

Tokyo Convention Act, 1975

Chapter 3 - CHAPTER 3 OFFENCES

SECTION 03: APPLICATION OF CRIMINAL LAW TO AIRCRAFT(1) Any act or omission taking place on board an Indian registered aircraft while in flight elsewhere than in or over India which, if taking place in India, would constitute an offence under any law in force in India shall constitute that offence: Provided that this sub-section shall not apply to any act or omission which is expressly or impliedly authorised by or under any law of a country outside India where the aircraft is in flight.(2) No proceedings for an offence under any law in force in India, committed on board an aircraft while in flight elsewhere than in or over India (other than an offence under the Aircraft Act, 1934) shall be instituted except by or with the consent of the Central Government.(3) Nothing contained in sub-section (2) shall 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.

SECTION 04: PROVISIONS AS TO EXTRADITION ACTFor the purposes of application of the Extradition Act, 1962-, 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.

SECTION 05: POWERS OF COMMANDER OF AIRCRAFT(1) If the commander of an aircraft in flight, wherever the 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) the 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 an 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 the provisions of sub-section (4), the commander may take with respect to that person such reasonable measures, including restraint of his person; as may be necessary-(i) to protect the safety of the aircraft or of persons or property on board the aircraft; or(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 the provisions of sub-section (5).(2) The aircraft commander may require the assistance of other crew members and may request, but not require, the assistance of passengers or authorise other crew members and passengers, to restrain any person whom he is entitled to restrain.(3) Any crew member or passenger may also take reasonable preventive measures without any authorisation under sub-section (2) 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.(4) Any restraint imposed on any person on board an aircraft under the powers conferred by the foregoing provisions of 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 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 the provisions of sub-section (5); 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 has reasonable grounds-(i) to believe as mentioned in clause (a) of sub-section (1); 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 has reasonable grounds to believe as mentioned in clause (b) of sub-section (1) may deliver that person to the appropriate authority,(6) The commander of an aircraft-(a) if he disembarks

any person in pursuance of clause (a) of sub-section (5), in the case of an Indian registered aircraft, in any country or, in the case of any other aircraft, in India, shall report the fact of, and the reasons for, that disembarkation to-(i) the appropriate authority in the country of disembarkation; and(ii) the appropriate diplomatic or consular officer of the country of nationality of that person;(b) if he intends to deliver any person in pursuance of clause (b) of sub- section (5) in India, or in the case of an Indian registered aircraft, in any other country which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor-(i) to the appropriate authority; and(ii) in either case, to the appropriate diplomatic or consular officer 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 sub-section shall be liable on summary conviction to a fine not exceeding one thousand rupees.

SECTION 06: JURISDICTION(1) For the avoidance of doubt, it is hereby declared that for the purpose of any proceedings before a court in India, any court having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of offences and other acts committed on board an aircraft as described in this Act wherever that offence or act is committed.(2) For the purposes of conferring jurisdiction an offence under any law in force in India, committed on board an aircraft in flight shall be deemed to have been committed in any place in India where the offender may for the time being be.

SECTION 07: PROVISIONS AS TO EVIDENCE IN CONNECTION WITH AIRCRAFT(1) Where in any proceedings before a court in India for an offence or other act committed on board an aircraft the testimony of any person is required and the court is satisfied that the person in question cannot be found in India, there shall 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 India which was so made-(a) in the presence of the person charged with the offence; and(b) before a judge or a magistrate of a country such as is mentioned in the First Schedule to the Citizenship Act, 1955 -or before a consular officer of the Central Government.(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made and he shall certify that the person charged with the offence was present at the taking of the deposition.(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate 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 such a consular officer as aforesaid that any offence has been committed on an Indian registered aircraft while in flight elsewhere than in or over India, that officer may enquire into the case upon oath.(5) In this section-(a) the expression "deposition" includes an affidavit, affirmation or statement made upon oath; and(b) the expression "oath" includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing; and nothing contained in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

SECTION 08: PROVISIONS AS TO DOCUMENTARY EVIDENCE(1) In any legal proceedings under this Act, a document published by the; Ministry of the Central Government dealing with Civil Aviation and purporting to be the publication known as "Aeronautical Information Publication" or a publication of the series known as "Notam" and "Aeronautical Information Circular" shall be evidence of the matters appearing from that document.(2) Any message original transmitted to or received from an aircraft which relates to the position of the aircraft will be treated as evidence of certain records and shall apply to any legal proceedings.