CHAPTER 353

CIVIL AVIATION (SECURITY) ACT

To give effect to the Convention on Offences and Certain Other Acts Committed on Board Aircraft (*Tokyo, 1963*)*; the Convention for the Suppression of Unlawful Seizure of Aircraft* (*The Hague, 1970*)*; and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (*Montreal 1971*)*; and the Protocol to the Montreal Convention* (*1988*).

(9th August, 1991)*

ACT XX of 1991, as amended by Legal Notice 425 of 2007 and Act XX of 2016 and LIV of 2020.

ARRANGEMENT OF ACT

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PART I

Preliminary

Short title.

1. The short title of this Act is the Civil Aviation (Security) Act.

Interpretation.
Amended by: XX. 2016.3.

2. In this Act, unless the context otherwise requires, the following expressions have the following meanings respectively, that is to say:

"aircraft" means any aircraft, whether or not a Maltese controlled aircraft, other than -

(*a*) a military aircraft; or

(*b*) an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of the Government of Malta for customs or police purposes;

but the Minister may by order, which may be varied or revoked by a subsequent order, provide that any of the provisions of this Act shall apply with or without modifications to aircraft such as are mentioned in paragraph (*b*) of this definition;

"commander" in relation to an aircraft means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

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

"Maltese controlled aircraft" means an aircraft -

(*a*) which is for the time being registered in Malta; or

(*b*) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely -

(i) that he is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Malta; and

(ii) that he resides or has his principal place of business in Malta; or

(*c*) which, being for the time being registered in some other country, is for the time being chartered by demise or leased without crew to a person who, or to persons each of whom, satisfies the requirements aforesaid or leased whether without or with crew to an airline registered in Malta;

"Military aircraft" means an aircraft of the naval, military or air forces of any country;

"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;

"operator" in relation to any aircraft at any time means the person who at that time has the management of that aircraft;

"pilot in command" in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

"police officer" has the same meaning assigned to it by the Malta Police Ordinance; Cap. 164.

"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;

"the Montreal Convention" means the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on the 23rd day of September, 1971;

"the Montreal Protocol" means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Montreal Convention, which Protocol was signed at Montreal on the 24th February, 1988;

"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;

"the Tokyo Convention" means the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on the 14th of September, 1963.

PART II

Provisions giving effect to the Tokyo Convention (1963) and the Montreal Protocol (2014)

Amended by: XX. 2016.4.

Interpretation of Part II. *Amended by: XX. 2016.5.*

3. (1) In this Part, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say -

"Convention country" means a country in which the Tokyo Convention is for the time being in force; and the Minister may, by order, certify that any country specified in the order is for the time being a Convention country, and any such order for the time being in force which may be varied or revoked by a subsequent order, shall be conclusive evidence that the country in question is for the time being a Convention country;

"Immigration Officer" has the same meaning assigned to it by article 2 of the Immigration Act and includes any public officer acting under such authority; Cap. 217.

(2) For the purposes of this Part -

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

(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.

(3) In this Part, any reference to a country or the territorial limits thereof includes a reference to the territorial waters, if any, of that country.

Application of criminal law to offences on aircraft.

4. (1) Subject to subarticle (2), any act taking place on board any Maltese controlled aircraft while in flight elsewhere than in or over Malta and which, if taking place in Malta, would constitute an offence under the law in force in Malta shall constitute that offence.

(2) Subarticle (1) shall not apply to any act which is, by or under the law in force in Malta, expressly or impliedly authorised when taking place outside Malta.

Jurisdiction. Cap. 9.

5. For the purpose of article 5 of the Criminal Code, an offence referred to in article 4(1), shall be deemed to have been committed in Malta.

Jurisdiction over offences when Malta is not the State of registration. *Added by: XX. 2016.6.*

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:

Provided that the term "permanent resident" shall have the meaning assigned to it under article 5(1)(*d*) of the Criminal Code. Cap. 9.

Jurisdiction over offences when Malta is the State of landing. *Added by: XX. 2016.6.* Cap. 9.

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.

Powers of the aircraft commander. *Amended by: L.N. 425 of 2007; XX. 2016.7.*

6. (1) If the commander of an aircraft in flight has reasonable grounds to believe in respect of any person that the person in question has committed, or is about to commit, on board the aircraft any criminal offence or has done or is about to do any act which jeopardizes or may jeopardize -

(*a*) the safety of the aircraft or of persons or property on board the aircraft; or

(*b*) good order and discipline on board the aircraft,

then, subject to article 7, 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 deliver that person in accordance with article 7.

(2) Where the commander of the aircraft is entitled under subarticle (1) to restrain any person -

(*a*) any member of the crew of the aircraft or any other person on board the aircraft may -

(i) at the request or with the authority of the commander, render assistance in effecting the restraint;

(ii) without obtaining the authority of the

commander, take with respect to any person on board the aircraft any measures such as are mentioned in subarticle (1) which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft; and

(*b*) any member of the crew shall, if the commander so requires, render such assistance as the commander may direct.

(3) Any member of the crew of an aircraft who wilfully and without reasonable cause fails to assist the commander of the aircraft in restraining any person when so required shall be liable to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69).

(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.

Provisions ancillary to powers under article 6. *Amended by: L.N. 425 of 2007; XX. 2016.8.*

7. (1) Where a person is under restraint on an aircraft pursuant to article 6 the commander of the aircraft shall as soon as practicable, and if possible before landing in any country, notify the authorities in that country of the fact that a person on board is under restraint, of the reasons for such restraint and of any decision to deliver such person.

(2) Any restraint imposed on any person on board an aircraft conferred by article 6 shall not be continued after the time when the aircraft first thereafter ceases to be in flight other than -

(*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 subarticle (3); or

(*b*) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(3) The commander of an aircraft if in the case of any person on board the aircraft he has reasonable grounds -

(*a*) to believe as mentioned in article 6(1); and

(*b*) 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, if convenient, deliver him to a person having the function of a police officer or immigration officer.

(4) The commander of an aircraft -

(*a*) if he disembarks any person in pursuance of subarticle (3), in the case of a Maltese-controlled aircraft, in any country or, in the case of any other aircraft, in Malta, shall report the fact of, and the reasons for, that disembarkation to the authorities in the country of disembarkation and shall also request the authorities to notify a diplomatic or consular representative of the country of nationality of that person; or

(*b*) if he delivers any person in pursuance of subarticle (3), shall at the time of delivery furnish to the appropriate officer such evidence and information relating to the need to take measures against that person pursuant to article 6, as at the time of furnishing are lawfully in his possession.

(5) Any commander of an aircraft who wilfully and without reasonable cause fails to comply with the requirement of subarticle (4) shall be liable on conviction to a fine (*multa*) of one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69).

Jurisdiction of Convention countries for extradition purposes. *Amended by: L.N. 425 of 2007; XX. 2016.9.* Cap. 276.

8. (1) For the purposes of the application of the Extradition Act to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country may, 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.

(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.

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Provisions as to evidence in connection with aircraft.

9. (1) Where, in proceedings before any court in Malta for an offence committed on board an aircraft, the evidence of any person is required and the court is satisfied that such person cannot be found in Malta, there shall be admissible in evidence before that court any statement relating to the subject-matter of those proceedings previously made on oath by that person and which was so made -

(*a*) in the presence of the person charged with the offence; and

(*b*) in any other Convention country to an officer having functions corresponding to the functions, in Malta, either of judge or of a magistrate or of a consular

officer.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made, and shall be certified by him to have been taken in the presence of the person charged as aforesaid.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing to have authenticated any deposition, or to have given such a certificate as aforesaid; and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged as aforesaid was present at the making of the deposition.

Exemption from liability for acts against offenders under this Part. *Amended by: XX. 2016.10.*

10. The commander of an aircraft, any other member of the crew, any passenger, any in-flight security officer, any owner or operator of an aircraft or any person on whose behalf a flight is made who takes action against any person in pursuance of this Part shall be exempt from liability for any measures taken against the offender in accordance with this Part whether the offender is convicted or not.

PART III

Amended by: XX. 2016.11.

Provisions giving effect to The Hague Convention (1970) and the Beijing Protocol (2010)

Interpretation.

11. In this Part, unless the context otherwise requires -

"Convention country" means a country in which The Hague Convention is for the time being in force.

Hijacking. *Substituted by: XX. 2016.12.* 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.

Applicability of Criminal Code. *Substituted by: XX. 2016.13.* 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.

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(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.

Punishment for acts of violence connected with hijacking.

14. (1) Whoever, being a person committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be punished with the same punishment with which he would have been punishable under any law for the time being in force in Malta if such act had been committed in Malta.

(2) For the purposes of subarticle (1) any act of violence means any act which would constitute an offence under articles 211, 212, 214, 216, 217, 218, 220 and 222 of the Criminal Code.

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Jurisdiction. *Amended by: XX. 2016.14.*

15. (1) Subject to the provisions of subarticle (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.

(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:

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(*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.

Provisions as to extradition. *Amended by: XX. 2016.15.*

16. (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.

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(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 service, 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.

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(3) Where the Extradition Act does not apply in the case of any State which is a party to The Hague 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 4 and 7 of the Extradition Act and, for the purposes of any such order, that Convention shall be equivalent to the designation of a Commonwealth country under the said article 4 and shall be treated as an arrangement such as is mentioned in the said article 7.

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(4) Where the Extradition Act applies to any State by virtue only of an order made under subarticle (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 subarticle (1).

Contracting Parties to Convention.

17. The Minister may, by order in the Gazette, certify as to which are the contracting parties to The Hague 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.

PART IV

Provisions giving effect to the Montreal Convention (1971) and the Montreal Protocol (1988)

Interpretation.

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

"airport" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the take-off and landing of aircraft;

"Convention country" means a country in which the Montreal Convention and the Montreal Protocol are 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, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country

in which such forced landing takes place 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 pre-flight preparation of the aircraft by the ground staff or by the crew for a specific flight until twenty-four hours after any landing and the period of such service shall include the entire period during which the aircraft is in flight.

Offence of committing violence on board an aircraft in flight, etc.
Amended by: LIV.2020.2.

19. (1) Whoever unlawfully and intentionally -

(*a*) commits an act of violence against a person on board an aircraft in flight which is likely to endanger the safety of such aircraft; or

(*b*) destroys an aircraft in service or causes damage to such aircraft in such a manner as to render 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*) communicates such information which he knows to be false so as to endanger the safety of an aircraft in flight,

shall be liable to imprisonment from twelve (12) years to life.

(2) Whoever 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 therein or disrupts the services of the airport,

if such an act endangers or is likely to endanger the safety at that airport shall be liable to life imprisonment or to such lesser punishment, being not less than imprisonment for three years, as the court may deem fit.

(3) For the purpose of this article "act of violence" means any act which would constitute the offences under articles 211, 212, 214, 216, 217, 218, 220 and 222 of the Criminal Code; or any act whereby an explosion of a nature likely to endanger life, or to cause serious injury to property, is maliciously caused by means of any explosive substance, whether or not any injury to person or property is actually caused; "explosive substance" has the same meaning assigned to it by article 314 of the Criminal Code.

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Destruction of, or damage to, air navigation facilities.

20. Whoever unlawfully and intentionally destroys or damages air navigation facilities or interferes with their operation in such a manner as is likely to endanger the safety of the aircraft in flight shall be liable to imprisonment for life.

Jurisdiction.

21. (1) Subject to the provisions of subarticle (2), where an offence under article 19 is committed outside Malta, the person committing such offence may be dealt with in respect thereof as if such offences had been committed in Malta.

(2) No court shall take cognizance of an offence punishable under article 19 which is committed outside Malta unless -

(*a*) such offence is committed on board an aircraft registered in Malta; or

(*b*) such offence is committed on board an aircraft which is for the time being 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

(*c*) the alleged offender is a citizen of Malta or is on board the aircraft in relation to which such offence is committed when it lands in Malta or is found in Malta.

Provisions as to extradition.

22. (1) The offences under this Part shall be deemed to have been included as extraditable offences and provided for in 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.

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(2) For the purposes of the application of the Extradition Act, to offences under this Act, 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.

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(3) Where the Extradition Act does not apply in the case of any foreign State which is a party to the Montreal Convention, or to the Montreal Protocol, 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 authorised by articles 4 and 7 of the Extradition Act and, for the purposes of any such order, that Convention and that Protocol shall be equivalent to the designation of a Commonwealth country under the said article 4 and shall be treated as an arrangement such as is mentioned in the said article 7.

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(4) Where the Extradition Act applies to any State by virtue only of an order made under subarticle (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 subarticle (1).

Contracting Parties to convention.

23. The Minister may, by order in the Gazette, certify as to who are the contracting parties to the Montreal Convention and the Montreal Protocol 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.

PART V

Added by: XX. 2016.17.

Provisions giving effect to the Beijing Convention (2010)

Interpretation. *Added by: XX. 2016.17.*

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;

(*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. *Added by: XX. 2016.17.* Cap. 9.

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

(*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;

(*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 sub-paragraphs (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. *Added by: XX. 2016.17.* 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. *Added by: XX. 2016.17.*

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. *Added by: XX. 2016.17.*

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. *Added by: XX. 2016.17.*

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.

General

Aircraft operated by joint or international organization. *Re-numbered by: XX. 2016.16. Amended by: XX. 2016.18.*

30. If the Minister by order declares -

(*a*) that any two or more States named in the order have established an organization or agency which operates aircraft; and

(*b*) that one of those States has been designated to exercise the powers of the State of registration or State of Registry, as the case may be, or to be considered as the State thereof, in relation to all or any aircraft so operated,

then, for the purposes of such provisions of this Act as the order may prescribe, the State so designated or considered under paragraph (*b*) shall be deemed to be the State in which all aircraft so operated, or (as the case may be) any such aircraft specified in the order, are registered.

Regulations. *Re-numbered by: XX. 2016.16.*

31. The Minister may make regulations for the purpose of giving effect to this Act and, without prejudice to the generality of the foregoing, may provide for -

(*a*) the procedure in assisting an offender to communicate with a representative of the State of which he is a national;

(*b*) the notification to any foreign State of any matter to be notified under this Act;

(*c*) the restoration and preservation of control of an aircraft to the commander of the aircraft;

(*d*) the return of an aircraft and its cargo, after such aircraft and cargo have been unlawfully seized, to any person lawfully entitled to possession;

(*e*) assisting passengers and crew to continue their journey after the unlawful seizure of an aircraft; and

(*f*) the holding of any investigation into unlawful or dangerous acts on board an aircraft.

Protection of action taken in good faith. *Re-numbered by: XX. 2016.16.*

32. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which, in good faith, is done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Government of Malta for any damage caused or likely to be caused for anything which, in good faith, is done or intended to be done in pursuance of the provisions of this Act.

Authorisation for the ratification of these Conventions. *Re-numbered by: XX. 2016.16.*

33. In virtue of this Act, the Government of Malta is authorised to ratify the Tokyo Convention, The Hague Convention, the Montreal Convention and the Montreal Protocol.

Ratification. *Added by: XX. 2016.19.*

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).