



Crimes (Aviation) Act 1991

No. 139 of 1991

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Crimes (Aviation) Act 1991

No. 139 of 1991

**An Act relating to crimes and certain other acts
committed on or in respect of certain aircraft, aerodromes,
airports and air navigation facilities, and for related
purposes**

[Assented to 27 September 1991]

The Parliament of Australia enacts:

PART 1—INTRODUCTORY

Division 1—Short title and commencement

Short title

1. This Act may be cited as the *Crimes (Aviation) Act 1991*.

Commencement

2.(1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

(2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

Division 2—Definitions and interpretation

Definitions

3. In this Act, unless the contrary intention appears:

“Australia” includes the external Territories;

“Australian aircraft” means:

- (a) an aircraft registered, or required to be registered, under the Civil Aviation Regulations as an Australian aircraft; or
- (b) a Commonwealth aircraft; or
- (c) a defence aircraft;

“authorised person” means:

- (a) in sections 30 and 33—any of the following persons:
 - (i) a protective service officer within the meaning of the *Australian Protective Service Act 1987*;
 - (ii) a member of the Australian Federal Police or an officer of the police force (however described) of a State or Territory;
 - (iii) the manager of any Commonwealth aerodrome or prescribed airport;
 - (iv) a person who is an authorised officer for the purposes of section 89 of the *Migration Act 1958*; or
- (b) in section 32—a member of the Australian Federal Police, or an officer of the police force (however described) of a State or Territory, being a member or officer of or above the rank of sergeant; or
- (c) in section 37—a Senior Executive Service officer employed under the *Public Service Act 1922* in the Attorney-General’s Department who is appointed in writing by the Minister to be an authorised person for the purposes of that section; or
- (d) in section 49—a person employed under the *Public Service Act 1922* who is appointed in writing by the Minister to be an authorised person for the purposes of that section;

and includes, in relation to any of those provisions, a person who is, under section 54, taken to be an authorised person for the purposes of that provision;

“Civil Aviation Regulations” means regulations made under the *Civil Aviation Act 1988*, and includes any of those regulations as in force under the law of a State;

“commencing day” means the day on which this Act commences;

“Commonwealth aerodrome” means:

- (a) an area of land or water in Australia that is owned by the Commonwealth and used, or intended for use, either wholly or partly, for, or in connection with, the arrival, departure or other movement of aircraft; or

- (b) a Federal airport;

and includes any building, structure, installation or equipment in that area, or on the land that forms the Federal airport, that is provided for use in connection with the operation of that area or land as an aerodrome or Federal airport, as the case may be;

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

“Commonwealth air navigation facilities” means buildings, structures, installations or equipment, anywhere in Australia, that are provided by the Commonwealth, or a Commonwealth authority, for use in connection with aircraft navigation, but does not include any building, structure, installation or equipment forming part of a Commonwealth aerodrome;

“Commonwealth authority” does not include Qantas Airways Limited;

“Convention offence” means an offence against a provision of Division 1 or 4 of Part 2;

“dangerous goods” means:

- (a) firearms, ammunition, weapons and explosive substances; or
- (b) any substance or thing that, because of its nature or condition, may endanger the safety of an aircraft or of people on board an aircraft;

“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 or her duties as such a member;

“Division 2 aircraft” means:

- (a) an aircraft (including a foreign aircraft) that is:
 - (i) engaged in a prescribed flight; or
 - (ii) outside Australia while engaged in a flight that started in Australia; or
 - (iii) engaged in a flight between a part of Australia and a place outside Australia; or
- (b) an Australian aircraft (other than a Commonwealth aircraft or

a defence aircraft) that is engaged in a flight wholly outside Australia; or

- (c) a Commonwealth aircraft or a defence aircraft that is engaged in any flight, including a flight wholly outside Australia;

“Division 3 aircraft” means:

- (a) an Australian aircraft (other than a Commonwealth aircraft or a defence aircraft) that is mainly used for the purpose of any of the following flights, or is engaged, or is intended or likely to be engaged, in such a flight:
 - (i) a prescribed flight;
 - (ii) a flight between a part of Australia and a place outside Australia;
 - (iii) a flight wholly outside Australia; or
- (b) a Commonwealth aircraft; or
- (c) a defence aircraft; or
- (d) a foreign aircraft that is in Australia; or
- (e) a foreign aircraft that is outside Australia while engaged in a flight that started in Australia or that was, when the flight started, intended to end in Australia;

“Federal airport” has the same meaning as in the *Federal Airports Corporation Act 1986*;

“foreign aircraft” means an aircraft other than an Australian aircraft, including such an aircraft owned or operated by the government of a foreign country;

“Hague Convention” means the Convention for the Suppression of Unlawful Seizure of Aircraft, ratified by Australia on 9 September 1972, and whose English text is set out in Schedule 1;

“hijacking” has the meaning given in section 9;

“in flight”, in relation to an aircraft, has, for the purposes of section 10 and Division 4 of Part 2, the same meaning as in the Montreal Convention;

(Note: see Article 2 of the Montreal Convention)

“in service”, in relation to an aircraft, has, for the purposes of section 10 and Division 4 of Part 2, the same meaning as in the Montreal Convention;

(Note: see Article 2 of the Montreal Convention)

“landing” includes alighting on water;

“magistrate” means:

- (a) a magistrate of a Territory other than the Australian Capital Territory, the Northern Territory or Norfolk Island; or
- (b) a magistrate of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island to whom an arrangement in force under section 51 applies;

“member of the crew”, in relation to an aircraft, means a person having duties or functions on board the aircraft;

“Montreal Convention” means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, ratified by Australia on 12 July 1973, and whose English text is set out in Schedule 2;

“part of Australia” means a State or Territory;

“prescribed aircraft” means:

- (a) an Australian aircraft, whether it is in Australia or not; or
- (b) any other aircraft that is in Australia or engaged in a prescribed flight; or
- (c) a visiting government aircraft;

“prescribed flight” means a flight of an aircraft:

- (a) in the course of trade and commerce with other countries or among the States; or
- (b) within a Territory, between 2 Territories or between a State and a Territory;

“Protocol” means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, being the Protocol to which Australia acceded on 23 October 1990, and whose English text is set out in Schedule 3;

“remand” includes further remand;

“repealed Acts” means the Acts repealed by section 53;

“threaten” has the meaning given in section 4;

“Tokyo Convention” means the Convention on Offences and certain other Acts committed on board Aircraft, to which Australia acceded on 22 June 1970, and whose English text is set out in Schedule 4;

“unlawful act”, in Division 4 of Part 2, means an act described in section 10;

“visiting government aircraft” means an aircraft that:

- (a) is owned or operated by the government of a foreign country, or a part of such a country; and
- (b) is in Australia, or is engaged in a flight that started outside Australia and ends, or is intended to end, in Australia.

Meaning of “threaten”

4. For the purposes of this Act, a person is taken to threaten to do an act if the person makes any statement or does anything else indicating, or from which it could reasonably be inferred, that it is his or her intention to do that act.

Aircraft flights: when do they start?

5. For the purposes of this Act, a flight of an aircraft is taken to start:

- (a) when the last external door of the aircraft is closed in

preparation for the first movement of the aircraft for the purpose of taking off on the flight; or

- (b) if paragraph (a) is not applicable—when the aircraft first moves for the purpose of taking off on the flight.

Aircraft flights: when do they end?

6.(1) Subject to this section, a flight of an aircraft is, for the purposes of this Act, taken to end:

- (a) when the first external door of the aircraft is opened after the aircraft comes to rest on the next landing it makes after starting the flight; or
- (b) if paragraph (a) is not applicable—when the aircraft comes to rest on the next landing it makes after starting the flight.

(2) Where an aircraft makes a forced landing, its flight is, for the purposes of this Act, taken to end when the competent authorities take over responsibility for the aircraft and for the persons and property on board.

(3) If, after an aircraft starts a flight:

- (a) the aircraft is destroyed before the flight is taken to have ended under subsection (1) or (2); or
- (b) the flight is abandoned;

the flight is, for the purposes of this Act, taken to end when the aircraft is destroyed, or the flight is abandoned, as the case requires.

Aircraft flights between 2 parts of Australia

7. For the purposes of this Act, a flight of an aircraft is taken to be a flight between 2 parts of Australia if the flight starts in one of those parts and ends, or is, when the flight starts, intended to end, in the other part.

Aircraft flights within a Territory

8. For the purposes of this Act, a flight of an aircraft is taken to be a flight within a Territory if the flight starts in the Territory and ends, or is, when the flight starts, intended to end, in the Territory, whether or not the aircraft goes, or will or may go, outside the Territory during the flight.

What is hijacking?

9. For the purposes of Division 1 of Part 2, a person hijacks an aircraft if, while on board the aircraft, the person:

- (a) unlawfully seizes, or exercises control of, the aircraft by force or threat of force, or by any other form of intimidation; or
- (b) attempts to do an act mentioned in paragraph (a); or
- (c) is an accomplice of a person who does, or attempts to do, any such act.

What is an unlawful act?

10.(1) For the purposes of Division 4 of Part 2, a person commits an unlawful act if he or she:

- (a) does any of the following things without lawful excuse:
 - (i) commits an act of violence against anyone on board an aircraft in flight, being an act likely to endanger the safety of the aircraft;
 - (ii) destroys an aircraft in service, or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
 - (iii) attempts to do an act mentioned in subparagraph (i) or (ii); or
- (b) is an accomplice of anyone who does an act mentioned in paragraph (a).

(2) For the purposes of Division 4 of Part 2, a person commits an unlawful act if he or she:

- (a) does any of the following things without lawful excuse:
 - (i) places, or causes to be placed, on an aircraft in service a substance or thing that is likely to destroy the aircraft;
 - (ii) places, or causes to be placed, on an aircraft in service a substance or thing that is likely to cause damage to the aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
 - (iii) destroys or damages any navigation facilities or interferes with their operation, being destruction, damage or interference that is likely to endanger the safety of an aircraft in flight;
 - (iv) communicates information which he or she knows to be false, thereby endangering the safety of an aircraft in flight;
 - (v) attempts to do an act mentioned in subparagraph (i), (ii), (iii) or (iv); or
- (b) is an accomplice of anyone who does an act mentioned in paragraph (a).

Division 3—Extension of Act to external Territories etc.

Extension of Act to external Territories

11. This Act extends to the external Territories.

Extra-territorial operation

12. This Act, and the provisions of the Tokyo Convention given the force of law by this Act, extend, unless the contrary intention appears:

- (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 2—OFFENCES

Division 1—Hijacking and other acts of violence on board aircraft

Hijacking an offence

13.(1) A person who hijacks an aircraft is guilty of an indictable offence if any of the following applies when the hijacking is committed:

- (a) the aircraft is in flight, within the meaning of the Hague Convention, and the Hague Convention requires Australia to make the hijacking punishable;
- (b) the aircraft is engaged in a prescribed flight;
- (c) the aircraft is a Commonwealth aircraft;
- (d) the aircraft is a visiting government aircraft.

(2) A person who hijacks an aircraft is guilty of an indictable offence if:

- (a) the hijacking is committed outside Australia; and
- (b) the person who commits the hijacking is an Australian citizen; and
- (c) the aircraft would, if the Hague Convention applied, be considered to be in flight.

(3) An offence against subsection (1) or (2) is punishable on conviction by imprisonment for life.

(4) A person cannot be tried for an offence against subsection (1) merely because paragraph (1)(a) applies, unless Article 4 of the Hague Convention requires Australia to establish its jurisdiction over the offence.

Other acts of violence

14.(1) Where:

- (a) a person on board an aircraft commits an act of violence against all or any of the passengers or crew; and
- (b) the act would, if committed in the Jervis Bay Territory, be an offence against a law in force in that Territory (other than this Act);

the person is guilty of an offence if any of the following applies when the act is committed:

- (c) Article 4 of the Hague Convention requires Australia to establish its jurisdiction over the act;
- (d) the aircraft is engaged in a prescribed flight;

- (e) the aircraft is a Commonwealth aircraft;
- (f) the aircraft is a visiting government aircraft;
- (g) the aircraft is outside Australia but the person who does the act is an Australian citizen.

(2) The punishment for an offence against subsection (1) is the same as that for the offence mentioned in paragraph (1)(b).

(3) This section extends to an act of violence that was committed, or may have been committed, in the Jervis Bay Territory.

Division 2—Other offences on board aircraft engaged in certain flights

Certain offences committed on aircraft

15.(1) Where:

- (a) a person on board a Division 2 aircraft does or omits to do anything; and
- (b) the act or omission, if it had taken place in, or in a public place in, the Jervis Bay Territory, would be an offence against:
 - (i) a law of the Commonwealth in force in that Territory; or
 - (ii) the Crimes Act, 1900 of the State of New South Wales, in its application to that Territory;

the person is guilty of an offence.

(2) The punishment for an offence against subsection (1) is the same as that for the offence mentioned in paragraph (1)(b).

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

Division 3—Offences affecting aircraft and the safe operation of aircraft

Taking control of aircraft

16.(1) A person who, without lawful excuse, takes or exercises control (whether directly or through an accomplice) of a Division 3 aircraft is guilty of an offence punishable on conviction by imprisonment for 7 years.

(2) A person who, without lawful excuse, takes or exercises control (whether directly or through an accomplice) of a Division 3 aircraft and who does so while anyone else, other than an accomplice of the person, is on board the aircraft, is guilty of an offence punishable on conviction by imprisonment for 14 years.

(3) A person who, without lawful excuse, takes or exercises control (whether directly or through an accomplice) of a Division 3 aircraft and who does so:

- (a) by force or threat of force, or by any trick or false pretence; and
- (b) while anyone else, other than an accomplice of the person, is on board the aircraft;

is guilty of an offence punishable on conviction by imprisonment for 20 years.

Destruction of aircraft

17. A person must not, without lawful excuse, wilfully destroy a Division 3 aircraft.

Penalty: Imprisonment for 14 years.

Destruction of aircraft with intent to kill

18. A person who destroys a Division 3 aircraft with the intention of causing anyone's death, or with reckless indifference to the safety of anyone's life, is guilty of an indictable offence punishable on conviction by imprisonment for life.

Prejudicing safe operation of aircraft

19. A person must not do anything capable of prejudicing the safe operation of a Division 3 aircraft with the intention of prejudicing the safe operation of the aircraft.

Penalty: Imprisonment for 14 years.

Prejudicing safe operation of aircraft with intent to kill etc.

20. A person who does anything capable of prejudicing the safe operation of a Division 3 aircraft:

- (a) with the intention of prejudicing the safe operation of the aircraft; and
- (b) with the intention of causing anyone's death, or with reckless indifference to the safety of anyone's life;

is guilty of an indictable offence punishable on conviction by imprisonment for life.

Assaulting crew

21. A person must not, while on board a Division 3 aircraft, assault, threaten with violence, or otherwise intimidate, a member of the crew of the aircraft so as to:

- (a) interfere with the member's performance of functions or duties connected with the operation of the aircraft; or
- (b) lessen the member's ability to perform those functions or duties.

Penalty: Imprisonment for 14 years.

Endangering safety of aircraft

22. A person must not, while on board a Division 3 aircraft, do anything that, to the person's knowledge, is likely to endanger the safety of the aircraft.

Penalty: Imprisonment for 7 years.

Dangerous goods

23.(1) A person must not:

- (a) carry or place dangerous goods on board a Division 3 aircraft; or
- (b) deliver dangerous goods to anyone else for the purpose of placing the goods on board such an aircraft; or
- (c) have dangerous goods in his or her possession on board such an aircraft.

Penalty:

- (a) in the case of an individual—imprisonment for 7 years; and
- (b) in the case of a body corporate—\$100,000.

(2) Subsection (1) does not apply to:

- (a) anything done with the consent of the owner or operator of the aircraft given with knowledge of the nature of the goods concerned; or
- (b) the carrying or placing of dangerous goods, on board an aircraft with permission granted under the Air Navigation Regulations, the *Civil Aviation Act 1988* or regulations made under that Act; or
- (c) in the case of a Commonwealth aircraft (other than one being used for commercial transport operations)—the carrying or placing of dangerous goods on board the aircraft by:
 - (i) an officer of, or a person employed in, the Australian Public Service in the performance of his or her duties; or
 - (ii) an officer of, or a person employed by, an authority of the Commonwealth in the performance of his or her duties; or
 - (iii) a person acting in accordance with the instructions of such an officer or person given in the performance of his or her duties; or
- (d) in the case of a defence aircraft—the carrying or placing of dangerous goods on board the aircraft by:
 - (i) a member of the Defence Force in the performance of his or her duties; or
 - (ii) a person acting in accordance with the instructions of such a member given in the performance of the member's duties.

Threats and false statements

24.(1) A person must not threaten to destroy, damage or endanger the safety of a Division 3 aircraft, or to kill or injure anyone on board such an aircraft.

Penalty: Imprisonment for 2 years.

(2) A person must not make a statement or communicate information, being a statement or information that he or she knows to be false, to the effect, or from which it can reasonably be inferred, that there has been, is or is to be, a plan, proposal, attempt, conspiracy or threat:

- (a) to take or exercise control, by force, of a Division 3 aircraft; or
- (b) to destroy, damage or endanger the safety of such an aircraft;
or
- (c) to kill or injure anyone on board such an aircraft.

Penalty: Imprisonment for 2 years.

Division 4—Offences relating to the safety of civil aviation and acts of violence at certain airports

Endangering the safety of aircraft in flight

25.(1) A person who commits an unlawful act of the kind mentioned in subsection 10(1) is guilty of an offence if any of the following applies:

- (a) the Montreal Convention requires Australia to make the act punishable;
- (b) the aircraft concerned is:
 - (i) an aircraft in service in the course of, or in connection with, a prescribed flight; or
 - (ii) a Commonwealth aircraft; or
 - (iii) a defence aircraft; or
 - (iv) a visiting government aircraft;
- (c) the person is an Australian citizen who commits the act outside Australia.

Penalty: Imprisonment for 14 years.

(2) A person who commits an unlawful act of the kind mentioned in subsection 10(?) is guilty of an offence if any of the following applies:

- (a) the Montreal Convention requires Australia to make the act punishable;
- (b) except where paragraph (c) applies, the aircraft concerned is:
 - (i) an aircraft in service in the course of, or in connection with, a prescribed flight; or
 - (ii) a Commonwealth aircraft; or
 - (iii) a defence aircraft; or
 - (iv) a visiting government aircraft;

- (c) in the case of an act relating to air navigation facilities—the facilities are used in connection with:
 - (i) prescribed flights; or
 - (ii) flights of Commonwealth aircraft; or
 - (iii) flights of defence aircraft; or
 - (iv) flights of visiting government aircraft;
- (d) the person is an Australian citizen who commits the act outside Australia.

Penalty: Imprisonment for 7 years.

(3) A person cannot be tried for an offence against subsection (1) or (2) merely because paragraph (1)(a) or (2)(a), as the case may be, applies unless Article 5 of the Montreal Convention requires Australia to establish its jurisdiction over the offence.

Acts of violence at certain airports

26.(1) A person who:

- (a) without lawful excuse, uses a substance or thing to commit an act of violence against anyone at a prescribed airport, being an act that:
 - (i) causes or is likely to cause serious injury or death; and
 - (ii) endangers, or is likely to endanger the safe operation of the airport or the safety of anyone at the airport; or
- (b) attempts to do anything covered by paragraph (a); or
- (c) is an accomplice of anyone who does or attempts to do any such thing;

is guilty of an offence if the Montreal Convention, when read together with the Protocol, requires Australia to make the act punishable and Article 5 of that Convention, when so read, requires Australia to establish its jurisdiction over the offence.

Penalty: Imprisonment for 15 years.

(2) A person who:

- (a) without lawful excuse does any of the following things:
 - (i) destroys or seriously damages the facilities of a prescribed airport;
 - (ii) destroys or seriously damages any aircraft not in service that is at a prescribed airport;
 - (iii) disrupts the services of a prescribed airport;and by doing so endangers, or is likely to endanger, the safe operation of the airport or the safety of anyone at the airport; or
- (b) attempts to do an act mentioned in paragraph (a); or
- (c) is an accomplice of anyone who does or attempts to do such an act;

is guilty of an offence if either of the following applies:

- (d) the Montreal Convention, when read together with the Protocol, requires Australia to make the act concerned punishable;
- (e) if the act concerned relates to an aircraft—the aircraft is in Australia, or is a Commonwealth aircraft or a defence aircraft, or the act is committed by an Australian citizen, whether in Australia or not.

Penalty: Imprisonment for 10 years.

(3) A person cannot be tried for an offence against subsection (2) merely because paragraph (2)(d) applies, unless Article 5 of the Montreal Convention, when read together with the Protocol, requires Australia to establish its jurisdiction over the offence.

Division 5—Offences relating to Commonwealth aerodromes and air navigation facilities

Endangering safety of aerodromes etc.

27. A person must not do anything that he or she knows is likely to endanger the safety of:

- (a) a Commonwealth aerodrome, or any part of a Commonwealth aerodrome, or any Commonwealth air navigation facilities; or
- (b) anyone who is, or may be, within the limits of a Commonwealth aerodrome or any Commonwealth air navigation facilities.

Penalty: Imprisonment for 7 years.

Threats and false statements

28.(1) A person must not threaten to:

- (a) destroy, damage or endanger the safety of a Commonwealth aerodrome, or any part of a Commonwealth aerodrome, or any Commonwealth air navigation facilities; or
- (b) kill or injure anyone who is, or may be, within the limits of a Commonwealth aerodrome or any Commonwealth air navigation facilities.

(2) A person must not make a statement or communicate information, being a statement or information that he or she knows to be false, to the effect, or from which it can reasonably be inferred, that there has been, is, or will be, a plan, proposal, attempt, conspiracy or threat:

- (a) to take or exercise control, by force, of a Commonwealth aerodrome, or part of a Commonwealth aerodrome, or any Commonwealth air navigation facilities; or
- (b) to destroy, damage or endanger the safety of a Commonwealth aerodrome, or part of a Commonwealth aerodrome, or any Commonwealth air navigation facilities; or
- (c) to kill or injure anyone who is, or may be, within the limits of

a Commonwealth aerodrome or any Commonwealth air navigation facilities.

Penalty: Imprisonment for 2 years.

PART 3—PROVISIONS GIVING EFFECT TO THE TOKYO CONVENTION

Certain provisions of Tokyo Convention to have force of law

29.(1) The following provisions of the Tokyo Convention have the force of law:

- (a) the provisions of Chapter III;
- (b) the provisions of paragraph 1 of Article 16;
- (c) the provisions of Chapter I, to the extent that they affect the application or interpretation of the provisions of Chapter III or paragraph 1 of Article 16.

(2) For the purposes of a provision of the Tokyo Convention mentioned in subsection (1), an aircraft that is the subject of a notice given before, on or after the commencing day under Article 18 of the Convention is taken to be registered in the State designated in the notice.

(3) For the purposes of section 38 of the *Judiciary Act 1903*, a matter arising under a provision of the Tokyo Convention mentioned in subsection (1) is taken not to be a matter arising directly under a treaty.

Authorised person may accept delivery of persons

30.(1) An authorised person may accept delivery of a person delivered under paragraph 1 of Article 9 of the Tokyo Convention.

(2) An authorised person who accepts delivery of a person must cause the person:

- (a) to be brought, as soon as practicable, before a magistrate to be dealt with under this Act; and
- (b) to be held in custody until the person can be so brought before a magistrate.

Application of Migration Act etc.

31.(1) Where a person has been:

- (a) disembarked in Australia under paragraph 1 of Article 8 of the Tokyo Convention; or
- (b) delivered to a person in Australia under paragraph 1 of Article 9 of that Convention; or
- (c) taken into custody in Australia under subsection 33 (1) of this Act or subsection 8 (2) of the *Civil Aviation (Offenders on*

International Aircraft) Act 1970 in respect of an act mentioned in paragraph 1 of Article 11 of that Convention;

and Australia is entitled, under that Convention, to exercise, in relation to the person, the powers of a State of landing under paragraph 1 of Article 14, the person may be deported under the *Migration Act 1958* or the Immigration Act 1980 of Norfolk Island, as the case may be.

(2) Nobody is liable to be prosecuted for an offence under the *Migration Act 1958*, or under the Immigration Act 1980 of Norfolk Island, that is committed solely as a result of anyone having been:

- (a) disembarked in Australia under paragraph 1 of Article 8 of the Tokyo Convention; or
- (b) delivered to a person in Australia under paragraph 1 of Article 9 of that Convention; or
- (c) taken into custody in Australia under subsection 33 (1) of this Act or subsection 8 (2) of the *Civil Aviation (Offenders on International Aircraft) Act 1970* in respect of an act mentioned in paragraph 1 of Article 11 of that Convention.

(3) This section extends to anything done before the commencing day.

PART 4—RESTORING CONTROL OF AIRCRAFT AND DEALING WITH OFFENDERS

Restoring control of aircraft

32.(1) Where Australia is required, under a Convention provision, to take all appropriate measures to restore control of an aircraft to its lawful commander, or to preserve the lawful commander's control of the aircraft, an authorised person may take such action, and in particular may use such force and assistance, as is reasonably necessary to ensure compliance with the requirement.

(2) In this section:

“Convention provision” means:

- (a) paragraph 1 of Article 11 of the Tokyo Convention; or
- (b) paragraph 1 of Article 9 of the Hague Convention.

Taking offenders into custody

33.(1) Where an authorised person reasonably suspects that a person has committed a prohibited act, the authorised person may cause the person to be taken into custody.

(2) An authorised person who causes a person to be taken into custody must cause the person:

- (a) to be brought, as soon as practicable, before a magistrate to be dealt with under this Act; and

(b) to be held in custody until the person can be so brought before a magistrate.

(3) This section does not prevent the arrest of a person under any other law for an offence against this Act.

(4) In this section:

“prohibited act” means:

- (a) a Convention offence; or
- (b) an act resulting in Article 6 of the Hague Convention applying in respect of the relevant person; or
- (c) an act resulting in Article 6 of the Montreal Convention applying in respect of the relevant person; or
- (d) an act mentioned in paragraph 1 of Article 11 of the Tokyo Convention (other than an act covered by paragraph (a), (b) or (c)), or an attempt to do such an act.

Arrest of offenders

34.(1) The person in command of a prescribed aircraft may, with such assistance as is reasonably necessary, arrest, without warrant, anyone whom he or she finds committing, or reasonably suspects has committed, an offence against a provision of Part 2 on board the aircraft.

(2) Where a person is arrested under subsection (1), the person in command of the prescribed aircraft concerned, or anyone authorised by the person in command, may hold the arrested person in custody until he or she can be taken into other custody under section 33 or brought before a magistrate to be dealt with in accordance with law.

(3) This section does not prevent the arrest of a person under any other law for an offence against this Act.

Restraining persons from committing offences

35. The person in command of a prescribed aircraft may, with such assistance as is necessary:

- (a) keep anyone who is on board the aircraft under restraint or in custody until the next landing of the aircraft; and
- (b) remove anyone from the aircraft at any place where the aircraft is on land;

if the person in command thinks it necessary to do so to prevent an offence against this Act being committed on board the aircraft.

Arrest of persons who escape from custody

36. If a person in custody under section 30, 33 or 34 in a State or Territory escapes from that custody, the person may be:

- (a) arrested in the same way as anyone who escapes from lawful

custody may be arrested under the law of that State or Territory;
and

(b) returned to the custody from which he or she escaped.

Preliminary inquiries

37.(1) Where:

(a) a person is taken into custody under section 30, 33 or 34, or is arrested on a charge of a Convention offence; and

(b) the Minister or an authorised person thinks that an inquiry under this section is appropriate;

the Minister or authorised person may, by written notice, authorise a magistrate to hold an inquiry into the facts relating to the alleged offence.

(2) Upon receipt of a notice, the magistrate must hold an inquiry accordingly.

(3) The magistrate of a State or Territory who holds an inquiry must take the evidence of each witness who gives evidence in the inquiry in the same way as if the witness were giving evidence on a charge against someone for an indictable offence against the law in force in that State or Territory.

(4) The evidence of a witness may be taken in the presence or absence of the person taken into custody or charged with the offence.

(5) The evidence of a witness must not be taken in the absence of the person taken into custody or charged with the offence unless the magistrate is satisfied that:

(a) there is good reason why the person cannot be present, or should not be permitted to be present; or

(b) the person has refused to be present.

(6) The magistrate must:

(a) cause a written record to be made of evidence taken under this section; and

(b) certify at the end of the record that the evidence was taken by the magistrate, indicating whether, and to what extent, the evidence was so taken in the presence or absence of the person taken into custody or charged; and

(c) cause the certified record to be sent to the Attorney-General.

Proceedings before magistrate on warrant for arrest

38. Where:

(a) a person is brought or appears before a magistrate under this Act; and

(b) a warrant for the arrest of the person for the purposes of

criminal or extradition proceedings in relation to an offence under this Act is produced to the magistrate;
the magistrate must make such order as is appropriate for the execution of the warrant.

Proceedings before magistrate where warrant not produced

39.(1) Where:

- (a) a person is brought or appears before a magistrate under this Act; and
- (b) a warrant of the kind described in paragraph 38(b) for the arrest of the person is not produced to the magistrate;

the magistrate must:

- (c) if satisfied that more time is reasonably required for deciding whether criminal or extradition proceedings should be started against the person—remand the person, either in custody or on bail, for a period not longer than 7 days; or
- (d) if not so satisfied—order that the person be released from custody.

(2) A person remanded for a period under subsection (1) must be brought before a magistrate at the end of that period.

(3) If a person remanded on bail under subsection (1) does not appear before a magistrate in accordance with the person's recognizance, a magistrate may issue a warrant for the arrest of the person and for bringing the person before a magistrate.

Release of person remanded in custody

40.(1) Where a person remanded in custody under section 39 is still held in that custody at the end of the prescribed period, the person may apply to the Supreme Court of the State or Territory in which he or she is so held to be released.

(2) Where, on an application by a person under subsection (1), the court is satisfied that the Attorney-General has been given reasonable notice of the making of the application, the court must, unless reasonable cause is shown for delaying the person's release, order that the person be released from custody.

(3) In this section:

"prescribed period", in relation to a person, means 2 months after:

- (a) the date of the order under section 39 under which the person is held in custody or, if there is more than one such order, the date of the first such order; or
- (b) if the person has applied for a writ of *habeas corpus*—the day on which that application, or any appeal relating to it, is finally determined;

whichever is later.

PART 5—MISCELLANEOUS

Evidence: record of evidence taken at preliminary inquiries

41.(1) A document certified by the Attorney-General to be a record of evidence sent to the Attorney-General under section 37 is admissible in evidence in any of the following:

- (a) proceedings under section 38 or 39;
- (b) proceedings in respect of an offence against this Act;
- (c) proceedings under the *Extradition Act 1988*;

and, when so admitted, the evidence recorded in it is evidence in the proceedings.

(2) The magistrate or court hearing proceedings in respect of an offence against this Act must not admit in evidence a document mentioned in subsection (1), or any part of it, unless the magistrate or court thinks that, in all the circumstances, it would be unjust not to do so.

Evidence: entry into force of Conventions

42. All courts must take judicial notice that:

- (a) the Hague Convention entered into force on 14 October 1971 under paragraph 3 of Article 13 of the Convention; and
- (b) the Montreal Convention entered into force on 28 January 1973 under paragraph 3 of Article 15 of the Convention; and
- (c) the Protocol entered into force on 6 August 1989 under paragraph 1 of Article VI of the Protocol; and
- (d) the Tokyo Convention entered into force on 4 December 1969 under paragraph 1 of Article 21 of the Convention.

Evidence: Ministerial notices

43.(1) The Minister may, by notice in the *Gazette*, declare:

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

(2) Australia may be specified in a notice under subsection (1).

(3) Production of a copy of the *Gazette* containing what purports to be a notice of the kind mentioned in paragraph (1)(a) is *prima facie* evidence of the matter declared in the notice and that the specified country has not denounced the specified Convention.

(4) Production of a copy of the *Gazette* containing what purports to be a notice of the kind mentioned in paragraph (1)(b) is *prima facie* evidence of the matter declared in the notice.

(5) In this section:

“Convention” means the Hague Convention, the Montreal Convention, the Tokyo Convention or the Protocol.

Evidence: Ministerial certificates

44. A certificate signed by the Minister and certifying matters concerning a notice given to the International Civil Aviation Organization, and communicated to Australia, under:

- (a) Article 5 of the Hague Convention; or
- (b) Article 9 of the Montreal Convention;

is *prima facie* evidence of the matters certified and that the notice was duly given to that organisation.

Offences under subsections 14(1) and 15(1): are they indictable?

45. The question whether an offence against subsection 14(1) or 15(1) must or may be prosecuted or dealt with on indictment or summarily must be decided under the law that would apply to a prosecution in the Jervis Bay Territory if the act or omission alleged to constitute the offence had occurred in that Territory.

Alternative verdicts

46.(1) A person charged before a court, other than a prescribed court, with an offence against subsection 14(1) or 15(1) may be found guilty of any other offence against that subsection of which the person could have been found guilty if:

- (a) the act or omission alleged to constitute the first-mentioned offence had occurred in the Jervis Bay Territory; and
- (b) the person had been charged with the first-mentioned offence before a prescribed court.

(2) In this section:

“prescribed court” means a court of the Australian Capital Territory exercising jurisdiction in or in relation to the Jervis Bay Territory.

Venue

47.(1) If:

- (a) a person is being tried in a State or Territory court for an offence against this Act committed on an aircraft in flight; and
- (b) the act constituting the offence, or any part of the offence, is proved;

it must be presumed, in the absence of evidence to the contrary, that the act took place in that State or Territory.

(2) If the information, complaint or indictment relating to an offence against this Act committed on an aircraft in flight specifies the flight in which the aircraft was engaged, it need not also specify the part of Australia, or other place, where the offence was committed.

Change of venue

48.(1) Where, after an indictment for an offence against this Act committed on an aircraft in flight is presented in a State or Territory court, and before a verdict is given:

- (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 court is satisfied that the offence, if committed, was committed in that other part of Australia;

the court must immediately make the following orders:

- (c) that the proceedings on the indictment be discontinued;
- (d) if a jury is empanelled—that the jury be discharged;
- (e) that the defendant appear before a specified court of the first-mentioned State or Territory at a specified time to be dealt with in accordance with this section.

(2) The court must not specify a time, for the purposes of paragraph **(1)(e)**, that is later than 28 days after the day on which the order is made.

(3) Where a court makes an order under subsection **(1)**, it may also:

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

(4) If, before the time when the defendant is to appear before a court, the Attorney-General or the Director of Public Prosecutions notifies that court that an indictment will not be filed against the defendant in a court of another part of Australia, the notified court must, as soon as practicable after it is notified, make an order:

- (a) discharging the defendant from the obligation to appear before that court at that time; and
- (b) if the defendant is in custody—directing that the defendant be released; and
- (c) if the defendant has been admitted to bail—directing that the relevant recognizances be discharged.

(5) If, at or before the time when the defendant is to appear before a court, the Attorney-General or the Director of Public Prosecutions notifies that court that an indictment has been filed against the defendant in a court of another part of Australia, the notified court must make an order directing:

- (a) that the defendant be taken, as soon as practicable and in the custody of such person as it directs, to the part of Australia where the indictment was filed; and
- (b) that the defendant there be delivered to the custody of a person who has authority to arrest the defendant;

and may make such other orders as it thinks necessary for carrying out that order.

(6) An order under subsection (5) must be made:

- (a) if the defendant is in custody—immediately after the court is notified under that subsection; and
- (b) in any other case—as soon as practicable after the time when the defendant is required to appear before the court.

(7) If:

- (a) the court before which the defendant is to appear is not notified by the Attorney-General or the Director of Public Prosecutions under subsection (4) or (5); and
- (b) the defendant is held in custody;

the court must, at the time when the defendant is required to appear before it, make an order directing that the defendant be released.

(8) Where an order has been made under paragraph (1)(c) in relation to an indictment, the proceedings on the indictment, and the order, do not prevent or prejudice any other indictment or any information against the defendant on the same charge or any other charge.

(9) The jurisdiction of a court under subsections (1) and (3) may be exercised by the court constituted by a single judge.

(10) The jurisdiction of a court under subsection (4), (5) or (7) may be exercised by the court constituted by a single judge or magistrate.

Search powers

49.(1) If, in relation to a Division 2 aircraft or a Division 3 aircraft, the person in command of the aircraft, or an authorised person, reasonably suspects that an offence against Division 2 or 3 of Part 2 has been, is being or may be committed on board, or in relation to, the aircraft, he or she may, with such assistance as is reasonably necessary, search or cause to be searched:

- (a) the aircraft and any person, luggage or freight on board; and
- (b) in the case of a Division 3 aircraft that 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.

(2) If an authorised person reasonably suspects that an offence against Division 5 of Part 2 has been, is being or may be committed in respect of a Commonwealth aerodrome, or Commonwealth air navigation facilities, he or she may, with such assistance as is reasonably necessary, search or cause to be searched:

- (a) any person, luggage, freight or vehicle found within the limits, or in the vicinity, of the aerodrome or facilities; or
- (b) any area in the vicinity of the aerodrome or facilities.

(3) A person may only be searched under this section by someone who is of the same sex.

Operation of other laws

50.(1) Subject to this section, this Act does not exclude or limit the operation of any other law of the Commonwealth, or of a State or Territory.

(2) If:

(a) a person's act or omission is both an offence against this Act and an offence against another Act or against a law of a State or Territory; and

(b) the person is convicted of either of those offences;

the person cannot also be convicted of the other offence.

(3) If a person has been convicted of an offence in respect of an act or omission under the law of a foreign country, the person cannot also be convicted of an offence against this Act in respect of that act or omission.

Arrangements about magistrates

51.(1) The Governor-General may:

(a) arrange with the Governor of a State for the performance of the functions of a magistrate under this Act by all or any of the persons who from time to time hold office as magistrates of that State; or

(b) arrange with the Administrator of the Northern Territory or of Norfolk Island for the performance of the functions of a magistrate under this Act by all or any of the persons who from time to time hold office as magistrates of the Northern Territory or of Norfolk Island, as the case may be.

(2) The Minister may arrange with the Chief Minister for the Australian Capital Territory for the performance of the functions of a magistrate under this Act by all or any of the persons who from time to time hold office as magistrates of that Territory.

(3) A copy of each arrangement under this section must be published in the *Gazette*.

Regulations

52.(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient for carrying out or giving effect to this Act or to the Hague Convention, the Montreal Convention, the Tokyo Convention or the Protocol;

and, in particular, may make regulations:

- (c) about the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the payment of witnesses' expenses in proceedings before magistrates under this Act; and
- (d) about any other matter of practice or procedure in connection with such proceedings; and
- (e) about the protection and immunity of magistrates, legal practitioners and witnesses in connection with such proceedings; and
- (f) imposing pecuniary penalties of not more than \$500, for offences against the regulations; and
- (g) making such transitional and savings provisions as are necessary or convenient as a result of the repeal of all or any of the repealed Acts and the enactment of this Act.

(2) Despite section 53, regulations made under paragraph (1)(g) may provide for the continued operation of specified provisions of any of the repealed Acts in relation to prescribed persons or matters, or in prescribed circumstances.

Repeals

53. The following Acts are repealed:

- (a) the *Civil Aviation (Offenders on International Aircraft) Act 1970*;
- (b) the *Crimes (Aircraft) Act 1963*;
- (c) the *Crimes (Hijacking of Aircraft) Act 1972*;
- (d) the *Crimes (Protection of Aircraft) Act 1973*.

Transitional and savings

54.(1) A person who, immediately before the commencing day, was an authorised person for the purposes of a provision of the *Civil Aviation (Offenders on International Aircraft) Act 1970*, the *Crimes (Hijacking of Aircraft) Act 1972* or the *Crimes (Protection of Aircraft) Act 1973*, is, on and after that day, taken to be an authorised person for the purposes of the corresponding provision of this Act unless and until the Minister, by written instrument, determines otherwise.

(2) A person who, immediately before the commencing day, was an authorised person for the purposes of section 26 of the *Crimes (Aircraft) Act 1963* is, on and after that day, taken to be appointed to be an authorised person for the purposes of section 49 of this Act.

(3) A notice published in the *Gazette* under section 19 of the *Civil Aviation (Offenders on International Aircraft) Act 1970*, section 25 of the *Crimes (Hijacking of Aircraft) Act 1972*, or section 22 of the *Crimes (Protection of Aircraft) Act 1973*, and in force immediately before the commencing day, continues to have effect on and after that day as if it were a notice published in the *Gazette* under section 43 of this Act.

Crimes (Aviation) No. 139, 1991

(4) Subject to section 31 and the regulations, where, before the commencing day, a person had been arrested, taken into custody or remanded in custody, or was being held in custody, under a provision of the *Civil Aviation (Offenders on International Aircraft) Act 1970*, the *Crimes (Hijacking of Aircraft) Act 1972* or the *Crimes (Protection of Aircraft) Act 1973*, that Act continues to apply in relation to the person on and after that day as if it had not been repealed.

SCHEDULE 1

Section 3

**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.

SCHEDULE 1—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

SCHEDULE 1—continued

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.

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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.

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.

SCHEDULE 1—continued

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.

SCHEDULE 2

Section 3

**CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS
AGAINST THE SAFETY OF CIVIL AVIATION**

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts against the safety of civil aviation 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:

SCHEDULE 2—continued

ARTICLE 1

1. Any person commits an offence if he unlawfully and intentionally:
 - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
 - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
 - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
 - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
 - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.
2. Any person also commits an offence if he:
 - (a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or
 - (b) is an accomplice of a person who commits or attempts to commit any such offence.

ARTICLE 2

For the purposes of this Convention:

- (a) 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;
- (b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

ARTICLE 3

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

SCHEDULE 2—continued

ARTICLE 4

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

2. In the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

- (a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or
- (b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

ARTICLE 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) when the offence is committed in the territory of that State;
- (b) when the offence is committed against or on board an aircraft registered in that State;
- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of

SCHEDULE 2—continued

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 offences mentioned in Article 1, paragraph 1(a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, 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 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 representative 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 States mentioned in Article 5, paragraph 1, 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.

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.

SCHEDULE 2—continued

ARTICLE 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences 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 offences. 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 offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences 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 5, paragraph 1(b), (c) and (d).

ARTICLE 9

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 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or 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 11

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

SCHEDULE 2—continued

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 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

ARTICLE 13

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 10, paragraph 2;
- (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 14

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.

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 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971

SCHEDULE 2—continued

(hereinafter referred to as the Montreal Conference). After 10 October 1971, 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 Montreal 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 16

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 authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this twenty-third day of September, one thousand nine hundred and seventy-one, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

SCHEDULE 3

Section 3

PROTOCOL

for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Done at Montreal on 23 September 1971

THE STATES PARTIES TO THIS PROTOCOL

CONSIDERING that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

CONSIDERING that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

Article II

1. In Article 1 of the Convention, the following shall be added as new paragraph 1 *bis*:

"1 *bis*. Any person commits an offence if he 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 which causes or is likely to cause serious injury or death; or

SCHEDULE 3—continued

(b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,
if such an act endangers or is likely to endanger safety at that airport.”

2. In paragraph 2(a) of Article 1 of the Convention, the following words shall be inserted after the words “paragraph 1”:
“or paragraph 1 *bis*”.

Article III

In Article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

“2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 *bis*, and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1(a) of this Article.”

Article IV

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

Article V

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of ratification 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 or with the International Civil Aviation Organization, which are hereby designated the Depositaries.

Article VI

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the

SCHEDULE 3—continued

tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositaries 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 VII

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

Article VIII

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

Article IX

1. The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:

- (a) of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and
- (b) of the receipt of any notification of denunciation of this Protocol and the date thereof.

2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with Article VI.

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

SCHEDULE 3—continued

DONE at Montreal on the twenty-fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

SCHEDULE 4

Section 3

**CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS
COMMITTED ON BOARD AIRCRAFT**

THE STATES Parties to this Convention

HAVE AGREED as follows:

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

1. This Convention shall apply in respect of:

- (a) offences against penal law;
- (b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.

2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.

3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

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

Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

SCHEDULE 4—continued

CHAPTER II—JURISDICTION

Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

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

Article 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

- (a) the offence has effect on the territory of such State;
- (b) the offence has been committed by or against a national or permanent resident of such State;
- (c) the offence is against the security of such State;
- (d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
- (e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

CHAPTER III—POWERS OF THE AIRCRAFT COMMANDER

Article 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be 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 provisions of this Chapter shall continue to apply with respect to

SCHEDULE 4—continued

offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

Article 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

- (a) to protect the safety of the aircraft, or of persons or property therein; or
- (b) to maintain good order and discipline on board; or
- (c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

Article 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless:

- (a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1(c) in order to enable his delivery to competent authorities;
- (b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or
- (c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

SCHEDULE 4—continued

Article 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1(b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

CHAPTER IV—UNLAWFUL SEIZURE OF AIRCRAFT

Article 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, 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.

SCHEDULE 4—continued

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

CHAPTER V—POWERS AND DUTIES OF STATES

Article 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

Article 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1 and of any person of whom it has taken delivery. 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 reasonably necessary to enable any criminal or extradition proceedings to be instituted.

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

4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.

5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, any other interested State 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 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated

SCHEDULE 4—continued

in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

Article 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1 or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

CHAPTER VI—OTHER PROVISIONS

Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

SCHEDULE 4—continued

Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

CHAPTER VII—FINAL CLAUSES

Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

SCHEDULE 4—continued

2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

Article 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 24

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.

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 International Civil Aviation Organization.

Article 25

Except as provided in Article 24 no reservation may be made to this Convention.

Article 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

- (a) of any signature of this Convention and the date thereof;
- (b) of the deposit of any instrument of ratification or accession and the date thereof;
- (c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;

SCHEDULE 4—continued

- (d) of the receipt of any notification of denunciation and the date thereof; and
- (e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Tokyo on the fourteenth day of September One thousand Nine Hundred and Sixty-three in three authentic texts drawn up in the English, French and Spanish languages.

This Convention shall be deposited with the International Civil Aviation Organization with which, in accordance with Article 19, it shall remain open for signature and the said Organization shall send certified copies thereof to all States Members of the United Nations or of any Specialized Agency.

[Here follow the signatures of the Plenipotentiaries of the signatory States]

SCHEDULE 5

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

The following Acts are amended as set out below.

Australian Protective Service Act 1987

Subparagraph 13(2)(a)(ii):

Omit the subparagraph, substitute:

“(ii) the *Crimes (Internationally Protected Persons) Act 1976* or Part 2 of the *Crimes (Aviation) Act 1991*.”

Australian Security Intelligence Organization Act 1979

Section 4 (definition of “politically motivated violence”):

Omit “, the *Crimes (Hijacking of Aircraft) Act 1972* or the *Crimes (Protection of Aircraft) Act 1973*” from paragraph (c) of the definition, substitute “or under Division 1 or 4 of Part 2 of the *Crimes (Aviation) Act 1991*”.

Extradition Act 1988

Section 5 (definition of “political offence”):

- (a) Omit “the Schedule to the *Crimes (Hijacking of Aircraft) Act 1972*” from subparagraph (a)(i) of the definition, substitute “Schedule 1 to the *Crimes (Aviation) Act 1991*”.

SCHEDULE 5—continued

- (b) Omit “the Schedule to the *Crimes (Protection of Aircraft) Act 1973*” from subparagraph (a)(ii) of the definition, substitute “Schedule 2 to the *Crimes (Aviation) Act 1991*”.
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[*Minister's second reading speech made in—
Senate on 14 August 1991
House of Representatives on 3 September 1991*]