



Number 13 of 2005

**AIR NAVIGATION AND TRANSPORT (INDEMNITIES) ACT
2005**

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Number 13 of 2005

**AIR NAVIGATION AND TRANSPORT (INDEMNITIES) ACT
2005**

AN ACT TO MAKE PROVISION FOR THE GRANTING OF
INDEMNITIES TO AIR NAVIGATION UNDERTAKINGS
BY THE MINISTER FOR TRANSPORT AND TO MAKE
PROVISION FOR MATTERS RELATED THERETO.

[4th July, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, except where the context otherwise requires— Interpretation.

“aerodrome” has the same meaning as it has in the Irish Aviation Authority (Aerodromes and Visual Ground Aids) Order 2000 (S.I. No. 334 of 2000);

“airline licensed by the State” means an undertaking holding an authorisation under section 8 of the Air Navigation and Transport Act 1965;

“air navigation undertaking” means an airline licensed by the State, the Irish Aviation Authority, an aviation support company, the operator of an airport, the operator of an aerodrome licensed for public use by the Irish Aviation Authority, and a person referred to in *section 10(1)(b)*;

“airport” has the same meaning as it has in the Air Navigation and Transport (Amendment) Act 1998;

“aviation security” has the same meaning as it has in Regulation (EC) No. 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security¹;

“aviation support company” means an undertaking providing—

(a) groundhandling services, or

(b) services involving the maintenance, repair or overhaul of aircraft,

¹O.J. No. L355, 30.12.2002, p.1

(c) aviation security service;

“enactment” means a statute or an instrument made under a power conferred by a statute;

“groundhandling services” has the same meaning as it has in the European Communities (Access to the Groundhandling Market at Community Airports) Regulations, 1998 (S.I. No. 505 of 1998) in respect of airports and has the same meaning in respect of aerodromes;

“Insurance Acts” means the Insurance Acts 1909 to 2000, regulations made under those Acts and regulations relating to insurance made under the European Communities Act 1972;

“Minister” means the Minister for Transport;

“Ministerial indemnity” has the meaning assigned by *section 3(1)*; and

“specified risks” means risks specified by the Minister in an indemnity granted or renewed pursuant to this Act.

(2) In this Act a reference to an order includes a reference to a continuing order.

(3) A reference in this Act to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraphs of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

State of difficulty.

2.—(1) Whenever and so often as the Government are of the opinion that circumstances prevail or are likely to prevail in relation to the provision of insurance relating to aviation, which insurance, in the opinion of the Government, is essential for the functioning of civil aviation, and whereby such insurance is unavailable or unavailable at a reasonable cost in the commercial insurance market, the Government may by order declare that a state of difficulty affecting the supply of such insurance exists in relation to risks specified in the order.

(2) The Government in an order made under this section may specify a date as being the date of commencement of the state of difficulty and such date may be a date earlier than the date of the making of the order by the Government (including a date prior to the enactment of this Act, but not earlier than 23:59 Greenwich Mean Time on 16 June 2005).

(3) An order under *subsection (1)* of this section shall remain in force for such period (not exceeding 12 months from the date of the making of the order) as the Government think proper and specify in the order, and unless previously revoked or continued by an order made pursuant to *subsection (4)*, shall then expire.

(4) Where, prior to the expiry of an order made pursuant to *subsection (1)*, the Government are of the opinion that the circumstances referred to in *subsection (1)* or this subsection prevail or are likely to prevail, then the Government may make an order (in this Act

referred to as a “continuing order”) continuing the order in force for such further period as the Government thinks fit (not exceeding 12 months from the date of the making of the continuing order).

(5) The Government may make a continuing order under this section where the circumstances prevailing or considered by the Government as likely to prevail are altered from the circumstances which prevailed or were considered likely to prevail at the time the Government made the order pursuant to *subsection (1)* or *(4)*.

(6) The Government may by order amend or revoke an order made under this section, including an order made under this subsection.

(7) Every order made by the Government under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after it is laid before it, the order shall be annulled without prejudice to anything previously done thereunder.

3.—(1) Subject to the provisions of this Act, the Minister, with the consent of the Minister for Finance, may grant or renew an indemnity to an air navigation undertaking in respect of specified risks and any such indemnity is in this Act referred to as a “Ministerial indemnity”. Ministerial indemnities.

(2) Subject to *section 5(2)* the Minister shall not grant or renew an indemnity pursuant to *subsection (1)* unless—

- (a) there is in force an order referred to in *section 2*,
- (b) the indemnity relates to risks specified in the order referred to in *section 2*, and
- (c) the Minister has been requested to grant such an indemnity on foot of an application made pursuant to *section 12* by the air navigation undertaking concerned.

4.—(1) Subject to *subsection (2)*, the Minister shall not grant or renew a Ministerial indemnity unless he or she is satisfied that there was a policy of insurance in force immediately prior to the commencement of the period of the state of difficulty referred to in *section 2(1)* in respect of the air navigation undertaking concerned providing cover for the specified risks. Requirement for prior insurance.

(2) In the case of an air navigation undertaking which had not commenced the activity in respect of which the indemnity is sought before the commencement of the period of the state of difficulty the subject of an order under *section 2*, the Minister may, notwithstanding *subsection (1)* grant a Ministerial indemnity to that air navigation undertaking.

5.—(1) Nothing in this Act shall oblige the Minister to grant or renew a Ministerial indemnity to an air navigation undertaking. Minister not obliged to grant or renew indemnity.

(2) The Minister may, at his or her discretion, refuse to grant or to renew a Ministerial indemnity.