



STATUTORY INSTRUMENTS.

S.I. No. 22 of 2021

IRISH AVIATION AUTHORITY (TESTING FOR ALCOHOL) ORDER 2021

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The Irish Aviation Authority, in pursuance of section 58 of the Irish Aviation Authority Act 1993 (No. 29 of 1993), and Article 4(2) of the European Communities (European Aviation Safety Agency) Regulations 2003 (S.I. 469/2003 as amended), hereby orders as follows:

Short Title and Commencement

1. (1) This Order may be cited as the Irish Aviation Authority (Testing for Alcohol) Order 2021.
- (2) This Order shall come into operation on the 28 day of January, 2021.

Interpretation

2. (a) In this Order:

“the Act” means the Irish Aviation Authority Act, 1993 (No. 29 of 1993) as amended;

“aerodrome”, “aircraft” and “authorised officer” have the meaning ascribed to them by the Act;

“direction” means a direction issued by the Authority;

“initial specimen” means a specimen referred to in article 6(a) and “further specimen” means a specimen referred to in article 6(b);

“the Authority” means the Irish Aviation Authority;

“prescribed” means prescribed by a direction given by the Authority under this Order or under any other Order or by a direction or Order issued pursuant to a provision of the Act;

“relevant person” means a member of flight crew or a member of cabin crew;

“the EASA Regulation” has, unless the contrary intention appears, the same meaning in these Regulations as it has in the European Communities (European Aviation Safety Agency) Regulations 2003 (as amended);

- (b) Every expression or word to which a particular meaning is assigned in the EASA Regulations shall have, unless the contrary intention appears, the same meaning in this Order as it has in the EASA Regulations.
- (c) In this Order a reference to an enactment or order shall, unless the context otherwise requires, be construed as a reference to the enactment or order as amended, as extended by or under any subsequent enactment or order.

Directions

3. Directions under this Order may be published in the Aeronautical Information Publication (Ireland) including its amendments and supplements or given in the form of Notices to Airmen (NOTAMs), Aeronautical Information Circulars or Aeronautical Notices or by notice sent by registered post or other means directly to the person affected.

Applicability

4. (a) This Order shall, save where the contrary intention appears, apply to any relevant person who performs duties or functions in relation to the operation of an aircraft in the State or attempts to do so.
- (b) A relevant person shall be deemed to attempt to perform duties or functions in relation to the operation of an aircraft if they are present on board or near an aircraft, or at or near an aerodrome, in the State for that purpose.
- (c) It shall be presumed that a relevant person who is present on board or near an aircraft, or at or near an aerodrome, in the State is there for the purpose of performing duties or functions in relation to the operation of an aircraft unless he or she shows to the contrary.

Prohibition on performing duties on an aircraft when under the influence of Alcohol

5. (a) A relevant person shall not perform duties or functions in relation to the operation of an aircraft or attempt to do so while under the influence of alcohol.
- (b) A relevant person shall not perform duties or functions in relation to the operation of an aircraft or attempt to do so while there is present in his or her body a quantity of alcohol such that (at that time or within 3 hours thereafter) the concentration of alcohol in his or her breath will exceed a concentration of 9 microgrammes of alcohol per 100 millilitres of breath.

Obligation to provide specimen of breath

6. (a) When requested to do so by an authorised officer, a relevant person shall provide, by exhaling into an apparatus for determining the concentration of alcohol in the breath, a specimen of his or her breath in the manner indicated by the authorised officer.
- (b) Where, consequent on a request under article 6(a), a relevant person provides an initial specimen and the apparatus referred to in that provision determines that the concentration of alcohol in that specimen exceeds the concentration set out in article 5(b),

an authorised officer may, at any time within thirty minutes thereafter, request that relevant person to provide, by exhaling into an apparatus for determining the concentration of alcohol in the breath, a second specimen of his or her breath in the manner indicated by the authorised officer.

- (c) The concentration of alcohol in the breath of a relevant person for the purpose of article 5(b) shall be the concentration determined by the apparatus referred to in article 6(b) in respect of the further specimen provided by the relevant person.
- (d) A relevant person shall be deemed for the purposes of this Order to have present in his or her body a quantity of alcohol such that the concentration of alcohol in his or her breath will exceed the concentration set out in article 5(b) if that relevant person:
 - (i) refuses or fails to immediately give an initial specimen or further specimen in the manner indicated by an authorised officer;
 - (ii) evades or attempts to evade an authorised officer in the performance of any function conferred on him or her by this Order; or
 - (iii) obstructs or impedes an authorised officer in the performance of any function conferred on him or her by this Order.

Power to Prevent Aircraft Flying

7. If it appears to an authorised officer that an aircraft has been or may be flown within the State in a manner which was or would be in contravention of the Act or any order or regulation made under the Act, including this Order, or was or would be a cause of danger to persons or property, the authorised officer may direct the operator of the aircraft, the person designated by the operator to act as pilot-in-command of the aircraft and/or any other relevant person not to permit the aircraft to be flown within the State and not to make any flight departing from any place within the State and the authorised officer may take such steps as he or she considers necessary to detain that aircraft, and the operator of the aircraft and any relevant person aware of that direction shall comply with it.

L.S.

Present when the common seal of the Irish Aviation Authority
was affixed hereto
27 January 2021

ERNIE DONNELLY,
Director

AIDEEN GAHAN,
Director

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Tel: 076 110 6834
r-post: publications@opw.ie

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