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Tokyo Convention (Amendment) Bill

Bill No. 22/2018.

Read the first time on 17 May 2018.

A BILL

intituled

An Act to amend the Tokyo Convention Act (Chapter 327 of the 1985 Revised Edition) and to make related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Tokyo Convention (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Repeal and re-enactment of long title

2. The long title to the Tokyo Convention Act (called in this Act the principal Act) is repealed and the following long title substituted therefor:

10 “An Act to give effect to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, and the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Montreal on 4 April 2014, and for purposes connected with the Convention or Protocol.”

15 Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) by inserting, immediately after the definition of “military aircraft” in subsection (1), the following definition:

20 ““Montreal Protocol” means the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Montreal on 4 April 2014;”;

(b) by inserting, immediately after the definition of “pilot in command” in subsection (1), the following definition:

25 ““Protocol country” means a country which has been declared by the Minister, by notification in the *Gazette*, to have ratified or acceded to the Montreal Protocol, and has not been so declared to have denounced the Montreal Protocol;”;

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(c) by deleting paragraph (b) of the definition of “Singapore-controlled aircraft” in subsection (1) and substituting the following paragraph:

“(b) which is leased without crew to a lessee whose principal place of business, or (if the lessee has no such place of business) whose permanent residence, is in Singapore;”;

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(d) by deleting subsection (2) and substituting the following subsection:

“(2) For the purposes of this Act, an aircraft is in flight —

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(a) from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when any such door is opened for disembarkation;

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(b) if the aircraft makes a forced landing in any country or territory other than Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when the competent authorities of the country or territory in which the forced landing takes place take over responsibility for the aircraft and for the persons and property on board the aircraft; and

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(c) if the aircraft makes a forced landing in Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when a police officer arrives at the place of landing,

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and any reference in this Act to an aircraft in flight includes a reference to an aircraft during any period when the aircraft is on the surface of the sea or land but not within the territorial limits of any country.”.

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Amendment of section 3

4. Section 3 of the principal Act is amended —

- (a) by deleting the words “that offence:” in subsection (1) and substituting the words “that offence.”;
- 5 (b) by deleting the proviso to subsection (1);
- (c) by inserting, immediately after subsection (1), the following subsections:

“(1A) If —

10 (a) any act or omission taking place on board any aircraft (not being a Singapore-controlled aircraft) while in flight elsewhere than in or over Singapore which, if taking place in Singapore, would constitute an offence under the law in force in Singapore; and

15 (b) the aircraft subsequently lands in Singapore with the person who committed the act or omission still on board the aircraft,

the act or omission constitutes that offence.

20 (1B) Subsections (1) and (1A) do not apply to any act or omission which is expressly or impliedly authorised by or under the law in force in Singapore when taking place outside Singapore.”; and

- 25 (d) by inserting, immediately after the word “to” in the section heading, the words “certain act or omission on”.

Repeal and re-enactment of section 4

5. Section 4 of the principal Act is repealed and the following section substituted therefor:

“Provisions as to extradition

30 4.—(1) For the purposes of the application of the Extradition Act (Cap. 103) to crimes committed on board an aircraft in flight, any offence committed on board any aircraft in flight is to be

treated as if it had been committed not only in the place at which the offence occurred, but also within the territory of —

- (a) a Convention country in which the aircraft is registered;
- (b) a Convention country (being also a Protocol country) in which the lessee of the aircraft leased without crew has its principal place of business or, if the lessee has no such place of business, has its permanent residence; or
- (c) a Convention country (being also a Protocol country) in which the aircraft lands, with the offender still on board.

(2) For the purposes of subsection (1), it does not matter whether the aircraft mentioned in that subsection is for the time being also within the jurisdiction of any other country.”.

Amendment of section 5

6. Section 5 of the principal Act is amended —

- (a) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:
 - “(b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence,”;
- (b) by deleting the comma at the end of subsection (2)(iii) and substituting a full-stop;
- (c) by deleting the words “and for the purposes of paragraph (b) any Singapore-controlled aircraft shall be deemed to be registered in Singapore whether or not it is in fact so registered and whether or not it is in fact registered in some other country.” in subsection (2);

(d) by deleting subsection (3) and substituting the following subsections:

“(3) The commander of an aircraft may —

(a) require or authorise any member of the crew of the aircraft; or

(b) request or authorise (but not require) any passenger, or air marshal, on board the aircraft,

to render assistance in restraining any person whom the commander is entitled under subsection (2) to restrain.

(3A) At any time when an aircraft is in flight, any member of the crew of the aircraft or any passenger on board the aircraft may, without being authorised by the commander, take any measures mentioned in subsection (2) against any person on board the aircraft which the member of the crew or passenger has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft, or of persons or property on board the aircraft.

(3B) At any time when an aircraft is in flight, any air marshal on board the aircraft may, without being authorised by the commander, take any measures mentioned in subsection (2) against any person on board the aircraft which the air marshal has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft, or of persons on board the aircraft from —

(a) any act of unlawful interference; or

(b) the commission of any serious offence.

(3C) The measures taken by an air marshal in relation to the commission of any serious offence mentioned in subsection (3B)(b) are subject to any agreement between Singapore and a Protocol country relating to the deployment of air marshals on board an aircraft for ensuring the security of the aircraft and persons on board the aircraft.”; and

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(e) by inserting, immediately after subsection (6), the following subsections:

“(7) In this section and section 6A, “air marshal” means an individual who is appointed —

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(a) an air marshal under section 61 of the Police Force Act (Cap. 235); or

(b) an air marshal (or by whatever name called) under the law of any Protocol country with whom Singapore has an agreement relating to the deployment of air marshals on board an aircraft for ensuring the security of the aircraft and persons on board the aircraft.

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(8) In this section, “act of unlawful interference” means the doing or attempting to do anything such as to jeopardise the safety of civil aviation and air transport, and includes any of the following:

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(a) unlawful taking control of an aircraft by force, or threat of force, or any other form of intimidation or by any trick or false pretence;

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(b) destroying an aircraft that is in service;

(c) hostage-taking on board an aircraft or at an airport;

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- (d) forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;
- (e) introducing on board an aircraft or at an airport a weapon or hazardous device or material intended for criminal purposes;
- 10 (f) use of an aircraft in service for the purpose of causing death, serious bodily injury or serious damage to property or the environment;
- 15 (g) putting the safety of an aircraft in flight or on the ground, or of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility at risk by communicating false or misleading information.”.

New sections 6A and 6B

20 7. The principal Act is amended by inserting, immediately after section 6, the following sections:

“Protection from personal liability

25 **6A.** No liability shall lie against any of the following persons on account of any treatment undergone by a person against whom any action has been taken under this Act:

- (a) the commander of an aircraft;
- (b) a member of the crew of an aircraft;
- (c) a passenger on board an aircraft;
- (d) an air marshal on board an aircraft;
- 30 (e) an owner or operator of an aircraft;
- (f) a person on whose behalf the flight of an aircraft was performed.

Act not to be interpreted as authorising action in certain cases

6B. Except for the purpose of protecting the safety of an aircraft or of persons or property on board an aircraft, nothing in this Act is to be interpreted as authorising or requiring any action in respect of an offence under any law of a political nature, or based on discrimination on any ground such as race, religion, nationality, ethnic origin, political opinion or gender.”

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Related amendments to Air Navigation Act

8. The Air Navigation Act (Cap. 6, 2014 Ed.) is amended —

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(a) by deleting the word “and” at the end of paragraph (d) of section 2B(1), and by inserting immediately thereafter the following paragraph:

“(da) every person in any aircraft (not being a Singapore registered aircraft or an aircraft operated by a Singapore operator) who commits any act or omission on board the aircraft while in flight elsewhere than in or over Singapore, insofar as this Act prohibits, requires or regulates the doing of anything by the person in the aircraft, and the aircraft subsequently lands in Singapore with the person who committed the act or omission still on board the aircraft; and”;

and

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(b) by deleting subsection (6) of section 8B and substituting the following subsection:

“(6) For the purposes of this section, an aircraft is in flight —

(a) from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when any such door is opened for disembarkation;

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(b) if the aircraft makes a forced landing in any country or territory other than Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when the competent authorities of the country or territory in which the forced landing takes place take over responsibility for the aircraft and for the persons and property on board the aircraft; and

(c) if the aircraft makes a forced landing in Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when a police officer arrives at the place of landing,

and any reference in this Act to an aircraft in flight includes a reference to an aircraft during any period when the aircraft is on the surface of the sea or land but not within the territorial limits of any country.”.

Related amendment to Police Force Act

9. Section 60 of the Police Force Act (Cap. 235, 2006 Ed.) is amended by deleting subsection (2) and substituting the following subsection:

“(2) For the purposes of this Part, an aircraft is in flight —

(a) from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when any such door is opened for disembarkation;

(b) if the aircraft makes a forced landing in any country or territory other than Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when the competent authorities of the country or territory in which the forced landing takes place take over

responsibility for the aircraft and for the persons and property on board the aircraft; and

- (c) if the aircraft makes a forced landing in Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when a police officer arrives at the place of landing,

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and any reference in this Act to an aircraft in flight includes a reference to an aircraft during any period when the aircraft is on the surface of the sea or land but not within the territorial limits of any country.”

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EXPLANATORY STATEMENT

This Bill seeks to amend the Tokyo Convention Act (Cap. 327) to implement the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft (the Protocol), signed at Montreal on 4 April 2014. The main purposes for the amendments are to give effect to the Protocol and, in particular, as follows:

- (a) to enable Singapore to exercise the state of landing jurisdiction and the state of operator jurisdiction in accordance with the Protocol;
- (b) to redefine when an aircraft is in flight;
- (c) to accord protection from personal liability to certain persons when actions are taken on board an aircraft by the commander, an aircraft crew, a passenger or an air marshal to protect the safety of the aircraft, or of persons or property on board the aircraft, in accordance with the Tokyo Convention as amended by the Protocol.

The Bill also makes related amendments to the Air Navigation Act (Cap. 6) and the Police Force Act (Cap. 235) to specify when an aircraft is in flight.

Clause 1 relates to the short title and commencement.

Clause 2 repeals and re-enacts the long title of the Act to make clear that the purpose of the Act is to give effect to the Tokyo Convention and the Protocol, and for matters connected with the Convention or Protocol.

Clause 3 amends the definition of “Singapore-controlled aircraft” in section 2(1) to include an aircraft which is leased without crew to a lessee whose principal place of business, or (if the lessee has no such place of business) whose permanent residence, is in Singapore. The clause further sets out the situations when an aircraft is in flight for the purposes of the Act. For the purposes of the Act, an aircraft is in flight —

- (a) from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when any such door is opened for disembarkation;
- (b) if the aircraft makes a forced landing in any country or territory other than Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when the competent authorities of the country or territory in which the forced landing takes place take over responsibility for the aircraft and for the persons and property on board the aircraft; and
- (c) if the aircraft makes a forced landing in Singapore, from the time when all external doors of the aircraft are closed following embarkation for a flight until the time when a police officer arrives at the place of landing.

In all these cases, any reference in the Act to an aircraft in flight includes a reference to an aircraft during any period when the aircraft is on the surface of the sea or land but not within the territorial limits of any country.

Clause 4 amends section 3 by providing that if an act or omission is committed outside Singapore (which if it had been committed in Singapore would amount to an offence) on board an aircraft that is not a Singapore-controlled aircraft, and the aircraft subsequently lands in Singapore with the offender still on board the aircraft, then that act or omission is to be treated as an offence under the law in Singapore. The amendment to section 3, read with section 3(4), therefore provides the basis for Singapore to exercise the state of landing jurisdiction in accordance with the Protocol in relation to offences committed outside Singapore on board an aircraft that is not a Singapore-controlled aircraft.

Clause 5 repeals and re-enacts section 4. For the purposes of the application of the Extradition Act (Cap. 103) to crimes committed on board an aircraft in flight, any offence committed on board any aircraft in flight is to be treated as if it had been committed not only in the place at which the offence occurred, but also within the territory of —

- (a) a Convention country in which the aircraft is registered;
- (b) a Convention country (being also a Protocol country) in which the lessee of the aircraft leased without crew has its principal place of business or, if the lessee has no such place of business, has its permanent residence; or

- (c) a Convention country (being also a Protocol country) in which the aircraft lands, with the offender still on board.

Clause 6 amends section 5 to empower the commander of an aircraft in flight to take certain actions if the commander has reasonable grounds to believe that any person on board the aircraft while in flight has done any act which in the opinion of the commander is a serious offence. Such an offence must be an offence under the law in force in Singapore.

The clause also empowers the commander of an aircraft in flight to obtain the assistance of an air marshal to restrain any person whom the commander is entitled to restrain. This is an extension of section 5 today.

The clause further provides for certain actions which a member of the crew of the aircraft, any passenger on board the aircraft, or any air marshal on board the aircraft, may take in order to protect the safety of the aircraft, or of persons or property on board the aircraft.

In section 5 and the new section 6A, “air marshal” means an individual who is appointed an air marshal under section 61 of the Police Force Act, or an air marshal (or by whatever name called) under the law of any Protocol country with whom Singapore has an agreement relating to the deployment of air marshals on board an aircraft for ensuring the security of the aircraft and persons on board the aircraft. The term “act of unlawful interference” is also defined.

Clause 7 inserts new sections 6A and 6B.

The new section 6A provides that no liability is to lie against certain persons (for example, the commander of an aircraft, a member of the crew of an aircraft or a passenger on board an aircraft, etc.) on account of any treatment undergone by a person against whom any action has been taken under the Act.

The new section 6B provides that nothing in the Act is to be interpreted as authorising or requiring any action in respect of certain offences, unless the action is taken for the purpose of protecting the safety of an aircraft or of persons or property on board an aircraft.

Clauses 8 and 9 make related amendments to the Air Navigation Act and the Police Force Act consequent on the amendments to the Tokyo Convention Act by specifying when an aircraft is in flight.

Clause 8 further amends section 2B of the Air Navigation Act to provide for the extraterritorial application of the Act in relation to any person in an aircraft (not being a Singapore registered aircraft or an aircraft operated by a Singapore operator) who commits any act or omission (that is prohibited, required or regulated under the Air Navigation Act) on board the aircraft while in flight elsewhere than in or over Singapore, and the aircraft subsequently lands in Singapore with the person who committed the act or omission still on board the aircraft.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
