
STATUTORY INSTRUMENTS

1973 No. 1757

CIVIL AVIATION FUGITIVE CRIMINAL

**The Protection of Aircraft Act 1973
(Overseas Territories) Order 1973**

<i>Made</i>	- - - -	<i>24th October 1973</i>
<i>Laid before Parliament</i>		<i>30th October 1973</i>
<i>Coming into Operation</i>		<i>24th November 1973</i>

At the Court at Buckingham Palace, the 24th day of October 1973

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by subsection (2) of section 27 of the Protection of Aircraft Act 1973, by section 17 of the Fugitive Offenders Act 1967 as extended by subsection (1) of the said section 27 by the Foreign Jurisdiction Act 1890 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Protection of Aircraft Act 1973 (Overseas Territories) Order 1973 and shall come into operation on 24th November 1973.

2. The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Order, and otherwise in relation thereto, as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

3.—(1) Part I and sections 19 and 26 of the Protection of Aircraft Act 1973, modified and adapted as in Schedule 1 hereto, shall extend to the Territories specified in Schedule 2 hereto.

(2) For the purpose of construing the said Part I and sections 19 and 26 as so extended as part of the law of any Territory to which it extends “the Territory” means that Territory, including its territorial waters.

4. The amendments specified in Schedule 3 hereto shall be made to the Pacific (Fugitive Criminals Surrender) Order in Council 1914(1).

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W. G. Agnew

SCHEDULE 1

Article 3

PART I AND SECTIONS 19 AND 26 OF THE PROTECTION OF AIRCRAFT
ACT 1973 AS EXTENDED TO THE TERRITORIES SPECIFIED IN SCHEDULE 2

Destroying damaging or endangering safety of aircraft

1.—(1) It shall, subject to subsection (4) of this section, be an offence for any person unlawfully and intentionally—

- (a) to destroy an aircraft in service or so to damage such an aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight, or
- (b) to commit on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft.

(2) It shall also, subject to subsection (4) of this section, be an offence for any person unlawfully and intentionally to place, or cause to be placed, on an aircraft in service any device or substance which is likely to destroy the aircraft, or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight; but nothing in this subsection shall be construed as limiting the circumstances in which the commission of any act—

- (a) may constitute an offence under the preceding subsection, or
- (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling or procuring the commission of such an offence.

(3) Except as provided by the next following subsection, subsections (1) and (2) of this section apply whether any such act as is therein mentioned is committed in the Territory or elsewhere, whatever the nationality of the person committing the act and whatever the State in which the aircraft is registered.

(4) Subsections (1) and (2) of this section do not apply to any act committed in relation to an aircraft used in military, customs or police service unless—

- (a) the act is committed in the Territory, or
- (b) where the act is committed outside the Territory, the person committing it is a person to whom the next following subsection applies.

(5) This subsection applies to any person who is—

- (a) a citizen of the United Kingdom and Colonies;
- (b) a British subject by virtue of section 2 of the British Nationality Act 1948;
- (c) a British subject without citizenship by virtue of section 13 or section 16 of that Act;
- (d) a British subject by virtue of the British Nationality Act 1965; or
- (e) a British protected person within the meaning of the British Nationality Act 1948.

(6) In this Part of this Act “unlawfully”—

- (a) in relation to the commission of an act in the Territory, means so as (apart from this Act) to constitute an offence under the law of the Territory, and
- (b) in relation to the commission of an act outside the Territory, means so that the commission of the act would (apart from this Act) have been an offence under the law of the Territory.

(7) In this section “act of violence” means—

- (a) any act done in the Territory which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault or an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the Person Act 1861 or under section 2 of the Explosive Substances Act 1883, and

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(b) any act done outside the Territory which, if done in the Territory, would constitute such an offence as is mentioned in the preceding paragraph.

(8) For the purposes only of this section the said sections of the Offences against the Person Act 1861 and of the Explosive Substances Act 1883, if not already in force in the Territory, shall be deemed to be in force in the Territory as they are in force in England.

Other acts endangering or likely to endanger safety of aircraft

2.—(1) It shall, subject to subsections (4) and (5) of this section, be an offence for any person unlawfully and intentionally to destroy or damage any property to which this subsection applies, or to interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safety of aircraft in flight.

(2) The preceding subsection applies to any property used for the provision of air navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.

(3) It shall also, subject to subsections (4) and (5) of this section, be an offence for any person intentionally to communicate any information which is false, misleading or deceptive in a material particular, where the communication of the information endangers the safety of an aircraft in flight or is likely to endanger the safety of aircraft in flight.

(4) It shall be a defence for a person charged with an offence under subsection (3) of this section to prove—

- (a) that he believed, and had reasonable grounds for believing, that the information was true, or
- (b) that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in the performance of those duties.

(5) Subsections (1) and (3) of this section do not apply to the commission of any act unless either the act is committed in the Territory, or, where it is committed outside the Territory—

- (a) the person committing it is a person to whom section 1(5) of this Act applies, or
- (b) the commission of the act endangers or is likely to endanger the safety in flight of a civil aircraft registered in the Territory or chartered by demise to a lessee whose principal place of business, or (if he has no place of business) whose permanent residence, is in the Territory, or
- (c) the act is committed on board a civil aircraft which is so registered or so chartered, or
- (d) the act is committed on board a civil aircraft which lands in the Territory with the person who committed the act still on board.

(6) Subsection (1) of this section also does not apply to any act committed outside the Territory and so committed in relation to property which is situated outside the Territory and is not used for the provision of air navigation facilities in connection with international air navigation, unless the person committing the act is a person to whom section 1(5) of this Act applies.

(7) In this section “civil aircraft” means any aircraft other than an aircraft used in military, customs or police service.

Inducing or assisting commission of acts excepted from ss. 1 and 2

3.—(1) It shall be an offence for any person in the Territory to induce or assist the commission outside the Territory of any act which—

- (a) would, but for subsection (4) of section 1 of this Act, be an offence under that section, or

(b) would, but for subsection (5) or subsection (6) of section 2 of this Act, be an offence under that section.

(2) The preceding subsection shall have effect without prejudice to the operation, in relation to any offence under section 1 or section 2 of this Act of any enactment or rule of law relating to accessories or abettors.

Penalties and proceedings

4.—(1) Any person who commits an offence under this Part of this Act shall be liable, on conviction on indictment, to imprisonment for life.

(2) Proceedings for an offence under this Part of this Act shall not be instituted in the Territory except by, or with the consent of the Attorney General of the Territory, but the preceding provisions of this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of any offence, or the remanding in custody or on bail of any person charged with any offence.

(3) In this section the expression “Attorney-General”, includes the Solicitor-General, and if neither of such offices exists, the expression means that officer whose functions include the general control of public prosecutions.

Extradition

5.—(1) There shall be deemed to be included among the descriptions of offences set out in Schedule 1 to the Fugitive Offenders Act 1967, as extended to the Territory, any offence under this Part of this Act and (so far as not so included by virtue of the foregoing) any attempt to commit such an offence.

Amendments and repeal

6.—(1) In section 3 of the Visiting Forces Act 1952 (restriction, as respects certain offences, of trial by United Kingdom courts of offenders connected with visiting force) as extended to the Territory, the following amendments shall be made in substitution for those made by section 5(2) in Schedule 1 of the Hijacking Act 1971 (Overseas Territories) Order 1971(2), that is to say, in subsection (1) of that section, at the end of paragraph (c) there shall be inserted the words

“or

(d) the alleged offence is the offence of hijacking on board a military aircraft in the service of that force or consists of inducing or assisting, in relation to such an aircraft, the commission of any such act as is mentioned in section 1(4)(b) in Schedule 1 of the Hijacking Act 1971 (Overseas Territories) Order 1971 or

(e) the alleged offence is an offence under section 1 or section 2 in Schedule 1 of the Protection of Aircraft Act 1973 (Overseas Territories) Order 1973, or consists of inducing or assisting the commission of any such act as is mentioned in section 3(1) in Schedule 1 of that Order, where (in either case) one or more such aircraft was or were the only aircraft alleged to have been, or to have been likely to be, thereby destroyed or damaged or whose safety is alleged to have been, or to have been likely to be, there by endangered”,

and in subsection (4) of that section, after the words “paragraphs (b) and (c) of subsection (1) of this section” there shall be inserted the words “and (except in so far as they relate to inducing or assisting the commission of any act) paragraphs (d) and (e) of that subsection” and for the words “those paragraphs”, in the second place where they occur, there shall be substituted the words “paragraphs (b) and (c) of that subsection”.

(2) (1971 III, p. 4737).

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(2) Section 5 in Schedule 1 of the Hijacking Act 1971 (Overseas Territories) Order 1971 (which restricts proceedings for offences under that Order) shall have effect with the insertion of the following subsection after subsection (1):—

“(1A) Nothing in subsection (1) of this section shall prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of any offence under this Act, or the remanding in custody or on bail of any person charged with any such offence”.

and shall be deemed to have had effect with the insertion of that subsection as from the coming into operation of that Order.

(3) In accordance with subsection (1) of this section, section 5(2) in Schedule 1 of the Hijacking Act 1971 (Overseas Territories) Order 1971 is hereby revoked.

Powers exercisable on suspicion of intended offence

19.—(1) Where a constable has reasonable cause to suspect that a person about to embark on an aircraft in the Territory, or a person on board such an aircraft, intends to commit, in relation to the aircraft, an offence under Part I of this Act or under the Hijacking Act 1971 (Overseas Territories) Order 1971, the constable may prohibit him from travelling on board the aircraft; and for the purpose of enforcing that prohibition the constable—

- (a) may prevent him from embarking on the aircraft or, as the case may be, may remove him from the aircraft, and
- (b) may arrest him without warrant and detain him for so long as may be necessary for that purpose.

26.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say—

“article” includes any substance, whether in solid or liquid form or in the form of a gas or vapour;

“constable” includes any member of the police force of the Territory and any other person having the powers and privileges of a constable;

“military service” includes naval and air force service.

(3) For the purposes of this Act—

- (a) the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board; and
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends twenty-four hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with the preceding paragraph, the aircraft is in flight.

(7) Subject to section 33 of the Interpretation Act 1889 (which relates to offences under two or more laws), sections 1 to 3 of this Act shall not be construed as—

- (a) conferring a right of action in any civil proceedings in respect of any contravention of this Act, or
- (b) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

(8) Except in so far as the context otherwise requires, any reference in this Act to an enactment or instrument shall be construed as a reference to that enactment or instrument as replaced, amended or extended by or under any other enactment or instrument, including this Act.

SCHEDULE 2

Article 3

Belize.
Bermuda.
British Antarctic Territory.
British Indian Ocean Territory.
British Solomon Islands Protectorate.
British Virgin Islands.
Cayman Islands.
Falkland Islands (Colony and Dependencies).
Gibraltar.
Gilbert and Ellice Islands Colony.
Hong Kong.
Montserrat.
Pitcairn, Henderson, Ducie and Oeno Islands.
St. Helena (Colony and Dependencies).
Seychelles.
Sovereign Base Areas of Akrotiri and Dhekelia.
Turks and Caicos Islands.

SCHEDULE 3

Article 4

AMENDMENTS TO THE PACIFIC (FUGITIVE CRIMINALS SURRENDER) ORDER IN COUNCIL 1914

1. There shall be deemed to be included in the list of offences in respect of which surrender may be granted contained in the First Schedule to the Pacific (Fugitive Criminals Surrender) Order in Council 1914 (hereinafter in this Schedule referred to as “the Order”) any offence under the Protection of Aircraft Act 1973 (hereinafter in this Schedule referred to as “the Act”) and (so far as not so included by virtue of the foregoing) any attempt to commit such an offence.

2. The Order shall be applied as if an Order in Council made under section 2 of the Extradition Act 1870 as extended by section 5(2) of the Act were such an arrangement as is referred to in Article 3 of the Order, but where the Order is so applied it shall have effect as if the only offences in respect of which surrender may be granted within the meaning of the Order were offences under the Act and attempts to commit such offences.

3. For the purposes of the Order any act, wherever committed, which—

- (a) is an offence under the Act or an attempt to commit such an offence or would be such an offence or attempt but for section 1(4) or section 2(5) or (6) of the Act; and

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- (b) is an offence against the law of any State in the case of which the Order has been directed to apply by notice under Article 3 thereof;

shall be deemed to be an offence committed within the jurisdiction of that State.

EXPLANATORY NOTE

This Order extends the provisions of Part I and section 19 and 26 of the Protection of Aircraft Act 1973, subject to exceptions, adaptations and modification, to the territories specified in Schedule 2 thereto. It also modifies the Pacific (Fugitive Criminals Surrender) Order in Council 1914.

The purposes of the Act were to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September 1971 (Cmnd. 4822); and to make other provision for the protection of aircraft, aerodromes and air navigation installations against acts of violence; to amend the Hijacking Act 1971; and for connected purposes.