
STATUTORY INSTRUMENTS

1971 No. 1739

CIVIL AVIATION

The Hijacking Act 1971 (Overseas Territories) Order 1971

Made - - - - 27th October 1971

Coming into Operation 1st November 1971

At the Court at Buckingham Palace, the 27th day of October 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by subsection (2) of section 6 of the Hijacking Act 1971, by section 17 of the Fugitive Offenders Act 1967 as extended by subsection (1) of the said section 6, 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 Hijacking Act 1971 (Overseas Territories) Order 1971 and shall come into operation on 1st November 1971.

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) Sections 1, 2, 3, 4 and 5 of the Hijacking Act 1971, 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 Act as so extended as part of the law of any Territory to which it extends “the Territory” means that Territory, including its territorial waters, and “any Territory” means any of the Territories to which this Act extends, 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).

W.G. Agnew

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SCHEDULE 1

Article 3

PROVISIONS OF THE HIJACKING ACT 1971 AS EXTENDED TO THE TERRITORIES SPECIFIED IN SCHEDULE 2

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 the offence of hijacking, whatever his nationality, whatever the State in which the aircraft is registered and whether the aircraft is in the Territory or elsewhere, but subject to subsection (2) of this section.

(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) of this section shall not apply, unless—

- (i) the person seizing or exercising control of the aircraft is such a person as is mentioned in subsection (3) of this section; or
- (ii) his act is committed in the Territory; or
- (iii) the aircraft is registered in the United Kingdom or in any Territory or is used in the military or customs service of the United Kingdom or of any Territory or in the service of any police force in the United Kingdom or in any Territory.

(3) The persons referred to in subsection (2)(i) of this section are the following, namely,—

- (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; and
- (e) a British protected person within the meaning of the British Nationality Act 1948.

(4) A person who

- (a) commits the offence of hijacking; or
- (b) in the Territory induces or assists the commission elsewhere of an act which would be the offence of hijacking but for subsection (2) of this section;

shall be liable on conviction to imprisonment for life.

(5) For the purposes of this section 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.

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

(7) In this section “military service” includes naval and air-force service.

Violence against passengers or crew

2.—(1) Without prejudice to section 1 of the Tokyo Convention Act 1967 (which makes similar provision for offences on board British-controlled aircraft) as extended to the Territory, where a

person (of whatever nationality) does on board any aircraft (wherever registered) and while outside the Territory, any act which, if done in the Territory 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 Explosives 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.

(2) For the purposes only of this section the said sections of the Offences Against the Person Act 1861 and of the Explosives 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.

Extradition

3. 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 Act and any attempt to commit such an offence.

Aircraft operated by joint or international organisation

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 to have been designated as aforesaid shall be deemed for the purposes of this Act to be the State in which any aircraft so operated is registered; but in relation to such an aircraft section 1(2)(b) of this Act shall have effect as if it referred to the territory of any one of the States named in the order.

Prosecution of Offences

5.—(1) Proceedings for an offence under this Act shall not be instituted in the Territory, except by or with the consent of the Attorney-General of the Territory.

(2) In section 3 of the Visiting Forces Act 1952 (restriction of trial by United Kingdom courts) as extended to the Territory or any part thereof, the following shall be inserted after paragraph (b) of subsection (1):—

“or

- (bb) the alleged offence is the offence of hijacking on board a military aircraft in the service of that force”

and in subsection (4) for the words “paragraphs (b) and (c)” there shall be substituted the words “paragraphs (b) to (c)”.

(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.

SCHEDULE 2

Article 3

Bahamas.

Bermuda.

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British Antarctic Territory.
British Honduras.
British Indian Ocean Territory.
British Solomon Islands Protectorate.
British Virgin Islands.
Cayman Islands.
Central and Southern Line 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 Hijacking Act 1971 (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 3(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(2) of the Act; and
- (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 the Hijacking Act 1971, subject to exceptions, adaptations and modifications, 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 Seizure of Aircraft signed at The Hague on 16th December 1970 (Cmnd. 4577); and for connected purposes.