



STATUTORY INSTRUMENTS.

S.I. No. 426 of 2008



EUROPEAN COMMUNITIES (COMMON RULES FOR THE
OPERATION OF AIR SERVICES IN THE COMMUNITY)
REGULATIONS 2008

(Prn. A8/1702)

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OPERATION OF AIR SERVICES IN THE COMMUNITY)
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I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purposes of giving full effect to Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Common Rules for the Operation of Air Services in the Community) Regulations 2008.

(2) These Regulations come into operation on 1 November 2008.

2. (1) In these Regulations—

“Act of 2001” means Aviation Regulation Act 2001 (No. 1 of 2001);

“Article 23” means Article 23 of the Council and Parliament Regulation;

“Commission” means Commission for Aviation Regulation;

“Council and Parliament Regulation” means Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008¹;

“Minister” means Minister for Transport.

(2) A word or expression which is used in these Regulations and which is also used in the Council and Parliament Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council and Parliament Regulation.

3. The Commission is the competent licensing authority in the State for the purposes of the Council and Parliament Regulation. This is a function of the Commission under the Act of 2001.

4. Section 42 of the Act of 2001 applies to community air carriers.

5. An air carrier, its agent or a ticket seller who fails to comply with Article 23 commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

¹OJ No. L293, 31.10. 2008, p. 3

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 7th November, 2008.*

6. (1) The Minister may appoint persons to be authorised officers for the purpose of enforcing Article 23 or either paragraph of that Article.
- (2) A person appointed under paragraph (1) shall, on his or her appointment, be furnished by the Minister with a certificate of his or her appointment and when exercising a power conferred by paragraph (3) shall, if requested by any person thereby affected, produce the certificate or a copy of it to that person for inspection.
- (3) An authorised officer may—
- (a) enter, at any reasonable time, any premises or place at which an air carrier, its agent or ticket seller carries on business and inspect the premises and books, documents or records found there,
 - (b) require the person to produce to him or her any books, documents or records relating to air fares and air rates for air services to which Article 23 applies which are in the person's power or control, and in the case of information in a non-legible form to produce it in legible form, and to give to the officer such information as he or she may reasonably require in relation to any entries in such books, documents or records,
 - (c) secure for later inspection any premises or place or part of it in which books, documents or records relating to air fares and air rates for air services to which Article 23 applies are kept or there are reasonable grounds for believing that such are kept,
 - (d) inspect and take extracts from or make copies of any such books, documents or records (including in the case of information in a non-legible form a copy or extract in a permanent legible form),
 - (e) remove and retain such books, documents or records for such period as is reasonable for further examination,
 - (f) require the person to maintain such books, documents or records for such period of time, as is reasonable, as the officer directs,
 - (g) require the person to give to the officer any information which the officer may reasonably require with regard to air fares and air rates for air services to which Article 23 applies,
 - (h) require any person on the premises or place having charge of, or otherwise concerned with the operation of, data equipment or any associate apparatus or material, to afford the officer all reasonable assistance in relation to it.
- (4) A person who—
- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under this Regulation,

- (b) fails or refuses to comply with a requirement under this Regulation,
- (c) alters, suppresses or destroys any books, documents or records which the person concerned has been required to produce,
- (d) gives to an authorised officer information which is false or misleading in a material respect, or
- (e) falsely represents himself or herself to be an authorised officer,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

(5) In this Regulation “authorised officer” means a person appointed as an authorised officer under this Regulation.

7. Proceedings for an offence under Regulation 5 or 6(4) may be brought and prosecuted summarily by the Minister.

8. Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a 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, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

9. The Air Services Authorisation Order 1993 (S.I. No. 326 of 1993) is amended in Article 2 by substituting for the definition of “the Council Regulation” the following:

“ ‘Council Regulation’ means Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008¹;”.

10. (1) Subsection (3) of section 8 and paragraph (d) of section 9(2) of the Act of 2001 are repealed.

(2) The European Communities (Fares and Rates for Air Services) Regulations 1993 (S.I. No. 256 of 1993) and the Air Navigation and Transport Act 1965 (Section 8) Regulations 1993 (S.I. No. 323 of 1993) are revoked.



GIVEN under my Official Seal,
31 October 2008

NOEL DEMPSEY,
Minister for Transport.

EXPLANATORY NOTE

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

The purpose of these Regulations is to designate the Commission for Aviation Regulation as the competent licensing authority in the State for the purposes of Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008 and to give full effect to the Regulation.

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