

CIVIL AVIATION (TOKYO CONVENTION) ACT

CHAPTER 11:21

Act
5 of 1978
Amended by
36 of 1985

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 11:21

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ARRANGEMENT OF SECTIONS

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SCHEDULE.

CHAPTER 11:21

CIVIL AVIATION (TOKYO CONVENTION) ACT

5 of 1978. **An Act to give effect to the Convention on offences and certain other acts committed on board aircraft, signed in Tokyo on 14th September 1963; to give effect to certain provisions relating to piracy of the Convention on the High Seas, signed in Geneva on 29th April 1958; and for connected purposes.**

Commencement. [7TH MAY 1978]
67/1978.

Short title. **1.** This Act may be cited as the Civil Aviation (Tokyo Convention) Act.

Interpretation. **2.** (1) In this Act—
“aircraft”, subject to subsection (6), means an aircraft, whether or not a Trinidad and Tobago controlled aircraft, other than—
(a) a military aircraft;
(b) an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of the Government of Trinidad and Tobago;
“commander”, in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof or, failing such person, the person who is the pilot in command of the aircraft;
“Convention country”, subject to subsection (5), means a country in which the Tokyo Convention is in force;
“military aircraft” means an aircraft of the naval, military or air forces of any country, and a certificate of the Minister responsible for Defence that any aircraft is or is not a military aircraft for the purposes of this Act is conclusive evidence of the fact certified;
“operator”, in relation to an aircraft at any time, means the person who at that time has the management of that aircraft;

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2012

“pilot-in-command”, in relation to an aircraft, means the person who is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

“Tokyo Convention” means the Convention on offences and certain other acts committed on board aircraft, signed in Tokyo on 14th September 1963;

“Trinidad and Tobago controlled aircraft” means an aircraft which—

- (a) is registered in Trinidad and Tobago;
- (b) is not registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it—
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Trinidad and Tobago; and
 - (ii) resides or has his principal place of business in Trinidad and Tobago; or
- (c) being registered in some other country, is demised, let or hired out to a person who or to persons each of whom satisfies the requirements mentioned in paragraph (b)(i) and (ii).

(2) For the purpose of this Act, the period during which an aircraft is in flight includes—

- (a) any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of the flight ends; and
- (b) for the purposes of section 5—
 - (i) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight;

- (ii) if the aircraft makes a forced landing, any period thereafter until the time when competent authorities of the country in which that landing takes place take over responsibility for the aircraft and for the persons and property on board the aircraft (being, if that landing takes place in Trinidad and Tobago, the time when a police officer arrives at the place of landing),

and a reference in this Act 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) A reference in this Act to Trinidad and Tobago or any other country or to the territorial limits thereof includes a reference to the territorial waters of Trinidad and Tobago or, if any, of that country.

(4) If the Minister responsible for civil aviation is satisfied that the requirements of Article 18 of the Tokyo Convention are complied with, he may by Order provide that for the purposes of this Act such aircraft as are specified in the Order shall be treated as registered in the Convention country so specified.

(5) The Minister responsible for external affairs may by Notification certify that any country specified in the Notification is for the time being a convention country and any such Notification for the time being in force is for the purposes of this Act conclusive evidence that the country in question is for the time being a convention country.

(6) The Minister responsible for Civil Aviation may by Order apply any of the provisions of this Act, with or without modifications, to aircraft such as are mentioned in the definition of aircraft in subsection (1)(a) or (b).

Application of criminal law to aircraft.

3. (1) Subject to subsection (2), an act or omission taking place on board a Trinidad and Tobago controlled aircraft while in flight elsewhere than in or over Trinidad and Tobago which, if taking place in Trinidad and Tobago, would constitute an offence under the law in force in Trinidad and Tobago constitutes that offence.

(2) Subsection (1) does not apply to an act or omission which is expressly or impliedly authorised by or under the law in force in Trinidad and Tobago when taking place outside of Trinidad and Tobago.

(3) No proceedings for an offence under the law in force in Trinidad and Tobago committed on board an aircraft while in flight elsewhere than in or over Trinidad and Tobago, other than an offence under the Civil Aviation Act 1949, of the United Kingdom Parliament or any instrument made thereunder, shall be instituted except by or with the consent of the Director of Public Prosecutions.

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(4) Subsection (3) does not apply for the purposes of the arrest or the issue of a warrant for the arrest of a person in respect of any offence or the remanding in custody or on bail of any person charged with an offence.

(5) For the purpose of conferring jurisdiction, an offence under the law in force in Trinidad and Tobago committed on board an aircraft in flight shall be deemed to have been committed in any place in Trinidad and Tobago where the offender is for the time being.

(6) Section 62(1) of the Civil Aviation Act 1949 of the United Kingdom Parliament in its application to Trinidad and Tobago is hereby repealed.

4. For the purposes of the application of the Extradition (Commonwealth and Foreign Territories) Act to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country shall at any time while that aircraft is in flight be deemed to be within the jurisdiction of that country, whether or not it is also within the jurisdiction of any other country; and that Act applies also where a person's surrender is sought in respect of a crime committed on board an aircraft in flight that lands in Trinidad and Tobago.

Extradition.
[36 of 1985].
Ch. 12:04.

5. (1) Subsections (2) to (5) have effect for the purpose of any proceedings before any Court in Trinidad and Tobago.

Powers of
commander of
aircraft.

(2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds for believing—

(a) that any person on board the aircraft has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise—

(i) the safety of the aircraft or of persons or property on board the aircraft; or

(ii) good order and discipline on board the aircraft; or

(b) that any person on board the aircraft has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

the commander may, subject to subsection (5), take with respect to that person such reasonable measures, including restraint of his person, as are necessary—

(i) to protect the safety of the aircraft or of persons or property on board the aircraft; or

(ii) to maintain good order and discipline on board the aircraft; or

(iii) to enable the commander to disembark or deliver that person in accordance with subsection (6).

(3) For the purposes of subsection (2)(b), a Trinidad and Tobago controlled aircraft shall be deemed to be registered in Trinidad and Tobago whether or not it is in fact so registered and whether or not it is in fact registered in some other country.

(4) A member of the crew of an aircraft and any other person on board the aircraft—

(a) may, at the request or with the authority of the commander of the aircraft, and any such member shall, if so required by the commander, render assistance in restraining any person whom the commander is entitled under subsection (2) to restrain;

(b) may, at any time when the aircraft is in flight without obtaining the authority of the commander, take with respect to any person on board the aircraft any of the measures mentioned in subsection (2) which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(5) A restraint imposed on any person on board an aircraft under this section shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to an appropriate authority of the country in which the aircraft so ceases to be in flight; but subject to such notification the restraint may be continued after that time—

- (a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (6); or
- (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(6) The commander of an aircraft may—

- (a) if he has reasonable grounds for believing—
 - (i) the matters stated in subsection (2)(a); and
 - (ii) that it is necessary to take such action in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,

disembark that person in any country in which that aircraft may be; and

- (b) if he has reasonable grounds for believing the matter stated in subsection (2)(b), deliver that person—
- (i) in Trinidad and Tobago to a police officer or to an immigration officer; or
 - (ii) in any other country which is a Convention country, to an officer having functions corresponding to the functions in Trinidad and Tobago either of a police officer or an immigration officer.
- (7) The commander of an aircraft—
- (a) if he disembarks any person in pursuance of subsection (6)(a), in the case of a Trinidad and Tobago controlled aircraft in any country or, in the case of any other aircraft, in Trinidad and Tobago, shall report the fact of, and the reasons for, that disembarkation to—
- (i) an appropriate authority in the country of disembarkation; and
 - (ii) the appropriate diplomatic or consular office of the country of nationality of that person;
- (b) if he intends to deliver any person in accordance with subsection (6)(b) in Trinidad and Tobago or, in the case of a Trinidad and Tobago controlled aircraft, in any other country which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor—
- (i) where the country in question is Trinidad and Tobago, to a police officer or to an immigration officer or, in the case of any other country, to an officer having functions corresponding to the functions in Trinidad and Tobago either of a police officer or of an immigration officer;
 - (ii) in either case, to the appropriate diplomatic or consular office of the country of nationality of that person.

(8) A commander of an aircraft who without reasonable cause fails to comply with subsection (7) is liable on summary conviction to a fine of one thousand dollars.

6. For the avoidance of doubt, it is hereby declared that for the purposes of any proceedings before a Court in Trinidad and Tobago in respect of piracy, the provisions set out in the Schedule, being Articles 15, 16 and 17 of the Convention on the High Seas signed at Geneva on 29th April 1958, shall be treated as constituting part of the law of nations; and any such Court having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of piracy committed by or against an aircraft wherever that piracy is committed.

7. (1) Where in any proceedings before a Court in Trinidad and Tobago for an offence committed on board an aircraft the testimony of any person is required and the Court is satisfied that the person in question cannot be found in Trinidad and Tobago, there shall be admissible in evidence before that Court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside of Trinidad and Tobago which was so made—

- (a) in the presence of the person charged with the offence; and
- (b) before a judge or magistrate of a country mentioned in section 18(3) of the Constitution, or before a consular representative for Trinidad and Tobago.

(2) A deposition mentioned in subsection (1) shall be authenticated by the signature of the judge, magistrate or consular representative before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated a deposition under subsection (2) or to have given a certificate mentioned in that subsection, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the taking of the deposition.

(4) If a complaint is made to a consular representative for Trinidad and Tobago that an offence has been committed on a Trinidad and Tobago controlled aircraft while in flight elsewhere than in or over Trinidad and Tobago that representative may inquire into the case upon oath.

(5) In this section, “deposition” includes any affidavit, affirmation or statement upon oath; and nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

Provisions as to
documentary
evidence.

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8. In any legal proceedings—

- (a) a document purporting to be certified by the Minister responsible for Civil Aviation as being or being a true copy of, or part of, a document issued or record kept in pursuance of an Order in Council or Order made under section 8 of the Civil Aviation Act 1949 of the United Kingdom Parliament, by a government department or a Minister responsible for any business or department of the government, or by a public officer who is specified for the purpose in any such Order in Council or Order or by the competent authority in Trinidad and Tobago for the registration or licensing of aircraft; or
- (b) a document issued by the office of the Director of Civil Aviation purporting to be the publication of the series known as “Notam”,

shall, if relevant, be evidence of the matters appearing from that document or publication.

SCHEDULE

Section 6.

**PROVISIONS OF GENEVA CONVENTION ON
THE HIGH SEAS TO BE TREATED AS PART OF
THE LAW OF NATIONS**

ARTICLE 15

Piracy consists of any of the following acts:

- (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed;
 - (a) on the high seas, against another ship or aircraft or against persons or property on board such ship or aircraft;
 - (b) against a ship, aircraft, person or property in a place outside the jurisdiction of any State.
- (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.
- (3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph (1) or sub-paragraph (2) of this article.

ARTICLE 16

The acts of piracy as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

ARTICLE 17

A ship or aircraft is considered a private ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.