

**THE AIRCRAFT (OFFENCES) (AMENDMENT)
ACT, 1981**

No. 11 of 1981

Date of Assent: 16th November, 1981

Date of Commencement: 20th November, 1981

**An Act of Parliament to amend the Aircraft (Offences) Act
in accordance with the Hague and Montreal Conventions**

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Aircraft (Offences) (Amendment) Act, 1981. Short title.

2. The Aircraft (Offences) Act, in this Act referred to as the principal Act, is amended by deleting the long title thereto and inserting the following— Replacement of long title of Cap. 68.

An Act of Parliament to give effect to the provisions of the Tokyo Convention on offences and certain other acts committed on board aircraft, the Hague Convention for the suppression of unlawful seizure of aircraft and the Montreal Convention for the suppression of unlawful acts against the safety of civil aviation; and for other matters connected therewith and incidental thereto.

3. Section 1 of the principal Act is amended by deleting "Aircraft (Offences) Act" and inserting "Protection of Aircraft Act". Replacement of short title.

4. (1) Subsection (1) of section 2 of the principal Act is amended— Amendments to section 2.

(a) in the definition of "Convention country", by deleting "Tokyo Convention is" and inserting "Tokyo, Montreal and Hague Conventions are";

(b) by inserting, in their appropriate alphabetical sequence, the following new definitions—

"Hague Convention" means the Convention for the Suppression of Unlawful Seizure of Aircraft done at the Hague on 16th December, 1970;

“Montreal Convention” means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on the 23rd September, 1971;

(c) by deleting the definition of “the Minister”;

(2) Subsection (2) of section 2 of the principal Act is deleted and the following new subsection inserted—

(2) For the purposes of this Act—

(a) the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any of the doors is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibilities for the aircraft and for persons and property on board;

(b) the period during which an aircraft is in service shall be deemed to include the period from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing and the period of service shall, in any event, extend for the entire period which the aircraft is in flight as defined in paragraph (a).

(3) Subsection (4) of section 2 of the principal Act is amended—

(a) by inserting after “Tokyo Convention” in the second line the expression “, Article 5 of the Hague Convention and Article 9 of the Montreal Convention”;

(b) by deleting “Article makes” in the third line and inserting “Articles make”.

5. Sections 3 and 4 of the principal Act are repealed and the following new sections inserted—

Hijacking.

3. Any person who, on board an aircraft in flight, whether in Kenya or elsewhere, unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of that aircraft shall be guilty of the offence of hijacking and liable to imprisonment for life.

Repeal of sections 3 and 4 and insertion of new sections.

Offences in
connexion
with hijack-
ing.

4. (1) Any person who, on board an aircraft in flight outside Kenya, does or omits anything which, if done or omitted by that person in Kenya would be an offence, commits that offence if the act or omission occurred in connexion with the offence of hijacking.

(2) Without prejudice to the generality of subsection (1), an act or omission by a person shall be deemed to occur in connexion with hijacking if it was done or omitted with intent—

- (a) to commit or facilitate the commission of the offence of hijacking;
- (b) to avoid the detection of himself or of any other person in the commission of the offence of hijacking;
- (c) to avoid the arrest or facilitate the flight of himself or of any other person after commission of the offence of hijacking.

Other off-
ences
relating to
aircraft.

5. Any person who, whether in or outside Kenya, wilfully and unlawfully—

- (a) on board an aircraft in flight, commits an assault which is likely to endanger the safety of the aircraft;
- (b) destroys an aircraft in service;
- (c) causes damage to an aircraft in service which renders the aircraft incapable of flight or which is likely to endanger the safety of the aircraft in flight;
- (d) places or causes to be placed on an aircraft in service anything which is likely to destroy the aircraft, or to cause damage to the aircraft which will render it incapable of flight, or which is likely to endanger the safety of the aircraft in flight;
- (e) endangers the safety of an aircraft in flight by communicating to another person information which the person supplying the information knows to be false;

- (f) destroys, damages or interferes with the operation of any air navigation facility used in international air navigation where the destruction, damage or interference is likely to endanger the safety of an aircraft in flight,

shall be guilty of an offence and liable to imprisonment for a term not exceeding fourteen years.

Jurisdiction
of Kenya
courts in
certain
cases.

6. (1) Where—

- (a) in the case of an offence under section 3 or 4, the place of take-off and the place of actual landing of the aircraft;
- (b) in the case of an offence under paragraphs (a) to (e) inclusive of section 5, the place of take-off and the place of actual or intended landing of the aircraft,

are in the territory of the country in which the aircraft is registered, or, in the case of an aircraft which is subject to joint or international registration, in the territory of one of the countries having an interest in the aircraft, then a court in Kenya shall have jurisdiction over the matter only where—

- (i) the aircraft is a Kenya-controlled aircraft; or
- (ii) the alleged offender is a Kenya citizen or a person ordinarily resident in Kenya; or
- (iii) the offence occurred in Kenya; or
- (iv) the alleged offender is present in Kenya.

(2) In any case where a court in Kenya has jurisdiction under this Act, the offence shall be deemed to have been committed where the alleged offender may for the time being be.

Renumbering
of sections.

6. Sections 5 to 11 inclusive of the principal Act are renumbered as sections 7 to 13 respectively.

Amendment
to section 7.

7. Section 7 of the principal Act (as renumbered) is amended in subsection (1) (a) by inserting after "in flight" the words "or in service".

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8. Section 11 of the principal Act (as renumbered) is amended in subsection (3) by deleting the words “of the Community”.

Amendment
to section 11.

9. Section 12 of the principal Act (as renumbered) is repealed and the following new section inserted—

Repeal and
replacement
of section 12.

Attorney-
General's
consent
required
to prose-
cute.

12. (1) No prosecution for an offence under section 3, 4 or 5 shall be instituted without the written consent of the Attorney-General.

(2) Notwithstanding the provisions of subsection (1), a person may be arrested for, and charged with, an offence under section 3, 4 or 5, and may be remanded in custody or on bail.