



ANALYSIS

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2004, No. 2

An Act to amend the Aviation Offences Act 1973

(1 June 2004)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title – This Act may be cited as the Aviation Offences Amendment Act 2004 and shall be read together with and deemed part of the Aviation Offences Act 1973 (“the principal Act”).

2. Interpretation – (1) Section 2 of the principal Act is amended by inserting, after subsection (3), the following new subsection -

“(4) For the purposes of this Act, a reference to an aircraft in flight includes a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.”

3. Offences involving acts of violence at airports serving international civil aviation – The principal Act is amended by inserting after section 5, the following new heading and section -

“Offences Relating to Airports

5A. Offences involving acts of violence at airports serving international civil aviation - A person commits an offence punishable by 14 years imprisonment who unlawfully and intentionally, using any device, substance or weapon –

- (a) performs an act of violence, against a person at an airport serving international civil aviation, that causes or is likely to cause serious injury or death; or
- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or an aircraft not in service located there or disrupt the services of the airport,

if the act endangers or is likely to endanger safety at the airport.”

4. Application of sections 3, 4, and 5 – Section 8 of the principal Act is amended by inserting in subsection (1), after the words “(not being a Cook Islands aircraft)” the words “or an aircraft leased without crew to a lessee who has as his or her principal place of business in the Cook Islands or, if the lessee has no principal place of business in the Cook Islands, if the lessee is ordinarily resident in the Cook Islands”.

5. Obligation to extradite or prosecute – The principal Act is amended by inserting, after section 9, the following new section -

“9A. Obligation to extradite or prosecute - If the Attorney-General refuses a request from another country to extradite a person under the Extradition Act 2003, and the extradition request relates to an act or omission that is an offence under sections 3, 4 or 5, the Attorney-General must submit the matter to the Solicitor-General for prosecution.”

6. Application of section 14 – The principal Act is amended by inserting, under the heading “Powers of Aircraft Commander” and before section 14, the following new sections -

“13A. Application of criminal law to aircraft – (1) An act or omission taking place on board a Cook Island aircraft while in flight other than in or over the Cook Islands that, if taking place in the Cook Islands would constitute an offence under the law in force in the Cook Islands, constitutes that offence.

(2) Subsection (1) does not apply to an act or omission that would, if committed in the Cook Islands be an offence but that is expressly excluded or impliedly authorized under the law in force in the Cook Islands when taking place outside the Cook Islands.

13B. Specified aircraft – If the Minister of Civil Aviation, with the concurrence of Cabinet, is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied, the Minister of Civil Aviation may, by notification published in the Gazette, declare that a specified aircraft is taken to be registered in a specified Convention country, being a country that has been declared by the Minister, by Order published in the Gazette, to be a party to the Tokyo Convention.

13C. Jurisdiction – Proceedings may be brought for an offence under section 14 if the act or omission is committed on board an aircraft registered in the Cook Islands.”

7. Powers of aircraft commander – Section 14(1)(b) of the principal Act is amended by adding after the words “including restraint,” the words “and the use of force”.

8. Indemnity for actions under section 14 – The principal Act is amended by inserting after section 14, the following new section –

“14A. Indemnity for actions – A person who exercises a power, including restraint or the use of force, on another person in accordance with section 14 in good faith is not guilty of any offence and is not liable to civil proceedings for the exercise of that power.”

This Act is administered by the Ministry of Transport