
DUBLIN AIRPORT
“Response to consultation on revising the Slot Sanction Scheme implementation guidelines”
17 July 2017

Executive Summary

Dublin Airport welcomes the opportunity to respond to this consultation on revising the Slot Sanction Scheme Guidelines. Article 14.5 of Council Regulation (EEC) No. 95/93, as amended by Regulation (EC) No. 793/2004 (the “Council Regulation”) requires Member States to ensure that effective, proportionate and dissuasive sanctions or equivalent measures are available to deal with repeated and intentional slot misuse.

The European Communities (Airport Slots) Regulations 2013, Statutory Instrument (SI) No. 460 of 2013, took effect on 6 December 2013 (the “Irish Regulation”), implements Article 14.5 of the Council Regulation, and is applicable at coordinated airports in the Republic of Ireland. Dublin Airport is currently the only Irish airport designated as coordinated under the Council Regulation.

The current Slot Sanctions Scheme was published in April 2014. Given the significant increase in passenger numbers (+29%) and aircraft movements (+19%) since 2014, it would now appear an opportune time to review the scheme and explore mechanisms to improve its effectiveness.

CAR has set out four substantive changes to the existing scheme:

1. The imposition of a fine for each instance of a movement at a time significantly different from the allocated slot, once a body of evidence is built up which demonstrates that the behaviour is repeated and intentional as required by the 2013 Statutory Instrument.
2. The removal of the six-month element from the definition of ‘repeatedly’, thereby allowing behaviour in previous seasons to be considered when assessing the appropriate treatment of an incident of slot misuse.
3. Provision for the publication of details related to Uncontested Sanctions by the Commission and/or the coordinator.
4. A change in the definition of ‘Intentionality’, with a view to making this easier to demonstrate than is currently the case.

Dublin Airport supports the broad thrust of the four substantive changes. Our view on each change is summarised below:

1. We would have some concerns regarding the introduction of per incident fines as the impact on customers could be substantial and our view is that it is excessive when compared with other EU countries.
2. We would suggest that the six-month element from the existing definition of ‘repeatedly’ should be increased to 12 months rather than being removed. The proposed amendment, could potentially see fines issued to operators who would have received warnings at any stage in the past.
3. We fully support the provision for the publication of details related to Uncontested Sanctions as we believe this will bring an increased level of transparency to the sanctions scheme process and represents a proportionate and dissuasive sanction.
4. We fully support changing the definition of ‘intentionality’ as it will allow for greater scope to investigate slot misuse.

Slot Sanctions Scheme Performance

The first set of guidelines for the Irish Slot Sanctions scheme was published in April 2014. Since then, there have been over 671,000 movements at the airport. During that period, there have been 279 queries and 7 fines issued by the Coordinator. Fine's represent 0.001% of movements at Dublin Airport and only one has been issued for series slot performance. The remaining 6 have been issued where airlines have either repeatedly failed to apply for a slot or cancel a slot.

Season (S – Summer, W – Winter)	Movements	Queries	Warnings/Ongoing Monitoring	Fines
S14	112,017	55	16	0
W14	70,227	14	7	0
S15	123,066	90	22	1
W15	77,130	21	3	2
S16	137,941	55	33	3
W16	76,916	28	14	1
S17 (to July)	73,718	16	12	0

Of the 279 queries issued by the coordinator, 132 were for General Aviation/Business Aviation (GABA) operations and 147 for commercial operations. For GABA, 87 warning letters were issued, with no operator subsequently fined. For commercial operators, 41 warnings were issued and 7 were converted to fines.

The above statistics would seem to indicate a strong level of compliance with the existing Slot Sanctions Scheme.

Consultation Questions

1. Do you agree or disagree with these proposed changes? Why?

a. Introduction of Per Incident Fines

Per the SI, the maximum penalty that can be imposed by the Court for one contravention is €6,000. The SI is drafted such that to contravene Article 14 of the Slot Regulation, the coordinator must be of the opinion that the air carrier has repeatedly and intentionally used slots in a manner different to the allocation. In order to have a contravention, there must have been repeated behaviour. This would therefore suggest that one incident is not a contravention. Dublin Airport would ask CAR to confirm if legislation allows for per incident fines?

Dublin Airport is of the view that per incident fines could lead to substantial fines for customers and therefore would not fully support this change. We have reviewed how other EU states have implemented sanctions schemes and except for the UK, we cannot find evidence of other states where per incident fines have been implemented. We understand that there is the potential to implement financial sanctions in Spain and France but again are not aware of any that have been applied by the coordinator. There is a provision in the Netherlands for financial sanction to be imposed on airlines operating in the night period when not cleared and not deemed force majeure but in this case the airline is given 5 warnings for slot violations.

We believe that the existing provision within the slot regulation for the removal of historic slots is sufficiently dissuasive at present. However, should CAR decide to introduce per incident fines we would suggest CAR impose an annualised cap on the financial sanction to avoid a situation where financial penalties are more substantive versus other European Airports.

b. Removal of the Six-Month Element from the Definition of ‘Repeatedly’

It is our understanding that the removal of the six-month element from the definition of ‘repeatedly’ has been proposed to address issues which have arisen from GABA activity. We welcome the readiness to address this, however we believe that the amendment as proposed would represent a disproportionate sanction and would have unintended consequences on both commercial airlines and GABA operators. The proposed amendment could potentially see fines issued to operators who would have received warnings at any stage in the past. This would be an unwarranted intensification of the existing sanction. Dublin Airport believes that an appropriate next step would be to change the definition of ‘repeatedly’ from six to twelve months.

c. Publication of Details Related to Uncontested Sanctions

Dublin Airport fully supports the provision for the publication of details related to uncontested sanctions. We believe this will bring an increased level of transparency to the sanctions scheme process and represents a proportionate and dissuasive sanction. Publishing uncontested sanction details would be in line with the process in the UK whereby all uncontested sanctions are available on Airport Coordination Limited’s (ACL) website¹. We believed the publication should include:

- The air carrier concerned;
- Details of the issue e.g. off-slot or operations without a slot; and
- Sanction imposed.

We would similarly support the publication of an annualised sanctions report which summarised:

- Monitoring details;
- Types of issues raised e.g. off-slot, ad hoc slots operating in a significantly different way etc.;
- Volume of queries raised;
- Volume of queries to warnings and to sanctions;
- Year on year comparisons; and
- Sanctions applied.

d. Definition of Intentionality

Dublin Airport supports the proposed amendment to section 3.6a of the guidelines regarding the definition of intentionality. The new definition will remove the more specific examples outlined in paragraph 3.6a and will give the coordinator a wider scope to investigate slot misuse. Intentional off-slot operations can prejudice both air traffic control and airfield operations. In circumstances where aircraft arrive significantly early or late, they cause increased levels of congestion on the taxiways and apron and have a subsequent impact on stand availability.

2. Having regard to the Statutory Instrument upon which the Slot Sanctions Scheme is based do you have any other suggested amendments to the guidelines?

¹ <https://www.acl-uk.org/slotsanctions/>

Dublin Airport does not currently have any other suggested amendments to the guidelines. The effectiveness of the guidelines and the level of adherence should be continuously monitored. We would support the effectiveness of the guidelines being revisited in the future should there be a significant deterioration in the level of adherence.