

CRIMINAL CODE.

13° Elizabeth II., No. LIII.

No. 53 of 1964.

AN ACT to amend the Criminal Code.

[Assented to 30th November, 1964.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same. as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Criminal Code Amendment Act, 1964.*

Vol. 8 of the
Reprinted
Acts.
Approved
for reprint
29th June,
1955, and
further
amended as
set forth in
this section.

(2) In this Act—

“the Code” means the Criminal Code set forth in the Schedule to the Criminal Code Act, 1913, set forth in Appendix B to the Criminal Code Act Compilation Act, 1913, as reprinted with amendments to and

including Act No. 73 of 1954, incorporated pursuant to the Amendments Incorporation Act, 1938, and further amended by Acts Nos. 11 of 1956, 43 of 1956, 74 of 1956, 50 of 1957, 25 of 1960, 50 of 1960, 28 of 1961, 35 of 1962, 21 of 1963, 55 of 1963, 63 of 1963 and 74 of 1963.

2. Section one of the Code is amended—

S. 1
amended.

(a) by adding after the section number “1.” the subsection designation, “(1)”;

(b) by adding before the interpretation of the term, “Attorney General”, the following interpretation—

The term “aircraft” includes any machine that can derive support in the atmosphere from the reactions of the air; ;

(c) by adding before the interpretation of the term, “money” the following interpretation—

The term “member of the crew” in relation to an aircraft means a person having duties or functions on board the aircraft; ; and

(d) by adding a subsection as follows—

(2) For the purposes of this Code—

(a) a flight of an aircraft shall be taken to commence—

(i) at the time of the closing of the external door of the aircraft last to be closed before the aircraft first moves for the purpose of taking off from any place; or

(ii) if subparagraph (i) of this paragraph is not applicable, at the time at which the aircraft first moves for the purpose of taking off from any place; and

(b) a flight of an aircraft shall be taken to end—

(i) at the time of the opening of the external door of the aircraft first to be opened after the aircraft comes to rest after its next landing after the commencement of the flight; or

(ii) if subparagraph (i) of this paragraph is not applicable, at the time at which the aircraft comes to rest after its next landing after the commencement of the flight,

or, if the aircraft is destroyed, or the flight is abandoned, before either subparagraph (i) or subparagraph (ii) of this paragraph becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be.

S. 258
repealed and
re-enacted.

3. Section two hundred and fifty-eight of the Code is repealed and re-enacted as follows—

Discipline
of ship or
aircraft.

258. It is lawful for the Master or other person in command of—

(a) a vessel on a voyage; or

(b) an aircraft on a flight,

and for any person acting under his instructions to use, for the purpose of maintaining good order and discipline on board the vessel or aircraft, such force as he believes, on reasonable grounds, to be necessary, and as is reasonable under the circumstances.

4. The Code is amended by adding after section two hundred and ninety-four the following section—

S. 294A
added.

294A. (1) Subject to this section, any person who—

Dangerous
goods on
aircraft.

- (a) carries or places dangerous goods on board an aircraft;
- (b) delivers dangerous goods to another person for the purpose of those goods being placed on board an aircraft; or
- (c) has dangerous goods in his possession on board an aircraft,

is guilty of a crime and is liable to imprisonment with hard labour for seven years.

(2) It is a defence to a charge of any offence defined in subsection (1) of this section to prove that—

- (a) the act constituting the offence was consented to by the owner or operator of the aircraft with knowledge by him of the nature of the goods concerned;
- or
- (b) the act was done by authority or permission of or under a law of the Commonwealth or of the State.

(3) In this section, “dangerous goods” means—

- (a) firearms, ammunition, weapons and explosive substances; and
- (b) substances or things that, by reason of their nature or condition, may endanger the safety of an aircraft or of a person on board an aircraft.

S. 296A
added.

5. The Code is amended by adding after section two hundred and ninety-six the following section—

Intentionally
endangering
safety
of persons
travelling by
aircraft.

296A. Any person who, with intent to injure or to endanger the safety of any person whilst he is on board an aircraft, whether a particular person or not—

- (a) deals with the aircraft or with anything whatever upon or near the aircraft or with anything either directly or indirectly connected with the navigation, control or operation of the aircraft in such a manner as to endanger the safety of any such person; or
- (b) by any omission to do any act that it is his duty to do causes the safety of any such person to be endangered,

is guilty of a crime and is liable to imprisonment with hard labour for life.

S. 318A
added.

6. The Code is amended by adding after section three hundred and eighteen the following section—

Assaults on
members
of crew
of aircraft.

318A. Any person who, while on board an aircraft unlawfully assaults a member of the crew of the aircraft or threatens with violence a member of the crew of the aircraft so as to interfere with the performance by the member of his functions or duties connected with the operation of the aircraft or so as to lessen his ability to perform those functions or duties, is guilty of a crime and is liable to imprisonment with hard labour for fourteen years.

S. 378
amended.

7. Section three hundred and seventy-eight of the Code is amended by adding the following subsection—

Stealing an
aircraft.

(4a) If the thing stolen is an aircraft the offender is liable to imprisonment with hard labour for ten years.

8. The Code is amended by adding after section three hundred and ninety A the following section—

S. 390B
added.

390B. Any person who unlawfully takes or exercises control, whether direct or through another person, of an aircraft is guilty of a crime and is liable to imprisonment with hard labour for seven years but if—

Unauthorised
use of
aircraft.

- (a) another person not being an accomplice of the offender is on board the aircraft at the time the offender so takes or exercises control of the aircraft, the offender is liable to imprisonment with hard labour for fourteen years;
- (b) the offender at or immediately before or immediately after the time he so takes or exercises such control of the aircraft—
 - (i) uses or threatens to use actual violence to any person or persons in order to so take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised; or
 - (ii) is armed with any dangerous or offensive weapon or instrument; or
 - (iii) is in company with one or more other person or persons; or
 if the offender so takes or exercises such control by any fraudulent representation, trick or device, he is liable to imprisonment with hard labour for life.

9. The Code is amended by adding after section four hundred and fifty-one the following section—

S. 451A
added.

451A. (1) Any person who with intent to prejudice the safe use of an aircraft or to injure any property on board an aircraft—

Endangering
the safe use
of an aircraft.

- (a) deals with the aircraft or with anything whatever on board or near the aircraft or with anything whatever either

directly or indirectly connected with the navigation, control or operation of the aircraft in such a manner as to endanger the free and safe use of the aircraft; or

- (b) by any omission to do any act that it is his duty to do causes the free and safe use of the aircraft to be endangered,

is guilty of a crime and is liable to imprisonment with hard labour for life.

(2) Any person who while on board an aircraft does any act or makes any omission whereby to his knowledge the safety of the aircraft is or is likely to be endangered is guilty of a crime and is liable to imprisonment with hard labour for seven years.

S. 453
amended.

10. Section four hundred and fifty-three of the Code is amended—

- (a) by adding after the words, “or a vessel” in line two of paragraph I, the words, “or an aircraft”;
- (b) by adding after the word, “vessel” in line two of subparagraph (a) of paragraph I, the words, “or aircraft”;
- (c) by adding after paragraph VII the following paragraph—

Aircraft.

VIIA. If the property in question is an aircraft or anything whatever either directly or indirectly connected with the navigation, control or operation of an aircraft the offender is guilty of a crime and is liable to imprisonment with hard labour for fourteen years.

Ss. 463A and
463B added.

11. The Code is amended by adding after section four hundred and sixty-three the following sections—

463A. Any person who threatens, states that it is his intention, or makes a statement from which it could reasonably be inferred that it is his intention, to destroy, damage or endanger the safety of an aircraft or to kill or injure all or any of the persons on board an aircraft, is guilty of a misdemeanour and is liable to imprisonment with hard labour for two years.

Threats
to safety of
aircraft.

463B. Any person who makes a statement or conveys information, being a statement or information that he knows to be false to the effect, or from which it could reasonably be inferred, that there has been is or is to be a plan, proposed attempt, conspiracy or threat to—

False
statements
relating to
aircraft.

- (a) take or exercise control, by force or violence, of an aircraft;
- (b) destroy, damage or endanger the safety of an aircraft; or
- (c) kill or injure all or any of the persons on board an aircraft,

is guilty of a misdemeanour and is liable to imprisonment with hard labour for two years.

12. The Code is amended by adding after section five hundred and sixty-five the following section—

S. 565A
added.

565A. (1) The person in command of an aircraft, or any person authorised by him, may, on board the aircraft with such assistance as is necessary, arrest without warrant, a person whom he finds committing, or reasonably suspects of having committed, or of having attempted to commit an offence on or in relation to or affecting the use of the aircraft, and the person in command or the person authorised by him may hold the person so

Arrest
of persons
found
committing
offences on
aircraft.

arrested in custody until he can be brought before a justice to be dealt with according to law.

(2) The person in charge of an aircraft may, where he considers it necessary so to do in order to prevent an offence on or in relation to or affecting the use of an aircraft or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as he thinks necessary—

- (a) place a person who is on board the aircraft under restraint or in custody; and
- (b) if the aircraft is not in the course of a flight, remove a person from the aircraft.

s. 711
amended.

13. Section seven hundred and eleven of the Code is amended—

- (a) by adding after the word, “vessel” in line three and again in line seventeen the passage, “, vehicle, aircraft”;
- (b) by adding the following paragraphs—

Where it appears on the complaint that an offence involving the safety of an aircraft has been, is being or may be committed on board or in relation to the aircraft, the justice may direct in his warrant that any person on board the aircraft or any person who is about to board the aircraft may be searched.

A female person shall not be searched under the authority of a warrant issued under this section, except by a female person.

14. The Code is amended by adding after section seven hundred and eleven the following section—

S. 711A
added.

711A. (1) If it appears to the person in command of an aircraft that there are reasonable grounds for suspecting that an offence involving the safety of the aircraft has been, is being or may be committed on board or in relation to the aircraft, he may, with such assistance as is necessary, search or cause to be searched—

Search of
aircraft.

- (a) the aircraft and any person, luggage or freight on board the aircraft; and
- (b) any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft,

and seize

- (c) anything, whether animate or inanimate and whether living or dead as to which there are reasonable grounds for believing that it will of itself or by or on scientific examination, afford evidence as to the commission of any offence; or
- (d) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence,

and take it before a justice to be dealt with according to law.

(2) A female person shall not be searched under subsection (1) of this section except by a female person.
