

CHAPTER 123A

CIVIL AVIATION (MONTREAL CONVENTION)

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE

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CHAPTER 123A

CIVIL AVIATION (MONTREAL CONVENTION)

An Act to provide for the implementation by the Government of the provisions of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971 and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed at Montreal on 24th February, 1988, and for connected purposes.

1976-9.
1979-21.
1994-18.
2004-15.

[5th September, 1976]

Commence-
ment.
1976/197.

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

Short title.

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

Interpreta-
tion.

"act of violence" means

(a) any act committed in Barbados that constitutes the offence of murder, attempted murder, manslaughter, assault or any offence under section 16, 17, 18, 19, 22 or 23 of the *Offences Against the Person Act*; or

Cap. 141.

(b) any act committed outside Barbados that would, if committed in Barbados, constitute an offence to which paragraph (a) applies;

"airport" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft, and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

2004-15.

"air navigation facility" means any building, works, apparatus or equipment

(a) used wholly or mainly for the purpose of assisting air traffic control; or

(b) used as an aid to air navigation,

together with any land contiguous or adjacent to any such building, works, apparatus or equipment used wholly or mainly in connection therewith;

Cap. 123B. "Barbadian-controlled aircraft", and "operator" in relation thereto, have the same meanings as in section 2 of the *Civil Aviation (Tokyo Convention) Act*.

(2) The period during which an aircraft is

(a) in flight includes

(i) any period from the moment when all external doors of the aircraft are closed following embarkation for flight until the moment when any such door is opened for disembarkation after flight; and

(ii) where the aircraft makes a forced landing, any period thereafter until the time when the competent authorities of the State in which that landing takes place take over responsibility for the aircraft and the persons and property on board that aircraft (and, if in Barbados, the time when a member of the Police Force arrives at the place of landing); and

(b) in service includes any period from the time when the pre-flight preparation of the aircraft by ground personnel or by the aircraft's crew begins for a specific flight until 24 hours after the aircraft lands having completed that flight, and includes any period during which the aircraft is in flight.

(3) The territorial waters of any State shall be treated as part of its territory.

- 3.** (1) Subject to subsection (3), a person who
- (a) commits on board an aircraft in flight any act of violence that is likely to endanger the safety of the aircraft;
 - (b) destroys an aircraft in service;
 - (c) causes damage to an aircraft in service that
 - (i) renders it incapable of flight; or
 - (ii) is likely to endanger its safety in flight;
 - (d) places or causes to be placed on an aircraft in service anything likely to
 - (i) destroy the aircraft;
 - (ii) cause damage to the aircraft rendering it incapable of flight; or
 - (iii) endanger the safety of the aircraft in flight;
 - (e) endangers the safety of an aircraft in flight by communicating to any other person any information that the informant knows to be false;
 - (f) subject to subsection (2), attempts or aids, abets, counsels or procures the commission of anything specified in paragraphs (a) to (e); or
 - (g) in Barbados induces or assists in the commission elsewhere of an act which but for subsection (3) would be an offence under this Act

Destroying,
damaging or
endangering
safety of
aircraft.

is guilty of an offence under this Act.

(2) Subsection (1) applies where an act constituting any of the offences specified in that subsection is committed.

- (a) in Barbados in respect of any aircraft including aircraft used in the military, customs or police service of Barbados; or

- (b) outside Barbados and
 - (i) the accused is a citizen of Barbados or a person other than a citizen of Barbados who is in Barbados; or
 - (ii) the aircraft against which the offence was committed is a Barbadian-controlled aircraft.

(3) Subsection (1) and paragraph (b)(i) of subsection (2) do not apply where

- (a) an aircraft is used in the military, customs or police service of a State other than Barbados; or
- (b) the place of take-off and the place of landing of that aircraft are within the territory of the State of registration of the aircraft,

unless the aircraft is a Barbadian-controlled aircraft.

Destroying,
damaging or
interfering
with air
navigation
facility.

- 4.** (1) Subject to subsection (3), a person who
- (a) in a manner likely to endanger the safety of an aircraft in flight, destroys, damages, or interferes with the operation of, any air navigation facility;
 - (b) attempts, aids, abets, counsels or procures the commission of any of the offences referred to in paragraph (a); or
 - (c) in Barbados, induces or assists in the commission elsewhere of an act which, but for subsection (3), would be an offence under this Act

is guilty of an offence under this Act.

- (2) Subsection (1) applies where an offence under that subsection
- (a) has been committed in Barbados;
 - (b) has been committed outside Barbados and endangers or is likely to endanger the safety of a Barbadian-controlled aircraft; or

(c) has been committed outside Barbados and the person who committed the offence

(i) is a citizen of Barbados; or

(ii) is a person other than a citizen of Barbados who is in Barbados.

(3) Paragraphs (b) and (c) of subsection (2) do not apply where the air navigation facility is used in the military, customs or police service of a State other than Barbados, except where the aircraft likely to be endangered is a Barbadian-controlled aircraft.

4A. (1) No person shall by means of any device, substance or weapon at any airport serving international civil aviation intentionally commit any act of violence which

Endangering safety at airport. 2004-15.

(a) causes or is likely to cause death or serious personal injury; and

(b) endangers or is likely to endanger the safe operation of the airport or the safety of persons at the airport.

(2) No person shall by means of any device, substance or weapon intentionally

(a) destroy or seriously damage

(i) property used for the provision of any facilities at an airport serving international civil aviation; or

(ii) any aircraft which is at such a facility but is not in service; or

(b) disrupt the services of an airport

in such a way as to endanger or be likely to endanger the safe operation of the airport or the safety of persons at the airport.

(3) Subsections (1) and (2) apply whether the act referred to in those subsections is committed in Barbados or elsewhere and whatever the nationality of the person committing the act.

(4) Any person who contravenes this section is guilty of an offence.

Extradition.
Cap. 189. **5.** (1) Subject to subsection (2), where no extradition treaty within the meaning of Part III of the *Extradition Act* has been made with a State that is a party to the Convention and that State is not a Commonwealth country, Part I of that Act applies to that foreign State as if the Convention were such an extradition treaty with that State.

Cap. 189. (2) When Part I of the *Extradition Act* applies to a foreign State by virtue of this section, that Part has effect in respect of that foreign State as if the only extradition crimes within the meaning of this Act were offences under this Act and attempts to commit such offences.

2004-15. (3) In this section, “Convention” refers to

- (a) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September, 1971, the text of which is set out in the *First Schedule*; and
- (b) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed at Montreal on 24th February, 1988, the text of which is set out in the *Second Schedule*.

Aircraft operated by joint air transport organisation or international agency. **6.** (1) If the Minister responsible for Civil Aviation by order declares

- (a) that any 2 or more States named in the order have established a joint air transport organisation or an international operating agency which operates aircraft; and
- (b) that one of those States has been designated as exercising for aircraft so operated the powers of the State of registration,

the State declared under paragraph (b) shall be deemed, for the purposes of this Act, to be the State in which any aircraft so operated is registered.

(2) Paragraph (b) of section 3(3) shall have effect in relation to aircraft to which this section applies as if it referred to the territory of any one of the States named in the order.

7. Any person who commits an offence under this Act is liable on conviction on indictment to imprisonment for life. Penalty.

8. No proceedings for an offence under this Act shall be instituted except by or with the consent of the Director of Public Prosecutions. Prosecution of offences.

FIRST SCHEDULE

(Section 5(3)) 2004-15.

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS
AGAINST THE SAFETY OF CIVIL AVIATION

The States Parties to this Convention

Considering that unlawful acts against the safety of civil aviation jeopardise the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have Agreed as follows

ARTICLE 1

1. Any person commits an offence if he unlawfully and intentionally
 - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
 - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

- (c) places or causes to be placed 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 to cause damage to it which is likely to endanger its safety in flight; or
 - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
 - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.
2. Any person also commits an offence if he
- (a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or
 - (b) is an accomplice of a person who commits or attempts to commit any such offence.

ARTICLE 2

For the purposes of this Convention

- (a) an aircraft is 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 flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;
- (b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

ARTICLE 3

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

ARTICLE 4

1. This Convention shall not apply to aircraft used in military, customs or police services.
2. In the cases contemplated in sub-paragraphs *(a)*, *(b)*, *(c)* and *(e)* of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if—
 - (a)* the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or
 - (b)* the offence is committed in the territory of a State other than the State of registration of the aircraft.
3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in sub-paragraphs *(a)*, *(b)*, *(c)* and *(e)* of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.
4. With respect to the States mentioned in Article 9 and in the cases mentioned in sub-paragraphs *(a)*, *(b)*, *(c)* and *(e)* of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in sub-paragraph *(a)* of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.
5. In the cases contemplated in sub-paragraph *(d)* of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.
6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

ARTICLE 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases—
 - (a)* when the offence is committed in the territory of that State;
 - (b)* when the offence is committed against or on board an aircraft registered in that State;

- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1(a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

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

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present shall take him into custody or take other measures to ensure his presence. 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 necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested States 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 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

ARTICLE 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognise the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1(b), (c) and (d).

ARTICLE 9

The Contracting States which establish joint air transport operating organisations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organisation which shall communicate the notice to all States Parties to this Convention.

ARTICLE 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

ARTICLE 11

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

ARTICLE 13

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organisation as promptly as possible any relevant information in its possession concerning—

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 10, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

ARTICLE 14

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 organisation of the arbitration, any one 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 Depositary Governments.

ARTICLE 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

ARTICLE 16

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

SECOND SCHEDULE

2004-15.

(Section 5(3))

PROTOCOL

For the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September, 1971.

THE STATES PARTIES TO THIS PROTOCOL

CONSIDERING that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

CONSIDERING that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September, 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the Convention for Suppression of Unlawful Acts against the safety of Civil Aviation, done at Montreal on 23 September, 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

Article II

1. In Article I of the Convention, the following shall be added as new paragraph 1 *bis*:

"1 bis. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

- (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport."

2. In paragraph 2(a) of Article I of the Convention, the following words shall be inserted after the words "paragraph 1":

"or paragraph 1 *bis*".

ARTICLE III

In Article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

"2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mention in Article 1, paragraph 1 *bis*, and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1(a) of this Article."

ARTICLE IV

This Protocol shall be open for signature at Montreal on 24 February, 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February, 1988. After 1 March, 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

ARTICLE V

1. The Protocol shall be subject to ratification by the signatory States.
2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.
3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America or with the International Civil Aviation Organization, which are hereby designated the depositaries.