



STATUTORY INSTRUMENTS.

S.I. No. 285 of 2007

EUROPEAN COMMUNITIES (OCCURRENCE REPORTING IN CIVIL
AVIATION) REGULATIONS 2007

(Prn. A7/1115)

EUROPEAN COMMUNITIES (OCCURRENCE REPORTING IN CIVIL AVIATION) REGULATIONS 2007

I, MARTIN CULLEN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), as amended by the European Communities (Amendment) Act 1993 (No. 25 of 1993), and for the purpose of giving effect to Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003¹ on occurrence reporting in civil aviation, hereby make the following Regulations—

Citation.

1. These Regulations may be cited as the European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007.

Interpretation.

2. (1) In these Regulations—

“AAIU” means the Air Accident Investigation Unit referred to in Regulation 6 of the Air Navigation (Notification and Investigation of Accidents and Incidents) Regulations 1997 (S.I. No. 205 of 1997);

“accident” has the meaning assigned to it by Regulation 3 of the Air Navigation (Notification and Investigation of Accidents and Incidents) Regulations 1997 (S.I. No. 205 of 1997);

“competent authority” means the authority designated under Regulation 4 as the competent authority;

“Directive” means Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation;

“disidentification” means removing from reports submitted pursuant to these Regulations all personal details relating to the reporter and technical details which might lead to the identity of the reporter, or of third parties, being identified from the information;

“incident” has the meaning assigned to it by Regulation 3 of the Air Navigation (Notification of Accidents and Incidents) Regulations 1997 (No. 205 of 1997);

“occurrence” means an operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety and that has not resulted in an accident or serious incident;

“relevant occurrence” means an occurrence to which these Regulations apply pursuant to Regulation 3;

¹OJ L 167, 04.07.2003, p.23.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 19th June, 2007.

“serious incident” has the meaning assigned to it by Regulation 3 of the Air Navigation (Notification of Accidents and Incidents) Regulations 1997 (S.I. No. 205 of 1997).

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

Application.

3. (1) These Regulations apply to occurrences which endanger or which, if not corrected, would endanger an aircraft, its occupants or any other person.

(2) A list of examples of occurrences to which these Regulations apply is set out in Schedules 1, 2 and 3.

Designation of Irish Aviation Authority as competent authority.

4. The Irish Aviation Authority is designated as the competent authority to put in place a mechanism to collect, evaluate, process and store relevant occurrences reported in accordance with Regulations 5 and 6.

Mandatory reporting of relevant occurrences.

5. (1) In this Regulation, “civil aviation (category 1) person” means—

- (a) the operator or commander of a turbine-powered or a public transport aircraft used by an operator for which the State ensures safety oversight of operations,
- (b) a person who carries on the business of designing, manufacturing, maintaining or modifying a turbine-powered or a public transport aircraft, or any equipment or part thereof, under the oversight of the State,
- (c) a person who signs a certificate of maintenance review, or of release to service in respect of a turbine-powered or a public transport aircraft, or any equipment or part thereof, under the oversight of the State,
- (d) a person who performs a function which requires him or her to be authorised by the State as an air traffic controller or as a flight information officer,
- (e) a manager of an airport covered by Council Regulation (EEC) No. 2408/92 of 23 July 1992² on access for Community air carriers to intra-Community air routes,
- (f) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air navigation facilities for which the State ensures responsibility, or

²OJ L 240, 24.08.1992, p.8.

- (g) a person who performs a function connected with the ground-handling of aircraft, including fuelling, servicing, loadsheet preparation, loading, de-icing and towing at an airport covered by the Council Regulation referred to in subparagraph (e).
- (2) A civil aviation (category 1) person shall, in the performance of his or her functions as such a person—
- (a) report relevant occurrences to the competent authority as soon as is practicable after they occur, and
 - (b) give to the competent authority, as soon as is practicable after being requested to do so by the competent authority, such further information in relation to relevant occurrences as the competent authority considers necessary or appropriate for the purposes of the performance of its functions under these Regulations.
- (3) A civil aviation (category 1) person commits an offence if the person—
- (a) contravenes paragraph (2), or
 - (b) in compliance or purported compliance with paragraph (2), knowingly or recklessly makes a report or gives further information which is false or misleading in a material particular.

Voluntary reporting of relevant occurrences.

6. (1) In this Regulation, “civil aviation (category 2) person” means a person who performs, in civil aviation operations not mentioned in the definition of “civil aviation (category 1) person” in Regulation 5(1), functions similar to the functions of a person who falls within that definition.

- (2) The competent authority shall encourage civil aviation (category 2) persons, in the performance of their functions as such persons—
- (a) to report relevant occurrences to the competent authority as soon as is practicable after they occur, and
 - (b) to give to the competent authority, as soon as is practicable after being requested to do so by the competent authority, such further information in relation to relevant occurrences as the competent authority considers necessary or appropriate for the purposes of the performance of its functions under these Regulations.

(3) A civil aviation (category 2) person commits an offence if, for the purposes of paragraph (2), the person knowingly or recklessly makes a report or gives further information which is false or misleading in a material particular.

Collection, storage and exchange of information.

7. (1) Subject to paragraphs (2) to (5), the competent authority shall put in place a mechanism to collect, evaluate, process and store relevant occurrences reported in accordance with Regulations 5 and 6.

- (2) The competent authority shall store on the relevant database—
 - (a) all reports to which paragraph (1) relates, and
 - (b) information relating to accidents and serious incidents.
- (3) The competent authority shall make available all relevant safety-related information stored on the relevant database to the competent authorities designated by other Member States and to the Commission.
- (4) Where the competent authority receives a report of a relevant occurrence, it shall enter it into the relevant database and notify, whenever necessary, the competent authority of the Member State where—
 - (a) the relevant occurrence took place,
 - (b) the aircraft is registered,
 - (c) the aircraft is manufactured,
 - (d) the operator is certificated.
- (5) The names or addresses of individuals shall never be recorded on the relevant database.
- (6) In this Regulation, “relevant database” means a database—
 - (a) maintained by the competent authority for the purposes of these Regulations, and
 - (b) which uses—
 - (i) software described in paragraph 3 of Article 6 of the Directive to run the database, or
 - (ii) software which is compatible with the software referred to in subparagraph (i) to run the database.

Dissemination of information.

8. (1) The AAIU, and any other entity entrusted with regulating civil aviation safety or with investigating civil aviation accidents and incidents within the Community, shall each have access to information on relevant occurrences collected and exchanged in accordance with Regulation 7 so as to enable it to draw the safety lessons from the reported relevant occurrences.

- (2) The Irish Aviation Authority—
 - (a) may publish annually a safety review containing information on the types of relevant occurrences collected by its mandatory occurrence-reporting system to inform the public of the level of safety in civil aviation,

- (b) may publish reports made to it pursuant to these Regulations if the reports have first been subjected to disidentification.

Confidentiality of information.

9. (1) This Regulation shall apply without prejudice to the operation of any other law of the State relating to access to information by judicial authorities.

(2) Information received by the competent authority or otherwise by or on behalf of the State (including the AAIU)—

- (a) being information referred to in Regulation 7(3) or 8(1), or
- (b) being information referred to in the provisions of the law of other Member States corresponding to Regulation 7(3) or 8(1) which give effect to Article 6(1) or 7(1), as the case may be, of the Directive,

shall be treated as confidential and used solely for the objective of the Directive and these Regulations and shall not be disclosable under the Freedom of Information Acts 1997 to 2003.

(3) Without prejudice to the applicable rules of criminal law, proceedings shall not be instituted in any case of an unpremeditated or inadvertent contravention of the law which comes to the attention of the competent authority or the State only because it is the subject of a report under the mandatory occurrence-reporting scheme set out in these Regulations except where such case is one of gross negligence.

(4) An employer shall not subject an employee of the employer to any prejudice because the employee has, for the purposes of these Regulations, made a report of an incident of which the employee may have knowledge.

(5) For the purposes of paragraph (4), an employee is subjected to prejudice if the employee—

- (a) is dismissed or suffers any unfavourable change to the employee's conditions of employment or any unfair treatment (including selection for redundancy), or
- (b) is the subject of any other action prejudicial to the employee's employment.

(6) Schedule 4 has effect in relation to an alleged contravention of paragraph (4).

(7) If the prejudice to which an employee is subject, in contravention of paragraph (4), constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2007, relief may not be granted to the employee in respect of that prejudice both under the Schedule and under those Acts.

Voluntary reporting of observed deficiencies in aviation not otherwise required to be reported.

10. (1) The Irish Aviation Authority is designated to put in place a system of voluntary reporting to collect and analyse information on observed deficiencies in aviation which are not required to be reported under the system of mandatory reporting set out in these Regulations, but which are perceived by the reporter as an actual or potential hazard.

(2) The Irish Aviation Authority shall subject voluntary reports presented under the system referred to in paragraph (1) to the same conditions for dis-identification as are applied to reports made under Regulation 5.

(3) The Irish Aviation Authority shall ensure that relevant disidentified safety information deriving from the analysis of confidential reporting pursuant to this Regulation is stored and made available to all parties so that it can be used for improving safety in aviation.

Protection from civil liability of persons who have made reports, etc. pursuant to these Regulations.

11. (1) Subject to paragraph (2), a person is not liable in damages in consequence of a report made, or further information given, for the purposes of these Regulations.

(2) Paragraph (1) does not apply in respect of a person who knowingly or recklessly makes a report, or gives further information, which is false or misleading in a material particular.

(3) The reference in paragraph (1) to liability in damages shall include a reference to any other form of relief.

Offences.

12. (1) A person guilty of an offence under Regulation 5(3) or 6(3) shall be liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(2) Where an offence under Regulation 5(3) or 6(3) is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

SCHEDULE 1**LIST OF AIRCRAFT OPERATIONS, MAINTENANCE, REPAIR AND MANUFACTURE-RELATED OCCURRENCES TO BE REPORTED**

Note 1: Although this Schedule lists the majority of reportable occurrences, it cannot be completely comprehensive. Any other occurrences, which are judged by those involved to meet the criteria, should also be reported.

Note 2: This Schedule does not include accidents. In addition to other requirements covering the notification of accidents, they should also be recorded in the relevant database within the meaning of Regulation 7(6).

Note 3: This Schedule contains examples of reporting requirements covering aircraft operations, maintenance, repair and manufacture.

Note 4: Occurrences to be reported are those where the safety of operation was or could have been endangered or which could have led to an unsafe condition. If in the view of the reporter an occurrence did not endanger the safety of the operation but if repeated in different but likely circumstances would create a hazard, then a report should be made. What is judged to be reportable on one class of product, part or appliance may not be so on another and the absence or presence of a single factor, human or technical, can transform an occurrence into an accident or serious incident.

Note 5: Specific operational approvals, e.g. RVSM, ETOPS, RNAV, or a design or maintenance programme, may have specific reporting requirements for failures or malfunctions associated with that approval or programme.

1. AIRCRAFT FLIGHT OPERATIONS

(1) Operation of the aircraft:

(a) Avoidance manoeuvres:

- (i) risk of collision with another aircraft, terrain or other object or an unsafe situation when avoidance action would have been appropriate;
- (ii) an avoidance manoeuvre required to avoid a collision with another aircraft, terrain or other object;
- (iii) an avoidance manoeuvre to avoid other unsafe situations.

(b) Take-off or landing incidents, including—

- (i) precautionary or forced landings,
- (ii) incidents such as under-shooting, overrunning or running off the side of runways,

- (iii) take-offs, rejected take-offs, landings or attempted landings on a closed, occupied or incorrect runway, and
 - (iv) runway incursions.
- (c) Inability to achieve predicted performance during take-off or initial climb.
 - (d) Critically low fuel quantity or inability to transfer fuel or use total quantity of usable fuel.
 - (e) Loss of control, including partial or temporary, regardless of cause.
 - (f) Occurrences close to or above V_1 resulting from or producing a hazardous or potentially hazardous situation, such as rejected take-off, tail strike, engine-power loss.
 - (g) Go around producing a hazardous or potentially hazardous situation.
 - (h) Unintentional significant deviation from airspeed, intended track or altitude (more than 300 feet) regardless of cause.
 - (i) Descent below decision height/altitude or minimum descent height/altitude without the required visual reference.
 - (j) Loss of position awareness relative to actual position or to other aircraft.
 - (k) Breakdown in communication between flight crew (CRM) or between flight crew and other parties (cabin crew, ATC, engineering).
 - (l) Heavy landing — a landing deemed to require a “heavy landing check”.
 - (m) Exceedance of fuel imbalance limits.
 - (n) Incorrect setting of an SSR code or of an altimeter subscale.
 - (o) Incorrect programming of, or erroneous entries into, equipment used for navigation or performance calculations, or use of incorrect data.
 - (p) Incorrect receipt or interpretation of radio-telephony messages.
 - (q) Fuel system malfunctions or defects, which had an effect on fuel supply and/or distribution.
 - (r) Aircraft unintentionally departing from a paved surface.
 - (s) Collision between an aircraft and any other aircraft, vehicle or other ground object.
 - (t) Inadvertent or incorrect operation of any controls or both.

- (u) Inability to achieve the intended aircraft configuration for any flight phase, such as landing gear and gear doors, flaps, stabilisers and slats.
 - (v) A hazard or potential hazard which arises as a consequence of any deliberate simulation of failure conditions for training, system checks or training purposes.
 - (w) Abnormal vibration.
 - (x) Operation of any primary warning system associated with manoeuvring the aircraft, such as configuration warning, stall warning (stick shaker), over-speed warning etc. unless—
 - (i) the crew conclusively established that the indication was false and provided that the false warning did not result in difficulty or hazard arising from the crew response to the warning, or
 - (ii) operated for training or test purposes.
 - (y) GPWS/TAWS “warning” when—
 - (i) the aircraft comes into closer proximity to the ground than had been planned or anticipated,
 - (ii) the warning is experienced in instrument meteorological conditions or at night and is established as having been triggered by a high rate of descent (mode 1), or
 - (iii) the warning results from failure to select landing gear or landing flaps by the appropriate point on the approach (mode 4), or
 - (iv) any difficulty or hazard arises or might have arisen as a result of crew response to the “warning”, such as possible reduced separation from other traffic, this could include warning of any mode or type such as genuine, nuisance or false.
 - (z) GPWS/TAWS “alert” when any difficulty or hazard arises or might have arisen as a result of crew response to the “alert”.
 - (aa) ACAS Ras (resolution advisories).
 - (ab) Jet or prop blast incidents resulting in significant damage or serious injury.
- (2) Emergencies:
- (a) Fire, explosion, smoke or toxic or noxious fumes, even though fires were extinguished.
 - (b) The use of any non-standard procedure by the flight or cabin crew to deal with an emergency when—

- (i) the procedure exists but is not used,
 - (ii) the procedure does not exist,
 - (iii) the procedure exists but is incomplete or inappropriate,
 - (iv) the procedure is incorrect, or
 - (v) the incorrect procedure is used.
- (c) Inadequacy of any procedures designed to be used in an emergency, including when being used for maintenance, training or test purposes.
 - (d) An event leading to an emergency evacuation.
 - (e) Depressurisation.
 - (f) The use of any emergency equipment or prescribed emergency procedures in order to deal with a situation.
 - (g) An event leading to the declaration of an emergency (“Mayday” or “panne”).
 - (h) Failure of any emergency system or equipment, including all exit doors and lighting, to perform satisfactorily, including when being used for maintenance, training or test purposes.
 - (i) Events requiring any use of emergency oxygen by any crew member.
- (3) Crew incapacitation:
- (a) Incapacitation of any member of the flight crew, including that which occurs prior to departure if it is considered that it could have resulted in incapacitation after take-off.
 - (b) Incapacitation of any member of the cabin crew which renders them unable to perform essential emergency duties.
- (4) Injury:

Occurrences, which have or could have led to significant injury to passengers or crew but which are not considered reportable as an accident.

- (5) Meteorology:
- (a) A lightning strike which resulted in damage to the aircraft or loss or malfunction of any essential service.
 - (b) A hail strike which resulted in damage to the aircraft or loss or malfunction of any essential service.

- (c) Severe turbulence encounter, an encounter resulting in injury to occupants or deemed to require a “turbulence check” of the aircraft.
 - (d) A windshear encounter.
 - (e) Icing encounter resulting in handling difficulties, damage to the aircraft or loss or malfunction of any essential service.
- (6) Security:
- (a) Unlawful interference with the aircraft including a bomb threat or hijack.
 - (b) Difficulty in controlling intoxicated, violent or unruly passengers.
 - (c) Discovery of a stowaway.
- (7) Other occurrences:
- (a) Repetitive instances of a specific type of occurrence which in isolation would not be considered “reportable” but which due to the frequency with which they arise, form a potential hazard.
 - (b) A bird strike which resulted in damage to the aircraft or loss or malfunction of any essential service.
 - (c) Wake-turbulence encounters.
 - (d) Any other occurrence of any type considered to have endangered or which might have endangered the aircraft or its occupants on board the aircraft or on the ground.

2. AIRCRAFT TECHNICAL

(1) Structural:

Not all structural failures need to be reported. Engineering judgment is required to decide whether a failure is serious enough to be reported. The following examples can be taken into consideration:

- (a) damage to a principal structural element (PSE) that has not been designated as damage-tolerant (life-limited element). PSEs are those which contribute significantly to carrying flight, ground, and pressurisation loads, and the failure of which could result in a catastrophic failure of the aircraft;
- (b) defect or damage exceeding admissible damages to a PSE that has been designated as damage-tolerant;
- (c) damage to or defect exceeding allowed tolerances of a structural element, the failure of which could reduce the structural stiffness to

such an extent that the required flutter, divergence or control reversal margins are no longer achieved;

- (d) damage to or defect of a structural element, which could result in the liberation of items of mass that may injure occupants of the aircraft;
- (e) damage to or defect of a structural element, which could jeopardise proper operation of systems (see subparagraph (2));
- (f) loss of any part of the aircraft structure in flight.

(2) Systems:

The following general criteria applicable to all systems are proposed:

- (a) loss, significant malfunction or defect of any system, subsystem or set of equipment when standard operating procedures, drills etc. could not be satisfactorily accomplished;
- (b) inability of the crew to control the system, for example:
 - (i) uncommanded actions,
 - (ii) incorrect or incomplete response, or both, including limitation of movement or stiffness,
 - (iii) runaway;
 - (iv) mechanical disconnection or failure;
- (c) failure or malfunction of the exclusive function or functions of the system (one system could integrate several functions);
- (d) interference within or between systems;
- (e) failure or malfunction of the protection device or emergency system associated with the system;
- (f) loss of redundancy of the system;
- (g) any occurrence resulting from unforeseen behaviour of a system;
- (h) for aircraft types with single main systems, subsystems or sets of equipment—loss, significant malfunction or defect in any main system, subsystem or set of equipment;
- (i) for aircraft types with multiple independent main systems, subsystems or sets of equipment — the loss, significant malfunction or defect of more than one main system, subsystem or set of equipment;
- (j) operation of any primary warning system associated with aircraft systems or equipment unless the crew conclusively established that

the indication was false, provided that the false warning did not result in difficulty or hazard arising from the crew response to the warning;

- (k) leakage of hydraulic fluids, fuel, oil or other fluids which resulted in a fire hazard or possible hazardous contamination of aircraft structure, systems or equipment, or risk to occupants;
- (l) malfunction or defect of any indication system when this results in the possibility of misleading indications to the crew;
- (m) any failure, malfunction or defect if it occurs at a critical phase of the flight and is relevant to the system operation;
- (n) significant shortfall of the actual performances compared to the approved performance which resulted in a hazardous situation (taking into account the accuracy of the performance-calculation method) including braking action, fuel consumption, etc.
- (o) asymmetry of flight controls; such as flaps, slats, spoilers etc.

Schedule 2 gives a list of examples of reportable occurrences resulting from the application of these general criteria to specific systems.

(3) Propulsion (including engines, propellers and rotor systems) and auxiliary power units (APUs):

- (a) flameout, shutdown or malfunction of any engine;
- (b) overspeed or inability to control the speed of any high-speed rotating component (for example: APU, air starter, air cycle machine, air turbine motor, propeller or rotor);
- (c) failure or malfunction of any part of an engine or powerplant resulting in any one or more of the following;
 - (i) non-containment of components or debris;
 - (ii) uncontrolled internal or external fire, or hot gas breakout;
 - (iii) thrust in a direction different from that demanded by the pilot;
 - (iv) thrust-reversing system failing to operate or operating inadvertently;
 - (v) inability to control power, thrust or rpm;
 - (vi) failure of the engine mount structure;
 - (vii) partial or complete loss of a major part of the powerplant;
 - (viii) dense visible fumes or concentrations of toxic products sufficient to incapacitate crew or passengers;

- (ix) inability, by use of normal procedures, to shutdown an engine;
- (x) inability to restart a serviceable engine;
- (d) an uncommanded thrust/power loss, change or oscillation which is classified as a loss of thrust or power control (LOTC):
 - (i) for a single-engine aircraft,
 - (ii) where it is considered excessive for the application,
 - (iii) where this could affect more than one engine in a multi-engine aircraft, particularly in the case of a twin-engine aircraft, or
 - (iv) a multi-engine aircraft where the same, similar, engine type is used in an application where the event would be considered hazardous or critical;
- (e) any defect in a life-controlled part causing its withdrawal before completion of its full life;
- (f) defects of common origin which could cause an in-flight shut-down rate so high that there is the possibility of more than one engine being shut down on the same flight;
- (g) an engine limiter or control device failing to operate when required or operating inadvertently;
- (h) exceedance of engine parameters;
- (i) FOD resulting in damage;
- (j) propellers and transmission — failure or malfunction of any part of a propeller or powerplant resulting in any one or more of the following:
 - (i) an overspeed of the propeller;
 - (ii) the development of excessive drag;
 - (iii) a thrust in the opposite direction to that commanded by the pilot;
 - (iv) a release of the propeller or any major portion of the propeller;
 - (v) a failure that results in excessive imbalance;
 - (vi) the unintended movement of the propeller blades below the established minimum in-flight low-pitch position;
 - (vii) an inability to feather the propeller;
 - (viii) an inability to change propeller pitch;
 - (ix) an uncommanded change in pitch;

- (x) an uncontrollable torque or speed fluctuation;
- (xi) the release of low-energy parts;
- (k) rotors and transmission:
 - (i) damage or defect of main rotor gearbox/attachment which could lead to in-flight separation of the rotor assembly or malfunctions of the rotor control, or both;
 - (ii) damage to tail rotor, transmission and equivalent systems;
- (l) APUs:
 - (i) shut down or failure when the APU is required to be available by operational requirements, such as ETOPS, MEL;
 - (ii) inability to shut down the APU;
 - (iii) overspeed;
 - (iv) inability to start the APU when needed for operational reasons.
- (4) Human factors — any incident where any feature or inadequacy of the aircraft design could have led to an error of use that could contribute to a hazardous or catastrophic effect.
- (5) Other occurrences:
 - (a) any incident where any feature or inadequacy of the aircraft design could have led to an error of use that could contribute to a hazardous or catastrophic effect;
 - (b) an occurrence not normally considered as reportable (such as furnishing and cabin equipment, water systems), where the circumstances resulted in endangering the aircraft or its occupants;
 - (c) a fire, explosion, smoke or toxic or noxious fumes;
 - (d) any other event which could endanger the aircraft, or affect the safety of the occupants of the aircraft, or people or property in the vicinity of the aircraft or on the ground;
 - (e) failure or defect of passenger address system resulting in loss of, or inaudible, passenger address system;
 - (f) loss of pilot seat control during flight.

3. AIRCRAFT MAINTENANCE AND REPAIR

(1) Incorrect assembly of parts or components of the aircraft found during an inspection or test procedure not intended for that specific purpose.

(2) Hot bleed air leak resulting in structural damage.

(3) Any defect in a life-controlled part causing retirement before completion of its full life.

(4) Any damage or deterioration (e.g. fractures, cracks, corrosion, delamination, disbonding etc.) resulting from any cause (e.g. as flutter, loss of stiffness or structural failure) to—

(a) a primary structure or a PSE (as defined in the manufacturers' Repair Manual) where such damage or deterioration exceeds allowable limits specified in the Repair Manual and requires a repair or complete or partial replacement;

(b) a secondary structure which consequently has or may have endangered the aircraft;

(c) the engine, propeller or rotorcraft rotor system.

(5) Any failure, malfunction or defect of any system or equipment, or damage or deterioration thereof found as a result of compliance with an airworthiness directive or other mandatory instruction issued by a regulatory authority, when—

(a) it is detected for the first time by the reporting organisation implementing compliance;

(b) on any subsequent compliance, it exceeds the permissible limits quoted in the instruction or published repair/rectification procedures, or both, are not available.

(6) Failure of any emergency system or equipment, including all exit doors and lighting, to perform satisfactorily, including when being used for maintenance or test purposes.

(7) Non-compliance or significant errors in compliance with required maintenance procedures.

(8) Products, parts, appliances and materials of unknown or suspect origin.

(9) Misleading, incorrect or insufficient maintenance data or procedures that could lead to maintenance errors.

(10) Any failure, malfunction or defect of ground equipment used for testing or checking of aircraft systems and equipment when the required routine inspection and test procedures did not clearly identify the problem, where this results in a hazardous situation.

4. AIR NAVIGATION SERVICES, FACILITIES AND GROUND SERVICES

(1) Air navigation services (ANS) — see Schedule 3, list of reportable ANS-related occurrences.

(2) Aerodrome and aerodrome facilities:

(a) significant spillage during fuelling operations;

(b) loading of incorrect fuel quantities likely to have a significant effect on aircraft endurance, performance, balance or structural strength.

(3) Handling of passengers, baggage and cargo:

(a) significant contamination of aircraft structure, systems and equipment arising from the carriage of baggage or cargo;

(b) incorrect loading of passengers, baggage or cargo, likely to have a significant effect on aircraft mass or balance or both;

(c) incorrect stowage of baggage or cargo (including hand baggage) likely in any way to endanger the aircraft, its equipment or occupants or to impede emergency evacuation;

(d) inadequate stowage of cargo containers or other substantial items of cargo;

(e) carriage or attempted carriage of dangerous goods in contravention of applicable regulations, including incorrect labelling and packaging of dangerous goods.

(4) Aircraft ground handling and servicing:

(a) failure, malfunction or defect of ground equipment used for the testing or checking of aircraft systems and equipment when the required routine inspection and test procedures did not clearly identify the problem, where this results in a hazardous situation;

(b) non-compliance or significant errors in compliance with required servicing procedures;

(c) loading of contaminated or incorrect type of fuel or other essential fluids (including oxygen and potable water).

SCHEDULE 2*Regulation 3.***EXAMPLES OF REPORTABLE OCCURRENCES RESULTING FROM
THE APPLICATION OF THE GENERAL CRITERIA TO SPECIFIC
SYSTEMS LISTED IN PARAGRAPH 2(2) OF SCHEDULE 1**

1. Air conditioning/ventilation:
 - (a) complete loss of avionics cooling;
 - (b) depressurisation.
2. Autoflight system:
 - (a) failure of the autoflight system to achieve the intended operation while engaged;
 - (b) significant reported crew difficulty to control the aircraft linked to autoflight system functioning;
 - (c) failure of any autoflight system disconnect device;
 - (d) uncommanded autoflight mode change.
3. Communications:
 - (a) failure or defect of passenger address system resulting in loss of or inaudible passenger address;
 - (b) total loss of communication in flight.
4. Electrical system:
 - (a) loss of one electrical distribution system (AC/DC);
 - (b) total loss or loss of more than one electrical generation system;
 - (c) failure of the back up (emergency) electrical generation system.
5. Cockpit/cabin/cargo:
 - (a) pilot seat control loss during flight;
 - (b) failure of any emergency system or equipment, including emergency evacuation signalling system, all exit doors, emergency lighting, etc.
 - (c) loss of retention capability of the cargo loading system.
6. Fire protection system:
 - (a) fire warnings, except those immediately confirmed as false;

- (b) undetected failure or defect of fire/smoke detection/protection system, which could lead to loss or reduced fire detection/protection;
- (c) absence of warning in case of actual fire or smoke.

7. Flight controls:

- (a) asymmetry of flaps, slats, spoilers, etc.
- (b) limitation of movement, stiffness or poor or delayed response in the operation of primary flight control systems or their associated tab and lock systems;
- (c) flight control surface runaway;
- (d) flight control surface vibration felt by the crew;
- (e) mechanical flight control disconnection or failure;
- (f) significant interference with normal control of the aircraft or degradation of flying qualities.

8. Fuel system:

- (a) fuel quantity indicating system malfunction resulting in total loss or wrong indication of fuel quantity on board;
- (b) leakage of fuel which resulted in major loss, fire hazard, significant contamination;
- (c) malfunction or defects of the fuel jettisoning system which resulted in inadvertent loss of significant quantity, fire hazard, hazardous contamination of aircraft equipment or inability to jettison fuel;
- (d) fuel system malfunctions or defects which had a significant effect on fuel supply or distribution or both;
- (e) inability to transfer or use total quantity of usable fuel.

9. Hydraulics:

- (a) loss of one hydraulic system (ETOPS only);
- (b) failure of the isolation system;
- (c) loss of more than one hydraulic circuit;
- (d) failure of the back-up hydraulic system;
- (e) inadvertent ram air turbine extension.

10. Ice detection/protection system:

- (a) undetected loss or reduced performance of the anti-ice/de-ice system;
- (b) loss of more than one of the probe-heating systems;
- (c) inability to obtain symmetrical wing de-icing;
- (d) abnormal ice accumulation leading to significant effects on performance or handling qualities;
- (e) crew vision significantly affected.

11. Indicating/warning/recording systems:

- (a) malfunction or defect of any indicating system when the possibility of significant misleading indications to the crew could result in an inappropriate crew action on an essential system;
- (b) loss of a red warning function on a system;
- (c) for glass cockpits: loss or malfunction of more than one display unit or computer involved in the display/warning function.

12. Landing gear system/brakes/tyres:

- (a) brake fire;
- (b) significant loss of braking action;
- (c) asymmetrical braking action leading to significant path deviation;
- (d) failure of the landing gear free fall extension system (including during scheduled tests);
- (e) unwanted landing gear or gear doors extension/retraction;
- (f) multiple tyre burst.

13. Navigation systems (including precision approach systems) and air data systems:

- (a) total loss or multiple navigation equipment failures;
- (b) total or multiple air data system equipment failures;
- (c) significant misleading indications;
- (d) significant navigation errors attributed to incorrect data or a database coding error;
- (e) unexpected deviations in lateral or vertical path not caused by pilot input;

- (f) problems with ground navigational facilities leading to significant navigation errors not associated with transitions from inertial navigation mode to radio navigation mode.

14. Oxygen for pressurised aircraft:

- (a) loss of oxygen supply in the cockpit;
- (b) loss of oxygen supply to a significant number of passengers (more than 10 per cent), including when found during maintenance or training or test purposes.

15. Bleed air system:

- (a) hot bleed air leak resulting in fire warning or structural damage;
- (b) loss of all bleed air systems;
- (c) failure of bleed air leak detection system.

SCHEDULE 3

Regulation 3.

**LIST OF AIR NAVIGATION SERVICES RELATED OCCURRENCES
TO BE REPORTED****PART 1**

1. This Part—

- (a) lists the majority of reportable occurrences but is not completely comprehensive. Any other occurrences, which are judged by those involved to meet the criteria, should also be reported,
- (b) does not include accidents and serious incidents. In addition to other requirements covering the notification of accidents, they should also be recorded in the relevant database within the meaning of Regulation 7(6),
- (c) includes ANS occurrences which pose an actual or potential threat to flight safety, or can compromise the provision of safe ANS services,
- (d) does not preclude the reporting of any occurrence, situation or condition which, if repeated in different but likely circumstances or allowed to continue uncorrected, could create a hazard to aircraft safety.

2. Near collision incidents (encompassing specific situations where one aircraft and another aircraft/the ground/a vehicle/person or object are perceived to be too close to each other):

- (a) separation minima infringement;
- (b) inadequate separation;
- (c) near-controlled flight into terrain (near CFIT);
- (d) runway incursion where avoiding action was necessary.

3. Potential for collision or near collision (encompassing specific situations having the potential to be an accident or a near collision, if another aircraft is in the vicinity):

- (a) runway incursion where no avoiding action is necessary;
- (b) runway excursion;
- (c) aircraft deviation from ATC clearance;
- (d) aircraft deviation from applicable air traffic management (ATM) regulation:

- (i) aircraft deviation from applicable published ATM procedures;
- (ii) unauthorised penetration of airspace;
- (iii) deviation from aircraft ATM-related equipment carriage and operations, as mandated by applicable regulations.

4. ATM-specific occurrences (encompassing those situations where the ability to provide safe ATM services is affected, including situations where, by chance, the safe operation of aircraft has not been jeopardised). This includes the following occurrences and is supplemented by the examples set out in Part 2:

- (a) inability to provide ATM services:
 - (i) inability to provide air traffic services;
 - (ii) inability to provide airspace management services;
 - (iii) inability to provide air traffic flow management services;
- (b) failure of communication function;
- (c) failure of surveillance function;
- (d) failure of data processing and distribution function;
- (e) failure of navigation function;
- (f) ATM system security.

PART 2

1. This Part sets out examples of reportable ATM occurrences resulting from the application of the general criteria referred to in paragraph 4 of Part 1 to aircraft operations.

2. Provision of significantly incorrect, inadequate or misleading information from any ground sources, such as air traffic control (ATC), automatic terminal information service (ATIS), meteorological services, navigation databases, maps, charts, manuals, etc.

3. Provision of less than prescribed terrain clearance.

4. Provision of incorrect pressure reference data (i.e. altimeter setting).

5. Incorrect transmission, receipt or interpretation of significant messages when this results in a hazardous situation.

6. Separation minima infringement.

7. Unauthorised penetration of airspace.

8. Unlawful radio communication transmission.
9. Failure of ANS ground or satellite facilities.
10. Major ATC/ATM failure or significant deterioration of aerodrome infrastructure.
11. Aerodrome movement areas obstructed by aircraft, vehicles, animals or foreign objects, resulting in a hazardous or potentially hazardous situation.
12. Errors or inadequacies in marking of obstructions or hazards on aerodrome movement areas resulting in a hazardous situation.
13. Failure, significant malfunction or unavailability of airfield lighting.

SCHEDULE 4**REDRESS FOR CONTRAVENTION OF REGULATION 9(4)***Complaints to rights commissioner*

1. (1) An employee may present a complaint to a rights commissioner that his or her employer has contravened Regulation 9(4) in relation to the employee.

(2) Where a complaint under subparagraph (1) is made, the rights commissioner shall—

(a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint,

(b) give a decision in writing in relation to it, and

(c) communicate the decision to the parties.

(3) A decision of a rights commissioner under subparagraph (2) shall do one or more of the following:

(a) declare that the complaint was or, as the case may be, was not well founded;

(b) require the employer to take a specified course of action;

(c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all the circumstances but not exceeding 2 years remuneration in respect of the employee's employment;

and the references in the foregoing clauses to an employer shall be construed, in a case where ownership of the business of the employer changes after the contravention to which the complaint relates occurred, as references to the person who, by virtue of the change, becomes entitled to such ownership.

(4) A rights commissioner shall not entertain a complaint under this paragraph if it is presented to him or her after the expiration of the period of 6 months beginning on the date of the contravention to which the complaint relates.

(5) Notwithstanding subparagraph (4), a rights commissioner may entertain a complaint under this paragraph presented to him or her after the expiration of the period referred to in subparagraph (4) (but not later than 6 months after such expiration) if he or she is satisfied that the failure to present the complaint within that period was due to reasonable cause.

(6) A complaint shall be presented by giving notice of it in writing to a rights commissioner.

(7) A copy of a notice under subparagraph (6) shall be given to the other party concerned by the rights commissioner concerned.

(8) Proceedings under this paragraph before a rights commissioner shall be conducted otherwise than in public.

Appeals from decisions of rights commissioner

2. (1) A party concerned may appeal to the Labour Court (the “Court”) from a decision of a rights commissioner under paragraph 1 and, if the party does so, the Court shall give the parties an opportunity to be heard by it and to present to it any evidence relevant to the appeal, shall make a determination in writing in relation to the appeal affirming, varying or setting aside the decision and shall communicate the determination to the parties.

(2) An appeal under this paragraph shall be initiated by the party concerned giving, within 6 weeks (or such greater period as the Court may determine in the particular circumstances) from the date on which the decision to which it relates was communicated to the party, a notice in writing to the Court containing such particulars as are determined by the Court under subparagraph (4) and stating the intention of the party concerned to appeal against the decision.

(3) A copy of a notice under subparagraph (2) shall be given by the Court to any other party concerned as soon as is practicable after the receipt of the notice by the Court.

(4) The following matters, or the procedures to be followed in relation to them, shall be determined by the Court, namely—

- (a) the procedure in relation to all matters concerning the initiation and the hearing by the Court of appeals under this paragraph,
- (b) the times and places of hearings of such appeals,
- (c) the representation of the parties to such appeals,
- (d) the publication and notification of determinations of the Court,
- (e) the particulars to be contained in a notice under subparagraph (2), and
- (f) any matters consequential on, or incidental to, the foregoing matters.

(5) The Court may refer a question of law arising in proceedings before it under this paragraph to the High Court for determination and the determination of the High Court shall be final and conclusive.

(6) A party to proceedings before the Court under this paragraph may appeal to the High Court from a determination of the Court on a point of law and the determination of the High Court shall be final and conclusive.

Paragraphs 1 and 2: supplemental provisions

3. (1) A rights commissioner shall furnish the Court with a copy of each decision given by the commissioner under paragraph 1(2).

(2) A rights commissioner shall maintain a register of all decisions given by him or her under paragraph 1(2) and shall make the register available for inspection by members of the public during normal office hours.

(3) The Court shall publish, in a manner it considers appropriate, particulars of any determination made by it under subparagraph (4)(a), (c), (e) and (f) of paragraph 2 (not being a determination as respects a particular appeal under that paragraph).

Enforcement by Circuit Court

4. (1) Where any party to a complaint under paragraph 1(1) fails to carry out in accordance with its terms a decision of a rights commissioner under paragraph 1(2) or a determination of the Court under paragraph 2(1) within 6 weeks from the date on which the decision or determination, as the case may be, is communicated to the parties, the Circuit Court shall, on application to it in that behalf by—

(a) the employee concerned, or

(b) with the consent of the employee, any trade union, or excepted body (within the meaning of section 1 of the Industrial Relations (Miscellaneous Provisions) Act 2004 (No. 4 of 2004)), of which the employee is a member,

without hearing the respondent or any evidence (other than in relation to the matters aforesaid) make an order directing the respondent to carry out the decision or the determination, as the case may be, in accordance with its terms.

(2) The reference in subparagraph (1) to a decision of a rights commissioner or to a determination of the Court is a reference to such a decision or determination, as the case may be, in relation to which, at the expiration of the time for bringing an appeal against it, no such appeal has been brought, or if such an appeal has been brought it has been abandoned and the reference to the date on which the decision or the determination, as the case may be, is communicated to the parties shall, in a case where such an appeal is abandoned, be construed as a reference to the date of such abandonment.

(3) The Circuit Court may, in an order under this section, if in all the circumstances it considers it appropriate to do so, where the order relates to the payment of compensation, direct the employer concerned to pay to the employee concerned interest on the compensation at the rate referred to in section 22 of the Courts Act 1981, in respect of the whole or any part of the period beginning

6 weeks after the date on which the decision concerned of the rights commissioner under paragraph 1(2) or the determination of the Court under paragraph 2(1), as the case requires, is communicated to the parties and ending on the date of the order.

(4) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the respondent ordinarily resides or carries on any profession, trade or business, or in which the principal office of the respondent is situate.



GIVEN under my Official Seal,
13 June 2007

MARTIN CULLEN,
Minister for Transport.

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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