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STATUTORY INSTRUMENTS

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**1987 No. 451**

**CIVIL AVIATION**

**The Aviation Security (Anguilla) Order 1987**

*Made* - - - - - *18th March 1987*  
*Laid before Parliament* *26th March 1987*  
*Coming into force* - - - *17th April 1987*

At the Court at Buckingham Palace, the 18th day of March 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 9(2) and 39 of the Aviation Security Act 1982<sup>(1)</sup>, sections 2, 17 and 21 of the Extradition Act 1870<sup>(2)</sup>, and section 17 of the Fugitive Offenders Act 1967<sup>(3)</sup>, or otherwise in Her Majesty vested, 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 Aviation Security (Anguilla) Order 1987 and shall come into force on 17th April 1987.
2. Sections 1, 2, 3, 6, 7, 8, 9 and 38 of the Aviation Security Act 1982, modified and adapted as in the Schedule hereto, shall extend to Anguilla, including its territorial waters.
3. The Extradition (Hijacking) Order 1971<sup>(4)</sup> is amended by the insertion of Anguilla in Schedule 4 thereto (territories to which the Order extends).
4. The Extradition (Protection of Aircraft) Order 1973<sup>(5)</sup> is amended by the insertion of Anguilla in Schedule 4 thereto (territories to which the Order extends).

*G.I. de Deney*  
Clerk of the Privy Council

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(1) 1982 c. 36.  
(2) 1870 c. 52.  
(3) 1967 c. 68.  
(4) S.I.1971/2102, amended by S.I. 1982/146, 1985/1989, 1986/2012.  
(5) S.I. 1973/1756, amended by S.I. 1982/148, 1985/1991, 1986/2014.

SCHEDULE

Article 2

PROVISIONS OF THE AVIATION SECURITY ACT 1982 AS EXTENDED TO ANGUILLA

**Hijacking.**

1.—(1) A person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it commits an offence of hijacking, whatever his nationality, whatever the State in which the aircraft is registered and whether the aircraft is in Anguilla or elsewhere, but subject to subsection (2) below.

(2) If—

- (a) the aircraft is used in military, customs or police service, or
- (b) both the place of take-off and the place of landing are in the territory of the State in which the aircraft is registered,

subsection (1) above shall not apply unless—

- (i) the person seizing or exercising control of the aircraft is a United Kingdom national; or
- (ii) his act is committed in Anguilla; or
- (iii) the aircraft is registered in the United Kingdom or in Anguilla or is used in the military or customs service of the United Kingdom or of Anguilla or in the service of any police force in the United Kingdom or in Anguilla.

(3) A person who commits the offence of hijacking shall be liable, on conviction on indictment, to imprisonment for life.

(4) If the Secretary of State by order made by statutory instrument declares—

- (a) that any two or more States named in the order have established an organisation or agency which operates aircraft; and
- (b) that one of those States has been designated as exercising, for aircraft so operated, the powers of the State of registration,

the State declared under paragraph (b) of this subsection shall be deemed for the purposes of this section to be the State in which any aircraft so operated is registered; but in relation to such an aircraft subsection (2)(b) above shall have effect as if it referred to the territory of any one of the States named in the order.

(5) For the purposes of this section the territorial waters of any State shall be treated as part of its territory.

**Destroying, damaging, or endangering safety of aircraft.**

2.—(1) It shall, subject to subsection (4) below, 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) below, 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 subsection (1) above, 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 subsection (4) below, subsections (1) and (2) above shall apply whether any such act as is therein mentioned is committed in Anguilla 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) above shall 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 Anguilla, or
- (b) where the act is committed outside Anguilla, the person committing it is a United Kingdom national.

(5) A person who commits an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

(6) In this section “unlawfully”—

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

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

- (a) any act done in Anguilla 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<sup>(6)</sup> or under section 2 of the Explosive Substances Act 1883<sup>(7)</sup>, and
- (b) any act done outside Anguilla which, if done in Anguilla, would constitute such an offence as is mentioned in paragraph (a) above.

(8) For the purposes 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 Anguilla, shall be deemed to be in force in Anguilla as they are in force in England.

### **Other acts endangering or likely to endanger safety of aircraft.**

3.—(1) It shall, subject to subsections (5) and (6) below, 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) Subsection (1) above 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) below, 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) above to prove—

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<sup>(6)</sup> 1861 c. 100.

<sup>(7)</sup> 1883 c. 3.

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- (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) above shall not apply to the commission of any act unless either the act is committed in Anguilla, or, where it is committed outside Anguilla—
- (a) the person committing it is a United Kingdom national; or
  - (b) the commission of the act endangers or is likely to endanger the safety in flight of a civil aircraft registered in Anguilla 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 Anguilla; 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 Anguilla with the person who committed the act still on board.
- (6) Subsection (1) above shall also not apply to any act committed outside Anguilla and so committed in relation to property which is situated outside Anguilla 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 United Kingdom national.
- (7) A person who commits an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.
- (8) In this section “civil aircraft” means any aircraft other than an aircraft used in military, customs or police service and “unlawfully” has the same meaning as in section 2 of this Act.

#### **Ancillary offences.**

- 6.—(1)** Without prejudice to section 92 of the Civil Aviation Act 1982<sup>(8)</sup> (application of criminal law to aircraft) as extended to Anguilla or to section 2(1)(b) of this Act, where a person (of whatever nationality) does on board any aircraft (wherever registered) and while outside Anguilla any act which, if done in Anguilla would constitute the offence of murder, attempted murder, manslaughter, culpable homicide or assault or an offence under section 18, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Act 1861 or section 2 of the Explosive Substances Act 1883, his act shall constitute that offence if it is done in connection with the offence of hijacking committed or attempted by him on board that aircraft; and for the purposes of this subsection the said sections of the Offences against the Person Act 1861 and of the Explosive Substances Act 1883, if not already in force in Anguilla, shall be deemed to be in force in Anguilla as they are in force in England.
- (2) It shall be an offence for any person in Anguilla to induce or assist the commission outside Anguilla of any act which—
- (a) would, but for subsection (2) of section 1 of this Act, be an offence under that section; or
  - (b) would, but for subsection (4) of section 2 of this Act, be an offence under that section; or
  - (c) would, but for subsection (5) or (6) of section 3 of this Act, be an offence under that section.
- (3) A person who commits an offence under subsection (2) above shall be liable, on conviction on indictment, to imprisonment for life.
- (4) Subsection (2) above shall have effect without prejudice to the operation, in relation to any offence under section 1, 2 or 3 of this Act, of any enactment or rule of law relating to accessories or abettors.

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<sup>(8)</sup> 1982 c. 16.

### **Powers exercisable on suspicion of intended offence under Part I.**

7.—(1) Where a constable has reasonable cause to suspect that a person about to embark on an aircraft in Anguilla, or a person on board such an aircraft, intends to commit, in relation to the aircraft, an offence under any of the preceding provisions of this Act, 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.

(2) Any person who wilfully obstructs or impedes a person acting in the exercise of a power conferred on him by subsection (1) above shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding EC\$5000;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) Subsection (1) above shall have effect without prejudice to the operation in relation to any offence under this Act of any enactment or rule of law relating to power to arrest without warrant.

### **Prosecution of offences and proceedings.**

8. Proceedings for an offence under any of the preceding provisions of this Act (other than section 7) shall not be instituted except by or with the consent of the person for the time being performing the functions of Attorney-General of Anguilla.

### **Extradition.**

9. There shall be deemed to be included among the descriptions of offences set out in Schedule 1 to the Fugitive Offenders Act 1967(9) as extended to Anguilla any offence under any of the preceding provisions of this Act (other than section 7).

### **Interpretation, etc.**

38.—(1) In this Act, except in so far as the context otherwise requires—

“act of violence” shall be construed in accordance with section 2(7) of this Act;

“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 Anguilla Police Force and any other person having the powers and privileges of a constable;

“military service” includes naval and air force service;

“property” includes any land, buildings or works, any aircraft or vehicle and any baggage, cargo or other article of any description;

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British Dependent Territories citizen or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981(10) is a British subject;
- (c) a British protected person (within the meaning of that Act); or

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(9) 1967 c. 68.

(10) 1981 c. 61.

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- (d) a person who under the Hong Kong Act 1985<sup>(12)</sup> is a British National (Overseas).
- (2) 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 24 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.
- (3) Subject to section 18 of the Interpretation Act 1978<sup>(11)</sup> (which relates to offences under two or more laws), the preceding provisions 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.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order extends to Anguilla, with adaptations and modifications, certain provisions of the Aviation Security Act 1982 which were previously contained in the Hijacking Act 1971 and the Protection of Aircraft Act 1973. It also extends to Anguilla the amendments made by the said Acts of 1971 and 1973 to the Extradition Acts 1870 to 1895.

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<sup>(12)</sup> 1985 c. 15.

<sup>(11)</sup> 1978 c. 30.