

THE CIVIL AVIATION (HIJACKING AND OTHER OFFENCES) (AMENDMENT) BILL
(No. XI of 2007)

Explanatory Memorandum

The object of this Bill is to improve safety and security on board civil aircraft by making better provisions for the prevention and punishment of violent and disruptive behaviour by passengers travelling in civil aircraft from and to Mauritius.

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18 May 2007

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BILL**
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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 2 of principal Act amended
4. Section 4 of principal Act amended
5. Section 5 of principal Act amended
6. New section 5A inserted in principal Act
7. New section 7A inserted in principal Act
8. First Schedule to principal Act deleted
9. Second Schedule to principal Act deleted

A BILL

To amend the Civil Aviation (Hijacking and Other Offences) Act

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Civil Aviation (Hijacking and Other Offences) (Amendment) Act 2007.

2. Interpretation

In this Act –

"principal Act" means the Civil Aviation (Hijacking and Other Offences) Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended by inserting the following definition in its appropriate alphabetical order –

"competent authority" means the Director of Civil Aviation or such other authority as may be designated by the Minister;

4. Section 4 of principal Act amended

Section 4 of the principal Act is amended –

(a) in subsection (1) by inserting, immediately after the words "on board an aircraft", the words "in flight";

(b) by repealing subsection (3).

5. Section 5 of principal Act amended

Section 5 of the principal Act is amended –

(a) in subsection (1), by deleting the words "Subject to subsections (2) and (3)" and replacing them by the words "Subject to subsection (2)";

(b) by repealing subsections (3) and (5).

6. New section 5A inserted in principal Act

The principal Act is amended by inserting immediately section 5, the following new section –

5A. Unruly and disruptive passengers

- (1) Any person who, on board an aircraft in flight –
- (a) intimidates or threatens a crew member, whether physically or verbally, or uses abusive language against him, or lessens the ability of a crew member to perform his duties;
 - (b) obstructs or hinders a crew member in the performance of his duties;
 - (c) willfully refuses to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board, or for the purpose of maintaining good order and discipline on board,

shall commit an offence.

- (2) Any person who, on board an aircraft in flight –
- (a) intimidates or threatens, whether physically or verbally another person, or uses abusive language against another person;
 - (b) willfully damages or destroys property not belonging to him;
 - (c) is under the influence of an intoxicating drink or of a drug to such an extent as to be incapable of having proper control of himself,

shall commit an offence.

- (3) Any person who, on board an aircraft in flight –
- (a) smokes –
 - (i) in a lavatory;
 - (ii) when a “no smoking sign” is displayed;

- (iii) contrary to any instruction given, or announcement made, by a crew member;
- (iv) in any manner likely to endanger the safety of the aircraft;
- (b) tampers with a smoke detector or any other safety-related device;
- (c) operates a portable electronic device without the authorization of the aircraft commander,

shall commit an offence.

(4) Any person who commits an offence under subsection (1), (2) or (3) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(5) For the purposes of this section, the period during which an aircraft is in flight shall be deemed to include the period specified in section 4(2).

7. New section 7A inserted in principal Act

The principal Act is amended by inserting immediately after section 7, the following new section –

7A. Jurisdiction

(1) Sections 4, 5 and 5A shall apply where the offence is committed on board an aircraft which –

- (a) is registered in Mauritius;
- (b) is in the service of Mauritius; or
- (c) lands in Mauritius with the offender still on board and the aircraft commander delivers the offender to the police in Mauritius with an affirmation that no request to prosecute the offender has been made by the commander to any other state or the aircraft operator.

(2) For the purposes of this section, an aircraft shall be deemed to be in the service of Mauritius where it is operated by any company or body holding an air operator's certificate issued by the competent authority in Mauritius.

(3) Any act or omission under section 4, 5 or 5A shall be deemed, for the purposes of criminal jurisdiction, to have taken place in the district of Port Louis, and the law of Mauritius shall have effect in relation to that act or omission as if it had taken place in Mauritius.

8. First Schedule to principal Act deleted

The First Schedule to the principal Act is deleted and replaced by the Schedule to this Act.

9. Second Schedule to principal Act deleted

The Second Schedule to the principal Act is deleted.

SCHEDULE
(section 8)

SCHEDULE
(section 5(1))

Part I - Under the Criminal Code

Assault
Attempt upon chastity
Larceny
Manslaughter
Murder
Unlawful detention
Wounds and blows

Part II – Under the Firearms Act

Possession of firearm, imitation firearm or ammunition, with intent by means of it to endanger life