



STATUTORY INSTRUMENTS.

S.I. No. 24 of 2023



IRISH AVIATION AUTHORITY (UNMANNED AIRCRAFT SYSTEMS
(DRONES)) ORDER 2023

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(DRONES)) ORDER 2023

The Irish Aviation Authority, pursuant to sections 5, 58, 59, 60, 65 and 67 of the Irish Aviation Authority Act 1993 (No. 29 of 1993), hereby orders as follows:

Short Title and Commencement

1. This Order may be cited as the Irish Aviation Authority (Unmanned Aircraft Systems (Drones)) Order 2023.

Definitions

2. In this Order:

‘accident’ means an occurrence associated with the operation of an Unmanned Aircraft System (UAS), which takes place between the time the aircraft is ready to move with the purpose of flight until such time it comes to rest at the end of the flight and the primary propulsion system is shut down, in which a person is fatally or seriously injured as a result of direct contact with –

- (a) any part of the UAS, or
- (b) parts of the UAS that have become detached;

‘incident’ means an occurrence, other than an accident, associated with the operation of an aircraft, which affects or could affect the safety of operations;

‘occurrence’ means any safety-related event which endangers, or which, if not corrected or addressed, could endanger an aircraft, its occupants, or any other person and includes in particular an accident or serious incident;

‘serious incident’ means an incident involving circumstances indicating that there was a high probability of an accident associated with the operation of an unmanned aircraft, which takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down. The difference between an accident and a serious incident lies only in the result.

‘serious injury’ means an injury which creates a substantial risk of death or which causes serious disfigurement or substantial loss or impairment of the mobility of the body as a whole or of the function of any particular bodily member or organ;

‘the Act of 1988’ means the Air Navigation and Transport Act 1988, as amended;

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

‘the Act of 2006’ means the Criminal Justice Act 2006;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 7th February, 2023.*

‘the Authority’ means The Irish Aviation Authority;

‘the EASA Regulation’ means Regulation (EU) No. 2018/1139 of the European Parliament and of the Council of 4 July 2018¹ and shall include any rules or regulations adopted by the European Commission in accordance with the EASA regulation:

‘unmanned aircraft system’ (‘UAS’) means an unmanned aircraft and the equipment to control it remotely, including any electronic device;

Applicability

3. This order shall apply, unless otherwise specified herein, to Unmanned Aircraft Systems (UAS), generally referred to as drones, and their operation in or over the State.

4. This Order shall apply to UAS and their operation in carrying out search and rescue, firefighting, coast guard, or similar activities undertaken in the public interest. When engaged in such activities these operations shall be in compliance with the provisions of the EASA Regulation with respect to the operation of UAS, unless, in the case of an emergency, such compliance is not reasonably possible.

5. This Order shall not apply to UAS under the control of the Defence Forces, an Garda Síochána, or the Revenue Commissioners.

Directions

6. The Authority may give directions for the purposes of giving effect to the provisions of this Order, and may exempt natural or legal persons, or operations from the provisions of this Order, subject to such conditions as may be specified in relation to any such exemption. A condition specified in, or with a written permission, or in relation to an exemption in a particular case, shall have the effect of a direction under this Order and shall be complied with by the person or persons to whom it applies.

Insurance

7. Where directed by the Authority, operators of UAS shall be insured as regards their aviation-specific liability in respect of third parties. Where directed, operators of UAS shall ensure that insurance cover exists for each and every flight, regardless of whether the UAS operated is at their disposal through ownership or any form of lease agreement, or any other agreement of the same nature.

¹ OJ No. L212/61, 22 August 2018

Privacy Rights

8. Any processing of personal data, including the gathering, exchange or transmission of digital recordings, which was obtained during the operation of UAS, shall be undertaken in accordance with data protection law.

9. Operators of UAS shall prepare a Data Protection Impact Assessment, where required, in accordance with Regulation (EU) 2016/679 (General Data Protection Regulation).

10. Pursuant to Article 56(8) of the EASA Regulation, the Authority may, by Direction, set minimum heights and conditions applicable to the operation of UAS for the protection of privacy and personal data.

Notification of accidents and incidents pursuant to Section 65 of the Act of 1993

11. When an incident occurs to which this Order applies, the operator of the UAS may send notice of the incident to the UAS Division of the Authority.

12. In the case of an accident or serious incident, the operator of the UAS shall immediately notify the UAS Division of the Authority, an Garda Síochána, and in accordance with the Air Navigation (Notification and Investigation of Accidents, Serious Incidents and Incidents) Regulations 2009, the Air Accident Investigation Unit.

13. Where any accident, or serious incident involving the operation of a UAS comes to the notice a member of an Garda Síochána, or where there is a suspected breach of the EASA Regulations, or this Order, a member of an Garda Síochána may, in accordance with Section 7 of the Act of 2006, detain the UAS and may notify the UAS Division of the Authority for the purpose of an investigation under this Order.

Investigations

14. The Authority may:

- (a) cause such investigations or inspections as it considers appropriate to be made in respect of an occurrence related to the operation of a UAS, which caused or could have caused a hazardous effect. For the purposes of such investigation or inspection, the Authority may detain the UAS, remove and detain any UAS equipment, take copies of or extracts from any documents or records (including the records in any electronic flight data), have access to any place or premises and obtain from any person such information as may reasonably be required;

- (b) for the purpose of such investigations, the Authority may require the attendance of any person at a specified place and time on a specified day, and
- (c) authorise, permit, or delegate to a person, persons, an organisation, or organisations to inspect such manuals, procedures, operations or proficiencies it considers necessary for the safe operation of a UAS or the issue of a permission.

15. In accordance with Section 65 of the Act of 1993, the Authority may obtain from a member of an Garda Síochána, such information which is within their knowledge or procurement, as may reasonably be required for the purposes of an investigation in relation to the operation of a UAS.

16. For the purposes of this Order, any UAS and its associated equipment detained, or any evidence obtained by a member of an Garda Síochána, pursuant to the Act of 1988, may be examined by an authorised officer of the company.

17. Where any UAS and its associated equipment has been detained by a member of an Garda Síochána for the purposes of a criminal investigation, and is no longer required for that purpose, it may be handed over to an Authorised Officer of the Company for the purposes of an investigation under this Order.

18. Administrative arrangements regarding investigations may be established between the Authority and an Garda Síochána by way of MoU or Advisory Memorandum.

19. The Authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an UAS for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of the EASA Regulation, and where no person has suffered a serious injury or a fatality.

20. This Order shall apply without prejudice to the roles and responsibility of the Air Accident Investigation Unit relating to accident investigation and maintenance of an accident and serious incident database, as set out in the Air Navigation (Notification and Investigation of Accidents, Serious Incidents and Incidents) Regulations 2009.

Power to Prevent UAS Flying

21. If it appears to the Authority or an authorised officer of the company, that a UAS is likely to be operated in contravention of the EASA Regulation,

the Act of 1993, this Order, or any Directions thereunder, they may direct the operator or remote pilot, not to operate the UAS. Pursuant to Section 65 of the Act of 1993, the Authority or the authorised officer of the company concerned may take such steps as are necessary to detain the UAS at a suitable location.

22. If it appears to a member of an Garda Síochána, that a UAS is likely to be operated in contravention of the EASA Regulation, the Act, this Order, or any Directions thereunder, or if a member of An Garda Síochána reasonably suspects the UAS is being, or is intended to be operated in the commission of any offence, they may direct the operator or remote pilot, not to operate the UAS. Pursuant to Section 7 of the Act of 2006, a member of an Garda Síochána may take such steps as are necessary to detain that UAS at a suitable location.

23. Any UAS detained by the Authority will only be detained for such time as is necessary for the purpose of an investigation under this Order. Where a decision is taken not to pursue a prosecution the UAS concerned shall be returned to the registered owner, or the operator, as the case may be.

Revocation, Limitation, and Suspension of Permissions, Exemptions and Authorisations and Directions

24. The Authority may revoke, limit, or suspend any permission, exemption, authorisation, or direction issued under this Order.

Revocations

25. The Irish Aviation Authority (Small Unmanned Aircraft (Drones) and Rockets) Order, 2015 is hereby revoked.

Saver

26. The revocation of the Irish Aviation Authority (Small Unmanned Aircraft (Drones) and Rockets) Order 2015, shall not affect the validity of any permission, direction or exemption issued that was in force immediately before the commandment of this Order.



Present when the common seal of the Irish Aviation Authority
was affixed hereto
2 February 2023

ROSE HYNES,
Director

ERNIE DONNELLY,
Director

EXPLANATORY NOTE

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

This Order sets out the necessary national measures to give further effect to Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft and provides for the making of arrangements regarding the enforcement of the EASA Regulation between the Authority and an Garda Síochána.

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