

**NOTICE 243 OF 2008****DEPARTMENT OF TRANSPORT****PUBLICATION FOR COMMENTS: REPEAL OF CIVIL AVIATION  
OFFENCES ACT BILL, 2008**

The above-mentioned draft Bill is hereby published for public comments. Interested persons are invited to submit written comments on the draft Bill by not later than 31 March 2008. Submission should be posted to the Director – General Department of Transport for the attention of Mr. L. Mabaso or Mr. T.H.M Mphahlele, at:

The Department of Transport

Private Bag x193

PRETORIA

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**REPUBLIC OF SOUTH AFRICA**

**REPEAL OF CIVIL AVIATION OFFENCES ACT BILL, 2008**

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*(As introduced in the National Assembly as a section 75 Bill)*

*(The English text is the official text of a Bill)*

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**(MINISTER OF TRANSPORT)**

[B 2008]

**REPEAL OF CIVIL AVIATION OFFENCES ACT BILL, 2008 (ACT NO... OF 2008)****BILL**

To repeal the Civil Aviation Offences Act, 1972; to give effect to the Convention on Offences and certain other Acts committed on board Aircraft; the Convention for the Suppression of unlawful Seizure of Aircraft; the Convention for the Suppression of unlawful Acts against the Safety of Civil Aviation; and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation; to provide for the application of the Act; to provide for the creation of certain offences relating to acts of interference with crew members on board an aircraft, and acts endangering safety or jeopardizing good order and discipline on board an aircraft; to provide for additional measures directed at the more effective control of the security of aircraft, airports and the like; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows: -

**ARRANGEMENT OF SECTIONS**

1. Definitions
2. Enactment of Conventions and Protocol
3. Offences and penalties
4. Prohibition and control in aircraft
5. Prohibition and control in restricted areas
6. Prohibition and control in air navigation facilities
7. Call for identification
8. Search
9. Seizure or retention
10. Powers of arrest
11. Powers of peace officers
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15. Delegation of powers
16. Compensation
17. Acts or omissions outside the Republic
18. Jurisdiction
19. Extradition
20. Powers on board an aircraft
21. Admissibility of certain statements
22. Repeal of Civil Aviation Offences Act
23. Transitional Arrangement
24. Short title and commencement

## Definitions

1. (1) In this Act, unless otherwise indicated-

**"aircraft"** means an aircraft as defined in section 1 of the Aviation Act, 1962;

**"airport"** means an aerodrome as defined in section 1 of the Aviation Act, 1962 (Act No.74 of 1962).

**"airport manager"** means any person appointed in writing by the management of a listed airport to act in such capacity or any person in control of an airport and includes any person appointed in writing by the airport manager or the management of a listed airport to discharge any function imposed, or to exercise any power conferred, upon the airport manager by this Act;

**"authority"** means the Authority as defined in section 1 of the South African Civil Aviation Authority Act, 1998; (Act No 40 of 1998)

**"authorized person"** means-

- (a) any member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (b) any person appointed in writing by the management of a listed airport, with the approval of the Minister or any person authorized by him or her to furnish such approval, as an authorized person for the purposes of this Act;
- (c) any member of the South African National Defence Force, as defined in section 1 of the Defence Act, 1957 (Act No. 44 of 1957);
- (d) any employee of the authority appointed in writing by the Authority as an authorized person for the purposes of this Act; or
- (e) any other person appointed in writing by the Minister as an authorized person for the purposes of this Act;

**"aviation facility"** means premises for the handling of cargo, post or baggage, an aircraft hanger, a fuel storage area and any other premises, structure or place to which the public have no right of access and in which a service is rendered for the operation of a listed airport or aircraft or for the public at an airport or heliport, and includes any aid provided for promotion of the safe, orderly and expeditious movement of air traffic, and where applicable, any building or structure in or on which such aid or part thereof is housed, attached or situated, whether such building, structure or premises are situated within the boundaries of the airport or heliport or not;

**"board"** means the board of inquiry appointed under section 13;

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

**"convention country"** means a country in which either the Convention on Offences and certain other Acts committed on board Aircraft, the Convention for the Suppression of unlawful seizure of Aircraft or the Convention for the Suppression of Acts against the Safety of Civil Aviation is in force;

**"harmful article"** means –

(a) any ammunition as defined in section 1 of the Fire-Arms Control Act, 2000 (Act No. 60 of 2000),

(b) any firearm as defined in section 1 of the Fire-Arms Control Act, 2000;

(c) explosives as defined in section 1 of the Explosives Act, 1956 (Act No. 28 of 1956) including explosives as defined in Article 1 of the Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991), which includes any article which has the appearance of an explosive or which is marked or labeled that it is or contains as explosive, whether such article is capable of explosion or of being exploded or not;

(d) any cartridge as defined in section 1 of the Fire-Arms Control Act, 2000;

(e) any device as contemplated in section 5 of the Fire-Arms Control Act, 2000; or

(f) any other article or instrument which is reasonably believed to be capable of being used to endanger life or property;

**"heliport"** means a heliport as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997;

**"listed airport"** means a company airport as defined in section 1 of the Airports Company Act, 1993 (Act No 44 of 1993), and includes any airport or heliport designated by the Minister by notice in the Gazette as a listed airport for purposes of the Act;

**"Minister"** means the Minister of Transport;

**“oath”** includes an affirmation or declaration;

**“operator”** means an operator as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997;

**“Pilot in command”** means a pilot in command as defined in regulation 1.00.1 of the civil Aviation Regulations, 1997;

**“restricted area”** means any area, building or place at a listed airport, in respect of which access control has been instituted for security purposes by, or with the concurrence of, the management of such listed airport, and includes any area, building or place at a listed airport, in respect of which the Minister has directed the management of the listed airport, or any organization conducting business at a listed airport, to institute access control and in respect of which access control has been so instituted;

**“search”** includes the use of metal detectors for persons and metal detectors, X-ray equipment and explosive detecting equipment for personal effects, baggage, cargo, mail and other goods for the purpose of screening;

**“South African registered aircraft”** means an aircraft as defined in regulation 1.00.1 of the Civil Aviation Regulations, 1997;

**“this Act”**, includes any regulations made under this Act.

(2) For the purposes of this Act an aircraft is deemed to be in flight -

(a) 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 or, if the aircraft makes a forced landing, until the moment when the 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;

(b) during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(3) For the purposes of this Act an aircraft is deemed to be in service from the beginning of the preflight preparation of such aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after landing; and include the entire period during which the aircraft is in flight in terms of subsection (2) above.

## **Enactment of Conventions and Protocol**

2. (1) Subject to the other provisions in this Act, the Conventions and the Protocol in Schedules 1, 2, 3 and 4 to this Act have the force of law in the Republic.

(2) The Minister may by notice in the *Gazette* amend Schedules 1, 2, 3 and 4 to reflect any changes made to the Conventions and the Protocol if those changes are binding on the Republic in terms of section 231 of the Constitution of the Republic of South Africa, 1996.

## **Offences and penalties**

3. (1) A person who -

(a) on board any aircraft in flight-

(i) by force or threat of force or by any other form of intimidation and without lawful reason seizes, or exercises control of, that aircraft;

(ii) commits an act of violence, including an assault, or threat, whether of a physical or verbal nature, against any person, including a crewmember, which is likely to endanger the safety of that aircraft;

(iii) willfully interferes with any member of the crew of that aircraft in the performance of his or her duties;

(b) destroys an aircraft in service or willfully causes damage to such an aircraft, which renders it incapable of flight or causes damage to it, which is likely to endanger its safety in flight;

(c) places on an aircraft in service, by any means whatsoever, a device or substance, which is likely to destroy that aircraft or to cause damage to it, which renders it incapable of flight or is likely to endanger its safety in flight;

(d) destroys or willfully damages air navigation facilities or willfully interferes with their operation which interference is likely to endanger the safety of aircraft in flight;

(e) communicates information which he or she knows to be false, thereby endangering the safety of an aircraft in service;

(f) places at, or in any airport, heliport or air navigation facility any device or substance which is calculated to endanger, injure or kill any person, or to endanger, damage, destroy, disrupt, render useless or unserviceable or put out of action any property, vehicle, aircraft, building, equipment or air navigation facility or part thereof; thereby endangering safety at such airport, heliport or aviation facility;

(g) willfully pollutes any aviation fuel;

(h) commits an act at an airport, which causes or is likely to cause serious injury or death;

(i) destroys or seriously damages the facilities of a listed airport or aircraft not in service located thereon or disrupts the services of the airport; through the use of any device, substance or weapon which endangers or is likely to endanger security at that airport; or

(i) performs any other act which jeopardizes or may jeopardize the operation of an air carrier or the safety of an airport, heliport, aircraft in service or of persons or property thereon or therein or which may jeopardize good order and discipline at the airport, heliport or on board an aircraft in service;

is guilty of an offence and liable on conviction to imprisonment for a period of not less than five years without the option of a fine.

(2) A person who interferes or threaten to interfere with the operation of an air carrier, airport or heliport by -

(a) threatening, attempting or conspiring to commit any offence referred to in subsection (1) or by falsely alleging that any other person has committed or is about to commit any such offence; or

(b) communicating information which he or she knows to be false or incorrect,

is guilty of an offence and on conviction liable to imprisonment for a period not exceeding two years without the option of a fine.

(3) A person who on board any aircraft in service commits any nuisance, disorderly or indecent act or is in a state of intoxication or behave in a violent or offensive manner to the annoyance of any other person on the aircraft or uses abusive, indecent or offensive language, is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding six months or both.



(4) Any person who on board any aircraft in service causes damage to, or destroys property which is likely to endanger the safety of the aircraft or of any person on board or jeopardizes the good order and discipline on board the aircraft by such act, is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding ten years or both such fine and imprisonment.

(5) Any person who board an aircraft -

(a) smokes in a toilet or any other place on the aircraft where smoking is prohibited;

(b) tampers with a smoke detector or any other safety-related device on board the aircraft;

(c) operates a portable electronic device when the operation of such a device is prohibited; or

(d) refuses to obey a lawful instruction given by the pilot-in-command, or given on behalf of the pilot-in-command by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board or for the purpose of maintaining good order and discipline on board the aircraft,

is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding ten years or to both such fine and imprisonment.

(6) Any person who contravenes any provision of, or who fails to comply with any provision of section 4, 5 or 6 or who fails to comply with any condition of any permission granted there under, is guilty of an offence and on conviction liable to a fine or for a period of imprisonment not exceeding thirty years or both to such fine and such imprisonment.

#### **Prohibition and control in aircraft**

4. (1) A person may not at an airport or heliport board or attempt to board, or be on, an aircraft if such person has in his or her possession or under his or her control any harmful article or if any harmful article has to his or her knowledge been placed within his or her reach and at his or her disposal unless the operator of the aircraft concerned has granted the necessary permission.

(2) A person who wishes to consign any harmful article by aircraft, must consign the article in the manner required, and in accordance with the conditions stipulated, by the operator of the aircraft: Provided that where the Minister has by regulation in

terms of section 15A of the Aviation Act, 1962 (Act No. 74 of 1962), prescribed the manner in which, and the conditions subject to which, a harmful article under this Act must be consigned, the provisions of such regulation must have preference in the case of a conflict between any requirement of, or any condition stipulated by such operator and another regulation.

(3) An air carrier may refuse to transport a person, personal effects, baggage, mail, cargo or other goods if the carrier believes, on reasonable grounds that –

(a) a person may, while on board, perform or attempt to perform any act which may jeopardize the safety of the aircraft or interfere with the flight of the aircraft; or

(b) any occurrence which may jeopardize the safety of the aircraft or which may interfere with the flight of the aircraft, may arise from the transportation of such person, personal effects, baggage, mail, cargo or other goods.

#### **Prohibition and control in restricted areas**

5. (1) No person may enter or attempt to enter or be within any restricted area if he or she has in his or her possession or under his or her control any harmful article or if any harmful article has to his or her knowledge been placed within his or her reach and at his or her disposal unless if that person is –

(a) an authorized person;

(b) authorized in writing by the airport manager concerned to be in that restricted; or

(c) a passenger or crew member who arrived by aircraft and who is in that restricted area for the purpose of taking possession of baggage in which a harmful article is, provided that such passenger or crew member, before he or she collects the baggage, declares the harmful article to any customs officer where such an officer is on duty in the restricted area, or, where such an officer is not available, to an authorized person.

(2) An authorized person may refuse entry into any restricted area by any person, or of any baggage, personal effects, mail, cargo, vehicle or other goods, if in his or her opinion –

(a) a person may, while he or she is within the restricted area, perform or attempt to perform any act which may jeopardize the safety of the airport or of any aircraft, aviation facility of air

traffic service unit, or which may interfere with the operation thereof; or

(b) an occurrence which may jeopardize the safety of the listed airport or of any aircraft, aviation facility or air traffic service unit, or which may interfere with the operation thereof, may eventuate from such person, baggage, personal effects, mail, cargo, vehicle or other goods entering the restricted area.

(3) A person to whom, and a person who has a legal interest in any baggage, personal effects, mail, cargo, vehicle or goods in respect of which, entry into a restricted area has been refused in terms of subsection (2), may forthwith request any person in authority over the authorized person concerned, or the airport manager, to review the refusal of the authorized person and such person in authority or the airport manager may confirm the refusal or grant the permission required on such conditions as he or she may deem fit.

### **Prohibition and control in aviation facilities**

6. (1) No person may have access to any aviation facility without a permission of a person in control of that aviation facility subject to such conditions as such person may stipulate.

(2) A person in control of any aviation facility may refuse access thereto of any person, personal effects and goods if in his or her opinion -

(a) a person concerned may, while he or she is at or within the aviation facility, perform or attempt to perform any act which may jeopardize the safety of the aviation facility or any contents thereof, or which may interfere with the operation thereof; or

(b) any occurrence which may jeopardize the safety of the aviation facility or any contents thereof, may eventuate from the access thereto of such person, effects or goods having access thereto such person,

### **Call for identification**

7. (1) An authorized person or an employee with the written authorization of the airport or heliport manager or the person in control of the aviation facility as the case may be, may, if he or she deems it necessary in the interests of security, call upon any person at, in or upon any airport, heliport or air navigation facility to furnish him or her with his or her full names and address.

(2) Any person who fails to furnish his or her full names and address or who furnishes false or incorrect information, shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period not exceeding fifteen 30 days or to both such fine and imprisonment.

### **Search**

8. (1) An authorized person may, in the interests of aviation security, without a warrant, search any person, baggage, personal effects, cargo or goods, before or after boarding, disembarking, loading or off-loading the aircraft as the case may be.

(2) The Minister may direct the manager of any airport or heliport, or air carrier in respect of any particular airport or heliport, to ensure the search of all persons, baggage, personal effects, cargo or goods before loading or after off-loading.

(3) Any person who fails to comply with any direction under subsection (2) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(4) An air carrier may not transport any person or his or her baggage, personal effects, cargo or goods if such person refuses to be searched or to have his or her baggage, personal effects, cargo or goods searched under subsection (1).

(5) If an airport manager is of the opinion that it is necessary for the security of the airport that a person, or the baggage or personal effects of a person, who intends to enter a restricted area, or that any vehicle or cargo which is, or any goods which are, to enter a restricted area, be searched, he or she may direct any authorized person to conduct such a search without a warrant.

(6) The Minister may direct the manager of any airport, or the manager of any organization conducting any business at any particular airport, that any person, or the baggage or personal effects of any person, who enters any restricted area at the listed airport or that any vehicle or cargo which is, or any goods which are, to enter a restricted area at the listed airport, be searched by an authorized person without a warrant.

(7) Any person who fails to comply with any direction under subsection (6) is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(8) Any authorized person may, if on reasonable grounds believe that the search is necessary for the security of any airport, aircraft passengers or any aviation facility, or to avoid interference with the operation of an air carrier, airport or an air navigation facility, search, without a warrant, any building, structure, equipment or part thereof, vehicle, cargo, goods or aircraft,

(9) Any authorized person may without a warrant search any aviation facility or any contents thereof, or any person or article found thereat, if he or she has reasonable grounds to believe that the search is necessary in the interests of aviation security, or to avoid interference with the operation of such facility.

(10) An authorized person may, in writing, order a person who refuses to be searched, or to have his or her baggage or personal effects searched to immediately leave the airport or heliport, as the case maybe, and not to return thereto for a specified period, which period may not exceed twenty-four hours.

(11) An authorized person may, in writing, order a person who refuses to have his or her cargo, goods, vehicle or article searched in writing order him or her to immediately remove such cargo, goods, vehicle or article from the airport or heliport, as the case may be.

(12) Any person who fails to comply with the order contemplated in subsection (10) or (11) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(13) Any search must be conducted with strict regard to decency and order. A woman may only be searched by a woman, and if no female authorized person is available, a woman designated for the purpose by an authorized person must conduct the search.

#### **Seizure or retention of harmful articles**

9. (1) An authorized person may seize any harmful article found during a search carried out under section 8, or retain such article for safe custody while the person in whose possession or custody or under whose control the article was found remains on the aircraft or in the restricted area or at or in the aviation facility, as the case may be.

(2) A harmful article seized under subsection (1) must be delivered to a police official as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and must be dealt with

and be disposed of under the provisions of that Act as if it were an article seized, and delivered to such police official under that Act.

### **Powers of arrest**

10. (1) An authorized person may without a warrant arrest any person who has committed or is suspected to have committed any offence referred to in this Act.

(2) The authorized person may, in order to effect the arrest, use such force as may in the circumstances be reasonably necessary to overcome the resistance or to prevent the person concerned from fleeing, and may call on any competent person to assist him or her to effect the arrest.

### **Powers of peace officers**

11. No provision of this Act may derogate from any power under the Criminal Procedure Act, 1977 (Act No. 51 of 1977), of a peace officer, as defined in section 1 of that Act, who is an authorized person under this Act.

### **Threat to security**

12. (1) If the Minister is of the opinion that any action by any person or any group of persons is of such a nature that the safety of any person, aircraft, airport, heliport or aviation facility is being seriously and immediately threatened, he or she or any person designated by him or her for the purpose, may issue such orders as may be deemed necessary to any person or group of persons to counter such action.

(2) An authorized person may take such steps as he or she deem necessary to ensure that an order referred to in subsection (1) is complied with.

(3) Any person who fails or who refuses to give effect to an order issued in terms of subsection (1) is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

(4) The Minister may, to such extent as he or she may determine, with the concurrence of the Minister of Finance, compensate out of the State Revenue Fund any person who satisfies him or her that he or she has suffered any damage or bodily harm, or has incurred costs, in the execution of any order issued in terms of subsection (1).

## Board of inquiry

13. (1) When an offence has been committed with reference to any provision of sections 3, 4, 5, 6 and 7 or if any orders have been issued under section 12 to counter any action contemplated in that section, the Minister may appoint a board of inquiry consisting of one or more persons, to inquire into any aspect of such offence, (including criminal liability) or such action or any circumstances relating thereto, which the Minister may refer to the board, and to report to him or her thereon and make such recommendations with regard thereto as the board may think fit.

(2) The board shall determine its own procedure and, where it consists of more than one member, have a chairperson designated by the Minister.

(3) The board shall have the power to summon and examine witnesses on oath and to call for the production for examination by the board of any books, documents or other matter.

(4) The laws and rules governing magistrates' courts shall *mutatis mutandis* apply with reference to procuring the attendance of witnesses, their examination, the production of books and documents, and the like, and for that purpose the chairperson of the board or, where the board consists of one person only, such person shall have power to sign such documents as may be necessary for the purpose of the inquiry, in the same manner as the magistrate or the clerk of the court has power to do under the rules of the magistrates' courts.

(5) Any process to be served for the purposes of the board shall be served by the messenger of the court for the district in which the person upon whom service is to be made resides, or by a member of the South African Police Services.

(6) The chairperson of the board or, where the board consists of one person only, such person may decide to exclude the public or any class thereof from the proceedings, or any part of the proceedings, of the board, where it is deemed necessary in the interests of security.

(7) The chairperson of the board or, where the board consists of one person only, where it is deemed in the public interests, may authorize that any finding or recommendation of the board, or any evidence as presented to the board, be made available to any court of law.

(8) Where an offence or any action contemplated in subsection (1) is associated with an accident within the meaning of

section 12 of the Aviation Act, 1962 (Act No. 74 of 1962), the Minister may appoint one board consisting of the same member or members to conduct a joint inquiry under that Act and this Act in accordance with the provisions of this section.

### **Regulations**

14. (1) The Minister may make regulations relating to -

(a) the designation of officers in the service of the State or persons in the service of the Authority to apply the provisions of this Act as well as other functions of such officers or persons;

(b) the administrative steps which must precede the designation by the Minister, in accordance with the provisions of the definition of "listed airport", of any airport or heliport as a listed airport;

(c) the levying of charges or the reimbursement of expenses in relation to the provision of security services for aircraft or at designated airports;

(d) the prohibition or the control of the publication of incidents relating to security or affecting the safe and orderly operation of an air carrier, airport or heliport or of an aircraft in flight, or of the publication of any particulars or information relating to any measures dealing with the security of an aircraft, airport, heliport or air navigation facility, including particulars or information relating to any plan or programme, staff, device or system, agreement or special procedure in connection with security;

(e) the serving and consumption of intoxicating liquor on aircraft, the responsibility of air carriers and the training and powers of crew members of aircraft in this regard, the manner in which beverage containers must be stored and handled and the admission to aircraft of persons who are under the influence of intoxicating liquor or drugs;

(f) procedures to prevent the disruptive or unruly conduct of passengers; and

(g) generally, any matter which the Minister may consider necessary for the better achievement of the objects, and the better administration of the provisions, of this Act.

(2) The regulations may provide for penalties including imposition of administrative fines for any contravention or failure to comply with any provision thereof.



(3) Different regulations may be made in respect of different air carriers, listed airports, airports, heliports or aviation facilities.

(4) No charges or rates of compensation shall be prescribed under the regulations except with the concurrence of the Minister of Finance.

### **Delegation of powers**

15. The Minister may delegate to the Commissioner, Chief Aviation Security or an employee of the Department, any power conferred upon him or her by sections 8 (1) (b), (3) and 12 (1).

### **Compensation**

16. The Minister may, to such extent as he or she may determine, after consultation with the Minister of Finance, out of moneys appropriated by Parliament, compensate the company and the Authority for any costs incurred by either, which is directly related to the performance of its functions or duties in terms of the provisions of this Act and which the company, any other listed airport or the Authority, as the case may be, cannot readily recover from the users of a listed airport.

### **Acts or omissions taking place outside the Republic**

17. (1) Any action or omission on board of a South African registered aircraft outside the Republic, which would constitute an offence if taking place in or over the Republic, shall constitute that offence.

(2) Any act contemplated in section 3 and committed outside the Republic on board any aircraft in flight, other than a South African registered aircraft, and any act of violence against passengers or crew committed on any such aircraft by a person in connection with an act contemplated in section 3 (1) (a) (i) is deemed to have been committed also in the Republic -

(a) if such aircraft lands in the Republic with the person who committed any such act, still on board;

(b) if such aircraft is leased without crew to lessee with a principal place of business or permanent residence in the Republic;

(c) if that person is present in the Republic; or

(d) if that person is apprehended in the Republic.

## **Jurisdiction**

18. Any offence contemplated in section 17 (2) shall for the purposes of jurisdiction be deemed to have been committed in any place where the accused happens to be, or is found.

## **Extradition**

19. (1) For the purposes of the application of the Extradition Act, 1962 (Act No. 67 of 1962), to an offence committed on board an aircraft in flight -

(a) any aircraft registered in any convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that particular country, irrespective of whether or not it is for the relevant time being also within the jurisdiction of any other country;

(b) the landing of such aircraft in any other convention country with the offender still on board will result in the offence being deemed also to have been committed also in that country;

(c) where the aircraft was leased without crew to a lessee who has principal place of business or permanent residence in any other convention country, the offence shall be deemed also to have been committed in that country.

## **Powers on board an aircraft**

20. (1) The commander of an aircraft in flight may, when on reasonable grounds believe that any person on board the aircraft has done or is about to do any act, which jeopardizes or may jeopardize the safety of the aircraft, the safety of persons or property on board or the good order and discipline on board the aircraft; or has committed any act which in the opinion of the commander is a serious offence under the law in force in the country in which the aircraft is registered, the commander may take such reasonable measures, including restraint of that person, as may be necessary -

(a) to protect the safety of the aircraft or of persons or of property on board the aircraft;

(b) to maintain good order and discipline on board the aircraft; or

(c) to enable him or her to disembark or deliver that person in accordance with the provisions of subsection (4).

(2) Any person on board the aircraft may render assistance in restraining any person whom the commander is entitled to restrain under subsection (1) and may, without the authorization of the commander, take in respect to any person on board the aircraft any reasonable measures which he or she believe, on reasonable grounds, that are necessary to protect the safety of the aircraft or of persons or of property on board the aircraft.

(3) Any restraint imposed on any person in terms of subsections (1) and (2), may not be continued after the aircraft has ceased to be in flight unless -

(a) for the purposes of disembarking and or delivering such person under restraint to the appropriate authorities in terms of subsection (4); or

(b) the person under restraint has agreed to continue the journey under restraint on board that aircraft.

(4) The commander of an aircraft may, in relation to the person mentioned in sub section (1), -

(a) disembark that person in any country in which that aircraft may be; and

(b) deliver that person -

(i) in the Republic, to a member of the South African Police Services, or to an immigration officer; or

(ii) in any other convention country, to an officer having functions corresponding to the functions, in the Republic, either of such a member or of an immigration officer.

(5) The commander of an aircraft -

(a) who disembarks a person in terms of subsection (4) must report the disembarkation and the reasons thereof, to appropriate authority in the country of disembarkation and the diplomatic or consular offices of the country of nationality of that person;

(b) if he or she intends to deliver such a person to the officer as indicated in subsection (4) (b), must give notice of his or her intention including the reasons therefore, to that officer, before or as soon as reasonably practicable after landing.

(6) Any commander of an aircraft who without reasonable cause fails to comply with the requirements of subsection (5), is guilty of an offence and on conviction liable to a fine or imprisonment for a period not exceeding six months or both

**Admissibility of certain statements**

21. (1) If in any proceedings before a court in the Republic for an offence committed on board an aircraft the evidence of any person is required and the court is satisfied that that person cannot be found in the Republic, any statement relating to the subject matter shall be admissible as evidence provided it is made on oath by that person -

(a) to an officer having functions corresponding to the functions, in the Republic, either of a judge or of a magistrate or of a consular officer; and

(b) in the presence of the person charged with the offence.

**Repeal of Civil Aviation Offences Act**

22. The Civil Aviation Offences Act, 1972 (Act No. 10 of 1972) is hereby repealed.

**Transitional Arrangement**

23. The Civil Aviation Safety Regulations, 1981, made by the Minister by virtue of section 2L of the Civil Aviation Offences Act, 1972 shall remain in force until replaced by regulations made by virtue of section 14 of this Act.

**Short title and commencement**

24. This Act is called the Civil Aviation Offences Act, 2007, and come into operation upon publication in the Gazette.

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