



ANALYSIS

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1999, No. 57

An Act—

(a) To amend the Aviation Crimes Act 1972 to give effect to the provisions of the Montreal Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation; and

(b) To give effect to further matters incidental to the Hague Convention for the Suppression of Unlawful Seizure of Aircraft and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation

[20 May 1999]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Aviation Crimes Amendment Act 1999, and is part of the Aviation Crimes Act 1972 (“the principal Act”).

(2) This Act comes into force on 1 September 1999.

2. Altering Title of principal Act—The Title of the principal Act is amended by inserting, after the words “**Civil Aviation**,” the words “**the Montreal Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation**,”.

3. Interpretation—Section 2 (1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Act of violence’ means an act which, if committed in New Zealand, would constitute—

“(a) An assault as defined in any of sections 192, 193, 194, 196, or 202c of the Crimes Act 1961; or

“(b) Any of the crimes specified in sections 188, 189, 190, 191, 197, 198, 198A, 198B, 199, 200, 202, 203, or 209 of the Crimes Act 1961:

“‘International airport’ means any airport designated as an airport of entry and departure for international air traffic where the formalities incident to customs, immigration, public health, animal and plant quarantine, and similar procedures are carried out:

“‘The Montreal Protocol’ means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988:”.

4. Heading amended—The heading above section 3 is amended by adding the words “*and International Airports*”.

5. Other crimes relating to aircraft—Section 5 (a) of the principal Act is amended by omitting the word “assault”, and substituting the words “act of violence”.

6. Crimes relating to international airports—The principal Act is amended by inserting, after section 5, the following section:

“5A. (1) A person commits a crime who, whether in or outside New Zealand, using any device, substance, or weapon, intentionally does any of the following acts that endangers or is likely to endanger the safety of an international airport:

“(a) At the international airport, commits an act of violence that causes or is likely to cause serious injury or death; or

“(b) Destroys or seriously damages the facilities of the international airport; or

“(c) Destroys or seriously damages an aircraft that is not in service and is located at the international airport; or

“(d) Disrupts the services of the international airport.

“(2) Subject to subsection (3), a person who commits a crime against this section is liable on conviction on indictment to imprisonment for a term not exceeding 14 years.

“(3) A person who commits a crime against subsection (1) (a),—

“(a) In circumstances where the conduct concerned is the same as conduct described as murder under sections 158, 160, 167, and 168 of the Crimes Act 1961, must on conviction on indictment be sentenced to imprisonment for life; and

“(b) In circumstances where the conduct concerned is the same as conduct described as manslaughter under sections 158, 160, and 171 of the Crimes Act 1961, is liable on conviction on indictment to imprisonment for life.”

7. Section 6 of principal Act repealed—Section 6 of the principal Act is repealed.

8. Crimes against section 5A deemed to be included in extradition treaties—The principal Act is amended by inserting, after section 7, the following section:

“7A. (1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act, each crime described in section 5A of this Act is deemed to be an offence described in any extradition treaty concluded before the commencement of this section and for the time being in force between New Zealand and any foreign country which is a party to the Montreal Protocol.

“(2) When subsection (1) deems a crime to be an offence described in an extradition treaty, a person whose surrender is sought under the Extradition Act 1999 in respect of an act or omission which amounts to that crime is liable to be surrendered in accordance with the provisions of that Act, whether the act or omission occurred before or after the date on which the crime was deemed to be an offence described in the extradition treaty.

“(3) This section does not apply in respect of an act or omission that, had it occurred within the jurisdiction of New Zealand, would not at that time have constituted an offence under New Zealand law.

“(4) A certificate given under the hand of the Minister of Foreign Affairs and Trade that any foreign country is a party to the Montreal Protocol is sufficient evidence of that fact.

“(5) For the purposes of this section,—

“‘Crime’ includes—

“(a) An attempt to commit that crime:

“(b) Aiding, abetting, inciting, counselling, or procuring a person to commit that crime:

“(c) Inciting, counselling, or attempting to procure a person to commit that crime when it is not in fact committed:

“(d) Being an accessory after the fact to that crime:

“‘Foreign country’ includes any territory for whose international relations the Government of a foreign country is responsible and to which the extradition treaty and the Montreal Protocol extends.”

9. Application of sections 3, 4, and 5—(1) Section 9 (1) of the principal Act is amended by adding to paragraph (c) the expression “; or”, and also by adding the following paragraph:

“(d) The aircraft is leased without crew to a lessee—

“(i) Whose principal place of business is in New Zealand; or

“(ii) In any other case, who is a New Zealand citizen or a person ordinarily resident in New Zealand.”

(2) Section 9 (2) of the principal Act is amended by adding to paragraph (c) the expression “; or”, and also by adding the following paragraph:

“(d) The aircraft is leased without crew to a lessee—

“(i) Whose principal place of business is in New Zealand; or

“(ii) In any other case, who is a New Zealand citizen or a person ordinarily resident in New Zealand.”

10. Application of section 5A—The principal Act is amended by inserting, after section 9, the following section:

“9A. Section 5A does not apply in respect of acts or omissions that occur outside New Zealand unless the alleged offender is present in New Zealand.”

11. Attorney-General’s consent required to prosecutions—Section 18 of the principal Act is amended by inserting, after the expression “section 5”, the expression “or section 5A”.

12. Other Acts not affected—Section 21 of the principal Act is amended by omitting the words “Aliens Act 1948, or of any provision of the”.

This Act is administered in the Ministry of Justice.