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1986, No.13

An Act to make provision for the security of airports and the safety of travellers by air

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Airports Security Act 1986.

(2) This Act shall come into force on a date to be appointed by the Queen's Representative, by Order in Executive Council.

2. Interpretation - In this Act, unless the context otherwise requires, -

"Airport" means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, and servicing of aircraft; and includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration:

"Airport Authority" means the Airport Authority established under section 3 of the Airport Authority Act 1985:

"Airport Manager" means the Airport Manager appointed under section 14 of the Airport Authority Act 1985:

"Airport security officer" means an employee of the Airport Authority appointed an airport security officer under section 5:

"Designated airport" means an airport for the time being designated as a security airport pursuant to section 6:

"Designated installation" means a navigation installation for the time being designated as a security navigation installation pursuant to section 6:

"Director" means the Director of Civil Aviation:

"Explosive" and "firearm" have the same meanings as in the Arms Ordinance 1954:

"Minister" means the Minister of Civil Aviation:

"Navigation installation" means any building, facility, works, apparatus, equipment, or place, which is not part of an airport but is used wholly or mainly to assist air traffic control or as an aid to air navigation; and includes any land adjacent to any such building, facility, works, apparatus, equipment, or place and used wholly or mainly in connection therewith:

"Operational area" means a movement or manoeuvring area; and includes any airport operational facility and other area defined by one or more signs affixed at the boundary thereof or at the entry thereto or at both:

"Police" means the Police of the Cook Islands:

"Police officer" means any member of the Police of any rank:

"Security area" means an area that the Minister has, pursuant to section 8, declared to be a security area.

3. Responsibility of the Police - The prevention of the commission on airports of offences against the Aviation Offences Act 1973, and the protection of persons and property from dangers arising from the commission or attempted commission of such offences, shall be the responsibility of the Police.

4. Responsibility of Airport Manager - (1) Without limiting the powers, functions, and duties of the Police under this Act or any other enactment, the Airport Manager shall be responsible for -

- (a) Carrying out passenger and baggage screening, and, where necessary, searches of passengers, baggage, cargo, aircraft, airports, and navigation installations:
- (b) Carrying out airport security patrols and patrols of navigation installations:
- (c) Reviewing, inquiring into, and keeping himself informed on security techniques, systems, devices, practices, and procedures related to the protection of civil aviation and persons employed in or using it:
- (d) For the purposes of better carrying out any of its functions under this Act, co-operating with the Police, government departments, airline operators, and authorities administering the airport security services of other countries, and with any appropriate international organisation:
- (e) Exercising and performing such other functions and duties as may be conferred on him by any enactment.

5. Airport security officers - The Airport Manager shall from time to time appoint such number of employees of the Airport Authority to be airport security officers as may from time to time be required for the purposes of this Act.

6. Designated airports and navigation installations -
(1) The Minister may, by notice in the Cook Islands Gazette, designate any airport or navigation installation as a security airport or security navigation installation.

(2) Any designation under subsection (1) may at any time be revoked, in whole or in part, or amended by the Minister by notice in the Cook Islands Gazette.

7. Right of access - (1) Subject to subsections (2) and (3), an airport security officer on duty may at any time enter any designated airport or designated installation, or any aircraft, building, or place in any part of a designated airport or designated installation, for the purpose of exercising and carrying out his powers, functions, and duties under this Act:

Provided that unless the airport security officer is

accompanied by a Police officer, the power of entry conferred by this subsection shall be limited to peaceful and non-forcible entry.

(2) Where the Police have taken command of any situation at an airport or navigation installation, the rights of airport security officers to enter any part thereof or any aircraft, building, or place shall be subject to such limitation as the senior Police officer present specifies.

(3) Subsection (1) shall not apply to an aircraft or vehicle not being used for commercial purposes, unless the airport security officer believes on reasonable grounds that there is in that vehicle or aircraft any person or thing likely to endanger the airport or installation or any of its facilities or any person.

8. Security areas - (1) The Minister may for security reasons declare, by a sign or signs affixed at the perimeter thereof, that an area within a designated airport or designated installation is a security area.

(2) No person other than a Police officer on official duties or an airport security officer shall enter or remain in any security area unless authorised by the Airport Manager or other person having control thereof.

(3) Every person in a security area shall, on the request of an airport security officer, state his name and address (and produce satisfactory evidence of its correctness) and the purpose of his presence in the security area and his authority to enter it.

(4) An airport security officer may order to leave a security area any person who has failed or refused to give satisfactory evidence of his name and address when so requested by the airport security officer, or who has failed to satisfy the airport security officer that he is authorised to be there.

(5) An airport security officer, and any person whom he calls to his assistance, may use such force as may be reasonably necessary to remove from any security area any person who fails or refuses forthwith to leave the security area after having been ordered by an airport security officer to do so pursuant to subsection (4).

(6) Every person commits an offence against this Act who, on being found in a security area, -

- (a) Fails or refuses to state his true name and address, and his authority to enter the security area after having been requested to do so under subsection (3) by an airport security officer; or
- (b) Fails or refuses forthwith to leave the security area after having been ordered by an airport security officer to do so.

(7) Every person who commits an offence under subsection (6) and, after having been warned that he commits that offence, persists in its commission, may be detained by an airport security officer, and in that case he shall as soon as may be practicable be delivered to a Police officer.

(8) A passenger embarking or disembarking directly through gateways or thoroughfares in an airport approved for that purpose by the manager of the airport shall

be deemed to be authorised by the Minister to pass through any security area forming part of those gateways or thoroughfares.

9. Powers of arrest - (1) Every airport security officer is justified in arresting without warrant any person on or in the vicinity of any designated airport or designated installation if he has reasonable grounds to believe that an offence has been or is being committed by that person against any of the following enactments:

- (a) Sections 3, 4, 5, and 10 of the Aviation Offences Act 1973;
- (b) Section 3 of the Arms Ordinance 1954 (which relates to unlawful carriage of firearms, ammunition, or explosives).

(2) Any person called upon to do so by an airport security officer is justified in assisting him in good faith to arrest any person.

(3) An airport security officer shall as soon as may be practicable deliver any person he arrests to a Police officer.

10. Arrest of persons delivered to Police - (1) A Police officer shall accept delivery of a person whom an airport security officer seeks to deliver to him under this Act if he has reasonable grounds to suspect that person of having done or omitted anything that is an offence against section 8(6) or any enactment specified in section 9(1).

(2) A Police officer who accepts delivery of a person pursuant to subsection (1) shall forthwith arrest that person.

(3) An airport security officer who detains any person in accordance with section 8(7) and delivers him to a Police officer and any person who at his request and in good faith assists an airport security officer in doing so, is justified in so detaining and delivering that person and in using such force as may be reasonably necessary in doing so.

11. Powers of Police - Every Police officer shall have and may exercise all or any of the powers conferred on an airport security officer by this Act.

12. Personation or obstruction of airport security officers - Every person commits an offence against this Act who:

- (a) Not being an airport security officer, by words, conduct or demeanour, pretends that he is an airport security officer, or puts on or assumes the dress, name, designation, or description of an airport security officer; or
- (b) Wilfully obstructs, or incites or encourages any person to obstruct an airport security officer in the execution of his duty.

SECURITY PROGRAMMES

13. Airline security programme - (1) The operator

of a commercial air carrier service to or from the Cook Islands (being a regular transport service) shall not cause or permit an aircraft of that service with a maximum certificated weight of more than 13500 kg in that service to land on or take off from a designated airport unless an approved airline security programme in respect of that airline is in force and the provisions of that programme are complied with.

(2) The operator of a commercial air carrier service to or from the Cook Islands (not being a regular transport service) shall not cause or permit an aircraft of that service with a maximum certificated weight of more than 13500 kg used in that service to land on or take off from a designated airport, unless the operator implements, in relation to that aircraft and any passenger, baggage, mail, or cargo aboard that aircraft, security procedures adequate for the purposes specified in subsection (3).

(3) An airline security programme shall specify the practices and procedures to be followed by the operator for the purposes of minimising danger to passengers, crews, ground personnel, aircraft, and facilities from acts of unlawful interference, included (but not limited to) practices and procedures -

- (a) For preventing the unlawful carriage on any aircraft used in an international air service conducted by the operator (whether on the person of any person on board, or in baggage, mail, or cargo) of any firearm, ammunition, weapon, incendiary device, or explosive, or other substance or thing that by reason of its nature or condition, may endanger the safety of the aircraft or the safety of persons or property on board the aircraft;
- (b) To be followed by flight crews and ground personnel in the event of a hijacking, bomb, or other violence threat;
- (c) For securing unattended aircraft at all times for the purpose of preventing unlawful interference with the aircraft;
- (d) For protecting cargo, baggage, mail, stores, and other supplies which are to be carried on board for the purposes of ensuring no dangerous items or sabotage device is introduced on board by such means;
- (e) To be applied by the operator in conjunction with appropriate authorities where a flight is under higher than normal threat, for the purpose of safeguarding against such threat;
- (f) For the carriage of persons in the custody of law enforcement personnel;
- (g) For the carriage on board any aircraft of authorised persons in possession of a firearm in the cabin or flight crew compartment of an aircraft, and otherwise than in the cabin or flight crew compartment.

(4) Without limiting the generality of subsection (3), practices and procedures to be specified in an airline security programme shall include procedures and practices to be followed by the operator -

- (a) At any designated airport at which aircraft used in the service land; and
- (b) On board such an aircraft while the aircraft is on the ground at any designated airport or while it is in flight, to or from any such airport; and
- (c) In the case of any aircraft on a flight to the Cook Islands from a place outside the Cook Islands, at the airport at which the aircraft last landed and takes on board passengers, baggage, mail, or other cargo.

14. Approval of programme - (1) The operator of an airline to which section 13 applies shall prepare and submit to the Director a proposed airline security programme for his approval.

(2) In considering the practices and procedures in a proposed airline security programme submitted to him for his approval, the Director shall -

- (a) Give due consideration to accepted international practices and procedures and airline security programme requirements of States with which the Cook Islands have regular air service contacts, in the interests of minimising any inconsistencies of practices and procedures between States; and
- (b) Have due regard to the level of threat to aviation in the Cook Islands or likely to affect flights to, from, or within the Cook Islands.

(3) The Director shall, with the concurrence of the Commissioner of Police, -

- (a) If he is satisfied that the proposed programme is adequate for the purposes specified in subsections (3) and (4) of section 13, by notice in writing to the operator approve the programme; or
- (b) If he is not so satisfied, by notice in writing to the operator refuse to approve the programme.

(4) The Director shall, at intervals of not more than 12 months, review any programme approved under this section in order to determine whether the programme continues to be adequate for the purposes specified in section 13.

(5) The Director may at any time, with the concurrence of the Commissioner of Police, if he is satisfied that an approved programme is no longer adequate for the purposes specified in subsections (3) and (4) of section 13, by notice in writing to the operator cancel his approval of any programme approved under this section.

15. Temporary variation of approved airline security programme - The Director may direct an operator to temporarily vary an approved airline security programme where, because of a known or suspected threat to any flight or flights or airport, or any person or persons on board a flight, additional practices and procedures or both are required for the duration of the threat and the safety of the flight.

16. Extension to domestic airline - The Queen's Representative may, by Order in Executive Council, declare that sections 13 to 15 shall apply with respect to any specified airline carrying on a service within the Cook Islands, with all necessary modifications and subject to such other modifications (if any) as are specified in the Order.

17. Airport security programme - The Director, with the concurrence of the Commissioner of Police, and in consultation with the Airport Manager, shall prepare an airport security programme complying with the requirements of the (ICAO) Chicago Convention (1946) Annex 17 for every designated airport for the purpose of protecting the safety, regularity, and efficiency of the airport and the safety of persons using the airport.

MISCELLANEOUS PROVISIONS

18. Responsibility of Airport Manager - In addition to his responsibility under section 4, the Airport Manager for every designated airport shall be responsible for establishing the environment on the airport to enable application of airport and airline security programmes. Without limiting any other responsibility of the Airport Manager under this Act, he shall in particular be responsible for providing -

- (a) Fences, gates, doors, and other barriers between public and security areas and public and operational areas to standards established by the Director;
- (b) At airports where the provision of lighting of aircraft parking areas is deemed by the Director to be necessary for security purposes, lighting adequate for such purposes;
- (c) Isolated parking areas for aircraft believed to be the subject of unlawful interference;
- (d) Providing areas for screening passengers prior to boarding, with an area separating screened from unscreened persons adequate to prevent any possibility of contact, and areas where transit passengers cannot have access to unauthorised articles.

19. Responsibility of Director - The Director shall be responsible for carrying out surveys and inspections of security measures and security programmes required in respect of airports or aircraft, by airline operators, government departments, and others concerned with the programmes.

20. Carriage of persons in custody - Where any person in custody or who is the subject of judicial or administrative action is required to travel as a passenger on any commercial flight, the agency responsible for the person shall inform the airline operator of the circumstances. Where the airline operator agrees to carry that person, the operator may make such conditions as he thinks necessary for the safety of the flight, and shall notify the aircraft captain in each case.

21. Carriage of firearms - (1) No firearm shall be

carried on board a commercial aircraft carrying passengers by any law enforcement officer or other authorised person, except in the performance of a lawful duty and with the permission of the Director. The Director shall not grant such permission without -

- (a) The favourable recommendation of the Commissioner of Police; and
- (b) The agreement of the airline operator to the carriage.

(2) Except in an emergency, 24 hours' notice of an application for authority to carry a firearm under this section must be given. When such permission is given, the airline operator shall inform the aircraft captain of the number of armed persons and their position in the aircraft.

(3) In any other case, any firearm shall be stowed in a place inaccessible to any person during the flight time. All such firearms are first to be inspected by a qualified person to ensure they are not loaded and are in a safe condition. For the purposes of this subsection, a person trained by the operator to check that safety aspect shall be deemed to be qualified.

22. Control of access to security and operational areas - (1) Every person commits an offence against this Act who without lawful authority leaves open or insecure, or both, or uncontrolled, any door, gate, or other barrier provided on any airport to control access into security or operational areas. Emergency vehicles responding to an emergency are exempt from this subsection.

(2) Every person commits an offence against this Act who, without lawful authority, deposits, parks, erects, or leaves anything whatsoever adjacent to or upon any fence, barrier, or other thing designed to prevent unauthorised access into security or operational areas in circumstances where such things facilitate the circumventing of fences, barriers, or other access control measures.

23. Airport identity cards - (1) No person shall enter or remain in any security area of any designated security airport or installation without displaying on the front of his outer garment an official airport identity card or temporary identity card issued under the authority of the Airport Manager:

Provided that -

- (a) Flight or cabin crews of an aircraft engaged on an international service shall be deemed to comply with this subsection provided they display in the approved manner an official identity card issued by their employing authority or foreign government agency;
- (b) Officials of government agencies whose duties require them to remain incognito for the purpose of a particular duty shall be exempt while carrying out such duty. Where in any situation it is considered desirable that the identity of any government official not be disclosed, an official airport identity card with the official's name deleted

shall be deemed to be sufficient to comply with this subsection:

- (c) Any bonafide passenger entering or leaving a security area for the purpose of joining or leaving a particular flight during and at the time of the normal passenger process shall be exempt, provided he is in possession of a valid boarding pass issued by the carrier for the flight, or is under the direct escort of a crew member of the flight, or representative of the operator:
- (d) Pilots in command of aircraft on private operation who are not the holders of official airport identity cards entering or within a security area for the purpose of embarking, disembarking, or servicing the aircraft shall be exempt, provided they are in possession of their valid pilot's licence, and this exemption shall extend to any person who is in the security area for the purpose of embarking on, or disembarking from, or is in the aircraft, and is under the direct escort of the pilot.

(2) No person who is the holder of an airport identity card or other documentation required by this section shall gain entry to any security area or remain in any such area other than for discharging his official duties or activity therein.

(3) Any person entering or within a security area shall produce for inspection, if so required by an authorised person, any airport identity card, or, in the case of a bonafide passenger, the boarding pass for the particular flight, or pilot's licence in circumstances specified in subsection (1)(d).

(4) Any person who enters or is found in any security area in breach of this section or who fails without reasonable cause to display his official airport identity card, or fails to produce for inspection by an authorised person his airport identity documentation, or boarding pass in the case of a passenger, or his licence, as required under subsection (1)(d) commits an offence against this Act.

(5) Every person who, having been issued with an official airport identity card, fails to return the identity card to the issuing authority when his employment circumstances have changed to such an extent that he no longer has an official need to hold an airport identity card, commits an offence against this Act.

24. Offences and penalty - (1) Every person commits an offence against this Act, who -

- (a) Operates any aircraft in circumstances which require an approved airline security programme, without a current approved programme, or who fails to carry out any of the procedures and practices specified in an approved programme; or

(b) Does any act in contravention of or fails to comply with any provision of this Act.

(2) Every person who commits an offence against this Act is liable to imprisonment for a term not exceeding one year or to a fine not exceeding \$2,000 or to both.

25. Regulations - The Queen's Representative may from time to time, by Order in Executive Council, make regulations providing for such matters as are contemplated by or necessary to give full effect to the provisions of this Act and for the due administration thereof.

This Act is administered in the Department of Civil Aviation