

# CRIMES (AIRCRAFT).

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No. 64 of 1963.

An Act to make provision with respect to Crimes committed on board certain Aircraft, and for other purposes.

[Assented to 28th October, 1963.]

[Date of commencement, 25th November, 1963.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

## PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Crimes (Aircraft) Act* 1963.
- Parts.** 2. This Act is divided into Parts, as follows:—  
Part I.—Preliminary (Sections 1–5).  
Part II.—Crimes on board Aircraft engaged in certain Flights (Sections 6–9).  
Part III.—Crimes affecting Aircraft (Sections 10–20).  
Part IV.—Miscellaneous (Sections 21–29).
- Interpretation.** 3.—(1.) In this Act, unless the contrary intention appears—  
“ aircraft ” includes any machine that can derive support in the atmosphere from the reactions of the air;  
“ Australia ” includes the Territories;  
“ Australian aircraft ” means—  
(a) an aircraft registered or required to be registered in accordance with the Air Navigation Regulations as an Australian aircraft;  
(b) a Commonwealth aircraft; or  
(c) a defence aircraft;

- “ Commonwealth aircraft ” means an aircraft, other than a defence aircraft, that is in the possession or control of the Commonwealth or an authority of the Commonwealth;
- “ court of summary jurisdiction ” includes a court of a Territory having jurisdiction in respect of the summary punishment of any offences under the law of the Territory;
- “ defence aircraft ” means an aircraft of any part of the Defence Force and includes any aircraft that is being commanded or piloted by a member of that Force in the course of his duties as such a member;
- “ foreign aircraft ” means an aircraft that is not an Australian aircraft, including such an aircraft belonging to or operated by the Government of a country (including a part of the Queen’s dominions) outside Australia;
- “ landing ” includes alighting on water;
- “ member of the crew ”, in relation to an aircraft, means a person having duties or functions on board the aircraft;
- “ part of Australia ” means a State or a Territory;
- “ Territory ” means a Territory of the Commonwealth;
- “ the Air Navigation Regulations ” means the regulations known as the Air Navigation Regulations as in force for the time being under the *Air Navigation Act* 1920–1963, and includes any of those regulations as in force by virtue of a law of a State.

(2.) For the purposes of this Act—

- (a) a flight of an aircraft shall be taken to commence—
  - (i) at the time of the closing of the last external door of the aircraft to be closed before the aircraft first moves for the purpose of taking off from any place; or
  - (ii) if the last preceding sub-paragraph is not applicable—at the time at which the aircraft first moves for the purpose of taking off from any place; and
- (b) a flight of an aircraft shall be taken to end—
  - (i) at the time of the opening of the first external door of the aircraft to be opened after the aircraft comes to rest after its next landing after the commencement of the flight; or
  - (ii) if the last preceding sub-paragraph is not applicable—at the time at which the aircraft comes to rest after its next landing after the commencement of the flight,

or, if the aircraft is destroyed, or the flight is abandoned, before either sub-paragraph (i) or sub-paragraph (ii) of this paragraph becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be.

(3.) For the purposes of this Act, a flight of an aircraft shall be taken to be a flight between two geographical areas where the flight commences in either of those areas and ends, or is, at the commencement of the flight, intended to end, in the other of those areas.

(4.) Subject to the last preceding sub-section, a flight of an aircraft shall, for the purposes of this Act, be taken to be a flight within a single Territory where the flight commences in that Territory and ends, or is, at the commencement of the flight, intended to end, in that Territory, whether or not the aircraft may or will, in the course of the flight, go outside the Territory or outside Australia.

(5.) A reference in this Act to Australia or a part of Australia shall be read as including a reference to the territorial waters of Australia or of that part of Australia, as the case may be.

**Extension of Act  
to Territories.**

**4.** This Act extends to every Territory.

**Extra-territorial  
operation of  
Act.**

**5.** This Act extends—

- (a) to acts, omissions, matters and things outside Australia, whether or not in or over a foreign country; and
- (b) to all persons, irrespective of their nationality or citizenship.

**PART II.—CRIMES ON BOARD AIRCRAFT ENGAGED IN  
CERTAIN FLIGHTS.**

**Application  
of Part.**

**6.—(1.)** This Part applies to any aircraft (including a foreign aircraft) that—

- (a) is engaged in a flight between two States in the course of trade and commerce with other countries or among the States;
- (b) is engaged in a flight within a Territory, between two Territories or between a State and a Territory;
- (c) is outside Australia while engaged in a flight that commenced in Australia; or
- (d) is engaged in a flight between a part of Australia and a country or place outside Australia.

(2.) This Part also applies to—

- (a) an Australian aircraft that is engaged in a flight wholly out of Australia; and
- (b) a Commonwealth aircraft or a defence aircraft that is engaged in any flight, including a flight wholly out of Australia.

7.—(1.) A person who, while on board an aircraft to which this Part applies, does or omits to do an act or thing the doing or omission of which, if it took place in, or if it took place in a public place in, the Australian Capital Territory, would be an offence against—

Crimes committed on aircraft to which Part applies.

- (a) a law of the Commonwealth in force in that Territory;
- (b) the Crimes Act, 1900 of the State of New South Wales, in its application to that Territory, as amended or affected by Ordinances from time to time in force in that Territory; or
- (c) the *Police Offences Ordinance* 1930–1961 of that Territory, as amended from time to time,

is guilty of an offence against this Part and is punishable by the same penalty as that by which he would have been punishable if he had been guilty of the first-mentioned offence.

(2.) This section extends to an act or omission that may have taken place in the Australian Capital Territory and a person may be convicted of an offence against this Part notwithstanding that the evidence shows that the act or omission constituting the offence took place in the Australian Capital Territory.

8. The question whether an offence against this Part is to be, or may be, prosecuted or dealt with on indictment or summarily shall be determined in accordance with the law that would be applicable in relation to a prosecution under the laws in force in the Australian Capital Territory if the act or omission alleged to constitute the offence had occurred in the Australian Capital Territory.

Which offences are indictable.

9. Where a person is charged with an offence against this Part before a court other than a court in the Australian Capital Territory, he may be found guilty of any other offence against this Part of which he could have been found guilty if the act or omission alleged to constitute the first-mentioned offence had taken place in the Australian Capital Territory and he had been charged with that offence before a court in the Australian Capital Territory.

Alternative verdicts.

## PART III.—CRIMES AFFECTING AIRCRAFT.

Application  
of Part.

## 10.—(1.) This Part applies to—

- (a) an Australian aircraft (other than a Commonwealth aircraft or a defence aircraft) that is used principally for the purpose of prescribed flights, or is engaged, or is intended or likely to be engaged, in a prescribed flight;
- (b) a Commonwealth aircraft;
- (c) a defence aircraft; and
- (d) a foreign aircraft that is in Australia, or is outside Australia while engaged in a flight that commenced in Australia or was, at its commencement, intended to end in Australia.

## (2.) In this section, “prescribed flight” means a flight—

- (a) between two States, in the course of trade and commerce with other countries or among the States;
- (b) within a Territory, between two Territories or between a State and a Territory;
- (c) between a part of Australia and a country or place outside Australia; or
- (d) wholly outside Australia.

Taking control  
of aircraft.

11.—(1.) A person shall not, without lawful excuse, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies.

Penalty: Imprisonment for seven years.

(2.) A person shall not, without lawful excuse, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies while another person, not being an accomplice of the first-mentioned person, is on board the aircraft.

Penalty: Imprisonment for fourteen years.

(3.) A person shall not, without lawful excuse, by force or violence or threat of force or violence, or by any trick or false pretence, take or exercise control, whether direct or through another person, of an aircraft to which this Part applies while another person, not being an accomplice of the first-mentioned person, is on board the aircraft.

Penalty, for any contravention of this sub-section: Imprisonment for twenty years.

Destruction  
of aircraft.

12. A person shall not wilfully destroy an aircraft to which this Part applies.

Penalty: Imprisonment for fourteen years.

Destruction of  
aircraft with  
intent to kill.

13. A person who destroys an aircraft to which this Part applies with intent to cause the death of a person or with reckless indifference to the safety of the life of a person is guilty of an indictable offence punishable by death.

**14.** A person shall not do an act or thing capable of prejudicing the safe operation of an aircraft to which this Part applies with intent to prejudice the safe operation of that aircraft.

Prejudicing safe operation of aircraft.

Penalty: Imprisonment for fourteen years.

**15.** A person who does an act or thing capable of prejudicing the safe operation of an aircraft to which this Part applies—

Prejudicing safe operation of aircraft with intent to kill persons, &c.

(a) with intent to prejudice the safe operation of that aircraft; and

(b) with intent to cause the death of a person or with reckless indifference to the safety of the life of a person,

is guilty of an indictable offence punishable by death.

**16.** A person shall not, while on board an aircraft to which this Part applies, assault, intimidate or threaten with violence a member of the crew of the aircraft so as to interfere with the performance by the member of his functions or duties connected with the operation of the aircraft or so as to lessen his ability to perform those functions or duties.

Assaulting crew, &c.

Penalty: Imprisonment for fourteen years.

**17.** A person shall not, while on board an aircraft to which this Part applies, do any act or thing that, to his knowledge, is likely to endanger the safety of the aircraft.

Endangering safety of aircraft.

Penalty: Imprisonment for seven years.

**18.—(1.)** Subject to this section, a person shall not—

Taking or sending dangerous goods on aircraft.

(a) carry or place dangerous goods on board an aircraft to which this Part applies;

(b) deliver dangerous goods to a person for the purpose of their being placed on board such an aircraft; or

(c) have dangerous goods in his possession on board such an aircraft.

Penalty: Imprisonment for seven years.

**(2.)** This section does not apply—

(a) to or in relation to an act done with the consent of the owner or operator of the aircraft given with knowledge of the nature of the goods concerned;

(b) to or in relation to the carrying or placing of fire-arms, or ammunition for fire-arms, on board an aircraft with permission granted under the Air Navigation Regulations;

(c) in the case of a Commonwealth aircraft (not being an aircraft that is being used for commercial transport operations)—to or in relation to the carrying or placing of dangerous goods on board the aircraft by an officer of, or person employed in, the Public Service of the Commonwealth, or an officer of, or person

employed by, an authority of the Commonwealth, in the performance of his duties, or by a person acting in accordance with the instructions of such an officer or person given in the performance of his duties; or

- (d) in the case of a defence aircraft—to or in relation to the carrying or placing of dangerous goods on board the aircraft by a member of the Defence Force in the performance of his duties or by a person acting in accordance with the instructions of a member of the Defence Force given in the performance of his duties.

(3.) In this section, “ dangerous goods ” means—

- (a) fire-arms, ammunition, weapons and explosive substances; and  
(b) substances or things that, by reason of their nature or condition, may endanger the safety of an aircraft or of persons on board an aircraft.

Threats and  
false  
statements.

19.—(1.) A person shall not threaten, state that it is his intention, or make a statement from which it could reasonably be inferred that it is his intention, to destroy, damage or endanger the safety of an aircraft to which this Part applies or to kill or injure all or any of the persons on board such an aircraft.

(2.) A person shall not make a statement or convey information, being a statement or information that he knows to be false, to the effect, or from which it could reasonably be inferred, that there has been, is or is to be a plan, proposal, attempt, conspiracy or threat to—

- (a) take or exercise control, by force or violence, of an aircraft to which this Part applies;  
(b) destroy, damage or endanger the safety of such an aircraft; or  
(c) kill or injure all or any of the persons on board such an aircraft.

Penalty: Imprisonment for two years.

Alternative  
verdicts.

20.—(1.) Where, on the trial of a person for an offence against any of the provisions of section eleven of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against another of those provisions, he may be found guilty of that last-mentioned offence.

(2.) Where, on the trial of a person for an offence against section thirteen of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against section twelve of this Act, he may be found guilty of that last-mentioned offence.

(3.) Where, on the trial of a person for an offence against section fifteen of this Act, the evidence does not establish the commission by him of that offence but establishes the commission by him of an offence against section fourteen of this Act, he may be found guilty of that last-mentioned offence.

#### PART IV.—MISCELLANEOUS.

##### 21.—(1.) Proceedings for—

Prosecutions,

(a) the commitment of a person for trial on indictment for an offence against this Act; or

(b) the summary prosecution of an offence against this Act, shall not be instituted except with the consent in writing of the Attorney-General or a person authorized by the Attorney-General, by writing under his hand, to give such consents.

(2.) Notwithstanding that a consent has not been given in relation to the offence in accordance with the last preceding sub-section—

(a) a person may be charged with an offence against this Act;

(b) a person may be arrested for such an offence, and a warrant for such an arrest may be issued and executed; and

(c) a person so charged may be remanded in custody or on bail,

but no further step in proceedings of a kind referred to in that sub-section shall be taken in relation to the offence until such a consent has been obtained.

(3.) Nothing in the last preceding sub-section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

22.—(1.) Subject to the succeeding provisions of this section, jurisdiction is conferred on the several courts of the States and Territories with respect to offences against this Act.

Jurisdiction  
of courts.

(2.) The jurisdiction conferred on courts by the last preceding sub-section is conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, but, in the case of a court of a State, subject to the conditions and restrictions specified in paragraphs (a), (b) and (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act* 1903–1960.



(3.) The jurisdiction conferred on a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate.

(4.) Jurisdiction with respect to an offence is not conferred by this section on a court of a Territory not forming part of the Commonwealth unless the offence was committed in the Territory or on board an aircraft the last place of taking off of which before the commission of the offence, or the next place of landing of which after the commission of the offence, was in that Territory.

(5.) The trial on indictment of an offence against this Act that was not committed within any State may be held—

- (a) in any State; or
- (b) in any Territory in which a court having jurisdiction to try the offence may sit.

(6.) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

- (a) their summary conviction;
- (b) their examination and commitment for trial on indictment;
- (c) their trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(7.) Except as provided by this Act, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act.

Provisions in  
relation to  
venue.

**23.—(1.)** In a prosecution for an offence against this Act committed on board an aircraft engaged in a flight, where an act constituting, in whole or in part, the offence charged is proved, it shall be presumed, unless the evidence shows the contrary, that that act did not take place in a State or Territory other than the State or Territory in which the trial is held.

(2.) In a prosecution for an offence against this Act committed on board an aircraft engaged in a flight, if the information, complaint or indictment specifies the flight in which the aircraft was engaged, it is not necessary for the information, complaint or indictment to state the part of Australia or other place at which the offence was committed, except where the prosecution is in a court of a Territory and the jurisdiction of the court depends on the offence having been committed in the Territory.

24.—(1.) Where, at any time after the presentation in a court in a part of Australia of an indictment for an offence against this Act and before the jury has returned its verdict—

Change of  
venue.

- (a) the defendant objects to the trial on the ground that the offence, if committed, was committed in another part of Australia; and
- (b) the Judge is satisfied that the offence, if committed, was committed in that other part of Australia,

the Judge shall forthwith order that the proceedings on the indictment be discontinued and, if the jury has been empanelled, that the jury be discharged, and that the defendant appear before that court or another court of the first-mentioned part of Australia at a specified place and at a specified time not later than twenty-eight days after the date on which the order is made, to be dealt with in accordance with this section.

(2.) Where a Judge makes an order under the last preceding sub-section, he may also—

- (a) order that the defendant be kept in such custody as is specified in the order; or
- (b) admit the defendant to bail, on such recognizances as the Judge thinks fit.

(3.) If, before the time at which the defendant is to appear before a court, the Attorney-General notifies that court that he does not intend to file an indictment against the defendant in a court of another part of Australia, the first-mentioned court shall, as soon as practicable after being so notified, make an order—

- (a) discharging the defendant from his obligation to appear before that court at that time; and
- (b) directing—
  - (i) if the defendant is held in custody—that he be released; or
  - (ii) if he has been admitted to bail—that the recognizances upon which he was admitted to bail be discharged.

(4.) If, at or before the time at which the defendant is to appear before a court, the Attorney-General notifies that court that he has filed an indictment against the defendant in a court of another part of Australia, the first-mentioned court shall—

- (a) if the defendant is in custody—forthwith; or
- (b) in any other case—as soon as practicable after the time at which the defendant is to appear before that court, make an order directing that the defendant be taken, as soon as practicable, in the custody of such person as it directs, to the

part of Australia in which the indictment was filed and there be delivered to the custody of a person having authority to arrest him, and may make such further orders as it thinks necessary for facilitating the carrying into effect of the first-mentioned order.

(5.) If—

(a) the Attorney-General—

(i) does not, before the time at which the defendant is to appear before a court, notify that court that he does not intend to file an indictment against the defendant in a court of another part of Australia; and

(ii) does not, at or before that time, notify the first-mentioned court that he has filed such an indictment; and

(b) the defendant is in custody,

the first-mentioned court shall, at that time, make an order directing that he be released.

(6.) Where an order has been made under sub-section (1.) of this section in relation to an indictment, the proceedings on that indictment do not, and that order does not, prevent or prejudice any other indictment, or any information, against the defendant, whether on the same charge or on any other charge.

Arrest of  
offenders, &c.

25.—(1.) The person in command of an aircraft to which Part II. or Part III. of this Act applies may, on board the aircraft, with such assistance as is necessary, arrest without warrant a person whom he finds committing, or reasonably suspects of having committed, or of having attempted to commit, an offence against that Part, and that person in command or a person authorized by him may hold the person so arrested in custody until he can be brought before a Justice of the Peace or other proper authority to be dealt with in accordance with law.

(2.) The person in command of an aircraft to which Part II. or Part III. of this Act applies may, where he considers it necessary so to do in order to prevent an offence against that Part or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as he thinks necessary—

(a) place a person who is on board the aircraft under restraint or in custody; and

(b) if the aircraft is not in the course of a flight—remove a person from the aircraft.

Power of  
person to  
search  
aircraft.

26.—(1.) If, in relation to an aircraft to which Part II. or Part III. of this Act applies, the person in command of the aircraft or any person authorized in writing for the purposes of this

section by the Minister of State for Civil Aviation reasonably suspects that an offence against that Part has been, is being or may be committed on board or in relation to the aircraft, he may, with such assistance as is necessary, search or cause to be searched—

- (a) the aircraft and any person, luggage or freight on board the aircraft; and
- (b) in the case of an aircraft to which Part III. of this Act applies and which is not engaged in a flight—any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft.

(2.) A female shall not be searched under the last preceding sub-section except by a female.

27. This Act is not intended to exclude or limit the operation of any other law of the Commonwealth or, except as provided by the next succeeding section, the operation of any law of a State or Territory.

Saving of other laws.

28. Where an act or omission of a person is both an offence against this Act and an offence under the law of a State or Territory and that person is convicted of either of those offences, he is not liable to be convicted of the other of those offences.

Person not to be convicted twice for same act or omission.

29.—(1.) Where a person is convicted of an offence against this Act punishable by death—

Death sentences.

- (a) the sentence of the court shall be that the convicted person shall suffer the punishment of death; and
- (b) the court may give directions with respect to the holding in custody of the convicted person until the sentence is executed or directions of the Governor-General under sub-section (3.) of this section with respect to his custody take effect.

(2.) Subject to the next succeeding sub-section, a sentence of death passed by a court in pursuance of this Act shall be carried into execution in accordance with the law of the State or Territory in which the offender is convicted.

(3.) The Governor-General may, in any case (including a case in which the law of the State or Territory in which the offender is convicted does not provide for the execution of sentences of death), give directions for and in relation to the carrying into execution of a sentence of death passed by a court in pursuance of this Act and, where such directions are given, the sentence shall be carried into execution accordingly.