000N 0065500W, 552500N 0072000W,
552000N 0081500W, 544500N 0090000W,

543400N 010000W, 540000N 015000W,
 510000N 015000W, 510000N 008000W,
 522000N 0053000W, 535500N 0053000W,
 542500N 0081000W, 552000N 0065500W

(ii) 510000N 015000W, 510000N 008000W,
 483000N 008000W, 490000N 015000W,
 510000N 015000W

(iii) 570000N 015000W, 570000N 010000W,
 543400N 010000W, 540000N 015000W,
 570000N 015000W

- (b) (i) the vertical extent in subparagraph (a) (i) of this paragraph shall extend from ground level with no upper limit, and
- (ii) the vertical extent in subparagraphs (a) (ii) and (iii) of this paragraph shall extend from Flight Level 55 with no upper limit.

(2) In these Regulations a reference to an enactment or regulation shall, unless the context otherwise requires, be construed as a reference to the enactment or regulation as amended or extended by or under any subsequent enactment or regulation.

3. (1) Subject to these Regulations, the operator of an aircraft for which air navigation services (not being air navigation services provided in connection with the use of an aerodrome) are made available in the relevant airspace shall pay to Eurocontrol in respect of each flight by that aircraft in that airspace, a charge for those services (hereinafter referred to as “the charge”) at the appropriate rate calculated in accordance with Regulation 5 of these Regulations.

(2) Where Eurocontrol is unable, after taking reasonable steps, to ascertain who is the operator, it may give notice to the owner of the aircraft that it will treat him as the operator until he establishes to the reasonable satisfaction of Eurocontrol that some other person is the operator, and from the time when the notice is given Eurocontrol shall be entitled, for so long as the owner is unable to establish as aforesaid that some other person is the operator, to treat the owner as if he were the operator, and for that purpose the provisions of these Regulations (other than this paragraph) shall apply to the owner of the aircraft as if he were the operator.

4. (1) The amount of the charge shall be payable to Eurocontrol at its principal office in Brussels.

(2) The amount of the charge shall be paid in euros.

(3) The equivalent in currency of the State of the charge shall be recoverable in any court of competent jurisdiction in the State.

- (4) Nothing in the Regulation shall prevent Eurocontrol from accepting as a good discharge payment in currencies other than euros or at a place other than the principal office of Eurocontrol.
 - (5) Any charge which has not been paid by the due date shall be increased by the addition of interest calculated from the due date.
 - (6) The rate of interest payable pursuant to paragraph (5) shall be determined in accordance with the Multilateral Agreement.
 - (7) Notice of the rate of interest shall be published in *Iris Oifigiuil* as soon as may be after the rate has been determined.
 - (8) For the purpose of calculating interest the due date shall be the date specified on the bill as the date by which payment must be effected.
5. (1) (a) The charge shall be calculated according to the following formula:
- $$r = N \times \text{unit rate}$$
- where r is the charge for the flight, N is the number of service units relating to the flight and the unit rate is the rate, as may be determined by the Irish Aviation Authority from time to time, expressed as an amount in euros applied by Eurocontrol.
- (b) Notice of the amount of the unit rate shall be published in *Iris Oifigiuil* as soon as may be after the rate has been determined and a copy of the said *Iris Oifigiuil* purporting to contain any such notice shall be received in evidence and shall be sufficient evidence of the amount of the said unit rate in any legal proceedings in the State relating to the charge.
- (2) For the purposes of paragraph (1), the number of service units relating to a flight shall be calculated in accordance with the following formula:
$$N = d \times p$$
where d is the distance factor for the flight and p is the weight factor for the aircraft involved.
 - (3) For the purposes of the preceding paragraph:
 - (a) the distance factor shall be the number of kilometres in the great circle distance between the points specified in paragraph (4) of this Regulation, minus 20 kilometres for each landing and take-off in the relevant airspace, divided by 100 and expressed to two places of decimals, and

- (b) the weight factor, subject to paragraph (6) of this Regulation, shall be equal to the square root of the quotient obtained by dividing by 50 the number of metric tonnes in the maximum authorised weight of the aircraft and shall be expressed to two places of decimals.
- (4) The points referred to in paragraph (3) of this Regulation are:
- (a) the aerodrome of departure within the relevant airspace or the point of entry into that airspace and
- (b) the aerodrome of first destination within the relevant airspace or the point of exit from that airspace.
- (c) the point of entry into or, as the case may be, of exit from the relevant airspace shall be the point at which the lateral limits of the said airspace are crossed by the route described in the flight plan.
- (d) For the purposes of this Regulation, the term “flight plan” incorporates any changes made by the operator to the flight plan initially filed as well as any changes approved by the operator resulting from air traffic flow management measures.
- (5) (a) The weight factor shall be the square root of the quotient obtained by dividing by fifty (50) the number of metric tonnes in the maximum certificated take-off weight of the aircraft as set out in the certificate of airworthiness, the flight manual or any other equivalent official document, as follows:

$$p = \sqrt{\frac{\text{Max. take-off weight}}{50}}$$

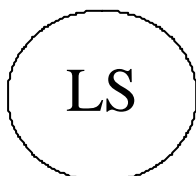
where maximum certificated take-off weight of the aircraft is not known to Eurocontrol, the weight factor shall be calculated by taking the weight of the heaviest aircraft of that type known to exist.

- (b) Where, however, an operator has indicated to Eurocontrol that the composition of the fleet of aircraft of which he operates includes two or more aircraft which are different versions of the same type, the average of the maximum take-off weight of all his aircraft of that type shall be used for the calculation of the weight factor for each aircraft of that type, and this calculation of the weight factor in respect of each aircraft type and each operator shall be effected at least once in every year.

6. These Regulations shall not apply to:

- (a) military flights performed by military aircraft of any state,
 - (b) search and rescue flights performed on the responsibility of a search and rescue body established by one or more states,
 - (c) flights made entirely in accordance with the Visual Flight Rules contained in Part III of the Schedule to the Irish Aviation Authority (Rules of the Air) Order, 2004 (S.I. No. 72 of 2004),
 - (d) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made,
 - (e) flights performed exclusively for the transport, on official mission, of a reigning Monarch and his/her immediate family, Heads of State, Heads of Government, and Government Ministers; the nature of the flight being substantiated by the appropriate status indicator on the flight plan,
 - (f) training flights performed exclusively for the purpose of obtaining a licence or, in the case of cockpit flight crew, a rating, where this is substantiated by an appropriate remark on the flight plan; such flights must be performed solely within the airspace of the State and must not serve for the transport of passengers and/or cargo, nor for positioning or ferrying of the aircraft,
 - (g) flights performed by aircraft of which the maximum take off weight is less than two metric tons.
7. The Irish Aviation Authority (Eurocontrol) (Consolidated Route Charges) Regulations, 1999 (S.I. No. 22 of 1999), are hereby revoked.

Given under the common seal of the Irish Aviation Authority this 5th day of December, 2005.



Sheila McCabe Director

J. Jameson Director

EXPLANATORY NOTE

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

These Regulations, which will come into operation on 1st January, 2006, re-enact, in consolidated form and with amendments, the Irish Aviation Authority (Eurocontrol) (Consolidated Route Charges) Regulations, 1999. The amendments provide for the incorporation of NOTA into the Eurocontrol en route charging mechanism as a consequence of the extension of the provision of radar controlled air traffic control (ATC) services from Shannon into a new area known as NOTA, situated to the north west of Ireland.