



**Guide to the Functions and Records
of the Commission for Aviation Regulation**

**Section 15/16 Manual, Freedom of Information Acts,
1997 to 2003**

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Commission for Aviation Regulation

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1. Freedom of Information Act 1997 – Section 15

Introduction

- 1.1 The Freedom of Information (FOI) Act establishes three new statutory rights:
- a legal right for each person to access information held by public bodies;
 - a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
 - a legal right to obtain reasons for decisions affecting oneself.
- 1.2 The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.
- 1.3 This manual is prepared in accordance with publication requirements set out in Section 15 of the Act. Its purpose is to facilitate access to official information held by the Commission, by outlining the structure and functions of the Commission; information on the classes of records we hold and information on how to make a request to the Commission under the Freedom of Information Acts.

2. How to Get Information

Information available routinely

- 2.1 The Freedom of Information Act is designed to allow public access to information held by public bodies, which is NOT routinely available through other sources.
- 2.2 Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits. This manual provides a guide to the structure of the Commission so as to help you access information under the Freedom of Information Act.

Applications under the F.O.I. Act

- 2.3 Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Within the framework established by the Freedom of Information Act, each person has a right to:
- access Commission records;
 - correction of personal information relating to oneself held by the Commission, where it is inaccurate, incomplete or misleading;
 - access to reasons for decisions made by the Commission directly affecting oneself.
- 2.4 The following records come within the scope of the Act:
- all records relating to personal information held by the Commission irrespective of when created;
 - personnel records of serving staff with effect from 21 April, 1995;
all other records created from 21 April, 1998;
 - any other records necessary to the understanding of a current record.
- 2.5 The Commission is generally obliged to decide on a request for information within 4 weeks.
- 2.6 Applications for information under the FOI Act should be addressed to:

The Freedom of Information Officer,
Commission for Aviation Regulation,
3rd Floor,
Alexandra House,
Dublin 2.

Telephone: 353-1-6611700

Fax: 353-1-6611269

Email: info@aviationreg.ie

- 2.7 Applications must be in writing and should indicate that the information is sought under the Freedom of Information Act.
- 2.8 If information is desired in a particular format e.g. photocopy, computer disk, etc. this should also be mentioned in your application.
- 2.9 It is recommended that as much detail as possible is contained within the request to enable Commission staff to clearly identify the records sought. The FOI Officer will assist any persons who encounter difficulties in identifying the precise records requested.
- 2.10 Fees are imposed in respect of requests for particular information and these are outlined fully in a later paragraph.

Assistance to persons with a disability

- 2.11 The FOI Officer is available to assist persons with disabilities/difficulties in exercising their rights under the FOI Act e.g. he/she will accept oral requests in place of written requests from persons with reading difficulties and he/she will also verbally explain the requested records so that the requester develops a complete understanding of same.

Rights of Review and Appeal

- 2.12 The Act exempts public bodies from disclosing sensitive information where such disclosure may damage key interests of the State or of third parties. Where a public body decides to withhold information for this purpose, their decision may be appealed. Decisions in relation to deferral of access, charges, forms of access, etc., may also be the subject of appeal. There are two appeal mechanisms;
 - the first comprises an internal review by the public body itself of the decision to withhold information;
 - the second (which can only be undertaken when the first has been completed) comprises an independent review by the Information Commissioner.

Internal Review

- 2.13 You may seek an internal review of the initial decision, which will be carried out by an official at a higher-level if:
 - (a) you are dissatisfied with the initial response received e.g. refusal of information, method of access, charges, etc.;

or,

- (b) you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

2.14 Requests for internal review should be submitted in writing to:

The Commissioner for Aviation Regulation; contact details are provided in paragraph 2.6 above.

2.15 Such a request for internal review must be submitted within 4 weeks of the initial decision accompanied by the appropriate fee. The Commission must complete the review within 3 weeks. The internal review must normally be completed before an appeal may be made to the Information Commissioner.

Review by the Information Commissioner

2.16 Following completion of the internal review, you may seek an independent review of the decision from the Information Commissioner. Also if you have not received a reply to your application for internal review within 3 weeks, this is deemed to be a refusal and you may appeal the matter to the Commissioner.

2.17 Appeals in writing may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin 2.

Telephone: 353-1-6785222
Fax: 353-1- 6610570
Email: foi@ombudsman.irlgov.ie
Website: <http://www.irlgov.ie/oic/>

Fees

2.18 The following charges apply in relation to requests for records made under the FOI Act:

Application Fees

2.19 There is no application fee if your request is for personal information only. If your request is for a record containing non-personal information, an application fee of €15 (€10 if you are a medical card-holder) must accompany your request.

Search and Retrieval and Copying Fees

2.20 Fees also apply in respect of the time spent searching and

retrieving records that are released to you on foot of your request and in respect of the copying of any records released. Such fees are unlikely to arise if your request is for personal information. The rates of these fees are as follows:

€20.95 per hour of search and retrieval
€0.04 per sheet for a photocopy
€10.16 for a CD-ROM containing copy documents

Fees for Appealing a Decision

- 2.21 A fee of €75 must accompany most applications for internal review of a decision of a public body. A reduced fee of €25 applies if you are covered by a medical card. There is no fee for internal review applications concerning only personal information relating to oneself or in relation to a decision to impose a fee or deposit.
- 2.22 A fee of €150 must accompany most applications for review by the Information Commissioner. A reduced fee of €50 applies if you are covered by a medical card or in relation to a review concerning certain third party information. There is no fee for review applications concerning only personal information relating to oneself or in relation to decisions to impose fees or deposits.

Deposits

- 2.23 A deposit is payable where the estimated cost of search and retrieval of records sought is estimated to exceed €50.79. In such cases, every effort will be made to assist the requester in amending the request so as to eliminate the need for a deposit.

Reductions and Waivers

- 2.24 The fee in respect of search and retrieval and copying of records will be waived where the cost of collecting and accounting for the fee would exceed the amount of the fee itself (a guideline of less than €10 is used in this respect);
- 2.25 The fee in respect of search and retrieval and copying of records or a deposit may be reduced or waived where the information in the record would be of particular assistance to the understanding of an issue of national importance.
- 2.26 As can be noted from the above a charge applies to most internal and independent reviews concerning access to non-personal records. Where reductions apply these will be notified to the requester by the Freedom of Information Officer.

3. Description and Functions of the Commission

Statutory Functions of the Commission

3.1 The Commission for Aviation Regulation was established by the Aviation Regulation Act, 2001, on 27 February 2001. Its principal functions are:

- the regulation of airport charges at Dublin Airport;
- the regulation of aviation terminal services charges that may be imposed by the Irish Aviation Authority;

3.2 These requirements are achieved by making determinations on the maximum levels of airport and aviation terminal services charges, which may be levied by Dublin Airport Authority and the Irish Aviation Authority, as the case may be.

3.3 In addition to those functions, the Commission also has responsibility for other functions under both EU and National legislation, including the following:

EU Legislation:

3.4 Slot allocation and the appointment of a schedules coordinator.

Council Regulation (EEC) 95/93 of 18 January 1993, as amended by Regulation (EC) No. 793/2004 of the European Parliament and of the Council, sets out common rules for the allocation of slots at Community airports. Under Section 8(1) of the Act, the Commission is the competent authority in Ireland for the purposes of Council Regulation (EEC) 95/93 of 18 January 1993, other than the functions of a coordinator. In addition, section 8(2) provides that the Commission shall be the appointing authority for such a coordinator.

3.5 Air carrier licensing

The Commission is responsible for licensing Irish air carriers involved in the carriage by air of passengers, mail and/or cargo for remuneration and/or hire in accordance with Regulation (EC) No. 1008/2008. The Commission is designated as the competent licensing authority in the State for the purposes of this Regulation under the European Communities (Common Rules for the Operation of Air Services in the Community) Regulations 2008, Statutory Instrument 426 of 2008.

3.6 Air Passenger Rights Complaints

The Commission is the national enforcement body for two EC Regulations:

- EC Regulation No. 261/2004 which establishes common rules on compensation and assistance to passengers in the event of denied boarding, flight cancellation or long flight delay and which came into force on the 17 February 2005. This Regulation was transposed into Irish law via Section 45A of the Aviation Regulation Act, 2001 (as inserted by s.5(1)(f) of the Aviation Act 2006). As the Irish enforcement body, the Commission is responsible for ensuring implementation of the Regulation as regards flights departing from airports within this jurisdiction and also regarding flights arriving into such airports from third countries¹ when same are operated by Community-licensed carriers.

- EC Regulation No. 1107/ 2006 which concerns the rights of disabled persons and persons with reduced mobility when travelling by air. This Regulation was transposed into Irish law via Statutory Instrument No. 299/2008. The Commission is responsible for the enforcement of this Regulation as regards complaints arising from the provision of assistance to passengers by the management bodies of airports located within this jurisdiction. Furthermore the Commission is also responsible for enforcement of the Regulation in respect of those complaints concerning assistance received from air carriers where the flight in question departed from this territory.

National Legislation:

The following functions previously vested in the Minister under national legislation were transferred to the Commission from the date of its establishment by the Aviation Regulation Act, 2001 ("the Act").

3.7 Ground handling

Section 9(2)(c) of the Act transferred the functions contained in the European Communities (Access to the ground handling market at Community airports) Regulation 1998 (S.I. No. 505 of 1998).

3.8 Travel Trade licensing

Sections 9(2)(a) and 9(2)(b) of the Act transferred the functions contained in the Transport (Tour Operators and Travel Agents) Act, 1982 and the package Holidays and Travel Trade Act, 1995.

3.9 In summary, therefore, the Commission is responsible for:

- regulating Dublin Airport Authority's airport charges at Dublin Airport
- regulating the Irish Aviation Authority's aviation terminal services charges

¹ A third country is one that is not party to the Treaty establishing the European Union.

- approving ground handlers
- licensing Irish air carriers
- enforcing consumer protection regulations which focus on the rights and entitlements of passengers travelling by air
- implementing certain aspects of community legislation in relation to slot allocation and schedule coordination, and
- licensing travel agents and tour operators in Ireland

Organisational Structure

3.10 An up-to-date organogram of the structure of the organisation is available on request from the Commission.

Classes of Documents and Information held

Economic Affairs

3.11 The following classes of record held are also available from the Commission website www.aviationreg.ie under the headings Economic Regulation and The Levy:

- Commission Papers on Airport Charges, Air Terminal Services Charges and The Levy.
- Cooperation Agreement with the Competition Authority
- Ministerial Directions
- Submissions Received from interested parties
- Statutory Requests to regulated firms
- Notices made by the Commission
- Internal economic files
- Correspondence between the Commission and the aviation industry and others

3.12 The following Information is available in relation to Slot Allocation on the Commission website at www.aviationreg.ie under the heading Slots:

- Commission paper on the appointment of a Coordinator for Dublin Airport
- The Commission Decision on Full Coordination at Dublin Airport.
- Legislation

Legal Affairs, Groundhandling and Air Passenger Rights

3.13 Legal Affairs - Classes of document held:

- Internal general administration
- Legal advices
- Legislation
- Litigation files

- Licence applications
- Information relating to the monitoring of approved groundhandlers
- Correspondence between the Commission and approved groundhandlers on various issues
- Research materials relating to groundhandling
- Correspondence between the Commission and licensed air carriers
- Information relating to the monitoring of licensed air carriers
- Research materials relating to air carrier licensing
- Correspondence relating to complaints under EC Regulation 261/2004 and correspondence relating to complaints arising under Regulation 1107/2006

3.14 Groundhandling

Application form for approval as a supplier of groundhandling services for a self-handler and relevant legislation.

- Lists of approved self-handlers and suppliers of groundhandling services.
- Appeal Decisions
- Relevant Legislation

3.15 Air Carrier Licensing

- Application form for an Air Carrier Operating Licence
- List of licensed Irish air carriers
- Relevant legislation

3.16 Air Passenger Rights

- Complaint forms in respect of complaints arising out of both EC Regulations
- Relevant Legislation
- Commission Reports

Travel Trade Licensing, Office Management and Accounts

3.17 Classes of Documents held – Office Management

- Commission Publications
- Replies to Parliamentary questions
- Speeches by the Commissioner
- Invitations to the Commissioner and other diary related matters
- Correspondence with government departments and other public bodies
- Correspondence issued by the office
- Annual report
- Finance, Accounts and Borrowing
- Industrial relations
- Pensions

- Property issues
- Commission matters
- Financial Matters
- Internal Administration
- Legislation
- Policy

3.18 Travel Trade Licensing - Classes of Document Held

- Records relating to licence applications from travel agent and tour operators
- Licences issued to travel agents and tour operators
- Internal Administration
- Correspondence with interest groups
- Records relating claims by customers of travel agents and tour operators against the firms' bonds and/or the Travellers' Protection Fund.

3.19 The following information is available on the Commissions website at www.aviationreg.ie under the heading Travel Trade:

- Application forms and fees
- List of Licensed Operators
- Other documents including frequently asked questions.
- Legislation

3.20 Finance and Accounting - Classes of records held:

- Staff- Payroll information
- Supplier, including payment records and notes regarding procurement procedures.
- Customer i.e. Undertakings as per the Levy
- Taxation
- Banking records, including bank statements of all travel agents/ tour operators' bonds.
- Budget
- Travel and Subsistence
- Audit
- Fixed Assets
- Financial Statements
- Monthly management Accounts
- Licensing correspondence

4. Freedom of Information Act 1997 – Section 16

The following are the Commission for Aviation Regulation's schemes and procedures.

Application for an Air Carrier Operating Licence

4.1 The Commission's procedures for granting, suspending and revoking operating licences are available on www.aviationreg.ie on the *Licensing* page under the heading *Airline Licensing*. Persons may also avail of the Commission's online application system to apply for a licence.

Application for Groundhandling Approval

4.2 The Commission's procedures for granting and monitoring compliance with groundhandling approvals are available on www.aviationreg.ie on the *Licensing* page under the heading *Groundhandling*.

4.3 In addition, access fees for airport installations at certain airports are approved by the Commission under the groundhandling legislation. Details of the approval of access fees are available on www.aviationreg.ie on the *Licensing* page, under the heading *Groundhandling* in the *Documents* section.

Air Passenger Rights Complaints

4.4 The Commission is the national enforcement body for two EC Regulations:

- EC Regulation No. 261/2004 which establishes common rules on compensation and assistance to passengers in the event of denied boarding, flight cancellation or long flight delay.
- EC Regulation No. 1107/ 2006 which concerns the rights of disabled persons and persons with reduced mobility when travelling by air.

4.5 Details of the Commission's practices and procedures in respect of the administration of these regulations are available on www.aviationreg.ie on the *Consumer Protection* page.

Application for a tour operator or travel agent license

4.6 The licensing of tour operators and travel agents takes place in accordance with the Transport (Tour Operators and Travel Agents) Act, 1982. Details of the Commission's approach in travel trade licensing, application forms for a licence, legislation and guidelines for applicants are available on the Commission's website www.aviationreg.ie on the *Licensing* page under the

heading *Travel Trade*.

- 4.7 Persons wishing to apply for a licence online should contact the Commission in regard to the electronic licensing application form which is located on a secure website as part of the Licensing and Complaints System (LCS).

Claims for Refunds from bonds of Tour Operators and Travel Agents

- 4.8 Sections 13(4) and 18 (1) of the Transport (Tour Operators and Travel Agents) Act 1982 and the Transport (Tour Operators and Travel Agents) Act 1982 (Claims by Customers) Regulations, 1983 provide for the main rules and conditions governing claims against bonds of tour operators or travel agents. These regulations are available to view at www.aviationreg.ie on the Licensing page under the Travel Trade heading in the Legislation section.
- 4.9 As the need arises the Commission makes claim forms available to members of the public via its website.

Airport Charges determination (the procedure by which they are calculated)

- 4.10 The procedure by which the Commission determines airport charges in respect of Dublin Airport is set out in section 32 of the Aviation Regulation Act, 2001 as amended by the State Airports Act 2004.
- 4.11 Details of the Commission's role and copies of the prevailing determination plus previous determinations and materials related to them are available at www.aviationreg.ie on the *Charges/Slot Regulation* page under the heading *Airport charges*.

Aviation Terminal Services Charges determination (the procedure by which they are calculated)

- 4.12 The procedure by which the Commission determines airport charges in respect of Dublin Airport is set out in section 35 of the Aviation Regulation Act, 2001 as amended by the State Airports Act 2004.
- 4.13 Details of the Commission's role and copies of the prevailing determination plus previous determinations and materials related to them are available at www.aviationreg.ie on the *Charges/Slot Regulation* page under the heading *Airport charges*.

The Levy.

- 4.14 The costs of the Commission are required by law to be recovered by a levy imposed by the Commission on the aviation sector. Specific annual costs of the Commission are allocated to each area as set out in Aviation Regulation Act (Levy) Regulations, made at the end of each year in respect of the following year. A copy of the prevailing Levy, a statutory instrument, is available at www.aviationreg.ie under the heading *The Levy*.

5. Glossary

Aeronautical Communications services means services providing communication facilities for any purpose connected with aviation.

Air Navigation Services includes services providing, giving or issuing information, directions or instructions, or other facilities, for the purposes of or in connection with the navigation or movement of aircraft.

Operating Licence means an authorisation granted to an undertaking permitting it to carry out carriage by air of any one or more of the following, that is to say, passengers, mail or cargo, as stated in the operating licence, for either remuneration or hire or both

Airport Charges means:

- (a) charges levied in respect of the landing, parking or taking off of an aircraft at an aerodrome including charges in respect of air navigation and aeronautical communications services;
- (b) charges levied in respect of the arrival at or departure at an airport by air of passengers, or
- (c) charges levied in respect of the transportation by air of cargo, to or from an airport

Aviation Terminal Service Charges means the charges levied in respect of air navigation services provided for aircraft landing at or taking off from an aerodrome or while in the vicinity of an aerodrome before landing at or taking off from that aerodrome.

Coordinator means a natural or legal person with detailed knowledge of air carrier scheduling coordination. They are responsible for allocation and monitoring of slots.

Coordinated Airport means an airport where a coordinator has been appointed to facilitate the operations of air carriers operating or intending to operate at that airport;

Fully coordinated Airport means a coordinated airport where, in order to land or take off, during the periods for which it is fully coordinated, it is necessary for an air carrier to have a slot allocated by a coordinator

Groundhandling means providing services such as the following: marshalling aircraft, loading/unloading, refuelling and baggage handling. Related services include; passenger handling, aircraft maintenance and servicing, surface transport between terminals, catering, and general administration services at an airport

Levy for the purposes of meeting expenses incurred by the Commission in the discharge of its functions under the act, it is entitled

to impose a levy upon those whom it regulates to meet but not to exceed the estimated operating costs and expenses of the Commission.

Slot means the scheduled time of arrival or departure available or allocated to an aircraft movement on a specific date at an airport coordinated under the terms of this Regulation;

Terminal Services means the air navigation services provided for aircraft landing at or taking off from an aerodrome or while in the vicinity of an aerodrome before landing at or after taking off from that aerodrome.

Tour Operator means a person other than a carrier who arranges for the purpose of selling or offering for sale to any person accommodation for travel by air, sea or land transport commencing in the State to destinations outside the State or Northern Ireland or who holds himself by advertising or otherwise as one who may make available such accommodation, either solely or in association with accommodation, facilities or other services

Travel Agent means a person other than a carrier who as agent sells or offers to sell to, or purchases or offers to purchase on behalf of, any person, accommodation on air, sea or land transport commencing in the State to destination outside the State or Northern Ireland or who holds himself out by advertising or otherwise as one who may make available such accommodation, either solely or in association with other accommodation, facilities or services.

Schedules Facilitated Airport means an airport where there is potential for congestion at some periods of the day, week or year which is amendable to resolution by voluntary cooperation between air carriers and where a schedules facilitator has been appointed to facilitate the operations of air carriers operating services or intending to operate services at that airport.

Statutory Instrument means a piece of secondary legislation that is made under seal of the appropriate Minister. A primary example of a statutory instrument is a regulation made to give effect to part of an Act of the Oireachtas.