

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,565, 29 ta' April, 2016

Taqsim A

MALTA

ATT Nru XX tal-2016

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT biex jemenda l-Att dwar is-Sigurtà fl-Avjazzjoni Ċivili, Kap. 353, u biex jipprovdi għal hwejjeġ ancillari jew konsegwenzjali għal dan.

ACT No. XX of 2016

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Civil Aviation (Security) Act (Cap. 353), and to provide for matters ancillary or consequential thereto.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE- LOUISE
COLEIRO PRECA
President**

29 ta' April, 2016

ATT Nru XX tal-2016

ATT biex jemenda l-Att dwar is-Sigurtà fl-Avjazzjoni Ċivili, Kap. 353, u biex jipprovdi għal hwejjeġ anċillari jew konsegwenzjali għal dan.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, harget b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda l-Att dwar is-Sigurtà fl-Avjazzjoni Ċivili, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar is-Sigurtà fl-Avjazzjoni Ċivili, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 353.

2. L-Arrangament tal-Att għandu jiġi emendat kif ġej:

Emenda tal-Arrangament tal-Att.

(a) minnufih wara l-kliem "Konvenzjoni ta' Tokyo (1963)" għandhom jizdiedu l-kliem "u l-Protokoll ta' Montreal (2014)";

(b) minnufih wara l-kliem "Konvenzjoni ta' The Hague (1970)" għandhom jizdiedu l-kliem "u l-Protokoll ta' Beijing (2010)";

(ċ) minnufih wara l-kliem "Taqsimha IV Dispożizzjonijiet li jagħtu seħħ lill-Konvenzjoni ta' Montreal (1971) u lill-Protokoll għall-Konvenzjoni ta' Montreal (1988) 18-23" għandhom jizdiedu l-kliem "Taqsimha V Dispożizzjonijiet li jagħtu seħħ lill-Konvenzjoni ta' Beijing (2010) 24-29"; u

A 810

(d) minflok il-kliem "Ġenerali 24-27" għandhom jidhlu l-kliem "Ġenerali 30-34".

Emenda tal-artikolu 2 tal-Att prinċipali.

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) it-tifsira "Ministru" għandha tiġi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbli għas-sigurtà fl-avjazzjoni ċivili:

Iżda, għal kull dispożizzjoni relatata mal-estradizzjoni, u hlief kif ipprovdut xort'ohra, il-kelma "Ministru" tfisser il-Ministru responsabbli għall-Ġustizzja;"

(b) minnufih wara t-tifsira "pilota fi kmand" għandhom jiżdiedu t-tifsiriet godda li ġejjin:

" "il-Konvenzjoni ta' Beijing (2010)" tfisser il-Konvenzjoni għat-Trażzin ta' Atti Illegali Relatati mal-Avjazzjoni Ċivili Internazzjonali, magħmula f'Beijing, fiċ-Ċina fl-10 ta' Settembru 2010;

"il-Protokoll ta' Beijing (2010)" tfisser il-Protokoll Supplimentari għall-Konvenzjoni għat-Trażzin ta' qbid illegali ta' ajruplani, magħmul f'Beijing, fiċ-Ċina fl-10 ta' Settembru 2010, u li jemenda l-Konvenzjoni ta' The Hague;" u

(ċ) minnufih wara t-tifsira "il-Protokoll għall-Konvenzjoni ta' Montreal" għandha tiżdied it-tifsira ġdida li ġejja:

" "il-Protokoll ta' Montreal (2014)" tfisser il-Protokoll biex tiġi emendata l-Konvenzjoni dwar Reati u Ċerti Atti Ohra Imwettqa Abbord Ajruplani, magħmul f'Montreal fl-4 ta' April 2014, u li jemenda l-Konvenzjoni ta' Tokyo;"

Emenda tal-intestatura tat-Taqsima II tal-Att prinċipali.

4. Fl-intestatura tat-Taqsima II tal-Att prinċipali, minnufih wara l-kliem "Konvenzjoni ta' Tokyo (1963)" għandhom jiżdiedu l-kliem "u l-Protokoll ta' Montreal (2014)".

Emenda tal-artikolu 3 tal-Att prinċipali.

5. Is-subartikolu (2) tal-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(2) Għall-finijiet ta' din it-Taqsima -

(a) il-perjodu li matulu ajruplan ikun qed itir għandu jitqies li jinkludi -

(i) kull perjodu mill-mument meta l-bibien esterni kollha tal-ajruplan jingħalqu wara l-imbark għal titjira sal-mument meta xi bieb minn daww jinfetaħ għall-iżbark wara t-tali titjira; u

(ii) jekk l-ajruplan jagħmel inzul forzat, kull perjodu minn hemm 'il quddiem sakemm awtorità kompetenti tiegħu fuqha r-responsabbiltà għall-ajruplan u għall-persuni u l-proprjetà abbord tal-ajruplan; u

(iii) kull perjodu minn meta l-ajruplan, għalkemm ikun għadu fuq wiċċ il-baħar jew fuq l-art, ma jkunx jinstab fil-limiti territorjali ta' xi pajjiż;

(b) meta l-Istat tal-operatur ma jkunx l-istess bħall-Istat ta' registrazzjoni, kull referenza għall-Istat ta' registrazzjoni għandha titqies bħala referenza għall-Istat tal-operatur."

6. Minnufih wara l-artikolu 5 tal-Att prinċipali għandhom jizdiedu l-artikoli godda li ġejjin:

Żjieda ta' artikoli godda mal-Att prinċipali.

"Gurisdizzjoni meta Malta ma tkunx l-Istat ta' registrazzjoni.

5A. Meta tiġi eżerċitata għurisdizzjoni għal reati mwettqa abbord ta' ajruplan, meta Malta ma tkunx l-Istat ta' registrazzjoni, azzjoni kontra ajruplan waqt titjira tista' tittiehed biss fi kwalunkwe ċirkostanza minn dawn li ġejjin:

(a) ir-reat għandu effett fuq it-territorju Malti;

(b) ir-reat ikun ġie mwettaq minn jew kontra ċittadin Malti jew resident permanenti;

(ċ) ir-reat huwa reat kontra s-sigurtà ta' Malta;

(d) ir-reat jikkonsisti fi ksur ta' xi regoli jew regolamenti relatati mat-titjira jew manuvra ta' ajruplan fis-sehħ f'Malta;

(e) l-eżerċizzju tal-gurisdizzjoni huwa mehtieg sabiex jiġi zgurat il-harsien minn Malta ta' xi obbligu taht ftehim multilaterali:

Kap. 9.

Gurisdizzjoni fuq reati meta Malta tkun l-Istat tal-inżul. Kap. 9.

Iżda t-terminu "resident permanenti" għandu jkollu l-istess tifsira mogħtija fl-artikolu 5(1)(d) tal-Kodiċi Kriminali.

5B. Bla ħsara għad-dispożizzjonijiet tal-artikolu 5 tal-Kodiċi Kriminali, il-Qrati ta' Malta għandhom ikunu wkoll kompetenti li jeżerċitaw gurisdizzjoni fuq atti li jikkostitwixxu reat taħt il-liġi fis-seħħ f'Malta li jkunu ġew imwettqa jew ikunu ser jiġu mwettqa abbord ta' ajruplan, fejn Malta tkun l-Istat tal-inżul, meta:

(a) dak l-ajruplan jinżel fuq it-territorju Malti bl-allegat ħati abbord tal-ajruplan;

(b) dak l-ajruplan għandu l-aħħar punt ta' tluġh jew il-punt ta' nżul maħsub li jmiss f'Malta bl-allegat ħati abbord tal-ajruplan;

(ċ) is-sigurtà tal-ajruplan jew tal-persuni jew proprjetà, jew il-bonordni u d-dixxiplina abbord tal-ajruplan, jiġu pperikolati;

(d) fejn Malta hija l-Istat tal-operatur meta dak l-ajruplan ikun mikri mingħajr ekwipaġġ lil kerrej li għandu l-post prinċipali tan-negozju tiegħu jew, jekk il-kerrej m'għandu l-ebda post ta' negozju, li għandu residenza permanenti, f'Malta."

Emenda tal-artikolu 6 tal-Att prinċipali.

7. Minnufih wara s-subartikolu (3) tal-artikolu 6 tal-Att prinċipali, għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(4) Kull min jirrifjuta li jsegwi istruzzjoni legali mogħtija minn jew f'isem il-kmandant, għall-fini tal-ħarsien tas-sigurtà tal-ajruplan jew tal-persuni jew proprjetà abbord tal-ajruplan, jehel multa ta' mhux aktar minn għaxart elef euro (€10,000).

(5) Uffiċjal tas-sigurtà matul it-titjira impjegat skont ftehim jew arrangament bejn Malta u xi pajjiż iehor tal-Konvenzjoni jista' jieħu miżuri preventivi raġonevoli mingħajr l-awtorità tal-kmandant meta jkollu raġonevolment għalfejn jahseb li dik l-azzjoni hija meħtieġa b'mod immedjat biex tithares is-sigurtà tal-ajruplan jew tal-persuni abbord minn att ta' interferenza illegali u, jekk dak il-ftehim jew arrangament hekk jipprovdi, minn twettiq ta' reat."

8. Fis-subartikolu (1) tal-artikolu 7 tal-Att prinċipali minflok il-kliem "mrażżna u jagħti raġunijiet ta' dak it-trażżin." għandhom jidhlu l-kliem "mrażżna, bir-raġunijiet ta' dak it-trażżin u bi kwalunkwe deċiżjoni rigward il-konsenja ta' dik il-persuna."

Emenda tal-artikolu 7 tal-Att prinċipali.

9. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 8 tal-Att prinċipali.

(a) id-dispożizzjonijiet preżenti għandhom jiġu enumerati mill-ġdid bhala s-subartikolu (1) tal-imsemmi artikolu; u

(b) minnufih wara s-subartikolu (1), kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Reati mwettqa abbord ajruplan għandhom jiġu ttrattati, għall-fini ta' estradizzjoni bejn Malta u pajjiż iehor tal-Konvenzjoni, daqslikieku ġew imwettqa mhux biss fil-post fejn ġraw iżda wkoll f'Malta fi kwalunkwe ċirkostanza msemmija fl-artikolu 5B, u d-dispożizzjonijiet tal-Att dwar l-Estradizzjoni għandhom japplikaw għall-imsemmija reati."

Kap. 276.

10. Fl-artikolu 10 tal-Att prinċipali, minflok il-kliem "kull passiġġier, kull sid" għandhom jidhlu l-kliem "kull passiġġier, kull uffiċjal tas-sigurtà matul it-titjira, kull sid".

Emenda tal-artikolu 10 tal-Att prinċipali.

11. Fl-intestatura tat-Taqsima III tal-Att prinċipali, minnufih wara l-kliem "Konvenzjoni ta' The Hague (1970)" għandhom jiżdiedu l-kliem "u l-Protokoll ta' Beijing (2010)".

Emenda tal-intestatura tat-Taqsima III tal-Att prinċipali.

12. L-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 12 tal-Att prinċipali.

"Htif ta' ajruplan.

Kap. 9.

12. (1) Mingħajr preġudizzju għal kull piena oħra li jista' jkun hemm għar-reat taħt il-Kodici Kriminali jew taħt kull liġi oħra, kull min -

(a) abbord ta' ajruplan li jkun qed jagħmel servizz, illegalment, jew bil-forza jew b'theddida ta' forza jew bl-isfurzar jew bi kwalunkwe forma oħra ta' intimidazzjoni jew bi kwalunkwe mezz teknologiku, jieħu f'idejh jew jeżerċita l-kontroll ta' dak l-ajruplan; jew

(b) jhedded li jwettaq kwalunkwe att imsemmi fil-paragrafu (a) jew jikkawża illegalment li persuna oħra tircievi dik it-theddida; jew

(ċ) jorganizza jew jidderigi lill-haddiehor biex iwettaq reat imsemmi taht il-paragrafu (a); jew

(d) bi kwalunkwe mod iehor jikkontribwixxi xjentement ghat-twettiq ta' reat wiehed jew aktar mir-reati msemmija fil-paragrafi (a) jew (b), minn grupp ta' persuni li jagixxu biex jilhqu skop komuni meta dik il-kontribuzzjoni tkun saret bil-ghan li titkompli l-attivita' kriminali generali jew l-iskop tal-grupp jew fl-għarfien tal-intenzjoni tal-grupp biex iwettaq ir-reat jew reati koncernati; jew

(e) jassisti illegalment lil min iwettaq ir-reat biex jevadi investigazzjoni, prosekuzzjoni jew piena relatata ma' wiehed jew aktar mir-reati taht paragrafi (a) sa (d), it-tnejn inkluzi,

jehel, meta jinstab hati, piena ta' prigunerija minn seba' snin sa għomru.

(2) Għall-finijiet ta' dan l-artikolu, ajruplan jitqies li jkun qed jagħmel servizz mill-bidu tat-tnejn ta' qabel it-titjira tal-ajruplan mill-persunal tal-art jew mill-ekwipaġġ għal titjira speċifika sa erbgħa u għoxrin siegħa wara xi nżul. F'każ ta' nżul forzat, it-titjira titqies li tkompli sakemm l-awtoritajiet kompetenti jieħdu fuqhom ir-responsabbiltà għall-ajruplan u għall-persuni u l-proprjeta' abbord tal-ajruplan."

Sostituzzjoni tal-artikolu 13 tal-Att prinċipali.

13. L-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Applikabilità tal-Kodiċi Kriminali. Kap. 9.

13. (1) Id-dispożizzjonijiet tal-artikoli 121D, 248E(4) u 248E(4A) tal-Kodiċi Kriminali għandhom japplikaw *mutatis mutandis* għal kwalunkwe reat taht din it-Taqsima.

Kap. 9.

(2) Id-dispożizzjonijiet tal-artikolu 328K tal-Kodiċi Kriminali għandhom japplikaw ukoll *mutatis mutandis* għal kwalunkwe reat taht dan is-subtitolu daqsliki r-referenza li fih għall-artikolu 328J kienet referenza għall-artikolu 121D."

Emenda tal-artikolu 15 tal-Att prinċipali.

14. Is-subartikolu (2) tal-artikolu 15 tal-Att prinċipali għandu

jigi sostitwit b'dan li ġejj:

Kap. 9.

"(2) Bla ħsara għad-dispożizzjonijiet tal-artikolu 5 tal-Kodiċi Kriminali, il-Qorti ta' Malta għandha wkoll ikollha ġurisdizzjoni fuq l-imsemmija reati fejn:

(a) ir-reat huwa mwettaq kontra ajruplan registrat f'Malta; jew

(b) l-ajruplan li abbord tiegħu ġie mwettaq ir-reat jinżel Malta bil-ħati abbord tal-ajruplan; jew

(c) ir-reat huwa mwettaq kontra jew abbord ta' ajruplan mikri mingħajr ekwipaġġ lil kerrej li għandu l-post prinċipali tan-negozju tiegħu jew, jekk il-kerrej m'għandu l-ebda post ta' negozju, li għandu residenza permanenti, f'Malta; jew

(d) il-ħati huwa ċittadin Malti; jew

(e) ir-reat ġie mwettaq kontra ċittadin Malti; jew

(f) ir-reat ġie mwettaq minn persuna apolida li għandha residenza abitwali f'Malta."

15. Fis-subartikolu (2) tal-artikolu 16 tal-Att prinċipali minflok il-kliem "f'titjira" għandhom jidhlu l-kliem "f'servizz".

Emenda tal-artikolu 16 tal-Att prinċipali.

16. L-artikoli 24 sa 27, it-tnejn inklużi, tal-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 30 sa 33, it-tnejn inklużi.

Enumerazzjoni mill-ġdid tal-artikoli 24 sa 27 tal-Att prinċipali.

17. Minnufih wara l-artikolu 23 tal-Att prinċipali għandha tizzied it-Taqsima ġdida li ġejja:

Żjieda ta' Taqsima ġdida mal-Att prinċipali.

"TAQSIMA V

Dispożizzjonijiet li jagħtu seħħ lill-Konvenzjoni ta' Beijing (2010)

Tifsir.

24. (1) F'din it-Taqsima, sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra -

"pajjiż tal-Konvenzjoni" tfisser pajjiż li fih tkun dak il-ħin qiegħda sseħħ il-Konvenzjoni ta' Beijing (2010).

(2) Għall-finijiet ta' din it-Taqsima -

(a) ajruplan jitqies li jkun qed itir f'kull hin mill-mument meta l-bibien esterni kollha tal-ajruplan jingħalqu wara l-imbark sal-mument meta xi bieb minn dawk jinfetaħ għall-izbark; fil-każ ta' nzul forzat, it-titjira titqies li tkompli sakemm l-awtoritajiet kompetenti jieħdu fuqhom r-responsabbiltà għall-ajruplan u għall-persuni u l-proprjetà abbord tal-ajruplan;

(b) ajruplan jitqies li jkun qed jagħmel servizz mill-bidu tat-thejjija ta' qabel it-titjira tal-ajruplan mill-persunal tal-art jew mill-ekwipaġġ għal titjira speċifika sa erbgħa u għoxrin siegħa wara xi nzul; il-perjodu ta' servizz għandu, fi kwalunkwe ċirkostanza, jinkludi l-perjodu kollu li matulu l-ajruplan ikun qed itir skont it-tifsira tal-paragrafu (a);

(ċ) it-terminu "faċilitajiet ta' navigazzjoni fl-ajru" jinkludi sinjali, *data*, informazzjoni jew sistemi meħtieġa għan-navigazzjoni tal-ajruplan;

(d) it-terminu "kimika tossika" ifisser kwalunkwe kimika li permezz ta' azzjoni kimika tagħha fuq il-proċessi tal-ħajja tista' tikkawża mewt, inabilitazzjoni temporanja jew ħsara permanenti lill-bnedmin jew lill-annimali. It-tali terminu jinkludi l-kimici kollha, irrispettivament mill-orijini jew metodu ta' produzzjoni tagħhom, u irrispettivament minn jekk humiex prodotti fil-faċilitajiet, fil-munizzjon jew xi mkien ieħor;

(e) it-terminu "materjal radjuattiv" ifisser materjal nukleari u sustanzi radjuattivi oħra li fihom nuklidi li jgħaddu minn proċess ta' disintegrazzjoni spontanja (proċess akkumpanjat minn emissjoni ta' wieħed jew aktar minn tip ta' radjazzjoni jonizzanti, bħall-alpha-, beta-, particelli ta' newtroni u raġġi gamma) u li jistgħu, minhabba l-proprjetajiet radjoloġiċi jew fissili tagħhom, jikkawżaw mewt, korrimment serju jew ħsara sostanzjali lill-proprjetà jew lill-ambjent;

(f) it-terminu "materjal nukleari" jfisser plutonju (*plutonium*), hlied dak li għandu koncentrazzjoni isotopika li taqbeż it-80 fil-mija ta' plutonju-238; uranju-233; uranju arrikkit bl-isotopi 235 jew 233; uranju li jkollu taħlita ta' isotopi kif jinsabu fin-natura hlied fil-forma ta' metall mhux maħdum jew residwu ta' metall mhux maħdum; jew kwalunkwe materjal li għandu fih wiehed jew aktar minn dawk imsemmijin hawn fuq;

(g) it-terminu "uranju arrikkit bl-isotopi 235 jew 233" ifisser uranju li jkun fih l-isotopi 235 jew 233 jew it-tnejn f'ammont tali li l-proporzjon bejn is-somma ta' dawn l-isotopi u dik tal-isotopu 238 tkun akbar mill-proporzjon bejn l-isotopu 235 u l-isotopu 238 kif tinstab fin-natura;

(h) it-terminu "arma BCN" ifisser:

(a) "armi bijoloġiċi", li huma:

(i) mikrojbali jew aġenti bijoloġiċi oħra, jew tossini tkun xi tkun l-origini tagħhom jew metodu ta' produzzjoni, ta' tipi u fi kwantitajiet li ma jkollhomx ġustifikazzjoni għal skopijiet profilattiċi, protettivi jew skopijiet paċifiċi oħra; jew

(ii) armi, apparat jew mezzi ta' kunsinna maħsuba biex jużaw it-tali aġenti jew tossini għal skopijiet ostili jew f'kunflitt armat;

(b) "armi kimiċi", li huma, flimkien jew separatament:

(i) sustanzi kimiċi tossiċi u l-prekursuri tagħhom, hlied fejn ikunu maħsuba għal:

(A) skopijiet industrijali, agrikoli, ta' riċerka, mediċi, farmaċewtiċi jew skopijiet paċifiċi oħra; jew

(B) skopijiet ta' protezzjoni, jiġifieri dawk l-iskopijiet relatati direttament mal-protezzjoni kontra s-sustanzi kimiċi tossiċi u mal-protezzjoni kontra l-armi kimiċi; jew

(Ċ) skopijiet militari mhux konnessi mal-użu ta' armi kimiċi u li ma jiddependux fuq l-użu tal-proprjetajiet tossiċi ta' sustanzi kimiċi bħala metodu ta' gwerra; jew

(D) infurzar ta' liġi inklużi skopijiet ta' kontroll ta' rvell domestiku, sakemm it-tipi u l-kwantitajiet huma konsistenti mat-tali skopijiet;

(ii) munizzjon u apparat imfasslin speċifikament biex jikkawżaw mewt jew ħsara oħra permezz tal-proprjetajiet tossiċi ta' dawg is-sustanzi kimiċi tossiċi speċifikati fis-subparagrafu (b)(i), li jkunu rilaxxati bħala riżultat tal-impjegar tat-tali munizzjon u apparat;

(iii) kwalunkwe apparat imfassal speċifikament għall-użu b'rabta diretta mal-impjegar ta' munizzjon u apparat speċifikat fis-subparagrafu (b)(ii);

(ċ) armi nukleari u apparat splussiv nukleari ieħor;

(i) it-terminu "prekursuri" jfisser kwalunkwe sustanza kimika reattiva li tiegħu sehem fi kwalunkwe stadju fil-produzzjoni bi kwalunkwe metodu ta' sustanza kimika tossika. Dan jinkludi kwalunkwe element importanti ta' sistema kimika binarja jew multikomponenti;

(j) it-termini "materjal ta' origini" u "materjal fissjonabbli speċjali" għandu jkollhom l-istess tifsira li dawg it-termini għandhom fl-Istatut tal-Aġenzija tal-Energija Atomika Internazzjonali, magħmul fi New York fis-26 ta' Ottubru 1956.

Reati.
Kap. 9.

25. (1) Mingħajr preġudizzju għal kull piena oħra li jista' jkun hemm għar-reat taħt il-Kodici Kriminali jew taħt kull liġi oħra, kull min -

(a) jagħmel att ta' vjolenza kontra persuna abbord ajruplan f'titjira li jista' jipperikola s-sigurezza ta' dak l-ajruplan; jew

(b) jiddistruggi ajruplan li jkun qed jagħmel servizz jew jikkawża ħsara lil dak l-ajruplan b'tali mod li tinabilitah milli jtir jew li jista' jipperikola s-sigurezza tiegħu f'titjira; jew

(c) iquieghed jew jikkaguna li titquieghed fuq ajruplan li jkun qed jagħmel servizz, b'xi mezz ikun li jkun, apparat jew sustanza li jistgħu jiddistruggu dak l-ajruplan, jew li jikkagunawlu ħsara b'tali mod li tinabilitah milli jtir, jew li jikkagunawlu ħsara li tista' tipperikola s-sigurezza tiegħu f'titjira; jew

(d) jiddistruggi jew jikkaguna ħsara lill-faċilitajiet ta' navigazzjoni fl-ajru jew jinterferixxi fl-operat tagħhom, jekk dik l-azzjoni tista' tipperikola s-sigurezza ta' ajruplan f'titjira;

(e) jikkomunika tali informazzjoni li hu jkun jaf li hija falza sabiex jipperikola s-sigurezza ta' ajruplan f'titjira; jew

(f) jutilizza ajruplan li jkun qed jagħmel servizz biex jikkawża mewt, korriment serju jew ħsara sostanzjali lill-proprjeta' jew lill-ambjent; jew

(g) jirrilaxxa jew ihott minn fuq ajruplan li jkun qed jagħmel servizz xi arma BCN jew sustanza splussiva, radjuattiva jew oħrajn simili b'tali mod li jikkaguna jew li jista' jikkaguna mewt, korriment serju jew ħsara sostanzjali lill-proprjeta' jew lill-ambjent; jew

(h) jutilizza kontra jew abbord ta' ajruplan li jkun qed jagħmel servizz xi arma BCN jew sustanza splussiva, radjuattiva jew oħrajn simili b'tali mod li jikkaguna jew li jista' jikkaguna mewt, korriment serju jew ħsara sostanzjali lill-proprjeta' jew lill-ambjent; jew

(i) permezz ta' kwalunkwe apparat, sustanza jew arma:

(i) jagħmel att ta' vjolenza kontra persuna f'ajruport li jaqdi l-avjazzjoni ċivili internazzjonali li tikkaguna jew li tista' tikkaguna korriment serju jew mewt; jew

(ii) jiddistruggi jew jikkawża ħsara serja lill-faċilitajiet ta' ajruport li jaqdi l-avjazzjoni ċivili internazzjonali jew ajruplan li ma jkunx qed jagħmel servizz li jkun jinsab hemm jew ifixkel is-servizzi tal-ajruport,

jekk dak l-att jipperikola jew x'aktarx li jipperikola s-sigurtà f'dak l-ajruport; jew

(j) jhedded li jwettaq xi att imsemmi fil-paragrafi (a) sa (i) jew jikkawża illegalment li persuna oħra tircievi dik it-theddida; jew

(k) jitrasporta jew jikkawża li jiġi trasportat, jew jiffaċilita t-trasport abbord ajruplan ta':

(i) kwalunkwe splussiv jew materjal radjuattiv, fl-għarfien tal-intenzjoni li jiġi utilizzat biex jikkawża, jew b'theddida li jikkawża, b'kundizzjoni jew mingħajr kundizzjoni, skont il-liġi ta' Malta, mewt jew korriment serju jew ħsara għall-iskop biex jintimida xi popolazzjoni, jew jikkonvinci xi gvern jew organizzazzjoni internazzjonali biex jieħdu jew jastjenu milli jieħdu kwalunkwe azzjoni; jew

(ii) xi arma BCN, fl-għarfien li hija arma BCN skont it-tifsira tal-artikolu 24; jew

(iii) kwalunkwe materjal ta' orijini, materjal fissjonabbli speċjali, jew apparat jew materjal imfassal b'mod speċjali jew preparat għall-ipproċessar, użu jew produzzjoni ta' materjal fissjonabbli speċjali, fl-għarfien li huwa maħsub biex jiġi utilizzat f'attività splussiva nukleari jew fi kwalunkwe attività nukleari oħra li ma tkunx taħt salvagwardji skont il-ftehim tas-salvagwardji mal-Aġenzija Internazzjonali tal-Energija Atomika; jew

(iv) kwalunkwe apparat, materjali jew *software* jew teknoloġija relatata li tikkontribwixxi b'mod sinifikanti għad-disinn, manifattura jew kunsinna ta' arma BCN mingħajr awtorizzazzjoni legali u bl-intenzjoni li tkun ser tintuża għat-tali skop:

Izda fir-rigward ta' attivitajiet li jinvolvu pajjiż tal-Konvenzjoni, inklużi dawk imwettqa minn persuna jew entità legali awtorizzata minn pajjiż tal-Konvenzjoni, ma jitqiesx reat taħt is-subparagrafi (iii) u (iv) jekk it-trasport ta' dawk l-oġġetti jew materjali huwa konsistenti ma' jew huwa maħsub għal użu jew attività li huma konsistenti mad-drittijiet, responsabilitajiet u obbligi ta' dak il-pajjiż taħt it-trattat ta' non-proliferazzjoni multilaterali applikabbli li dak l-Istat huwa parti fih; jew

(l) jorganizza jew jidderiġi lil haddiehor biex iwettaq reat imsemmi taħt il-paragrafi (a) sa (k); jew

(m) bi kwalunkwe mod ieħor jikkontribwixxi xjentement għat-twettiq ta' wiehed jew aktar mir-reati msemmija fil-paragrafi (a) sa (k), minn grupp ta' persuni li jaġixxu biex jilhqqu skop komuni meta t-tali kontribuzzjoni tkun saret bil-għan li titkompla l-attività kriminali ġenerali jew l-iskop tal-grupp jew fl-għarfien tal-intenzjoni tal-grupp biex iwettaq ir-reat jew reati konċernati; jew

(n) jassisti ħati biex jevadi investigazzjoni, prosekuzzjoni jew piena relatata ma' wiehed jew aktar mir-reati taħt il-paragrafi (a) sa (l),

ikun ħati ta' reat u meta jinstab ħati jehel piena ta' prigunerija minn seba' snin sa għomru.

Applikabilità tal-Kodiċi Kriminali. Kap. 9.

26. (1) Id-dispożizzjonijiet tal-artikoli 121D, 248E(4) u 248E(4A) tal-Kodiċi Kriminali għandhom japplikaw *mutatis mutandis* għal kwalunkwe reat taħt din it-Taqsima.

Kap. 9.

(2) Id-dispożizzjonijiet ta' artikolu 328K tal-Kodiċi Kriminali għandhom ukoll japplikaw *mutatis mutandis* għal kwalunkwe reat taħt dan is-subtitolu daqslikieku r-referenza li fih għall-artikolu 328J kienet referenza għall-artikolu 121D.

Ġurisdizzjoni.

27. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2), fejn reat taħt din it-Taqsima jiġi mwettaq barra minn Malta, il-persuna li tkun wettqet dak ir-reat tista' tiġi ttrattata dwaru daqslikieku r-reat ġie mwettaq f'Malta.

Kap. 9.

(2) Bla ħsara għad-dispożizzjonijiet tal-artikolu 5 tal-Kodiċi Kriminali, il-Qorti ta' Malta għandha wkoll ikollha ġurisdizzjoni fuq l-imsemmija reati fejn:

(a) ir-reat huwa mwettaq kontra ajruplan registrat f'Malta; jew

(b) l-ajruplan li abbord tiegħu ġie mwettaq ir-reat jinzel Malta bil-ħati abbord tal-ajruplan; jew

(ċ) ir-reat huwa mwettaq kontra jew abbord ta' ajruplan mikri mingħajr ekwipaġġ lil kerrej li għandu l-post prinċipali tan-negozju tiegħu jew, jekk il-kerrej m'għandu l-ebda post ta' negozju, li għandu residenza permanenti, f'Malta; jew

(d) il-ħati huwa ċittadin Malti; jew

(e) ir-reat ġie mwettaq kontra ċittadin Malti; jew

(f) ir-reat ġie mwettaq minn persuna apolida li għandha residenza abitwali f'Malta.

Estradizzjoni. 28. (1) Ir-reati taht din it-Taqsima għandhom jitqiesu li jkunu ġew inklużi bħala reati ta' estradizzjoni u li jkun ġie pprovdut għalihom fit-trattati ta' estradizzjoni kollha magħmula minn Malta mal-pajjiżi tal-Konvenzjoni u li jestendu għal, u jkunu obbligatorji għal, Malta fid-data tal-bidu fis-seħħ ta' dan l-Att.

Kap. 276. (2) Għall-finijiet tal-applikazzjoni tal-Att dwar l-Estradizzjoni għal reati taht din it-Taqsima, kull ajruplan registrat f'pajjiż tal-Konvenzjoni għandu, f'kull hin waqt li dak l-ajruplan ikun f'titjira jew ikun qed jagħmel servizz, skont il-każ, jitqies li jkun fil-ġurisdizzjoni ta' dak il-pajjiż, kemm jekk dak il-hin ikun ukoll fil-ġurisdizzjoni ta' xi pajjiż iehor u sew jekk ma jkunx.

Kap. 276. (3) Meta l-Att dwar l-Estradizzjoni ma jkunx japplika fil-każ ta' xi Stat li jkun parti fil-Konvenzjoni ta' Beijing, il-Ministru jista' jagħmel ordni li jipprovi sabiex l-Att dwar l-Estradizzjoni jkun japplika fil-każ ta' dak l-Istat bl-istess effett u skont l-istess patti u kundizzjonijiet daqslikieku awtorizzat bl-artikoli 6 u 7 tal-Att dwar l-Estradizzjoni u, għall-finijiet ta' xi ordni bħal dak, dik il-Konvenzjoni tkun ekwivalenti għal nomina ta' pajjiż barrani taht l-imsemmi artikolu 6 u għandha tiġi ttrattata bħala arrangament bħal dak imsemmi fl-imsemmi artikolu 7.

Kap. 276. (4) Meta l-Att dwar l-Estradizzjoni jkun japplika għal xi Stat bis-saħħa ta' ordni magħmul taht is-subartikolu (3), ebda applikazzjoni għal estradizzjoni minn dak l-Istat ma għandha tirreferixxi għal xi delitti ta' estradizzjoni skont it-tifsir mogħti fl-Att dwar l-Estradizzjoni bl-eċċezzjoni ta' reati meqjusa li huma inklużi fil-lista ta' delitti ta' estradizzjoni skont is-subartikolu (1).

Partijiet kontraenti fil-Konvenzjoni. 29. Il-Ministru jista', b'ordni fil-Gazzetta, jiċċertifika min huma l-partijiet kontraenti fil-Konvenzjoni ta' Beijing u sa fejn huma jkunu approfittaw ruħhom mid-dispożizzjonijiet tal-Konvenzjoni, u kull ordni bħal dik tkun prova konklussiva tal-materji ċċertifikati fiha."

Emenda tal-artikolu 30 tal-Att prinċipali.

18. Fil-paragrafu (b) tal-artikolu 30, kif enumerat mill-ġdid, tal-Att prinċipali, minflok il-kliem "tal-Istat ta' registrazzjoni," għandhom jidhlu l-kliem "tal-Istat ta' registrazzjoni jew tal-Istat ta' Registru, skont il-każ,".

Żjieda ta' artikolu ġdid mal-Att prinċipali.

19. Minnufih wara l-artikolu 33, kif enumerat mill-ġdid, tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Ratifika. 34. Bis-saħħa ta' dan l-Att, il-Gvern ta' Malta huwa awtorizzat li jirratifika l-Konvenzjoni ta' Beijing (2010), il-Protokoll ta' Beijing (2010) u l-Protokoll ta' Montreal (2014)."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 380 tal-25 ta' April, 2016.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

A 824

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

29th April, 2016

ACT No. XX of 2016

*AN ACT to amend the Civil Aviation (Security) Act (Cap. 353),
and to provide for matters ancillary or consequential thereto.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title.

Cap. 353.

Amendment of
Arrangement of
the Act.

1. The short title of this Act is the Civil Aviation (Security) (Amendment) Act, 2016, and this Act shall be read and construed as one with the Civil Aviation (Security) Act, hereinafter referred to as "the principal Act".

2. The Arrangement of the Act shall be amended as follows:

(a) immediately after the words "Tokyo Convention (1963)" there shall be added the words "and the Montreal Protocol (2014)";

(b) immediately after the words "Hague Convention (1970)" there shall be added the words "and the Beijing Protocol (2010)";

(c) immediately after the words "Part IV Provisions giving effect to the Montreal Convention (1971) and the Montreal Protocol (1988) 18-23" there shall be added the words "Part V Provisions giving effect to the Beijing Convention (2010) 24-29"; and

(d) for the words "General 24-27" there shall be

substituted the words "General 30-34".

3. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) for the definition "Minister" there shall be substituted the following:

" "Minister" means the Minister responsible for civil aviation security:

Provided that for any provisions relating to extradition, and save as otherwise provided, the word "Minister" means the Minister responsible for Justice;";

(b) immediately after the definition "police officer" there shall be added the following new definitions:

" "the Beijing Convention (2010)" means the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, done in Beijing, China on the 10th September 2010;

"the Beijing Protocol (2010)" means the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, done in Beijing, China on the 10th September 2010, and which amends the Hague Convention;"; and

(c) immediately after the definition "the Montreal Protocol" there shall be added the following new definition:

" "the Montreal Protocol (2014)" means the Protocol to Amend the Convention on Offences and Certain Other Acts Committed On Board Aircraft, done at Montreal on the 4th April 2014 and which amends the Tokyo Convention;".

4. In the heading of Part II of the principal Act, immediately after the words "the Tokyo Convention (1963)" there shall be added the words "and the Montreal Protocol (2014)". Amendment of heading of Part II of the principal Act.

5. Sub-article (2) of article 3 of the principal Act shall be substituted by the following: Amendment of article 3 of the principal Act.

"(2) For the purposes of this Part -

(a) the period during which an aircraft is in flight shall be deemed to include -

A 826

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

(ii) if the aircraft makes a forced landing, any period thereafter until the time when a competent authority takes over responsibility for the aircraft and for the persons and property on board the aircraft; and

(iii) any period when the aircraft, although on the surface of the sea or land, is not within the territorial limits of any country;

(b) when the State of the operator is not the same as the State of registration, any reference to the State of registration shall be construed as a reference to the State of the operator."

Addition of new articles to the principal Act.

6. Immediately after article 5 of the principal Act there shall be added the following new articles:

"Jurisdiction over offences when Malta is not the State of registration.

5A. In exercising its jurisdiction over offences committed on board an aircraft, when Malta is not the State of registration, action over an aircraft in flight can only be taken in any of the following circumstances:

(a) the offence has effect on the Maltese territory;

(b) the offence has been committed by or against a Maltese national or permanent resident;

(c) the offence is one against the security of Malta;

(d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in Malta;

(e) the exercise of jurisdiction is necessary to ensure Malta's observance of any obligation under a multilateral agreement:

Cap. 9.

Jurisdiction
over offences
when Malta is
the State of
landing.
Cap. 9.

Provided that the term "permanent resident" shall have the meaning assigned to it under article 5(1)(d) of the Criminal Code.

5B. Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also be competent to exercise jurisdiction over acts which constitute an offence under the law in force in Malta which are committed or about to be committed on board an aircraft, where Malta is the State of landing, when:

(a) the said aircraft lands on Maltese territory with the alleged offender still on board;

(b) the said aircraft has its last point of take-off or next point of intended landing in Malta, and the aircraft subsequently lands in Malta with the alleged offender on board;

(c) the safety of the aircraft or of persons or property therein, or good order and discipline on board, is jeopardised;

(d) where Malta is the State of the operator when the said aircraft is leased without a crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence, is in Malta."

7. Immediately after sub-article (3) of article 6 of the principal Act, there shall be added the following new sub-articles:

Amendment of
article 6 of the
principal Act.

"(4) Whosoever refuses to follow a lawful instruction given by or on behalf of the commander, for the purpose of protecting the safety of the aircraft or of the persons or property therein, shall be liable to a fine (*multa*) not exceeding ten thousand euro (€10,000).

(5) An in-flight security officer deployed pursuant to an agreement or arrangement between Malta and any other Convention country may take reasonable preventive measures without the authority of the commander when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft or the persons therein from an act of unlawful interference and, if the said agreement or arrangement so provides, from the commission of an offence."

A 828

Amendment of article 7 of the principal Act.

8. In sub-article (1) of article 7 of the principal Act for the words "under restraint and of the reasons for such restraint." there shall be substituted the words "under restraint, of the reasons for such restraint and of any decision to deliver such person."

Amendment of article 8 of the principal Act.

9. Article 8 of the principal Act shall be amended as follows:

(a) the current provisions shall be re-numbered as sub-article (1) of the said article; and

(b) immediately after sub-article (1), as renumbered, thereof there shall be added the following new sub-article:

Cap. 276. "(2) Offences committed on board an aircraft shall be treated, for purpose of extradition between Malta and a Convention country, as if they had been committed not only in the place where they occurred but also in Malta when any of the circumstances referred to in article 5B exist, and the provisions of the Extradition Act shall apply to the said offences."

Amendment of article 10 of the principal Act.

10. In article 10 of the principal Act, for the words "any passenger, any owner" there shall be substituted the words "any passenger, any in-flight security officer, any owner".

Amendment of heading of Part III of the principal Act.

11. In the heading of Part III of the principal Act, immediately after the words "the Hague Convention (1970)" there shall be added the words "and the Beijing Protocol (2010)".

Substitution of article 12 of the principal Act.

12. Article 12 of the principal Act shall be substituted by the following new article:

"Hijacking.

Cap. 9.

12. (1) Without prejudice to any other punishment to which the offence may be liable under the Criminal Code or any other law, whosoever -

(a) on board an aircraft in service, unlawfully, by force or threat of force or by coercion or any other form of intimidation or by any technological means, seizes or exercises control of that aircraft; or

(b) threatens to commit any of the acts in paragraph (a) or unlawfully causes another person to receive such a threat; or

(c) organizes or directs others to commit an offence under paragraph (a); or

(d) in any other way knowingly contributes to the commission of one or more of the offences under paragraphs (a) and (b), by a group of persons acting with a common purpose when such contribution is made with the aim of furthering the general criminal activity or purpose of the group or in the knowledge of the intention of the group to commit the offence or offences concerned; or

(e) unlawfully assists an offender to evade investigation, prosecution or punishment in relation to one or more offences under paragraphs (a) to (d), both inclusive,

shall be liable on conviction to the punishment of imprisonment from seven years to life.

(2) For the purposes of this article, an aircraft shall be deemed to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing. 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."

13. Article 13 of the principal Act shall be substituted by the following new article:

Substitution of article 13 of the principal Act.

"Applicability of Criminal Code. Cap. 9.

13. (1) The provisions of articles 121D, 248E(4) and 248E(4A) of the Criminal Code shall apply *mutatis mutandis* to any offence under this Part.

Cap. 9.

(2) The provisions of article 328K of the Criminal Code shall also apply *mutatis mutandis* to any offence under this sub-title as if the reference therein to article 328J were a reference to article 121D."

14. Sub-article (2) of article 15 of the principal Act shall be substituted by the following:

Amendment of article 15 of the principal Act.

Cap. 9. "(2) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over the said offences where:

(a) the offence is committed against an aircraft registered in Malta; or

(b) the aircraft on board of which the offence is committed lands in Malta with the offender still on board; or

(c) the offence is committed against or on board an aircraft which is leased without crew to a lessee who has his principal place of business or, where he has no such place of business, his permanent residence, in Malta; or

(d) the offender is a Maltese national; or

(e) the offence was committed against a Maltese national; or

(f) the offence was committed by a stateless person whose habitual residence is in Malta."

Amendment of article 16 of the principal Act.

15. In sub-article (2) of article 16 of the principal Act for the words "in flight" there shall be substituted the words "in service".

Re-numbering of articles 24 to 27 of the principal Act.

16. Articles 24 to 27, both inclusive, of the principal Act shall be re-numbered as articles 30 to 33, both inclusive.

Addition of new Part to the principal Act.

17. Immediately after article 23 of the principal Act there shall be added the following new Part:

"PART V

Provisions giving effect to the Beijing Convention (2010)

Interpretation

24. (1) In this Part, unless the context otherwise requires -

"Convention country" means a country in which the Beijing Convention (2010) is for the time being in force.

(2) For the purposes of this Part -

(a) an aircraft shall be deemed 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 shall be deemed 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);

(c) the term "air navigation facilities" includes signals, data, information or systems necessary for the navigation of the aircraft;

(d) the term "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The said term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

(e) the term "radioactive material" means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment;

(f) the term "nuclear material" means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; or any material containing one or more of the foregoing;

A 832

(g) the term "uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(h) the term "BCN weapon" means:

(a) "biological weapons", which are:

(i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or

(ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(b) "chemical weapons", which are, together or separately:

(i) toxic chemicals and their precursors, except where intended for:

(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes;

(ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in sub-paragraph (b)(i), which would be released as a result of the employment of such munitions and devices;

(iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in sub-paragraph (b)(ii);

(c) nuclear weapons and other nuclear explosive devices;

(i) the term "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system;

(j) the terms "source material" and "special fissionable material" shall have the same meaning as that given to those terms in the Statute of the International Atomic Energy Agency, done at New York on 26 October 1956.

Offences.

25. (1) Without prejudice to any other punishment to which the offence may be liable under the Criminal Code or any other law, whosoever -

Cap. 9.

(a) performs an act of violence against a person on board an aircraft in flight when 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;

A 834

(e) communicates information which that person knows to be false, thereby endangering the safety of an aircraft in flight; or

(f) uses an aircraft in service for the purpose of causing death, serious bodily injury, or serious damage to property or the environment; or

(g) releases or discharges from an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or

(h) uses against or on board an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or

(i) using any device, substance or weapon:

(i) 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

(ii) 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; or

(j) threatens to commit any of the acts in paragraphs (a) to (i) or unlawfully causes another person to receive such a threat; or

(k) transports, causes to be transported, or facilitates the transport of, on board an aircraft:

(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under Maltese law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or

(ii) any BCN weapon, knowing it to be a BCN weapon as defined in article 24; or

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to a safeguards agreement with the International Atomic Energy Agency; or

(iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon without lawful authorization and with the intention that it will be used for such purpose:

Provided that for activities involving a Convention country, including those undertaken by a person or legal entity authorized by a Convention country, it shall not be an offence under subparagraphs (iii) and (iv) if the transport of such items or materials is consistent with or is for a use or activity that is consistent with its rights, responsibilities and obligations under the applicable multilateral non-proliferation treaty to which it is a party; or

(l) organizes or directs others to commit an offence under paragraphs (a) to (k); or

(m) in any other way knowingly contributes to the commission of one or more of the offences under paragraphs (a) to (k), by a group of persons acting with a common purpose when such contribution is made with the aim of furthering the general criminal activity or purpose of the group or in the knowledge of the intention of the group to commit the offence or offences concerned; or

(n) assists an offender to evade investigation, prosecution or punishment in relation to one or more offences under paragraphs (a) to (l),

shall be guilty of an offence and shall be liable on conviction to the punishment of imprisonment from seven years to life.

- Applicability
of the
Criminal
Code.
Cap. 9.
26. (1) The provisions of articles 121D, 248E(4) and 248E(4A) of the Criminal Code shall apply *mutatis mutandis* to any offence under this Part.
- Cap. 9.
- (2) The provisions of article 328K of the Criminal Code shall also apply *mutatis mutandis* to any offence under this sub-title as if the reference therein to article 328J were a reference to article 121D.
- Jurisdiction.
27. (1) Subject to the provisions of sub-article (2), where an offence under this Part is committed outside Malta, the person committing such offence may be dealt with in respect thereof as if such offence had been committed in Malta.
- Cap. 9.
- (2) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over the said offences where:
- (a) the offence is committed against an aircraft registered in Malta; or
 - (b) the aircraft on board of which the offence is committed lands in Malta with the offender still on board; or
 - (c) the offence is committed against or on board an aircraft which is leased without crew to a lessee who has his principal place of business or, where he has no such place of business, his permanent residence, in Malta; or
 - (d) the offender is a Maltese national; or
 - (e) the offence was committed against a Maltese national; or
 - (f) the offence was committed by a stateless person whose habitual residence is in Malta.
- Extradition.
28. (1) The offences under this Part shall be deemed to have been included as extraditable offences and provided for all the extradition treaties made by Malta with Convention countries and which extend to, and are binding on, Malta on the date of commencement of this Act.
- Cap. 276.
- (2) For the purposes of the application of the Extradition Act, to offences under this Part, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight or in service, as the case may be, 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.

Cap. 276. (3) Where the Extradition Act does not apply in the case of any State which is a party to the Beijing Convention, the Minister may make an order providing for the Extradition Act to apply in the case of that State with like effect and subject to like terms and conditions as if authorised by articles 6 and 7 of the Extradition Act and, for the purposes of any such order, that Convention shall be equivalent to the designation of a foreign country under the said article 6 and shall be treated as an arrangement such as is mentioned in the said article 7.

Cap. 276. (4) Where the Extradition Act applies to any State by virtue only of an order made under sub-article (3), no application for extradition by that State shall relate to any extradition crimes within the meaning of the Extradition Act except offences deemed to be included in the list of extradition crimes pursuant to sub-article (1).

Contracting Parties to Convention. 29. The Minister may, by order in the Gazette, certify as to which are the contracting parties to the Beijing Convention and to what extent they have availed themselves of the provisions of the Convention, and any such order shall be conclusive evidence of the matters certified therein."

18. In paragraph (b) of article 30, as re-numbered, of the principal Act, for the words "State of registration," there shall substituted the words "State of registration or State of Registry, as the case may be,".

Amendment of article 30 of the principal Act.

19. Immediately after article 33, as re-numbered, of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Ratification. 34. In virtue of this Act, the Government of Malta is authorised to ratify the Beijing Convention (2010), the Beijing Protocol (2010) and the Montreal Protocol (2014)."

A 838

Passed by the House of Representatives at Sitting No. 380 of the
25th April, 2016.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

