

Queensland



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

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No. 14 of 1964

**An Act to Amend the Criminal Code in certain particulars**

[ASSENTED TO 6TH APRIL, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Criminal Code Amendment Act of 1964*," and shall be read as one with "*The Criminal Code*."

2. Amendments of s. 1. Section one of "*The Criminal Code*" is amended—

(a) By inserting the following definition and paragraph before the definition of the term "bodily harm" therein—

"The term "aircraft" includes any machine or apparatus designed to support itself in the atmosphere;

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person.

A flight of an aircraft shall be deemed to commence—

- (a) 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
- (b) If the last preceding subparagraph is not applicable—at the time at which the aircraft first moves for the purpose of taking off from any place; and

shall be deemed to end—

- (c) 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
- (d) If the last preceding subparagraph 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 (c) or subparagraph (d) of this paragraph becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be;”

(b) By inserting the following definition after the definition of the term “ money ” therein—

“ The term “ motor vehicle ” includes any machine or apparatus designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power; the term also includes a motor cycle, or a caravan, caravan trailer or other trailer designed to be attached to a motor vehicle.

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person.”

**3. Repeal of and new s. 281.** “ *The Criminal Code* ” is amended by repealing section two hundred and eighty-one and inserting in its stead the following headnote and section:—

“ *Discipline of ship or aircraft*

[281.] 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,

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

4. New s. 317A. "*The Criminal Code*" is amended by inserting the following headnote and section after section three hundred and seventeen thereof :—

*"Taking or sending dangerous goods on aircraft"*

[317A.] Any person who—

- (a) Carries or places dangerous goods on board an aircraft;
  - (b) Delivers dangerous goods to another person for the purpose of such 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.

It is a defence to a charge of any offence defined in this section to prove that the act constituting the offence was lawfully consented to by the owner or operator of the aircraft with knowledge by him of the nature of the goods concerned or that the act was done by authority or permission of or under a law of the Commonwealth or of the State.

For the purposes of this section the term "dangerous goods" means—

- (i.) Firearms, ammunition, weapons and explosive substances; and
- (ii.) Substances and things which by reason of their nature or condition may endanger the safety of an aircraft or of a person on board an aircraft."

5. New s. 319A. "*The Criminal Code*" is amended by inserting the following headnote and section after section three hundred and nineteen thereof—

*"Endangering safety of persons travelling by aircraft"*

[319A.] Any person who with intent to injure or to endanger the safety of any person whilst he is on board any aircraft whether a particular person or not—

- (a) Deals with the aircraft or with anything whatever upon or near the aircraft or with anything whatever either directly or indirectly connected with the guidance control or operation of the aircraft in such a manner as to affect or endanger or be likely to affect or endanger the free and safe use of the aircraft or the safety of any such person; or
  - (b) By any omission to do any act which 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."

6. Amendment of s. 328A. Section 328A of "*The Criminal Code*" is amended by inserting after the third paragraph thereof the following paragraph:—

"If the offender causes the death of or grievous bodily harm to another person he is liable upon conviction upon indictment to imprisonment with hard labour for five years."

**7. Amendment of s. 328B.** Section 328B is amended by inserting the words “with or without a circumstance of aggravation specified in the fourth paragraph of that section,” after the words “section 328A of this Code” where those words secondly occur therein.

**8. New s. 338A.** “*The Criminal Code*” is amended by inserting the following headnote and section after section three hundred and thirty-eight thereof:—

*“Assaults of member of crew on aircraft*

[338A.] Any person who while on board an aircraft unlawfully assaults a member of the crew of the aircraft or threatens such a member with any violence injury or detriment of any kind to be caused to him or any other person on the aircraft by the offender or by any other person with the intention of affecting the performance by the member of his functions or duties in connection with the operation of the aircraft or with the intention of lessening his ability to perform those functions or duties is guilty of a crime and is liable to imprisonment with hard labour for fourteen years.”

**9. Amendment of s. 398.** Section three hundred and ninety-eight of “*The Criminal Code*” is amended by adding at the end thereof the following headnote and paragraph:—

*“Stealing of an aircraft*

[XII] If the thing stolen is an aircraft the offender is liable to imprisonment with hard labour for fourteen years.”

**10. Amendment of s. 408A.** Section 408A of “*The Criminal Code*” is amended by omitting the last paragraph thereof being the definition of the term “motor vehicle” and inserting in its stead the following paragraph:—

“For the purposes of this section the term “motor vehicle” includes an aircraft.”

**11. New s. 417A.** “*The Criminal Code*” is amended by inserting the following headnote and section after section four hundred and seventeen thereof :—

*“Taking control of aircraft*

[417A.] Any person who unlawfully either directly or indirectly takes or exercises control of any aircraft is guilty of a crime and is liable to imprisonment with hard labour for seven years.

If another person not being an accomplice of the offender is on board the aircraft the offender is liable to imprisonment with hard labour for fourteen years.

If the offender at or immediately before or immediately after the time of taking or exercising such control uses or threatens to use actual violence to any person or property in order to take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised or is armed with any dangerous or offensive weapon or instrument or is in company with one or more other person or persons or takes or exercises such control by any fraudulent representation trick device or other means he is liable to imprisonment with hard labour for life.”

**12. Amendment of s. 443.** Section four hundred and forty-three of "*The Criminal Code*" is amended by omitting the word "have" where that word last occurs in the second proviso thereto and inserting in its stead the word "has."

**13. Amendment of s. 444.** Section four hundred and forty-four of "*The Criminal Code*" is amended by omitting the word "sixteen" wheresoever occurring and inserting in its stead the word "seventeen".

**14. New s. 467A.** "*The Criminal Code*" is amended by inserting the following headnote and section after section four hundred and sixty-seven thereof :—

*"Endangering the safe use of an aircraft"*

[467A.] (1) Any person who with intent to prejudice the safe use of an aircraft or to injure any property upon an aircraft—

(a) Deals with the aircraft or with anything whatever upon or near the aircraft or with anything whatever either directly or indirectly connected with the guidance control or operation of the aircraft in such a manner as to affect or endanger the free and safe use of the aircraft; or

(b) By any omission to do any act which 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 wilfully does any act or makes any omission or is privy to any act or 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."

**15. Amendment of s. 469.** Section four hundred and sixty-nine of "*The Criminal Code*" is amended—

(a) By in paragraph I. and the headnote thereto inserting after the words "or a vessel" the words "or an aircraft";

(b) By inserting in paragraph I. after the words "or vessel" the words "or aircraft";

(c) By inserting after paragraph V. the following headnote and paragraph:—

*"Aircraft"*

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

(d) By renumbering paragraphs VI. and VII. thereof as paragraphs VII. and VIII. respectively.

**16. Amendment of s. 480.** Section four hundred and eighty of "*The Criminal Code*" is amended by omitting the word "have" where that word last occurs in the second proviso thereto and inserting in its stead the word "has".

**17. New s. 547A.** "*The Criminal Code*" is amended by inserting the following headnote and section after section five hundred and forty-seven thereof:—

*" Arrest of persons found committing offences on aircraft*

[547A.] It is lawful for the person in command of an aircraft, on board the aircraft, and for persons acting with his authority to arrest or cause to be arrested without warrant any person whom he finds committing, or whom on reasonable grounds he suspects of having committed, or of having attempted to commit, or of being about to commit, an offence on or in relation to or affecting the use of the aircraft and for that purpose to use such force as he or the person arresting believes, on reasonable grounds, to be necessary and is reasonable under the circumstances."

**18. Amendment of s. 555.** Section five hundred and fifty-five of "*The Criminal Code*" is amended by adding the following paragraph thereto:—

" The Supreme Court or a Judge thereof or a District Court or a Judge thereof in its or his discretion may admit any person to bail after the trial of such person has commenced and notwithstanding that such person has been given in charge to the jury."

**19. Amendment of s. 563.** Section five hundred and sixty-eight of "*The Criminal Code*" is amended by adding the following subsection:—

"(6) Any number of persons charged with committing different or separate offences arising substantially out of the same facts or out of closely related facts so that a substantial part of the facts is relevant to all the charges may be charged in the same indictment and tried together."

**20. Amendment of s. 679.** Section six hundred and seventy-nine of "*The Criminal Code*" is amended by—

(a) Inserting the words " vehicle, aircraft," after the word " vessel " where that word twice occurs therein ;

(b) Adding thereto the following paragraph:—

" Where it appears on the complaint that an offence involving the safety of an aircraft has been or 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."

21. New s. 679A. “*The Criminal Code*” is amended by inserting the following headnote and section after section six hundred and seventy-nine thereof:—

“*Search of aircraft*”

[679A.] If it appears to the person in command of an aircraft that there are reasonable grounds for suspecting that any offence involving the safety of the aircraft has been or is being or is about to be or may be committed on board or in relation to the aircraft it shall be lawful for him and for any person acting by his authority with such assistance as he or such person may think necessary to search or cause to be searched—

- (a) The aircraft and any person luggage and 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—
- (i.) 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
  - (ii.) 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.

A female shall not be searched under this section except by a female.”