

LEXOLOGY[®]

Navigator

Aviation

in Ireland



Table of contents

Recent developments and trends

- Recent developments

Regulatory framework

- Domestic law
- International law
- Regulatory authorities

Air carrier operations

- Operating authorisation
- Ownership and control
- Financial requirements
- Insurance coverage
- Safety requirements
- Environmental obligations
- Air traffic control
- Routes
- Charter services
- Taxes

Consumer protection and liability

- Airfares
- Passenger protection

What rules and liabilities are air carriers subject to in respect of:

- Cargo
- Marketing and advertising
- Complaints handling

Aircraft

- Aircraft register
- Mortgages and encumbrances
- Detention
- Safety and maintenance
- Drones

Accidents

- Investigation
- Liability
- Regulatory notification

Airports

- Ownership
- Operation
- Airport charges
- Access
- Slot allocation
- Ground handling

Competition issues

- Governing regime
- Code sharing and joint ventures





- State aid
- Notable cases

Dispute resolution

- Disputes





Contributors

Ireland



Matheson
Rory McPhillips
rory.mcphillips@matheson.com



Matheson
Stuart Kennedy
stuart.kennedy@matheson.com



Matheson
Stephen Gardiner



Recent developments and trends

Recent developments

Are there any notable recent developments or trends in the aviation sector in your jurisdiction?

The Cape Town Convention Alternative A insolvency remedy came into force in Ireland on 10 May 2017. Alternative A is set out in Article XI of the Protocol to the Cape Town Convention, signed in Cape Town on 16 November 2001. By choosing to adopt Alternative A, Ireland gave the force of law to a regime functionally equivalent to the well-established Section 1110 US Bankruptcy Code system. Alternative A applies to leases, security agreements and conditional sale agreements for which registrations have been carried out on the International Registry of Mobile Assets. It provides a waiting period of 60 days, following which an aircraft object must be returned to the lender or lessor by the debtor, airline or insolvency administrator unless all defaults (other than a default constituted by insolvency proceedings) are cured and the debtor agrees to perform all future obligations under the relevant agreements.

Ireland was one of the first countries in Europe to introduce a mandatory register for aerial drones (above one kilo) pursuant to the Small Unmanned Aircraft (Drones) and Rockets Order (Statutory Instrument) 563/2015 (the Drones Order). Ireland was also the first country to implement an online drone registration facility.

Regulatory framework

Domestic law

What is the primary domestic legislation governing the aviation industry in your jurisdiction?

Ireland has several different sources of legislation relevant to the aviation industry. These include primary legislation (ie, legislation passed by way of a parliamentary act by the Houses of Parliament in Ireland) and secondary legislation, which is passed by way of statutory instrument. Other relevant sources of legislation with applicability in Ireland include international conventions and legislation issued by EU institutions, which in some instances have a direct effect on Ireland. Domestic legislation governing aviation in Ireland is heavily influenced by applicable European law.

International law

What international aviation agreements has your jurisdiction concluded?

Ireland is party to a wide range of international aviation conventions, including the Cape Town Convention and Aircraft Protocol 2001, the Montreal Convention 1999, the Hague Convention 1970, the Tokyo Convention 1970, the Chicago Convention 1944 and the Warsaw Convention 1929 (as amended). Ireland has also signed – but not yet ratified – the Geneva Convention 1959.

Ireland is party to 29 bilateral air services agreements with non-EU countries. Their purpose is to regulate the provision of air services between the jurisdictions, which provide important access rights for air carriers.

Regulatory authorities

Which government bodies regulate the aviation industry and what is the extent of their powers?

The Department of Transport, Tourism and Sport (DTTAS) is the Irish governmental department charged with the oversight of aviation policy. The implementation of certain DTTAS policies has been entrusted to the following bodies:

- the Commission for Aviation Regulation (CAR);
- the Irish Aviation Authority (IAA); and
- the Air Accident Investigation Unit (AAIU).

The CAR was established in 2001 under the Aviation Regulation Act 2001 (as amended). The principal functions of the CAR are to:

- regulate certain airport and air traffic control charges;

- license and issue certain permits for air carriers, travel agents, ground handlers and tour operators;
- allocate airport slots at certain airports; and
- oversee compliance with EU regulations regarding consumer protection in the aviation industry.

The CAR has a number of statutory powers in these areas to ensure regulatory compliance, including the suspension and revocation of relevant authorisations.

The IAA was established under the Irish Aviation Authority Act 1993 (as amended) and has oversight and responsibilities in the areas of:

- air traffic management (in Irish controlled airspace);
- safety standards for civilian aviation in Ireland;
- the certification and registration of aircraft in Ireland;
- the licensing of certain aircraft personnel and aircraft maintenance organisations; and
- the issuance of air operator certificates to air carriers.

The IAA has broad legislative powers in these areas, which extends to the suspension and revocation of licences, and powers of enforcement.

The AAIU investigates aviation incidents occurring within Ireland and relating to Irish registered aircraft. It also coordinates and cooperates with safety investigation authorities overseas.

Air carrier operations

Operating authorisation

What procedural and documentary requirements must air carriers meet in order to operate in your jurisdiction?

An air carrier involved in commercial air transport (ie, the transport of passengers or cargo for hire or reward) and having its principal place of business in Ireland must hold a valid air operator certificate issued by the Irish Aviation Authority (IAA) and a valid air carrier operating licence issued by the Commission for Aviation Regulation (CAR) before it can engage in commercial air transport operations. EU and EEA air carriers with a valid air operator certificate and air carrier operating licence issued by their relevant national competent authorities may operate in and out of Ireland. Non-EEA air carriers seeking to operate in and out of Ireland must apply for authorisation from the Department of Transport, Tourism and Sport (DTTAS), which it grants in conjunction with the IAA, subject to compliance with applicable safety standards.

To qualify for an air carrier operating licence, an applicant must satisfy the licensing conditions set out in EU Regulation 1008/2008 on common rules for the operation of air services in the European community (the Air Services Regulation), which is directly applicable in Ireland. There are two categories of air carrier operating licence that may be granted by the CAR – Category A and Category B – which are dependent on the maximum take-off weight and passenger capacity of the aircraft to be operated by the relevant air carrier.

Ownership and control

Do any nationality or other requirements or restrictions apply to ownership or control of air carriers operating in your jurisdiction?

Yes. The holder of an air carrier operating licence issued by the CAR must be both:

- majority owned; and
- effectively managed and controlled by EU member states or nationals of such member states at all times, except as may be provided for in EU agreements and in accordance with the provisions of the Air Services Regulation.

Financial requirements

What financial thresholds must air carriers meet to obtain operating authorisation?

Pursuant to the Air Services Regulation, a large aircraft operator applying to the CAR for an air carrier operating licence must:

- demonstrate that it can meet actual and potential (financial) obligations for a period of 24 months from the start

of its operations;

- demonstrate that it can meet its fixed and operational costs (as foreseen realistically in its business plan) for a period of three months with no income;
- present a detailed business plan covering the first three years of its operation; and
- provide certain financial fitness information as set out in the Air Services Regulation.

The CAR may also request that an air carrier comply with certain net capital requirements pursuant to the Air Services Regulation. Air carriers operating smaller aircraft (ie, aircraft with a maximum take-off weight of less than 10 tonnes or 19 or fewer seats) are subject to less extensive financial oversight and regulation.

Insurance coverage

What is the required level of insurance coverage for air carrier operations?

The minimum level of insurance coverage for air carrier operations in Ireland is governed by applicable EU law. In addition to the air carrier operating licence conditions referred to above, EU Regulation 785/2004 (as amended by EU Regulation 1137/2008 and EU Regulation 285/2010) sets out minimum insurance requirements for air carriers and aircraft operators in the European Union in respect of cargo, baggage, passengers and third-party coverage. The required level of third-party coverage is calculated according to the maximum take-off weight of the aircraft operated. EU Regulation 889/2002 (amending Regulation 2027/97 on air carrier liability in the event of accidents) prescribes the minimum insurance requirements for passengers and third-party insurance coverage applicable in Ireland. The minimum insurance levels required are calculated in special drawing rights for:

- each passenger;
- baggage;
- each kilogram of cargo carried; and
- third-party insurances.

Safety requirements

What safety requirements apply to air carrier operations, including with regard to professional and technical certifications?

The IAA oversees the administration of aviation safety in Ireland in accordance with standards set by the International Civil Aviation Organisation (ICAO) and the European Aviation Safety Agency (EASA). The IAA's oversight and responsibilities in this regard include the certification and licensing of personnel (including engineers, air traffic controllers and pilots) and the certification and licensing of aircraft operators, air carriers and maintenance organisations. The key safety requirements and professional and technical certification standards derive from the European Union-wide applicable EASA regulations, the safety objectives set out in both the IAA Act (Section 14 of which sets out the broad objectives of the IAA) and the Chicago Convention, among other domestic and international legislation.

Environmental obligations

What environmental obligations apply to air carrier operations?

EU Directive 2003/87/EC (as amended) established the EU Emissions Trading Scheme, which applies to air carriers and aircraft operators in Ireland operating flights in EEA airspace. The IAA also plays a key role in increasing environmental performance in the Irish aviation industry with a view to complying with the environmental requirements set down by ICAO, EASA and the European Union, among others. The IAA is responsible for noise and emissions certifications of Irish registered aircraft in compliance with EASA regulations. EASA publishes relevant noise thresholds for aircraft types in accordance with EU Regulation 216/2008 (the EASA Basic Regulation).

Air traffic control

How are air traffic control services regulated in your jurisdiction?

The provision and regulation of air traffic control services fall within the remit of the IAA, which is the designated authority in Ireland responsible for the management of Irish controlled airspace. The IAA is also responsible for the training and licensing of the relevant personnel in compliance with applicable EU law.

Routes

Do any licensing requirements apply to specific routes?

Yes. All commercial air carriers licensed in Ireland must hold a valid air carrier operating licence and air operator certificate in order to operate commercial flights to and from Ireland, whether for the carriage of passengers or cargo. EU and EEA operators in possession of an air carrier operating licence issued in compliance with the Air Services Regulation have automatic traffic rights to operate to and from Ireland and within the European Economic Area. Ireland has air service agreements with 29 non-EEA countries, providing for traffic rights between Ireland and those jurisdictions. However, the ability to access a specific route, as opposed to general traffic rights, is subject to commercial negotiation between air carriers and the relevant airports.

Are any public service obligations in place with respect to remote destinations?

Yes. The DTTAS administers a public services obligation air services scheme between Dublin Airport and Kerry Airport and between Dublin Airport and Donegal Airport in order to support regional economic development and provide transportation services that may otherwise not be provided commercially. The operation of such routes is permitted under the Air Services Regulation, which sets out strict criteria.

Charter services

Do any special provisions apply to charter services?

The Package Holidays and Travel Trade Act 1995 requires tour operators and travel agents to enter into a monetary bond with the CAR. The purpose of the bond is to administer claims and refunds for customers in the event of the tour operator or travel agent becoming insolvent.

Taxes

What taxes apply to the provision of air carrier services?

Value added tax, corporation tax and employment taxes may all be relevant to air carriers operating in, to and from Ireland. The imposition of a short-lived air travel tax in Ireland was abolished in 2014.

Consumer protection and liability

Airfares

Are airfares regulated in your jurisdiction?

Airfares are generally not regulated in Ireland, with the exception of certain public service obligation routes. However, the Air Services Regulation sets out certain requirements relating to airfare transparency, which require airlines to make specific disclosures throughout the booking process.

Passenger protection

What rules and liabilities are air carriers subject to in respect of:

(a) Flight delays and cancellations?

EU Regulation 261/2004 (the Flight Compensation Regulation) establishes common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and sets out the rules relating to the provision of assistance and compensation to passengers for denied boarding, cancellations and delays. The Flight Compensation Regulation applies to all passengers departing from EU or EEA airports, and those departing from outside the European Union or European Economic Area but arriving in an EU or EEA airport on an EU or EEA-licensed carrier (subject to assistance having been received in a third country). A number of European Court of Justice decisions are relevant in determining the application of the Flight Compensation Regulation to a particular scenario. In the case of flight delays extending beyond a certain time period, the passenger must be offered particular assistance (including food, accommodation and telephone calls) and the option of a refund, depending on the extent of the delay. In some circumstances, compensation may also be payable under the Flight Compensation Regulation. In the case of a flight cancellation, the passenger must be offered reimbursement of their ticket and rerouting. Fixed compensation may also be payable for a cancellation, as for a delayed flight, unless the airline can prove that it was the result of certain extraordinary circumstances.

(b) Oversold flights?

The Flight Compensation Regulation sets out the rules regarding oversold flights. It allows air carriers to deny

boarding in the case of an oversold flight but sets out the compensation and services to be afforded to affected passengers. This includes reimbursement of the ticket cost and rerouting to the final destination at the earliest opportunity, or at the convenience of the affected passenger. The provision of accommodation, telephone calls and food is also provided for under the Flight Compensation Regulation in these circumstances. Financial compensation may also be payable (to those passengers who do not voluntarily accept the denied boarding) with compensation ranging from €125 to €600 depending on the distance of the relevant flight and the delay incurred.

(c) Denied boarding?

The Air Services Regulation applies in this instance. Passengers that are denied boarding must be given the option of a refund or rerouting at their convenience. A passenger will not be considered to have been denied boarding under the Flight Compensation Regulation if there are reasonable grounds to arouse safety concerns or certain other travel formalities are not complied with (eg, the presentation of required travel documents).

(d) Access for disabled passengers?

EU Regulation 1107/2006 (the Reduced Mobility Regulation) concerning the rights of disabled persons and persons with reduced mobility when travelling by air applies to certain "persons of reduced mobility" departing from, arriving to or transiting through an EU airport on a commercial air service. The Reduced Mobility Regulation sets out the rights and responsibilities of air carriers and persons of reduced mobility. The Reduced Mobility Regulation requires that airports and airlines provide affected persons with certain levels of assistance free of charge. The Commission for Aviation Regulation (CAR) is responsible for the enforcement of the Reduced Mobility Regulation in Ireland.

(e) Lost, damaged or destroyed luggage?

Ireland is a signatory to the Montreal Convention, which deals with passenger rights arising from lost, damaged or destroyed luggage.

(f) Retention and protection of passenger data?

The Data Protection Act 1988 and the Data Protection (Amendment) Act 2003 give effect to the EU Data Protection Directive (EU Directive 95/46/EC), along with the Data Protection Act 2018, which amended the above domestic law in light of the implementation of the General Data Protection Regulation (2016/679) (GDPR) on 25 May 2018 across the European Union. The key responsibilities of data controllers and data processors (including airlines) are set out in the GDPR (which is of direct effect in Ireland) and include:

- fairly obtaining and fairly processing personal data;
- keeping data only for specified and lawful purposes;
- keeping data safe, secure, up to date and accurate;
- ensuring that the data retained is adequate, relevant and not excessive;
- keeping data no longer than necessary; and
- giving an individual a copy of their personal data on request.

In the event of a data breach or data loss, the data controller is obliged to inform affected data subjects and report the breach to the data protection commissioner. The GDPR has significantly strengthened consumers' data protection rights in Ireland and has increased financial penalties for non-compliance.

Statutory Instrument 336/2011 gives effect in Ireland to EU Directive 2002/58/EC (the ePrivacy Directive) and applies to the use of passenger data in marketing. In January 2017 the European Commission proposed a new ePrivacy Regulation to align the ePrivacy Directive with the GDPR.

Irish licensed air carriers are also subject to EU Directive 2016/681 on the use of passenger name record data, which has been implemented in Irish domestic law by way of the European Union (Passenger Name Record Data) Regulations 2018.

Cargo

What rules and liabilities apply to the air carriage of cargo?

Aircraft operators based in Ireland seeking to engage in the carriage by air of mail or cargo for remuneration must hold a valid air carrier operating licence and air operator certificate. The Montreal Convention, as enacted in Ireland, sets out the rules regarding liability in the event of any damage caused to such cargo, in cases where the flight operates between ratifying states. In other circumstances, the Warsaw Convention (as amended) may be applicable.

Marketing and advertising

Do any special rules apply to the marketing and advertising of aviation services?

The Air Services Regulation provides for non-discrimination and transparency in airline pricing. Irish airlines are free to set the price of their intra-European Union air services. However, the Air Services Regulation details the prices and surcharges that must be made clear to passengers and sets out certain prohibitions with regard to price discrimination and requirements as to disclosures during the booking process.

Complaints handling

Do any special rules apply to consumer complaints handling in the aviation industry?

In Ireland, the body charged with the enforcement of aviation consumer protection law is the CAR. It is the national enforcement body for the monitoring and regulation of the Flight Compensation Regulation covering air passenger rights and the provision of assistance to passengers with reduced mobility. The Air Services Regulation and the Flight Compensation Regulation are the key legislative sources of consumer protection for aviation matters in Ireland.

Aircraft

Aircraft register

What are the requirements for entry in the domestic aircraft register?

Statutory Instrument 107/2015 (Irish Aviation Authority (Nationality and Registration of Aircraft) Order 2015) sets out the requirements for entry into the Irish Aviation Authority's (IAA's) register of civil aircraft.

Subject to certain exceptions, an aircraft shall not be registered by the IAA unless it is owned by:

- an Irish person;
- a non-Irish person from another EU member state whose main place of business or residence is in Ireland; or
- a company incorporated in Ireland with its main place of business in Ireland or another EU member state and with no fewer than two-thirds of its directors Irish or EU citizens.

In addition to the ownership requirements, other particulars relating to the aircraft may be required (eg, the aircraft operator's air operator certificate, an airworthiness review certificate, a certificate of airworthiness or historical records). Registration fees are calculated based on the maximum take-off weight of the individual aircraft.

An aircraft station licence is required for the possession and operation of radio equipment onboard Irish registered aircraft. Applications for aircraft station licences must be made to the Commission for Communications Regulation.

Mortgages and encumbrances

Is there a domestic register for aircraft mortgages, encumbrances and other interests? If so, what are the requirements and legal effects of registration?

The IAA does not register aircraft mortgages or interests in aircraft (or engines). It maintains a register of irrevocable deregistration and export request authorisation submissions pursuant to its obligations under the International Interests in Mobile Equipment (Cape Town Convention) Act 2005, which is the domestic legislation that enacted the Cape Town Convention and Aircraft Protocol in Ireland.

Charges – as defined in the Companies Act 2014 (which includes aircraft mortgages and other security interests) – granted by Irish companies are registrable with the Companies Registration Office within 21 days of the creation of the charge. Failure to register the particulars of the charge created with the Companies Registration Office in the prescribed format and within the applicable time period will render the charge void as against a liquidator and creditors of the relevant company. The Companies Registration Office operates a priority register with priority based on the time of filing.

If the aircraft mortgage constitutes an 'international interest' for the purposes of the Cape Town Convention and Aircraft Protocol, it should be registered with the International Registry as such against the applicable aircraft objects (ie, the airframe or engines, as applicable).

Detention

What rules and procedures govern the detention of aircraft?

The Air Navigation and Transport (Amendment) Act 1998 provides airport authorities in Ireland with the power to detain and sell aircraft in respect of which Irish airport charges are outstanding. The Irish airport authorities may also detain and sell other aircraft within their jurisdiction operated by the same defaulting operator in satisfaction of such charges. Further, pursuant to the Air Navigation (Eurocontrol) Act 1963, the IAA (acting as the agent of Eurocontrol) has the power to detain aircraft for unpaid Eurocontrol charges in Irish airspace. As above, the IAA may also detain and sell other aircraft within its jurisdiction operated by the same defaulting operator in satisfaction of such charges in certain circumstances. The powers of detention and sale bestowed upon the IAA for outstanding Eurocontrol charges relate solely to charges incurred by the operator or registered owner of the aircraft in the airspace under the control of the IAA.

In addition, certain liens can arise in Ireland by way of contractual agreement, or pursuant to common law or equitable principals.

Safety and maintenance

What rules and procedures govern aircraft safety and maintenance?

The IAA's Safety Regulation Division oversees aviation safety and aircraft maintenance in Ireland. The IAA monitors and enforces safety standards in civil aviation in accordance with European Aviation Safety Agency (EASA) and International Civil Aviation Organisation standards. The key rules governing aircraft operational safety and maintenance in Ireland are those contained in the:

- EASA Basic Regulation;
- EU Regulation 748/2012 (on initial airworthiness);
- EU Regulation 1321/2014 (on continued airworthiness and maintenance);
- EU Regulation 1178/2011 (on the regulation of aircrew);
- EU Regulation 965/2012 (on technical requirements for air operations); and
- EU Regulation 452/2014 (on the regulation of third-country air operators).

There are additional legislative rules applicable with respect to operational procedures for aerodromes and air navigation services.

The IAA's responsibilities in aircraft safety extend to aircraft and maintenance organisation certification, the licensing of personnel, aircraft and aerodromes, the management of incident reporting and the oversight of operational standards of air carriers, in accordance with applicable legislation.

Drones

What is the state of regulation on unmanned aerial vehicles (drones) in your jurisdiction?

The Drones Order, which came into effect in Ireland in December 2015, sets out the registration requirements and permitted operations for unmanned aerial vehicles (ie, drones) in Irish airspace. In Ireland, drones weighing more than one kilogram are subject to mandatory registration. The Drones Order sets out the various restrictions and permitted operations for different classes of drone.

Accidents

Investigation

How are air accidents investigated in your jurisdiction?

The Air Accident Investigation Unit (AAIU) is part of the Department of Transport, Tourism and Sport and is responsible for the investigation of aircraft accidents and serious incidents in Ireland as well as international accidents involving Irish registered aircraft. The AAIU comprises approximately 10 staff, including licensed pilots and engineers. The Chicago Convention, the Air Navigation (notification and investigation of accidents, serious incidents and incidents) Regulations 2009 and EU Regulation 996/2010 (on the investigation and prevention of accidents and incidents in civil aviation) are the main legal instruments regulating investigations by the AAIU.

Liability

What liability regime governs death, injury and loss arising from air accidents?

EU Regulation 889/2002 (amending EU Regulation 2027/97 on air carrier liability in the event of accidents and

applying the terms of the Montreal Convention) – enacted in Ireland under the Air Navigation and Transport (International Conventions) Act 2004 – sets out the rules for liability arising from air accidents and the applicable liability regime in such scenarios.

Regulatory notification

What are the reporting requirements for air accidents?

The AAIU is responsible for investigating all accidents, serious incidents and incidents involving aircraft in Ireland. The reporting of such occurrences in Ireland is subject to the requirements set out in EU Regulation 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation and EU Regulation 2015/1018. Reporting to the Irish Aviation Authority can be on a voluntary or compulsory basis, depending on the context. Occurrences can also be reported to the European Commission using an online facility. The commander of an aircraft is responsible for reporting occurrences, and if incapacitated, the responsibility falls to the operator of the aircraft. The Garda Síochána (Irish police force) should also be informed of the accident and its location by the person making the report.

Airports

Ownership

What rules govern the ownership of airports (both public and private)?

The three key commercial airports in Ireland (Dublin, Shannon and Cork) are owned and controlled by the Irish state under the State Airports Act 2004 and the State Airports (Shannon Group) Act 2014 (the Shannon Act 2014), which set out the rules regarding the governing bodies for these airports. Private companies also own and manage several regional airports in Ireland, the largest of which include Knock, Donegal, Waterford and Kerry airports.

Operation

What is the authorisation procedure for the operation of airports?

Commercial airports and certain aerodromes in Ireland are licensed by the Irish Aviation Authority (IAA) under Section 60 of the IAA Act as amended by Section 61 of the Air Navigation and Transport (Amendment) Act 1998. The IAA may also implement any or all of the requirements of Annex 14 of the Convention on International Civil Aviation set by the International Civil Aviation Organisation (ICAO), which covers various matters concerning the operation of various types of airport. The licensing of aerodromes is also conducted in accordance with the Chicago Convention, EU Regulation 139/2014 and relevant guidance publications produced by the European Aviation Safety Agency (EASA), ICAO and Eurocontrol.

What ongoing operating requirements apply (including obligations relating to safety, security and facilities maintenance)?

The State Airports Act 2004 and the Shannon Act 2014 establish airport authorities responsible for the ongoing operating requirements of the three state airports (ie, Dublin, Shannon and Cork). Each airport authority can create bylaws in relation to safety, security and the provision of services at their respective airport. Certain safety and operational standards are regulated in accordance with IAA oversight, as described above. The IAA Act empowers the IAA with the responsibility for licensing aerodromes engaged in facilitating commercial aircraft operations. The licensing of private aerodromes engaged in flying training is also subject to IAA oversight and requires a licence. The licensing of aerodromes is conducted in accordance with the Chicago Convention, EU Regulation 139/2014 and relevant guidance publications produced by EASA, ICAO and Eurocontrol.

International aviation security legislation with applicability in Ireland includes ICAO Annex 17, EU Regulation 300/2008 and EU Regulation 185/2010.

Airport charges

What airport charges apply and how are they regulated?

The Commission for Aviation Regulation (CAR) was established by the Aviation Regulation Act 2001 for the principal purpose of regulating airport charges and aviation terminal services charges at Ireland's commercial airports. The CAR sets the maximum level of airport charges that may be charged by the Dublin Airport Authority at Dublin airport. Airport charges include:

- landing, parking and take-off charges;

- charges for air bridge usage;
- passenger processing charges; and
- cargo charges.

Aviation terminal services charges are charges levied by the IAA on users at Dublin, Shannon and Cork airports and include air traffic control charges relating to the provision of air terminal services for landing and departing aircraft. The EC (Dublin Airport Charges) Regulations 2011 (Statutory Instrument 116/2011) transposed EU Directive 2009/12/EC on airport charges into Irish law, with application to Dublin airport only.

Access

What regulations govern access to airports?

The establishment of the EU single market removed many commercial restrictions on airlines flying within the European Union and allowed all EU carriers to operate services to and from any destination in the European Union. Outside the EU single market, access to the air transport market is regulated by the Chicago Convention and 'Open Skies' agreements. Under the Chicago Convention, for example, Ireland has negotiated bilaterally with 29 countries to agree reciprocal access rights for air passenger and cargo services.

Slot allocation

What regime governs the allocation of airport slots (including slot transfer, revocation and disputes)?

The allocation of airport slots in Ireland is governed by European Council Regulation 95/93 on common rules for the allocation of slots at community airports, as amended by EU Regulation 793/2004, which includes the regulation of slot transfers. Pursuant to the Aviation Regulation Act 2001, the CAR is responsible for discharging Ireland's obligations under these regulations. Dublin airport is currently the only airport in Ireland designated by the CAR for airport slot regulation.

Ground handling

How are ground handling services regulated?

Ground handling services are regulated by the EC (Access to the Ground Handling Market at Community Airports) Regulations 1998 (Statutory Instrument 505/1998) (the Ground Handling Regulations), which transposed EU Directive 96/67/EC into Irish law. In order for the Ground Handling Regulations to apply at an airport, annual traffic must be fewer than two million passenger movements or less than 50,000 tonnes of cargo.

The Ground Handling Regulations provide that an airport may request that the number of approved suppliers of ground handling services be limited to no fewer than two providers in each core ground handling service at a given airport. Subject to the CAR's approval, airport authorities are entitled to charge a fee for access to airport installations and establish rules of conduct for the proper functioning of the airport.

Competition issues

Governing regime

Do any sector-specific competition regulatory/legal provisions apply to the aviation industry in your jurisdiction?

There are no sector-specific legislative rules in this regard for the aviation sector in Ireland. The Competition Act 2002 (as amended) and EU legislation on competition and, in the case of mergers, EU Regulation 139/2004 are applicable in Ireland and prohibit anti-competitive agreements and abuses of dominant market position. The Competition Act 2002 (as amended) implements Articles 101 (anti-competitive agreements) and 102 (abuse of a dominant position) of the Treaty on the Functioning of the European Union.

Code sharing and joint ventures

What (if any) competition concerns arise in relation to code sharing and air carrier joint ventures?

Ireland has no specific rules dealing with code sharing or similar arrangements. Air carrier joint ventures are subject to Irish and EU competition law and the regular rules apply in this regard. The Competition and Consumer Protection

Commission (CCPC) – which is also responsible for regulatory oversight in matters of EU competition and merger law – follows EU precedent in relation to air carrier joint venture arrangements. The CCPC can take enforcement action by way of criminal or civil proceedings. Mergers or acquisitions of airlines (including joint ventures and code sharing) fall within the remit of the Competition Act 2002 (as amended) and, subject to satisfying certain financial turnover thresholds, may require mandatory CCPC pre-clearance or clearance from the European Commission.

State aid

What rules govern state aid in the aviation industry? Do any exemptions apply?

In the aviation sector in particular, Ireland applies the European Commission guidelines on state aid to airlines and airports (2014/C 99/03) which establish the conditions under which EU member states can grant state aid to airlines and airports. Although no national laws exist to implement EU state aid rules or guidelines, Ireland applies EU law and follows EU guidance on state aid. The Irish state provides financial assistance to certain regional airports through various assistance programmes and public services obligation air services schemes – such as those with Kerry and Donegal airports – to support and encourage regional economic development.

Notable cases

Have there been any notable recent cases or rulings involving competition in the aviation industry?

The CCPC opened a cartel investigation into allegations of a criminal breach of competition law in the aviation sector in 2015. As part of this investigation, authorised officers of the CCPC conducted a search in the sector. No information is publicly available on this investigation.

Dispute resolution

Disputes

What aviation-related disputes typically arise in your jurisdiction and how are they usually resolved?

The most common aviation-related disputes arise under the Flight Compensation Regulation (for matters such as delay, denied boarding and cancellation) and under the Montreal Convention (for personal injuries and damage to personal belongings). Certain small claims (those less than €2,000) can be dealt with by the complainant using a specific small claims procedure, without the need to instruct a lawyer or attend court. Claims in excess of €2,000 are typically dealt with by the courts in the absence of a settlement.

In accordance with Article 44 of the Cape Town Convention, the courts of the jurisdiction in which the registrar of the International Registry maintains its centre of administration shall have exclusive jurisdiction to order or award costs against the registrar. As the registrar is based in Ireland, the High Court of Ireland has exclusive jurisdiction in this regard.

To date, the only matters to have come before the Irish courts relate to:

- disputes concerning the validity of registrable non-consensual rights or interests arising pursuant to Article 40 of the Cape Town Convention. In all cases the applications were successful in obtaining an order from the Irish courts for the discharge of such interests; and
- applications for orders requiring the registrar of the International Registry to discharge certain international interests registered thereon.

Other typical aviation-related disputes consist of personal injury claims, which are heard by the Irish courts, and small claims for losses arising primarily under the Flight Compensation Regulation or in accordance with the Montreal Convention.