

## CHAPTER 123B

### CIVIL AVIATION (TOKYO CONVENTION) 1972-1

This Act came into operation on 3rd July, 1972 by Proclamation (S.I. 1972 No. 81).

#### **Amended by:**

*1979-21*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1978

1985

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



**CHAPTER 123B**

**CIVIL AVIATION (TOKYO CONVENTION)  
1972-1**

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**SCHEDULE**

*Provisions of Geneva Convention on the High Seas to be treated as part of the  
Law of Nations*



**BARBADOS****CIVIL AVIATION (TOKYO CONVENTION)  
1972-1**

*An Act to make provision with a view to ratification on behalf of Barbados of the Convention on offences and certain other acts committed on board Aircraft, signed at Tokyo on the 14th September, 1963 and to give effect to certain provisions relating to piracy of the Convention on the High Seas signed at Geneva on the 29th April, 1958 and for connected purposes.*

[Commencement: 3rd July, 1972]

**Short title**

1. This Act may be cited as the *Civil Aviation (Tokyo Convention) Act*.

**Interpretation**

- 2.(1) For the purposes of this Act

“aircraft” means any aircraft, whether or not a Barbadian-controlled aircraft, other than

- (a) a military aircraft, or
- (b) an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of the Crown,

but the Minister responsible for Civil Aviation may by order apply any of the provisions of this Act, with or without modifications, to aircraft such as are mentioned in paragraph (b);

“Barbadian-controlled aircraft” means an aircraft which

- (a) is registered in Barbados,
- (b) is not registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it
  - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Barbados, and
  - (ii) resides or has his principal place of business in Barbados, or
- (c) being registered in some other country is demised, let or hired out to a person who or to persons each of whom satisfies the requirements mentioned in sub-paragraphs (i) and (ii) of paragraph (b);

“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 person, the person who is the pilot in command of the aircraft;

“Convention country” means a country in which the Tokyo Convention is in force, and a certificate of the Minister responsible for Foreign Affairs that any country specified in the certificate is a Convention country for the purposes of this Act shall be conclusive evidence of the fact certified;

“military aircraft” means an aircraft of the naval, military or air forces of any country, and a certificate of the Minister responsible for Defence that any aircraft is or is not a military aircraft for the purposes of this Act shall be conclusive evidence of the fact certified;

“operator” in relation to an 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 the person who 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 the 14th September, 1963.

(2) For the purposes of this Act, the period during which an aircraft is in flight includes

- (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 the flight ends; and
- (b) for the purposes of section 5
  - (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 open for the disembarkation after that flight,
  - (ii) if the aircraft makes a forced landing, any period thereafter until the time when the competent authorities of the country in which that landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being, if that landing takes place in Barbados, the time when a member of the Police Force arrives at the place of landing),

and a reference in this Act to an aircraft in flight includes 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) A reference in this Act to Barbados or any other country or the territorial limits thereof includes a reference to the territorial waters of Barbados, or, if any, of that country.

(4) If the Minister responsible for Civil Aviation is satisfied that the requirements of Article 18 of the Tokyo Convention are complied with (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), he may by order provide that for the purposes of this Act such aircraft as are specified in the order shall be treated as registered in the Convention country so specified.

3. *[Repealed by 1979—21.]*

#### **Application of criminal law to aircraft**

4.(1) Subject to subsection (2), an act done or anything omitted to be done on board a Barbadian-controlled aircraft while in flight elsewhere than in or over Barbados which if done or omitted to be done in Barbados would constitute an offence under the law in force in Barbados, constitutes that offence.

(2) Subsection (1) does not apply to an act or omission which is expressly or impliedly authorised by or under the law in force in Barbados when taking place outside Barbados.

(3) No proceedings for an offence under the law in force in Barbados committed on board an aircraft while in flight elsewhere than in or over Barbados, other than an offence under the *Civil Aviation Act, 1949* of the United Kingdom Parliament or any instrument made thereunder, shall be instituted except by or with the consent of the Director of Public Prosecutions.

*[12, 13 & 14 Geo. 6 c. 67]*

(4) Subsection (3) shall not prevent the arrest or the issue of a warrant for the arrest of a person in respect of any offence or the remanding in custody or on bail of any person charged with an offence.

(5) For the purpose of conferring jurisdiction, any offence under the law in force in Barbados committed on board an aircraft in flight shall be deemed to have been committed in any place in Barbados where the offender is for the time

being and section 62(1) of the *Civil Aviation Act*, 1949 of the United Kingdom Parliament is repealed.

### **Powers of commander of aircraft**

**5.(1)** Subsections (2) to (5) shall have effect for the purposes of any proceedings before any court in Barbados.

(2) If the commander of an aircraft in flight, wherever that aircraft may be, has reasonable grounds for believing

- (a) that any person on board the aircraft has done or is about to do any act on the aircraft while in flight which jeopardises or is likely to 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 any person on board the aircraft 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,

he may, subject to subsection (5), take with respect to that person such reasonable measures, including restraint of his person, as are necessary—

- (a) to protect the safety of the aircraft or of persons or property on board the aircraft;
- (b) to maintain good order and discipline on board the aircraft; and
- (c) to enable the commander to disembark or deliver that person in accordance with subsection (6).

(3) For the purposes of paragraph (b) of subsection (2) a Barbadian-controlled aircraft shall be deemed to be registered in Barbados whether or not it is so registered and whether or not it is registered in some other country.

(4) A member of the crew of an aircraft and any other person on board the aircraft—

- (a) may, at the request or with the authority of the commander of that aircraft, and, in the case of a member of the crew, shall, if so required by that commander, render assistance in restraining any person whom the commander is entitled under subsection (2) to restrain; and
- (b) may, at any time when the aircraft is in flight, without obtaining the authority of the commander of the aircraft, take with respect to any person on board the aircraft any measures mentioned in subsection (2) which he has reasonable grounds for believing are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(5) Any restraint imposed under this section on a person on board an aircraft 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 the 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 (6); or
- (b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(6) The commander of an aircraft—

- (a) if he has reasonable grounds for believing—
  - (i) as mentioned in paragraph (a) of subsection (2), and

- (ii) that it is necessary to do so 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 the person in question in any country in which the aircraft may be; and

- (b) if he has reasonable grounds for believing as mentioned in paragraph (b) of subsection (2), may deliver the person in question—
    - (i) in Barbados, to a member of the Police Force or immigration officer;
    - (ii) in any other country which is a Convention country, to an officer having functions corresponding to the functions in Barbados of a member of the Police Force or immigration officer.
- (7) The commander of an aircraft—
- (a) if he disembarks any person under paragraph (a) of subsection (6), in the case of a Barbadian-controlled aircraft, in any country or, in the case of any other aircraft, in Barbados, shall report the fact of and the reasons 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 intends to deliver any person under paragraph (b) of subsection (6) in Barbados or, in the case of a Barbadian-controlled aircraft, in any other country which is a Convention country, shall before or as soon as reasonably practicable after landing notify his intention and the reasons therefor—
    - (i) where the country in question is Barbados, to a member of the Police Force or immigration officer, or

- (ii) where the country in question is a country other than Barbados, to an officer having functions corresponding to the functions in Barbados of a member of the Police Force or immigration officer; and
- (iii) in either case, to the appropriate diplomatic or consular officer of the country of nationality of that person.

(8) A commander of an aircraft who without reasonable cause fails to comply with subsection (7) is guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

### **Piracy**

6. For the avoidance of doubt, it is hereby declared that for the purposes of any proceedings before a court in Barbados in respect of piracy the provisions of the Convention on the High Seas signed at Geneva on the 29th April, 1958 set out in the Schedule shall be treated as constituting part of the law of nations; and any such court having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of piracy committed by or against an aircraft wherever the piracy is committed.

### **Evidence in connection with aircraft**

7.(1) Where in any proceedings before a court in Barbados for an offence committed on board an aircraft the testimony of any person is required and the court is satisfied that that person cannot be found in Barbados, there shall, subject to subsection (2), be admissible in evidence before that court any deposition relating to the subject-matter of those proceedings previously made on oath by that person outside Barbados which was so made—

- (a) in the presence of the person charged with the offence; and
- (b) before a Judge or magistrate of a country mentioned in the First Schedule to the *Barbados Citizenship Act*, Cap. 186, or before a consular representative for Barbados.

- (2) A deposition mentioned in subsection (1) shall be authenticated by the signature of the Judge, magistrate or consular representative before whom it was made, who shall certify that the person charged with the offence was present at the making of the deposition.
- (3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing to have authenticated a deposition under subsection (2) or to have given a certificate mentioned in that subsection, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.
- (4) If a complaint is made to a consular representative for Barbados that an offence has been committed on a Barbadian controlled aircraft while in flight elsewhere than in or over Barbados that representative may enquire into the case on oath.
- (5) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.
- (6) For the purposes of this section the expression “deposition” includes an affidavit, affirmation or statement made on oath.

### **Documentary evidence**

8. In any legal proceedings—
- (a) a document purporting to be certified by the Minister responsible for Civil Aviation as being a true copy of or of part of a document issued or a record kept pursuant to an Order-in-Council made under section 8 of the Civil Aviation Act, 1949 of the United Kingdom Parliament by a department of the Government or a Minister responsible for any business or department of the Government, by a public officer who is specified for the purpose in any such Order-in-Council or by the competent authority in Barbados for the registration or licensing of aircraft; or

*[12, 13 & 14 Geo. 6 c. 67]*

- (b) a document issued by the Aeronautical Information Service of the Department of Civil Aviation purporting to be a publication of the series known as “NOTAM”,

shall, if relevant to those proceedings, be evidence of the matters appearing from that document or publication.

**SCHEDULE**

(s. 6)

*Provisions of Geneva Convention on the High Seas to be treated as part of the Law of Nations*

**ARTICLE 15**

Piracy consists of any of the following acts—

- (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed—
  - (a) On the high seas, against another ship or aircraft or against persons or property on board such ship or aircraft;
  - (b) Against a ship, aircraft, person or property in a place outside the jurisdiction of any State;
- (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a private ship or aircraft;
- (3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph (1) or sub-paragraph (2) of this article.

**ARTICLE 16**

The acts of piracy as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

**ARTICLE 17**

A ship or aircraft is considered a private ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one

of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.