



Aviation Crimes and Policing Legislation Amendment Act 2011

No. 1, 2011

**An Act to amend the law relating to crimes, and
policing, on aircraft and at airports, and for related
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
Schedule 1—Aviation crimes		3
	<i>Crimes (Aviation) Act 1991</i>	3
Schedule 2—Policing at airports		8
	<i>Australian Federal Police Act 1979</i>	8
	<i>Commonwealth Places (Application of Laws) Act 1970</i>	8



Aviation Crimes and Policing Legislation Amendment Act 2011

No. 1, 2011

**An Act to amend the law relating to crimes, and
policing, on aircraft and at airports, and for related
purposes**

[Assented to 2 March 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Aviation Crimes and Policing
Legislation Amendment Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	2 March 2011
2. Schedules 1 and 2	The 28th day after this Act receives the Royal Assent.	30 March 2011

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Aviation crimes

Crimes (Aviation) Act 1991

1 Subsection 3(1)

Omit “(1) In this Act”, substitute “In this Act”.

2 Subsection 3(1) (definition of *Commonwealth aerodrome*)

Omit all the words after paragraph (a), substitute:

(b) a core regulated airport within the meaning of the *Airports Act 1996*;

and includes any building, structure, installation or equipment in that area, or on the land that forms the core regulated airport, that is provided for use in connection with the operation of that area or land as an aerodrome or airport.

3 Subsection 3(1) (definition of *Federal airport*)

Repeal the definition.

4 Subsection 3(1)

Insert:

serious harm has the same meaning as in the *Criminal Code*.

5 Subsection 16(1)

Omit “7 years”, substitute “10 years”.

6 Subsection 19(1) (penalty)

Omit “14 years”, substitute “20 years”.

7 After section 20

Insert:

20A Assaulting crew—general

(1) A person commits an offence if:

(a) the person is on board an aircraft; and

- (b) the aircraft is a Division 3 aircraft; and
- (c) the person assaults, threatens with violence or intimidates another person; and
- (d) the other person is a member of the crew of the aircraft.

Penalty: Imprisonment for 10 years.

- (2) Absolute liability applies to paragraph (1)(b).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

8 Subsection 21(1) (penalty)

Omit “14 years”, substitute “20 years”.

Note: The heading to section 21 is altered by adding at the end “—**affecting performance of duty**”.

9 At the end of section 21 (after the note)

Add:

Alternative verdicts

- (3) On a trial for an offence against subsection (1), the trier of fact may find the defendant not guilty of that offence but guilty of an offence against subsection 20A(1) if:
 - (a) the trier of fact is not satisfied that the defendant is guilty of the offence against subsection (1) of this section; and
 - (b) the trier of fact is satisfied that the defendant is guilty of the offence against subsection 20A(1); and
 - (c) the defendant has been accorded procedural fairness in relation to that finding of guilt.

10 Subsection 22(1) (penalty)

Omit “7 years”, substitute “10 years”.

Note: The heading to section 22 is altered by adding at the end “—**general**”.

11 After section 22

Insert:

22A Endangering safety of aircraft—acts also likely to endanger life or cause serious harm

- (1) A person commits an offence if:
- (a) the person commits an offence against subsection 22(1); and
 - (b) the act constituting the offence is likely to endanger a person's life or cause serious harm to a person.

Penalty: Imprisonment for 14 years.

Note: Subsection 22(1) provides for an offence of endangering the safety of a Division 3 aircraft.

- (2) There is no fault element for the physical element described in paragraph (1)(a) other than the fault elements (however applying), if any, for the physical elements of the offence against subsection 22(1).
- (3) To avoid doubt, a person does not commit an offence against subsection 22(1) for the purposes of paragraph (1)(a) of this section if the person has a defence to the offence against subsection 22(1).
- (4) For the purposes of paragraph (1)(b), an act is taken to be likely to cause serious harm to a person if it is likely to substantially contribute to serious harm to a person.

Alternative verdicts

- (5) On a trial for an offence against subsection (1), the trier of fact may find the defendant not guilty of that offence but guilty of an offence against subsection 22(1) if:
- (a) the trier of fact is not satisfied that the defendant is guilty of the offence against subsection (1) of this section; and
 - (b) the trier of fact is satisfied that the defendant is guilty of the offence against subsection 22(1); and
 - (c) the defendant has been accorded procedural fairness in relation to that finding of guilt.

12 Subsection 23(1) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years.

Note: The heading to section 23 is altered by adding at the end “—general”.

13 After section 23

Insert:

23A Dangerous goods—acts likely to endanger life or cause serious harm

- (1) A person commits an offence if:
 - (a) the person commits an offence against subsection 23(1); and
 - (b) the act constituting the offence is likely to endanger a person's life or cause serious harm to a person.

Penalty: Imprisonment for 14 years.

Note: Subsection 23(1) provides for offences relating to dangerous goods and Division 3 aircraft.

- (2) There is no fault element for the physical element described in paragraph (1)(a) other than the fault elements (however applying), if any, for the physical elements of the offence against subsection 23(1).
- (3) To avoid doubt, a person does not commit an offence against subsection 23(1) for the purposes of paragraph (1)(a) if the person has a defence to the offence against subsection 23(1).
- (4) For the purposes of paragraph (1)(b), an act is taken to be likely to cause serious harm to a person if it is likely to substantially contribute to serious harm to a person.

Alternative verdicts

- (5) On a trial for an offence against subsection (1), the trier of fact may find the defendant not guilty of that offence but guilty of an offence against subsection 23(1) if:
 - (a) the trier of fact is not satisfied that the defendant is guilty of the offence against subsection (1) of this section; and
 - (b) the trier of fact is satisfied that the defendant is guilty of the offence against subsection 23(1); and
 - (c) the defendant has been accorded procedural fairness in relation to that finding of guilt.

14 Subsection 24(1) (penalty)

Omit "2 years", substitute "10 years".

15 Subsection 24(2) (penalty)

Omit “2 years”, substitute “10 years”.

16 Subsection 25(1) (penalty)

Omit “14 years”, substitute “20 years”.

17 Subsection 25(2) (penalty)

Omit “7 years”, substitute “20 years”.

18 Subsection 26(1) (penalty)

Omit “15 years”, substitute “20 years”.

19 Subsection 26(2) (penalty)

Omit “10 years”, substitute “14 years”.

20 Subsection 27(1) (penalty)

Omit “7 years”, substitute “14 years”.

21 Subsection 28(1) (penalty)

Omit “2 years”, substitute “10 years”.

22 Subsection 28(2) (penalty)

Omit “2 years”, substitute “10 years”.

23 Application

The amendments made by items 7, 9, 11 and 13 of this Schedule apply in relation to acts and omissions that take place at or after the commencement of this item.

Schedule 2—Policing at airports

Australian Federal Police Act 1979

1 After section 9

Insert:

10 Appointment of members to other Police Forces

Nothing in this Act is intended to prevent a member or special member from being appointed (including at a particular rank) as:

- (a) a member, however described, of the police force of a State or Territory; or
- (b) a special constable, however described, of the police force of a State or Territory; or
- (c) a member, however described, of a police force or other law enforcement agency of a foreign country.

Commonwealth Places (Application of Laws) Act 1970

2 Section 3

Insert:

airport has the same meaning as in the *Aviation Transport Security Act 2004*.

3 Section 3

Insert:

designated State airport means an airport, to the extent that it is a Commonwealth place, that is:

- (a) situated in a State or States; and
- (b) prescribed by the regulations for the purposes of this definition.

4 Section 3

Insert:

member of the Australian Federal Police has the same meaning as in the *Australian Federal Police Act 1979*.

5 Section 3

Insert:

relevant Crimes Act provision means any of the following provisions of the *Crimes Act 1914*:

- (a) Part IAA (which deals with search, information gathering, arrest and related powers);
- (b) section 9 (which provides for the seizure and condemnation of forfeitable goods);
- (c) section 13 (which allows the institution of proceedings in respect of offences);
- (d) section 15 (which deals with the remand and discharge of defendants);
- (e) Part ID (which deals with forensic procedures).

6 Section 3

Insert:

special member has the same meaning as in the *Australian Federal Police Act 1979*.

7 After subsection 5(3)

Insert:

- (3A) However, subsection (3) does not prevent the application of a relevant Crimes Act provision in relation to an investigation by a member of the Australian Federal Police, or a special member, if the Commonwealth Place is a designated State airport.

Note: The heading to section 5 is replaced by the heading “**Application of certain provisions of Commonwealth Acts to applied provisions**”.

8 Application

The amendment made by item 7 applies, on and after the day the item commences, in relation to offences committed, or suspected to have been committed, before, on or after that day.

*[Minister's second reading speech made in—
Senate on 29 September 2010
House of Representatives on 9 February 2011]*

(196/10)

10 *Aviation Crimes and Policing Legislation Amendment Act 2011* *No. 1, 2011*