

# Crimes (Hijacking of Aircraft)

No. 101 of 1972

An Act to approve Accession by Australia to the Convention for the Suppression of Unlawful Seizure of Aircraft, to give effect to that Convention and to provide for the Punishment of the Unlawful Seizure of Aircraft and Acts of Violence on board Aircraft in certain circumstances in which that Convention does not apply.

[Assented to 27 October 1972]

**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:—

1. This Act may be cited as the *Crimes (Hijacking of Aircraft) Act 1972*. Short title.

2.—(1.) Sections 1, 2, 3, 6, 24, 25 and 26 of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

(2.) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation, being a date not earlier than the date on which the Convention enters into force for Australia.

3.—(1.) In this Act, unless the contrary intention appears— Interpretation.

“ aircraft ” includes any machine that can derive support in the atmosphere from the reactions of the air;

“ Australia ” includes all 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; or

(b) a Commonwealth aircraft;

“ authority of the Commonwealth ” includes Qantas Airways Limited;

“ authorized person ” means—

(a) a person appointed by the Minister, by instrument in writing, to be an authorized person for the purposes of the provision in which the expression occurs; or

(b) a person included in a class of persons appointed by the Minister, by instrument in writing, to be authorized persons for the purposes of the provision in which the expression occurs;

“ Commonwealth aircraft ” means an aircraft that is owned by, or is in the possession or control of, the Commonwealth or an authority of the Commonwealth, and includes a defence aircraft;

“ Convention offence ” means—

- (a) an offence against section 8 of this Act in respect of which the circumstances referred to in paragraph (a) of subsection (2.) of that section are applicable; or
- (b) an offence against section 9 of this Act in respect of which the circumstances referred to in paragraph (a) of subsection (2.) of that section are applicable;

“ defence aircraft ” means an aircraft of any part of the Defence Force, and includes an aircraft that is being commanded or piloted by a member of that Force in the course of his duties as such a member;

“ landing ” includes alighting on water;

“ Magistrate ” means—

- (a) a person who holds office as a Chief, Stipendiary, Police, Resident or Special Magistrate of a Territory; or
- (b) a person who holds office as a Chief, Stipendiary, Police, Resident or Special Magistrate of a State and in respect of whom an arrangement in force under section 24 of this Act is applicable;

“ part of Australia ” means a State or Territory;

“ prescribed flight ” means a flight—

- (a) in the course of trade and commerce with other countries or among the States; or
- (b) within a Territory, between two Territories or between a State and a Territory;

“ Territory ” means a Territory of the Commonwealth, whether or not forming part of the Commonwealth;

“ the Convention ” means the Convention for the Suppression of Unlawful Seizure of Aircraft, being the Convention a copy of the text of which in the English language is set out in the Schedule to this Act.

(2.) For the purposes of references in this Act to a flight of an aircraft—

(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 in preparation for the first movement of the aircraft 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;

(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 before landing, or the flight is abandoned, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be;

(c) a flight of an aircraft shall be taken to be a flight between two parts of Australia where the flight commences in either of those parts and ends, or is, at the commencement of the flight, intended to end, in the other of those parts; and

(d) a flight of an aircraft shall be taken to be a flight within a 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 goes, or may or will go, in the course of the flight, outside the Territory.

(3.) 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.

4. This Act extends to every Territory.

Extension of Act to Territories.

5. This Act extends, except so far as the contrary intention appears—

Extra-territorial operation of Act.

- (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.

6. Approval is given to accession by Australia to the Convention.

Approval of accession to Convention.

7. For the purposes of this Act, a person commits hijacking if, while on board an aircraft, he—

Meaning of hijacking.

- (a) unlawfully, by force or threat of force, or by any form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or
- (b) is an accomplice of a person who performs or attempts to perform any such act.

8.—(1.) A person who commits hijacking is guilty of an offence against this section if the circumstances referred to in a paragraph of the next succeeding sub-section are applicable, whether or not another of those paragraphs is applicable.

When hijacking an offence.

(2.) The circumstances in which the last preceding sub-section applies are—

- (a) where the hijacking is committed on board an aircraft that is in flight, within the meaning of the Convention, and the Convention requires Australia to make it punishable;
- (b) where the hijacking is committed on board an aircraft engaged in a prescribed flight;
- (c) where the hijacking is committed on board a Commonwealth aircraft;
- (d) where the hijacking is committed on board an aircraft that is owned or operated by the government of a country other than Australia, or of a part of such a country, and is in Australia or is engaged in a flight that commenced in Australia or a flight that commenced outside Australia and ends, or is intended to end, in Australia; or
- (e) where the hijacking is committed outside Australia by an Australian citizen on board an aircraft that would be considered to be in flight if the Convention were applicable.

(3.) The punishment for an offence against this section is imprisonment for life.

(4.) A person is not liable to be tried for an offence against this section by virtue of paragraph (a) of sub-section (2.) of this section unless the offence is one over which Australia is required by Article 4 of the Convention to establish its jurisdiction.

Other acts  
of violence.

9.—(1.) A person who, on board an aircraft, does an act of violence against all or any of the passengers or crew the doing of which, if it took place in the Australian Capital Territory, would be an offence against a law in force in that Territory, other than this Act or the *Crimes (Aircraft) Act 1963*, is, if the circumstances referred to in a paragraph of the next succeeding sub-section are applicable, guilty of an offence against this section and 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.) The circumstances in which the last preceding sub-section applies are—

- (a) where the act is one over which Australia is required by paragraph 1 of Article 4 of the Convention to establish its jurisdiction; or
- (b) where the act is committed—
  - (i) on board an aircraft engaged in a prescribed flight;
  - (ii) on board a Commonwealth aircraft;

- (iii) on board an aircraft that is owned or operated by the government of a country other than Australia, or of a part of such a country, and is in Australia or is engaged in a flight that commenced in Australia or a flight that commenced outside Australia and ends, or is intended to end, in Australia; or
- (iv) by an Australian citizen on board an aircraft outside Australia.

(3.) This section extends to an act that took place, or may have taken place, in the Australian Capital Territory.

(4.) The question whether an offence under this section 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 alleged to constitute the offence had occurred in the Australian Capital Territory.

(5.) Where a person is charged with an offence against this section, he may be found guilty of another offence against this section, being an offence that corresponds with an offence of which he could have been found guilty if the act in respect of which he is charged had taken place in the Australian Capital Territory and he had been charged, before a Court in the Australian Capital Territory, with the offence under the law of that Territory that corresponds with the offence against this section with which he is charged.

**10.** Where, in pursuance of paragraph 1 of Article 9 of the Convention, Australia is required to take all appropriate measures to restore control of an aircraft to its lawful commander or to preserve his control of the aircraft, an authorized person may take such action, and, in particular, may use such force and assistance, as is reasonably necessary to ensure compliance with the requirement.

Restoration of aircraft to lawful commander.

**11.—(1.)** Where an authorized person has reasonable grounds to suspect that a person has committed an act by reason of which Article 6 of the Convention applies to Australia in respect of him, or is otherwise guilty of an offence against this Act, the authorized person—

Taking of offenders into custody.

- (a) may cause that person to be taken into custody; and
- (b) shall cause a person so taken into custody—
  - (i) to be brought before a Magistrate as soon as practicable, to be dealt with in accordance with section 15 of this Act; and
  - (ii) to be held in custody until he can be so brought before a Magistrate.

(2.) Nothing in this section prevents the arrest of a person for an offence against this Act in accordance with the law relating to the arrest of offenders against the laws of the Commonwealth.

(3.) Where a person is required to be brought before a Magistrate in accordance with this Act and, but for this sub-section, that person would also be required to be brought before a Magistrate in accordance with the *Civil Aviation (Offenders on International Aircraft) Act 1970*, he shall be brought before a Magistrate in accordance with this Act only and shall be dealt with accordingly.

Arrest of  
offenders, &c.

12.—(1.) This section applies to—

- (a) an Australian aircraft, whether in or outside Australia; or
- (b) any other aircraft, while it is in Australia or engaged in a prescribed flight.

(2.) The person in command of an aircraft to which this section applies may, 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 this Act on board the aircraft, and that person in command or a person authorized by him may hold the person so arrested in custody until he can be taken into other custody in accordance with the last preceding section or brought before a Justice of the Peace or other proper authority to be dealt with in accordance with law.

(3.) The person in command of an aircraft to which this section applies may, where he considers it necessary so to do in order to prevent an offence against this Act 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 keep him under restraint or in custody until the next landing of the aircraft; and
- (b) remove a person from the aircraft at any place at which the aircraft is on the ground.

(4.) Nothing in this section prevents the arrest of a person in accordance with any other law.

Person who  
escapes may be  
apprehended.

13. If a person who is in custody under this Act in a State or Territory escapes from that custody, he may be apprehended in the same manner as a person may, under the law of that State or Territory, be apprehended upon an escape from lawful custody, and may be returned to the custody from which he escaped.

Holding of  
preliminary  
inquiry.

14.—(1.) Where a person is taken into custody in accordance with section 11 of this Act, or has been arrested on a charge of a Convention offence, the Minister or an authorized person may, if he considers that an inquiry of the kind authorized by this section is appropriate to the circumstances, by notice in writing, authorize a Magistrate to hold an inquiry into the facts relating to the alleged offence.

(2.) Upon receipt of the notice, the Magistrate shall—

- (a) take the evidence of each witness appearing before him to give evidence in the inquiry in like manner as if the witness were giving evidence on a charge against a person for an indictable offence against the law in force in the State or Territory of which he is a Magistrate;
- (b) cause a record in writing to be made of the evidence and certify at the end of the record that the evidence was taken by him; and
- (c) cause the record so certified to be sent to the Attorney-General.

(3.) The evidence of such a witness may be taken in the presence or absence of the person taken into custody or charged with the offence and the certificate by the Magistrate under the last preceding sub-section shall state whether that person was present or absent when the evidence was taken.

(4.) The evidence shall not be taken in the absence of the person unless the Magistrate is satisfied that there is good reason why that person cannot be present or should not be permitted to be present or that that person has declined to be present.

(5.) The Minister or authorized person authorizing an inquiry in accordance with this section may, in appropriate circumstances, direct that the inquiry in accordance with this section and an inquiry that is or has been authorized (whether by him or by another person) in accordance with section 10 of the *Civil Aviation (Offenders on International Aircraft) Act 1970* shall be conducted as the one inquiry.

15.—(1.) Where—

- (a) a person is brought or appears before a Magistrate in accordance with section 11 of this Act or on the expiration of a period of remand fixed under the next succeeding sub-section or in pursuance of a warrant issued under sub-section (4.) of this section; and
- (b) there is produced to the Magistrate a warrant for the apprehension of the person for the purposes of criminal or extradition proceedings in connexion with an offence in relation to his conduct on board an aircraft or in connexion with any other offence,

the Magistrate shall make such order as is appropriate to facilitate the execution of the warrant.

(2.) Where, in the circumstances referred to in paragraph (a) of the last preceding sub-section, a warrant referred to in paragraph (b) of that sub-section is not produced to the Magistrate, the Magistrate shall—

- (a) if he is satisfied that further time is reasonably required for determining whether criminal or extradition proceedings should be instituted against the person—remand, or further remand, the person, either in custody or on bail, for a period not exceeding seven days; or

Proceedings  
before  
Magistrate.

(b) if he is not so satisfied—order that the person be released from custody.

(3.) Where a Magistrate remands, or further remands, a person in custody under the last preceding sub-section, the person shall, at the expiration of the period of remand or further remand, be brought before that Magistrate or another Magistrate.

(4.) If a person who has been remanded on bail under sub-section (2.) of this section does not appear before a Magistrate at the time and place mentioned in the recognizance entered into by him on being granted bail, a Magistrate may issue a warrant for the apprehension of the person and for bringing him before a Magistrate.

Release of  
person  
remanded in  
custody.

16.—(1.) Where a person remanded under sub-section (2.) of the last preceding section is in custody under that remand at the expiration of two months after—

- (a) the date of the order of remand by virtue of which his period of custody on remand commenced; or
- (b) if an application for a writ of *habeas corpus* has been made by the person—the date of the decision of the court to which the application was made or, where an appeal has been brought from that decision to another court, the date of the decision of the other court,

whichever is the later, the Supreme Court of the State or Territory in which the person is held in custody, upon application made to it by the person and upon proof that reasonable notice of the making of the application has been given to the Attorney-General, shall, unless reasonable cause is shown for the delay, order that the person be released from custody.

(2.) The Supreme Court of each State is invested with federal jurisdiction, and jurisdiction is conferred upon the Supreme Court of each Territory, to hear and determine applications under this section.

(3.) The jurisdiction of a court for the purposes of this section may be exercised by the court constituted by a single judge.

Conditions of  
custody on  
remand.

17. The laws in force in a State or Territory with respect to—

- (a) the conditions under which persons charged with offences against the law of that State or Territory are held in custody on remand;
- (b) the treatment of such persons while so held in custody; and
- (c) the transfer of such persons from one prison or other place of confinement to another,

apply, so far as they are capable of application, in relation to persons who are held in custody on remand, in accordance with an order under sub-section (2.) of section 15 of this Act, in the prisons or other places of confinement of the State or Territory.



18.—(1.) This section applies to proceedings—

- (a) under section 15 of this Act;
- (b) in respect of an offence against this Act or the *Crimes (Aircraft) Act 1963*;
- (c) under the *Extradition (Commonwealth Countries) Act 1966–1972*;  
or
- (d) under the *Extradition (Foreign States) Act 1966–1972*.

Certain documents may be admitted in evidence.

(2.) A document certified by the Attorney-General to be a record of evidence sent to him under sub-section (2.) of section 14 of this Act is admissible in evidence in proceedings to which this section applies and, when admitted, the evidence recorded in it is evidence in the proceedings.

(3.) In proceedings in respect of an offence against this Act or the *Crimes (Aircraft) Act 1963*, the Magistrate or court hearing the proceedings shall not admit in evidence a document referred to in the last preceding sub-section, or a part of such a document, unless it appears to the Magistrate or court that, having regard to all the circumstances, it would be contrary to the interests of justice not to do so.

19.—(1.) A provision of the *Judiciary Act 1903–1969* by which a court of a State is invested with jurisdiction with respect to offences against the laws of the Commonwealth has effect, in relation to offences against this Act, as if that jurisdiction were so invested without limitation as to locality, other than the limitation required by section 80 of the Constitution.

Jurisdiction of courts.

(2.) Subject to section 80 of the Constitution, a court of a Territory has the like jurisdiction in respect of an offence against this Act committed outside the Territory on an aircraft that lands in the Territory with the alleged offender on board as it would have if the offence had been committed in the Territory.

(3.) The trial on indictment of an offence against this Act not committed within a State may be held by a court of competent jurisdiction at any place where the court may sit.

20.—(1.) Proceedings for—

- (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.

Prosecutions.

(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 given.

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

Provisions in relation to venue.

**21.—(1.)** Where, in the trial on indictment of an offence against this Act in a court of a State or Territory, 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 another part of Australia, being a State.

(2.) In a prosecution for an offence against this Act, 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.

Change of venue.

**22.—(1.)** Where, at any time after the presentation in a court of a State or Territory of an indictment for an offence against this Act and before the jury has returned its verdict—

- (a) the defendant objects to the trial on the ground that the offence, if committed, was committed in another part of Australia, being a State; 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 State or Territory 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.

(7.) The jurisdiction of a court under sub-section (3.), (4.) or (5.) of this section may be exercised by the court constituted by a single judge or Magistrate.

23.—(1.) Except as provided by this section, this Act is not intended to exclude or limit the operation of any other law of the Commonwealth or of a State or Territory.

Operation of  
other laws.

(2.) Where an act or omission of a person is both an offence against this Act and an offence against another Act or against a 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.

(3.) Where a person has been convicted of an offence in respect of an act or omission under the law of a country outside Australia, he is not liable to be convicted of an offence against this Act in respect of that act or omission.

Arrangement  
with  
Governor of  
State.

**24.—(1.)** The Governor-General may arrange with the Governor of a State for the performance by all or any of the persons who, from time to time, hold office as Chief, Stipendiary, Police, Resident or Special Magistrates of that State of the functions of a Magistrate under this Act.

(2.) A copy of each arrangement made under this section shall be published in the *Gazette*.

Evidence of  
certain matters.

**25.—(1.)** All courts shall take judicial notice of the fact that the Convention entered into force in accordance with paragraph 3 of Article 13 of the Convention on the fourteenth day of October, One thousand nine hundred and seventy-one.

(2.) The Minister may, by instrument published in the *Gazette*, declare—

- (a) that the Convention entered into force for a specified country on a specified date; or
- (b) that a specified country has denounced the Convention and that the denunciation took effect on a specified date.

(3.) The country specified in an instrument under the last preceding sub-section may be Australia.

(4.) Subject to the next succeeding sub-section, production of a copy of the *Gazette* containing an instrument purporting to be an instrument making a declaration in accordance with paragraph (a) of sub-section (2.) of this section is evidence of the matter declared by the instrument and that the specified country has not denounced the Convention.

(5.) Production of a copy of the *Gazette* containing an instrument purporting to be an instrument making a declaration in accordance with paragraph (b) of sub-section (2.) of this section is evidence of the matter declared.

(6.) A certificate signed by the Minister and certifying as to matters concerning a notice given to the International Civil Aviation Organization, and communicated to Australia, in accordance with Article 5 of the Convention, is evidence of the matters certified and that the notice was duly given to that organization.

26. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act or the Convention and, in particular, making provision for or in relation to—

- (a) the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the payment of expenses of witnesses in proceedings before Magistrates under this Act or any other matter of practice or procedure in connexion with such proceedings;
- (b) the protection and immunity of Magistrates, barristers and solicitors and witnesses in connexion with such proceedings; and
- (c) penalties not exceeding a fine of Two hundred dollars for offences against the regulations.

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## THE SCHEDULE

Section 3.

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### CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

#### PREAMBLE

#### THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

#### ARTICLE 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act, commits an offence (hereinafter referred to as "the offence").

#### ARTICLE 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

#### ARTICLE 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

THE SCHEDULE—*continued*

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

## ARTICLE 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

- (a) when the offence is committed on board an aircraft registered in that State;
- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

## ARTICLE 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

## ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representatives of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4 paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

THE SCHEDULE—*continued*

## ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

## ARTICLE 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.
2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.
4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

## ARTICLE 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.
2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

## ARTICLE 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

## ARTICLE 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

## ARTICLE 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

THE SCHEDULE—*continued*

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.
3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

## ARTICLE 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.
3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.
4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.
5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.
6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

## ARTICLE 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.