

CHAPTER TWO

CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT 1963 (‘Tokyo Convention’)

1. The Convention, negotiated under the auspices of the International Civil Aviation Organisation (ICAO) and adopted at Tokyo on 14 September 1963, entered into force on 4 December 1969. As of September 2002 173 States were Parties, including 48 Commonwealth States. The United Kingdom ratified the Convention on 29 November 1968 in respect also of all its overseas territories. A number of them have since gained independence and some have formally succeeded to the Convention. The text of the Convention is at page 22 below, and a complete list of signatures, ratifications, accessions, territorial extensions and successions as of September 2002 is at page 30 below.

Object and scope of the Convention

2. The Convention establishes a uniform approach to acts on board aircraft which are offences against penal law, or which may or do jeopardise the safety of aircraft and persons or property on board, or good order and discipline on board. The Convention includes provisions relating to the exercise of jurisdiction (*Articles 3 and 4*) and detailed rules as to the powers of the aircraft commander (*Articles 5 to 10*). *Article 11* deals (inadequately) with hijacking. The Convention makes detailed provision for the powers and duties of Parties when an offence is committed on board an aircraft (*Articles 12 to 15*).

3. The Convention applies only to civil aircraft, not aircraft used in military, customs or police services (*Article 1(4)*). In this the Convention follows the Chicago Convention 1944,²² the constituent treaty of the ICAO, that applies only to civil aircraft. A military aircraft engaged in carrying civilians would probably fall within the Convention, but a civil aircraft employed by civil operators to carry military personnel is probably outside. Whether the Convention applies to activities on board a particular aircraft will ultimately have to be decided in each case.

4. The activities regulated under the Convention fall into two categories:

- (a) Offences against penal law;
- (b) Acts which, whether or not they are offences, may or do jeopardise the safety of the aircraft or persons or property on board or which jeopardise good order and discipline on board. (*Article 1(1)*).

The first category is based on the assumption that the penal laws of one or more States will extend to activities on board the aircraft. Since the Convention does not stipulate that any particular conduct is to be prohibited by the Parties, what constitutes an offence within *Article 1(a)* will vary according to the domestic law. *Article 1(b)* includes activities prejudicial to the safety of the aircraft, persons or property, and to

²² 15 UNTS 295(Reg. No. 102); UKTS (1953) 8.

good order and discipline, on board, whether or not they are offences against penal law.

5. The Convention does not authorise or require any action in respect of offences against penal laws that are of a political nature or based on racial or religious discrimination (*Article 2*). This is expressed to be without prejudice to *Article 4*, which permits a Party, even though it is not the State of registration, to interfere with an aircraft in flight in order to exercise criminal jurisdiction in cases where an offence committed on board affects that State or is necessary to ensure the observance by the State of any obligation under a multilateral treaty. Nor does *Article 2* apply when the safety of the aircraft or persons or property on board requires action.

6. The Convention applies to offences committed or acts done by a person on board an aircraft registered with a Party while the aircraft is in flight (*Article 1(2)*). An aircraft is in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends (*Article 1(3)*). Thus an aircraft is in flight from the commencement of its take-off run until the time it turns off the runway after landing. (But note the wider definition of ‘flight’ in *Article 5(1)* which governs the powers of the aircraft commander.) In addition, the Convention applies in two cases where an aircraft is not in flight: (1) when an aircraft is on the surface of the high seas, presumably after an emergency landing, and (2) if an aircraft is on the surface of any area outside the territory of any State, for example Antarctica or at least its so-called unclaimed sector (*Article 1(2)*).

Jurisdiction

7. *Articles 3 and 4* ensure that the State of registration of an aircraft has jurisdiction over offences committed on board, but it also acknowledges the possibility that other States may claim jurisdiction over such conduct, and that there may exist overlapping or concurrent jurisdictions. *Article 3* provides:

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.
2. Each [Party] shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.
3.?

Acts over which jurisdiction is to be established must therefore also be designated as offences in the criminal law of each Party. In the United Kingdom legislation remedied the defects exposed in *R. v. Martin* (see page 4, note 7 above) by providing that an act or omission taking place on board a British-controlled aircraft while in flight elsewhere than in or over the United Kingdom which, if taking place in the United Kingdom would constitute an offence under the law in force in the United Kingdom, shall constitute that offence.²³

8. Although there is an obligation on a Party to take such measures as may be necessary to establish its jurisdiction over offences on board aircraft registered with it,

²³ See section 1(1) of the Tokyo Convention Act 1967. Now replaced by the Civil Aviation Act, 1982, section 92(1).

there is no corresponding duty to *exercise* the jurisdiction. Later conventions, being specifically designed to deal with terrorism, impose such a duty (cf. *Article 6* of the Hague Convention).

9. The Convention does not exclude any criminal jurisdiction exercised in accordance with domestic law (*Article 3(3)*). And *Article 4* permits a Party, although it is not the State of registration of the aircraft, to interfere with an aircraft in flight in order to exercise criminal jurisdiction certain cases:

- (a) The offence has effect on its territory;
- (b) The offence has been committed by or against one of its nationals or permanent residents;
- (c) The offence is against its security;
- (d) The offence consists of a breach of any of its rules or regulations relating to the flight or manoeuvre of aircraft;
- (e) The exercise of jurisdiction is necessary to ensure its observance of any obligation under a multilateral treaty.

These five exceptions cover the situations where a Party other than the State of registration has a particular interest in exercising jurisdiction which is sufficient to justify interference with an aircraft in flight.

10. It is possible, therefore, that a number of Parties may be in a position to exercise jurisdiction in respect of a single activity on board an aircraft. Although the jurisdiction of the State of registration is, in a sense, treated as the primary jurisdiction - for example, the provisions in relation to extradition favour the exercise of jurisdiction by the State of registration (see *Article 16*) - there is no scheme of priority of jurisdiction. Although there is therefore a possibility of conflicts of jurisdiction and double jeopardy, this is a difficulty - which has long been familiar in the case of offences committed in more than one State, or outside the territory of any State - and the lack here and in the later conventions of any provision for priority of jurisdiction is likely to be of limited importance. What is of far greater consequence is that the Convention ensures that whenever an offence is committed on board an aircraft which is registered with a Party to the Convention there will be at least one State of competent jurisdiction, and the risk of such activities going unpunished is therefore greatly reduced.

11. There is a special provision for when Parties have established joint air transport operating organisations or international operating agencies, such as Scandinavian Airlines System (SAS). If they operate aircraft not registered in only one State those Parties must designate which among them is, for the purposes of the Convention, to be considered as the State of registration (*Article 18*). Notice of the designation must be given to ICAO which will, in turn, communicate it to all the Parties. It is not clear whether *Article 18* applies only if all members of the organisation or agency are Parties. The better view would seem to be that it applies when any Party participates in such an organisation or agency, even if its membership includes non-Parties. Now that only some dozen States are not Parties, the issue may be academic.

12. However, the Convention does not cover all possible difficulties. For example, no specific provision is made for the case where an aircraft is chartered to a

company in a State other than that where the aircraft is registered. It seems that the only Party required to establish its jurisdiction over activities on board the aircraft while it is operated by the charterer is the State of registration. This would be so even if the aircraft is operated by a crew provided by the charterer. This is undesirable because the State with which the aircraft is most closely connected when so operated is the State in which the charterer has his principal place of business.²⁴

Powers of the aircraft commander

13. *Articles 5 to 10* confer special powers on the commander of an aircraft which may be exercised:

- (a) in respect of offences or acts committed, or about to be committed, by a person on board an aircraft in flight in the airspace of a Party other than the State of registration, that is, in foreign airspace (by implication from the terms of *Article 5(1)*);
- (b) in respect of offences or acts committed, or about to be committed, by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of the State, if:
 - (i) the last point of take-off, or the next place of intended landing, is situated in a State other than that of registration, or
 - (ii) the aircraft subsequently flies in the airspace of a State other than that of registration (*Article 5(1)*).

In other words, there has to be a foreign element. For the purpose of *Article 5(1)* there is a broader definition of ‘in flight’. An aircraft is considered to be in flight from the moment when all its external doors are closed following embarkation until the moment when any external door is opened for disembarkation; and in the case of a forced landing the special powers of the commander continue with respect to offences and acts committed on board until competent authorities of a State take over responsibility for the aircraft and for the persons and property on board (*Article 5(2)*).

14. The special powers of the commander fall into three categories. *First*, when the commander has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft an offence or act contemplated by *Article 1(1)*, he or she may impose upon that person such reasonable measures, including restraint, as are necessary:

- (a) to protect the safety of the aircraft or of persons or property on board,
- (b) to maintain good order and discipline on board, or
- (c) to enable the commander to deliver that person to competent authorities or to disembark the person (*Article 6(1)*).

²⁴ Note that in 1997 (additional) *Article 83bis* of the Chicago Convention came into force. This provides that in respect of aircraft registered in one State, some of the functions and powers of the State of Registration may, by agreement, be transferred to another State when the aircraft are chartered to an operator who has his principal place of business or, if he has no such place of business, his permanent residence, in that other State (for the full text, see www.icao.int).

The commander may require or authorise the assistance of other crew members and may request (but not require) and authorise the assistance of passengers to restrain any person whom he or she is entitled to restrain (*Article 6(2)*). Furthermore, any crew member or passenger may take reasonable preventive measures without the authorisation of the commander when he or she has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft or of persons or property on board (*Article 6(2)*).

15. The measures of restraint imposed may not be continued beyond any point at which the aircraft lands unless:

- (a) that point is in the territory of a non-Party and its authorities refuse to permit disembarkation of that person, or the measures have been imposed in order to deliver the person to the competent authorities of a Party;
- (b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities of a Party; or
- (c) the person restrained agrees to onward carriage under restraint (*Article 7(1)*).

The commander is under an obligation, as soon as practicable and if possible before landing in the territory of a State with a person on board under restraint, to notify the authorities of that State of the fact that a person on board is under restraint, and why (*Article 7(2)*).

16. *Secondly*, the aircraft commander may disembark in the territory of any State in which the aircraft lands any person who he or she has reasonable cause to believe has committed, or is about to commit, an act which, whether or not it is an offence, may jeopardise, or does jeopardise, the safety of the aircraft or of persons or property on board, or good order and discipline on board. However, the commander may only do so insofar as it is necessary for the purpose of protecting the safety of the aircraft or of persons or property, or to maintain good order and discipline (*Article 8(1)*); and the commander is obliged to report to the authorities of the State in which he or she disembarks a person the fact of, and the reasons for, the disembarkation (*Article 8(2)*). This power of disembarkation is not limited to disembarkation in the territory of a Party.

17. *Thirdly*, the commander may deliver to the competent authorities of any Party in the territory of which the aircraft lands, any person who he or she has reasonable cause to believe has committed on board the aircraft an act which, in the opinion of the commander, is a serious offence according to the penal law of the State of registration (*Article 9(1)*). The power of delivery is narrower than the power of disembarkation in two ways: it is limited to delivery to the competent authorities of a Party, and it is restricted to 'a serious offence', though that is not defined in the Convention and seems to be left to the opinion of the commander. The commander is under a duty, as soon as practicable and if possible before landing in the territory of the Party, to notify its authorities that he or she has a person on board that is to be delivered, and why (*Article 9(2)*). The commander is obliged to furnish to the authorities to whom a suspected offender is delivered evidence and information of

which, under the law of the State of registration, he or she is lawfully in possession (*Article 9(3)*)

18. The Convention makes no provision for the payment of costs incurred by the State of landing, or the cost of the onward flight of a person who has been disembarked or delivered.

19. The commander, the members of the crew, the passengers, the owner or operator of the aircraft, and the person on whose behalf the flight was performed, is not be held responsible for actions taken in accordance with the Convention in any proceedings on account of the treatment undergone by the person against whom the actions were taken (*Article 10*). However, since the powers conferred on the commander are exercisable only when there are reasonable grounds for believing that their exercise is necessary, *Article 10* may provide no protection where there were no reasonable grounds for believing (1) in the case of restraint and disembarkation, that an offence or prejudicial act had been committed or was about to be committed, or (2) in the case of delivery, that a serious offence according to the penal law of the State of registration of the aircraft had been committed.

(The powers and duties of Parties in relation to disembarkation and delivery are considered in paragraphs 21 to 26 below.)

Unlawful seizure of aircraft

20. *Article 11* deals with the specific offence of unlawful seizure of an aircraft (hijacking). When a person on board an aircraft has unlawfully committed by force, or threat of force, an act of interference, seizure or other wrongful exercise of control of an aircraft in flight (as defined in *Article 1(3)*), or when such an act is about to be committed, the Parties are under a duty to take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his or her control of the aircraft. The Party in whose territory the aircraft lands must permit its passengers and crew to continue their journey as soon as practicable, and return the aircraft and its cargo to the persons lawfully entitled to possession (*Article 11(2)*). These provisions deal in only general terms with hijacking. However, these rudimentary provisions foreshadow the comprehensive provisions of the Hague Convention. The powers and duties of Parties under the (Tokyo) Convention in relation to persons suspected of hijacking are considered in the following paragraphs.

Powers and duties of Parties in relation to disembarkation and delivery

21. The Convention imposes certain duties, and confers certain powers, on Parties regarding the exercise of jurisdiction, in particular in relation to persons who have been disembarked or delivered in the manner described in the preceding paragraphs. The most important duty is that which requires Parties to pay due regard to the safety and other interests of air navigation when taking any measures for investigation or arrest, or otherwise exercising jurisdiction, in connection with any offence committed on board an aircraft. In such circumstances Parties must also avoid unnecessary delay of the aircraft, passengers, crew or cargo (*Article 17*).

22. The circumstances in which the commander of an aircraft may *disembark* a person (*Article 8(1)*) have been considered in paragraph 16 above. Parties are under a corresponding duty to allow the commander of an aircraft registered with another

Party to disembark such a person (*Article 12*). As we have seen, the commander may exercise the power to disembark a person if it is necessary to protect the safety of the aircraft or of persons or property on board, or to maintain good order and discipline, if he or she has reasonable grounds to believe that the person has committed, or is about to commit, an act which may or does jeopardise the safety of the aircraft or persons or cargo on board, or good order and discipline. However, the Convention contains nothing entitling the Party in whose territory the person is disembarked to determine whether the grounds for disembarkation are reasonable before it receives the person.

23. *Article 13(1)* requires Parties to take delivery of any person who the commander *delivers* in accordance with *Article 9(1)* (see paragraph 17 above). A Party to whom a person has been delivered is under a duty, if satisfied that the circumstances so warrant, to take custodial or other measures to ensure the presence of the person; and is under a similar duty in relation to any person suspected of having hijacked an aircraft or having attempted to do so (*Article 13(2)*). A Party to which a person is delivered, or in whose territory an aircraft lands following a hijacking or attempted hijacking, must make a preliminary inquiry into the facts (*Article 13(4)*). Custodial and other measures must be as provided for in the law of that Party (*Article 13(2)*). (The adoption by the Convention of national standards of treatment of aliens is considered in greater detail in paragraphs 25 and 26 below.)

24. The Party making the preliminary inquiry is under a duty promptly to report its findings to the State of registration of the aircraft, the State of nationality of the person in custody and, if it considers it advisable, any other interested State, and to indicate whether it intends to exercise jurisdiction (*Article 13(5)*).

Treatment of other passengers and the crew

25. The Convention makes provision for the powers and duties of Parties where a person has been disembarked or delivered. These may conveniently be treated together. Where the person cannot continue the journey or does not desire to do so, and the State of landing refuses to admit the person, that State may, if the person in question is not a national or permanent resident of that State, return him or her to the territory of the State of which he or she is a national or permanent resident, or to the territory of the State in which the journey began by air (*Article 14(1)*). A Party is not to be regarded as having admitted a person to its territory for the purpose of its law relating to entry or admission of persons simply because it has permitted disembarkation or delivery or has taken custody or other measures. Similarly the return of a person does not have that effect. Furthermore, it does not affect the law of a Party relating to expulsion of persons from its territory (*Article 14(2)*). (These provisions are probably subject to the obligations of a State with regard to persons claiming refugee status, though that status cannot be claimed where there are good grounds for believing that a person has been involved in terrorism: see the UN Declaration of 17 December 1996 (A/RES/51/210)). A person who wants to continue the journey must as soon as practicable be allowed to proceed to any destination of choice, unless the presence of the person is required by the law of the State of landing for the purpose of extradition or criminal proceedings (*Article 15(1)*). In that case, the State of landing is obliged to accord to such person treatment which is no less favourable for protection and security than that accorded to nationals of that State in like circumstances (*Article 15(2)*).

Treatment of persons disembarked or delivered

26. This adoption of a national standard, subject to the exceptions listed below, may be seen as regrettable because persons disembarked or delivered under the Convention to a Party can hardly be regarded as having voluntarily accepted the protection afforded by its legal system. However, four further matters must be taken into account in applying these provisions of the Convention. First, if there is a rule of customary international law requiring the application of an international minimum standard in the treatment of aliens, a provision requiring Parties to apply only the national standard would have the paradoxical result that a national of a Party disembarked or delivered in a State which is not a party to the Convention would be entitled to the protection of the international minimum standard, whereas the person would not be so protected if disembarked or delivered to another Party. However, it is not clear that the Convention was intended to derogate from international law in this way and it is likely that, despite the provisions in the Convention, Parties are nevertheless obliged to conform with the rules of customary international law which require that aliens should be treated in conformity with a minimum international standard. Rules of customary international law, being *lex generalis*, prevail over treaty provisions which do not unambiguously purport to override the customary rules. Secondly, the Convention clearly cannot affect the international obligations of a Party to treat the nationals of a non-Party in accordance with the international minimum standard. Thirdly, under the Convention the national standard applies only to custody or other measures to ensure a person's presence (*Article 13(2)*) and matters of protection and security (*Article 15(2)*). Consequently the international minimum standard would appear to apply to all other matters. Fourthly, the application of the national standard is subject to certain exceptions:

- (a) Custody and other measures to ensure the presence of the person may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted (*Article 13(2)*);
- (b) Any person in custody must be helped to communicate immediately with the nearest appropriate representative of the State of which the person is a national (*Article 13(3)*);
- (c) When a Party has taken a person into custody it must immediately notify the State of registration of the aircraft and the State of nationality of the person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant detention (*Article 13(5)*).

Extradition

27. Acts committed on board an aircraft may constitute offences in a number of different jurisdictions. We have already seen that the Convention makes no provision for a priority of jurisdictions (paragraph 10 above). The Convention requires that a Party to which a person is delivered, or in whose territory an aircraft lands, following the commission of a hijacking or attempted hijacking, must immediately make a preliminary inquiry into the facts (*Article 13(4)*) and promptly report its findings to the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, to any other interested States (*Article 13(5)*). It is also required to indicate whether it intends to exercise jurisdiction (*Article 13(5)*). Because of the possible existence of concurrent jurisdiction and the lack of any scheme of priority, the State of landing may also receive one or more requests for the

person's extradition or return. The Convention expressly provides that nothing in it shall be deemed to create an obligation to grant extradition (*Article 16(2)*), and consequently the rights and duties of the Parties will be governed by such agreements or arrangements as may exist among them for the extradition or return of such persons. However, the Convention does provide that such a person is not to be at liberty to depart from the State of landing if his or her presence is required for the purpose of extradition proceedings (*Article 15(1)*), and that the person may be detained in custody for such time as is reasonable to enable the proceedings to be instituted (*Article 13(2)*).

28. Offences committed on board aircraft registered with a Party are treated, for the purpose of extradition, as if they had been committed, not only in the place where they have occurred, but also in the territory of the State of registration of the aircraft (*Article 16(1)*). This can have no effect in the absence of an extradition treaty or arrangement for the return of fugitive offenders between the requesting and requested States. However, where such a treaty or arrangement exists the provision may have the effect of extending its possible operation. For example, where an extradition treaty makes provision for the extradition of persons charged with offences committed within the territory of the requesting State, the provision would be extended to offences committed on board aircraft registered in the requesting State if both States are Parties to the Convention. While this extension is obviously important, its effect will vary according to the terms of the extradition treaty or arrangement in force between the Parties. Such an extension of extradition arrangements would require also to be reflected in the domestic law of the requested Party.

Disputes

29. *Article 24(1)* provides that any dispute between two or more Parties about the interpretation or application of the Convention which cannot be settled through negotiation can, at the request of any one of them, be submitted to a compulsory settlement process (see page 10, paragraph 33 above). However, a Party may at the time of signature, ratification or accession declare that it does not consider itself bound by this provision, and this reservation operates on a reciprocal basis (*Article 24(2)*). A Party may withdraw the reservation.

Reservations

30. With the single exception of reservations to *Article 24(1)* referred to above, no reservations may be made to the Convention. Of the later conventions, only the Explosives Convention has this prohibition.

Accession

31. If a State did not sign the Convention before it entered into force on 4 December 1969, it cannot now ratify it, but it can become a Party by acceding, provided it is a Member of the United Nations or of any of the Specialised Agencies (*Article 22(1)*). The instrument of accession must be deposited with the depositary, ICAO. If a reservation is to be entered to *Article 24*, it must be communicated in writing to the depositary not later than the time of accession, and is therefore best included the instrument of accession.

Succession

32. A number of States may be able to succeed formally to the Convention rather than accede (see page 11 above).

Implementation

33. Legislation will normally be necessary in order to give effect to the Convention in domestic law. Model legislative provisions are at page 38 below. However, careful consideration will have to be given by each State which is considering becoming a Party to the Convention as to its precise needs for the content of the legislation.

**TOKYO CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS
COMMITTED ON BOARD AIRCRAFT**

THE STATES Parties to this Convention

HAVE AGREED as follows:

Chapter I - Scope of the Convention

ARTICLE 1

1. This Convention shall apply in respect of:
 - (a) offences against penal law;
 - (b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.
2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.
3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.
4. This Convention shall not apply to aircraft used in military, customs or police services.

ARTICLE 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

Chapter II - Jurisdiction

ARTICLE 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and act committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

- (a) the offence has effect on the territory of such State;
- (b) the offence has been committed by or against a national or permanent resident of such State;
- (c) the offence is against the security of such State;
- (d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
- (e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

Chapter III - Powers of the Aircraft Commander

ARTICLE 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

ARTICLE 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act

contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

- (a) to protect the safety of the aircraft, or of persons or property therein; or
- (b) to maintain good order and discipline on board; or
- (c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

ARTICLE 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless:

- (a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1(c) in order to enable his delivery to competent authorities;
- (b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or
- (c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

ARTICLE 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1(b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

ARTICLE 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.
2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons thereof.
3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

ARTICLE 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

Chapter IV - Unlawful Seizure of Aircraft

ARTICLE 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.
2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

Chapter V - Powers and Duties of States

ARTICLE 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

ARTICLE 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.
2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1, and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.
3. Any person in custody pursuant to the previous paragraph shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.
4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.
5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.
2. Neither disembarkation nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

ARTICLE 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

Chapter VI - Other Provisions

ARTICLE 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

ARTICLE 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

ARTICLE 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Chapter VII - Final Clauses

ARTICLE 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

ARTICLE 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

ARTICLE 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

ARTICLE 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.
2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

ARTICLE 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

ARTICLE 24

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through

negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, anyone of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

ARTICLE 25

Except as provided in Article 24 no reservation may be made to this Convention.

ARTICLE 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies:

- (a) of any signature of this Convention and the date thereof;
- (b) of the deposit of any instrument of ratification or accession and the date thereof;
- (c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;
- (d) of the receipt of any notification of denunciation and the date thereof;
and
- (e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

**CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS
COMMITTED ON BOARD AIRCRAFT
Signed At Tokyo On 14 September 1963**

Entry into force: Convention entered into force on 4 December 1969.

Status: 173 Parties.

State	Date of signature	Date of deposit of Instrument of Ratification, Accession or Succession	Effective date
Afghanistan		15 April 1977	14 July 1977
Albania		1 December 1997	1 March 1998
Algeria		12 October 1995	10 January 1996
Angola		24 February 1998	25 May 1998
Antigua and Barbuda		19 July 1985	17 October 1985
Argentina		23 July 1971	21 October 1971
Australia		22 June 1970	20 September 1970
Austria		7 February 1974	8 May 1974
Bahamas		12 June 1975	10 July 1973
Bahrain		9 February 1984	9 May 1984
Bangladesh		25 July 1978	23 October 1978
Barbados	25 June 1969	4 April 1972	3 July 1972
Belarus		3 February 1988	3 May 1988
Belgium	20 December 1968	6 August 1970	4 November 1970
Belize		19 May 1998	17 August 1998
Bhutan		25 January 1989	25 April 1989
Bolivia		5 July 1979	3 October 1979
Bosnia and Herzegovina		7 March 1995	6 March 1992
Botswana		16 January 1979	16 April 1979
Brazil	28 February 1969	14 January 1970	14 April 1970
Brunei Darussalam		23 May 1986	21 August

			1986
Bulgaria		28 September 1989	27 December 1989
Burkina Faso	14 September 1963	6 June 1969	4 December 1969
Burundi		14 July 1971	12 October 1971
Cambodia		22 October 1996	20 January 1997
Cameroon		24 March 1988	22 June 1988
Canada	4 November 1964	7 November 1969	5 February 1970
Cape Verde		4 October 1989	2 January 1990
Central African Republic		11 June 1991	9 September 1991
Chad		30 June 1970	28 September 1970
Chile		24 January 1974	24 April 1974
China		14 November 1978	12 February 1979
Colombia	8 November 1968	6 July 1973	4 October 1973
Comoros		23 May 1991	21 August 1991
Congo	14 September 1963	13 November 1978	11 February 1979
Costa Rica		24 October 1972	22 January 1973
Côte d'Ivoire		3 June 1970	1 September 1970
Croatia		5 October 1993	8 October 1991
Cuba		12 February 2001	13 May 2001
Cyprus		31 May 1972	29 August 1972
Czech Republic		25 March 1993	1 January 1993
Democratic People's Republic of Korea		9 May 1983	7 August 1983
Democratic Republic of the Congo		20 July 1977	18 October 1977

Denmark	21 November 1966	17 January 1967	4 December 1969
Djibouti		10 June 1992	8 September 1992
Dominican Republic		3 December 1970	3 March 1971
Ecuador	8 July 1969	3 December 1969	3 March 1970
Egypt		12 February 1975	13 May 1975
El Salvador		13 February 1980	13 May 1980
Equatorial Guinea		27 February 1991	28 May 1991
Estonia		31 December 1993	31 March 1994
Ethiopia		27 March 1979	25 June 1979
Fiji		31 January 1972	10 October 1970
Finland	24 October 1969	2 April 1971	1 July 1971
France	11 July 1969	11 September 1970	10 December 1970
Gabon		14 January 1970	14 April 1970
Gambia		4 January 1979	4 April 1979
Georgia		16 June 1994	14 September 1994
Germany	14 September 1963	16 December 1969	16 March 1970
Ghana		2 January 1974	2 April 1974
Greece	21 October 1969	31 May 1971	29 August 1971
Grenada		28 August 1978	26 November 1978
Guatemala	14 September 1963	17 November 1970	15 February 1971
Guinea		18 January 1994	18 April 1994
Guyana		20 December 1972	19 March 1973
Haiti		26 April 1984	25 July 1984
Holy See	14 September 1963		
Honduras		8 April 1987	7 July 1987
Hungary		3 December 1970	3 March 1971
Iceland		16 March 1970	14 June 1970

India		22 July 1975	20 October 1975
Indonesia	14 September 1963	7 September 1976	6 December 1976
Iran, Islamic Republic of		28 June 1976	29 September 1976
Iraq		15 May 1974	13 August 1974
Ireland	20 October 1964	14 November 1975	12 February 1976
Israel	1 November 1968	19 September 1969	18 December 1969
Italy	14 September 1963	18 October 1968	4 December 1969
Jamaica		16 September 1983	15 December 1983
Japan	14 September 1963	26 May 1970	24 August 1970
Jordan		3 May 1973	1 August 1973
Kazakhstan		18 May 1995	16 August 1995
Kenya		22 June 1970	20 September 1970
Kuwait		27 November 1979	25 February 1980
Kyrgyzstan		28 February 2000	28 May 2000
Lao People's Democratic Republic		23 October 1972	21 January 1973
Latvia		10 June 1997	8 September 1997
Lebanon		11 June 1974	9 September 1974
Lesotho		28 April 1972	27 July 1972
Liberia	14 September 1963		
Libyan Arab Jamahiriya		21 June 1972	19 September 1972
Lithuania		21 November 1996	19 February 1997
Liechtenstein		26 February 2001	27 May 2001
Luxembourg		21 September 1972	20 December 1972

Madagascar	2 December 1969	2 December 1969	2 March 1970
Malawi		28 December 1972	28 March 1973
Malaysia		5 March 1985	3 June 1985
Maldives		28 September 1987	27 December 1987
Mali		31 May 1971	29 August 1971
Malta		28 June 1991	26 September 1991
Marshall Islands		15 May 1989	13 August 1989
Mauritania		30 June 1977	28 September 1977
Mauritius		5 April 1983	4 July 1983
Mexico	24 December 1968	18 March 1969	4 December 1969
Monaco		2 June 1983	31 August 1983
Mongolia		24 July 1990	22 October 1990
Morocco		21 October 1975	19 January 1976
Myanmar		23 May 1996	21 August 1996
Nauru		17 May 1984	15 August 1984
Nepal		15 January 1979	15 April 1979
Netherlands	9 June 1967	14 November 1969	12 February 1970
New Zealand		12 February 1974	13 May 1974
Nicaragua		24 August 1973	22 November 1973
Niger	14 April 1969	27 June 1969	4 December 1969
Nigeria	29 June 1965	7 April 1970	6 July 1970
Norway	19 April 1966	17 January 1967	4 December 1969
Oman		9 February 1977	10 May 1977
Pakistan	6 August 1965	11 September 1973	10 December 1973

Palau		12 October 1995	10 January 1996
Panama	14 September 1963	16 November 1970	14 February 1971
Papua New Guinea		15 December 1975	16 September 1975
Paraguay		9 August 1971	7 November 1971
Peru		12 May 1978	10 August 1978
Philippines	14 September 1963	26 November 1965	4 December 1969
Poland		19 March 1971	17 June 1971
Portugal	11 March 1964	25 November 1964	4 December 1969
Qatar		6 August 1981	5 December 1981
Republic of Korea	8 December 1965	19 February 1971	20 May 1971
Republic of Moldova		20 June 1997	18 September 1997
Romania		15 February 1974	16 May 1974
Russian Federation		3 February 1988	3 May 1988
Rwanda		17 May 1971	15 August 1971
Saint Lucia		31 October 1983	29 January 1984
Saint Vincent and the Grenadines		18 November 1991	16 February 1992
Samoa		9 July 1998	7 October 1998
Saudi Arabia	6 April 1967	21 November 1969	19 February 1970
Senegal	20 February 1964	9 March 1972	7 June 1972
Seychelles		4 January 1979	4 April 1979
Sierra Leone		9 November 1970	7 February 1971
Singapore		1 March 1971	30 May 1971
Slovakia		20 March 1995	1 January 1993
Slovenia		18 December 1992	25 June 1991

Solomon Islands		23 March 1982	7 July 1978
South Africa		26 May 1972	24 August 1972
Spain	27 July 1964	1 October 1969	30 December 1969
Sri Lanka		30 May 1978	28 August 1978
Sudan		25 May 2000	23 August 2000
Suriname		10 September 1979	25 November 1975
Swaziland		15 November 1999	13 February 2000
Sweden	14 September 1963	17 January 1967	4 December 1969
Switzerland	31 October 1969	21 December 1970	21 March 1971
Syrian Arab Republic		31 July 1980	29 October 1980
Tajikistan		20 March 1996	18 June 1996
Thailand		6 March 1972	4 June 1972
The former Yugoslav Republic of Macedonia		30 August 1994	17 September 1991
Togo		26 July 1971	24 October 1971
Tonga		13 February 2002	14 May 2002
Trinidad and Tobago		9 February 1972	9 May 1972
Tunisia		25 February 1975	26 May 1975
Turkey		17 December 1975	16 March 1976
Turkmenistan		30 June 1999	28 September 1999
Uganda		25 June 1982	23 September 1982
Ukraine		29 February 1988	29 May 1988
United Arab Emirates		16 April 1981	15 July 1981
United Kingdom	14 September 1963	29 November 1968	4 December 1969
United Republic of Tanzania		12 August 1983	10 November 1983
United States	14 September 1963	5 September 1969	4 December 1969

Uruguay		26 January 1977	26 April 1977
Uzbekistan		31 July 1995	29 October 1995
Vanuatu		31 January 1989	1 May 1989
Venezuela	13 March 1964	4 February 1983	5 May 1983
Viet Nam		10 October 1979	8 January 1980
Yemen		26 September 1986	25 December 1986
Yugoslavia, (F.R. of)		6 September 2001	27 April 1992
Zambia		14 September 1971	13 December 1971
Zimbabwe		8 March 1989	6 June 1989

Model Legislative Provisions

To implement the Convention on Offences and certain other Acts committed on board Aircraft, signed at Tokyo on 14th September, 1963, and for purposes connected therewith.

Be it enacted as follows:

Short title and commencement

1. This Act may be cited as the Tokyo Convention Act, and shall come into operation on (.....)¹.

Interpretation

2. (1) In this Act, unless the context otherwise requires - "aircraft" means any aircraft, whether or not a (.....)² - controlled aircraft, other than -
- (a) a military aircraft; or
 - (b) an aircraft which, not being military aircraft, is exclusively employed in the service of the Government;

"commander", in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person the person who is for the time being the pilot in command of the aircraft;

"consular officer" means a consular officer of (.....)²; and includes a consul-general, consul, pro-consul and consular agent of (.....)²;

"Convention country" means a country which has been declared by the Minister, by notification published in (.....)³ to have ratified or acceded to the Tokyo Convention, and has not been so declared to have denounced the Tokyo Convention;

"military aircraft" means an aircraft of the naval, military or air forces of any country;

"Minister" means (.....)⁴.

"operator", in relation to any aircraft at any time, means the person who at that time has the management of that aircraft;

"pilot in command", in relation to an aircraft, means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

"Tokyo Convention" means the Convention on Offences and certain other Acts Committed on board Aircraft, signed at Tokyo on 14th September, 1963.

"(.....)² - controlled aircraft" means an aircraft -

- (a) which is for the time being registered in (.....)², or
 - (b) which, being for the time being registered in some other country, is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the following requirements, namely:
 - (i) that he or she is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in (.....)², and
 - (ii) that he or she resides or has their principal place of business in (.....)²;
- (2) For the purposes of this Act, the period during which an aircraft is in flight shall be deemed to include -
- (a) any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends; and
 - (b) for the purposes of section 5 of this Act -
 - (i) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight; and
 - (ii) if the aircraft makes a forced landing, any period thereafter until the time when competent authorities of the country in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being, if the forced landing takes place in (.....)² the time when a police officer arrives at the place of landing),

and any reference in this Act to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(3) In this Act, unless the context otherwise requires, any reference to a country or the territorial limits thereof shall be construed as including a reference to the territorial waters, if any, of that country.

(4) If the Minister is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied (which Article makes provision as to the country which is to be treated as the country of registration of certain aircraft operated by joint air transport organisations or international operating agencies established by two or more Convention countries) the Minister may, by notification published in (.....)³ provide that for the purposes of this Act

such aircraft as may be specified in the notification shall be treated as registered in such Convention country as may be so specified.

Application of criminal law to aircraft

3. (1) Any act or omission taking place on board a (.....)² controlled aircraft while in flight elsewhere than in or over (.....)² which, if taking place in (.....)² would constitute an offence under the law in force in (.....)², constitutes that offence:

Provided that this subsection shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside (.....)².

- (2) No proceedings for any offence under the law in force in (.....)² committed on board an aircraft while in flight elsewhere than in or over (.....)² shall be instituted in (.....)² except by or with the consent of the Attorney-General.⁵

- (3) The provisions of subsection (2) of this section 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.⁶

- (4) For the purpose of conferring jurisdiction, any offence under the law in force in (.....)² committed on board an aircraft in flight shall be deemed to be committed in (.....)².

Provisions as to extradition

4. For the purposes of the application of the (Extradition Act)⁷ to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country shall at any time while that aircraft is in flight be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

Powers of commander of aircraft

5. (1) The provisions of subsections (2), (3), (4) and (5) of this section shall have effect for the purposes of any proceeding before any court in (.....)².

- (2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds to believe in respect of any person on board the aircraft -

- (a) that the person in question has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise -

- (i) the safety of the aircraft or of persons or property on board the aircraft; or

- (ii) good order and discipline on board the aircraft; or
- (b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

then, subject to subsection (4) of this section, the commander may take with respect to that person such reasonable measures, including restraint of his or her person, as may be necessary -

- (i) to protect the safety of the aircraft or of persons or property on board the aircraft;
- (ii) to maintain good order and discipline on board the aircraft; or
- (iii) to enable the commander to disembark or deliver that person in accordance with subsection (5) of this section,

and for the purposes of paragraph (b) of this subsection any (.....)² controlled aircraft shall be deemed to be registered in (.....)² whether or not it is in fact so registered and whether or not it is in fact registered in some other country.

(3) Any member of the crew of an aircraft and any other person on board the aircraft may, at the request or with the authority of the commander of the aircraft, and any such member shall if so required by that commander, render assistance in restraining any person whom the commander is entitled under subsection (2) of this section to restrain; and at any time when the aircraft is in flight any such member or other person may, without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures such as are mentioned in subsection (2) of this section which he or she has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(4) Any restraint imposed on any person on board an aircraft under the powers conferred by this section shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless ; before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to an appropriate authority of the country in which the aircraft so ceases to be in flight, but subject to such notification may be continued after that time -

- (a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (5) of this section; or
- (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

- (5) The commander of an aircraft -
- (a) if in the case of any person on board the aircraft he or she has reasonable grounds -
- (i) to believe as mentioned in paragraph (a) of subsection (2) of this section; and
 - (ii) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,
- may disembark that person in any country in which that aircraft may be; and
- (b) if in the case of any person on board the aircraft he or she has reasonable grounds to believe as mentioned in paragraph (b) of subsection (2) of this section, may deliver that person -
- (i) in (.....)² to a police officer or immigration officer; or
 - (ii) in any other country which is a Convention country, to an officer having functions corresponding to the functions either of a police officer or of an immigration officer in (.....)².
- (6) The commander of an aircraft -
- (a) if he or she disembarks any person in pursuance of paragraph (a) of subsection (5) of this section, in the case of a (.....)²- controlled aircraft, in any country or, in the case of any other aircraft, in (.....)², shall report the fact of, and the reason for, that disembarkation to -
- (i) an appropriate authority in the country of disembarkation; and
 - (ii) the appropriate diplomatic or consular office of the country of nationality of that person;
- (b) if he or she intends to deliver any person in accordance with paragraph (b) of subsection (5) of this section in (.....)² or, in the case of a (.....)²- controlled aircraft, in any other country which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his or her intention and of the reasons therefor -
- (i) where the country in question is (.....)² to a police officer or immigration officer or, in the case of any other country, to an officer having functions corresponding to the functions either of a police officer or of an immigration officer in (.....)², and
 - (ii) in either case to the appropriate diplomatic or consular office of the country of nationality of that person,

and any commander of an aircraft who without reasonable cause fails to comply with the requirements of this subsection shall be guilty of an offence⁸ under this Act and shall be liable on conviction to a fine not exceeding (.....)⁹.

Regulations

6. The Minister may make such regulations as appear to be necessary for carrying out or giving effect to the provisions of the Tokyo Convention.

NOTES

1. Date of commencement or procedure by which the Statute is to be brought into force.
2. Name of Country.
3. Name of official government publication.
4. Title or designation of Minister responsible for Civil Aviation.
5. Or other responsible Law Officer. The purpose of this provision is to prevent prosecutions for infringement of this Statute, without the consent of the Government.
6. The purpose of this subsection is to make provision for the detention or other means of control over a person alleged to have committed an offence under this Statute, pending a Governmental decision as to whether he should be prosecuted in respect of the alleged offence.
7. Or other relevant Statute or law.
8. This provision creates an offence, not required by the Convention, which may be committed by an aircraft commander.
9. Maximum penalty.