

2010

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Aviation Crimes and Policing Legislation
Amendment Bill 2010**

No. , 2010

(Home Affairs)

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

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1 **A Bill for an Act to amend the law relating to**
2 **crimes, and policing, on aircraft and at airports,**
3 **and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Aviation Crimes and Policing*
7 *Legislation Amendment Act 2010*.

8 **2 Commencement**

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

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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. Schedules 1 and 2	The 28th day after this Act receives the Royal Assent.	

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

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

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

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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

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

5 Penalty: Imprisonment for 10 years.

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

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

8 **8 Subsection 21(1) (penalty)**

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

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

12 **9 At the end of section 21 (after the note)**

13 Add:

14 *Alternative verdicts*

15 (3) On a trial for an offence against subsection (1), the trier of fact may
16 find the defendant not guilty of that offence but guilty of an
17 offence against subsection 20A(1) if:

- 18 (a) the trier of fact is not satisfied that the defendant is guilty of
19 the offence against subsection (1) of this section; and
20 (b) the trier of fact is satisfied that the defendant is guilty of the
21 offence against subsection 20A(1); and
22 (c) the defendant has been accorded procedural fairness in
23 relation to that finding of guilt.

24 **10 Subsection 22(1) (penalty)**

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

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

27 **11 After section 22**

28 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”.

1 **13 After section 23**

2 Insert:

3 **23A Dangerous goods—acts likely to endanger life or cause serious**
4 **harm**

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

9 Penalty: Imprisonment for 14 years.

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

- 12 (2) There is no fault element for the physical element described in
13 paragraph (1)(a) other than the fault elements (however applying),
14 if any, for the physical elements of the offence against subsection
15 23(1).
- 16 (3) To avoid doubt, a person does not commit an offence against
17 subsection 23(1) for the purposes of paragraph (1)(a) if the person
18 has a defence to the offence against subsection 23(1).
- 19 (4) For the purposes of paragraph (1)(b), an act is taken to be likely to
20 cause serious harm to a person if it is likely to substantially
21 contribute to serious harm to a person.

22 *Alternative verdicts*

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

32 **14 Subsection 24(1) (penalty)**

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

1 **15 Subsection 24(2) (penalty)**
2 Omit “2 years”, substitute “10 years”.

3 **16 Subsection 25(1) (penalty)**
4 Omit “14 years”, substitute “20 years”.

5 **17 Subsection 25(2) (penalty)**
6 Omit “7 years”, substitute “20 years”.

7 **18 Subsection 26(1) (penalty)**
8 Omit “15 years”, substitute “20 years”.

9 **19 Subsection 26(2) (penalty)**
10 Omit “10 years”, substitute “14 years”.

11 **20 Subsection 27(1) (penalty)**
12 Omit “7 years”, substitute “14 years”.

13 **21 Subsection 28(1) (penalty)**
14 Omit “2 years”, substitute “10 years”.

15 **22 Subsection 28(2) (penalty)**
16 Omit “2 years”, substitute “10 years”.

17 **23 Application**
18 The amendments made by items 7, 9, 11 and 13 of this Schedule apply
19 in relation to acts and omissions that take place at or after the
20 commencement of this item.

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Schedule 2—Policing at airports

Australian Federal Police Act 1979

1 After section 9

6 Insert:

10 Appointment of members to other Police Forces

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

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

Commonwealth Places (Application of Laws) Act 1970

17 2 Section 3

18 Insert:

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

21 3 Section 3

22 Insert:

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

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

28 4 Section 3

29 Insert:

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

3 **5 Section 3**

4 Insert:

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

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

16 **6 Section 3**

17 Insert:

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

20 **7 After subsection 5(3)**

21 Insert:

22 (3A) However, subsection (3) does not prevent the application of a
23 relevant Crimes Act provision in relation to an investigation by a
24 member of the Australian Federal Police, or a special member, if
25 the Commonwealth Place is a designated State airport.

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

28 **8 Application**

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