REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Aviation Security Consolidation Edition 2025 Order No. 179 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Aviation Security Consolidation Edition 2025

The English Text of the Aviation Security Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Aviation Security Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 27th **day of** August **, 2025.**

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 25 February 2008

AVIATION SECURITY ACT NO.10 OF 2007

Act 10 of 2007
Act 24 of 2024

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AVIATION SECURITY ACT NO.10 OF 2007

An Act to provide for aviation security and for related purposes.

PART 1 – PRELIMINARY

1. Interpretation

(1) In this Act, unless the contrary intention appears:

"aircraft" has the same meaning as in the Civil Aviation Act;

"air navigation facility" means:

(a) premises used for the handling of cargo, baggage, mail, aircraft hangar, fuel storage, or an on board services preparation facility; or

(b) any other premises, building, structure or place to which the public has no right of access and in which a service is rendered for:

(i) the operation of a designated airport; or

(ii) the operation of an aircraft; or

(iii) the public at a designated airport or on board an aircraft,

whether or not such premises, building, structure or place are situated within the boundaries of a designated airport;

"airport" has the same meaning as in the Civil Aviation Act;

"aviation security officer" means a person, employed by an authorised aviation security service provider;

"aviation security service provider" means a provider of aviation security services authorised under section 94 of the Civil Aviation Act;

"authorised officer" means

(a) an aviation security officer; or

(b) a police officer; or

(c) an officer of the Department of Customs and Inland Revenue; or

(d) an employee or agent of a carrier authorised in writing by the carrier as an authorised officer for a provision of this Act; or

(e) a person authorised in writing by the Director as an authorised officer for a provision of this Act;

"baggage" in relation to any contract of carriage means checked baggage or baggage, personal effects, or other articles, not being checked baggage, in the possession of the passenger, or in the possession of another person (being a person accompanying the passenger or a servant or agent of the carrier), whether the contract of carriage is for international carriage or domestic carriage;

"cargo" in relation to any contract of carriage means all kinds of movable property, including animals carried pursuant to a contract of carriage whether the contract of carriage is for international carriage or domestic carriage, but does not include baggage and mails or postal articles;

"carrier" in relation to any contract of carriage includes a contracting carrier and an actual carrier whether the contract of carriage is for international carriage or domestic carriage;

"Civil Aviation Act" means the Civil Aviation Act [CAP 258];

"Civil Aviation Rules" means the Rules made under the Civil Aviation Act;

"Commander" in relation to an aircraft means a pilot in lawful command of an aircraft;

"contract" in relation to any contract of carriage is an arrangement made with or without consideration for the carriage of a person, cargo or baggage whether the contract of carriage is for international carriage or domestic carriage;

"dangerous goods" means any article or substance which is capable of posing risk to health, safety, property, or the environment and:

(a) is listed in, or classified in accordance with, the ICAO's *Technical Instructions for the Safe Transportation of Dangerous Goods by Air*; or

(b) if not listed or classified, has features or properties that in the opinion of the Director might reasonably qualify them for listing or classification as dangerous goods under the ICAO's *Technical Instructions for the Safe Transportation of Dangerous Goods by Air*;

"designated airport" means a security designated airport designated by the Minister under section 97 of the Civil Aviation Act;

"Director" means the Director of Civil Aviation appointed under the Public Service Act [CAP 246];

"domestic airport" means an airport which operates without the formalities relating to customs, immigration, public health, animal and plant quarantine;

"firearm" means:

(a) any gun, rifle, or pistol; and

(b) includes any such gun, rifle, or pistol which:

(i) is dismantled; or

(ii) is not capable of discharging any shot, bullet, or other -missile, but which by its completion or the replacement of any component part or parts or the correction or repair of any defect or defects, would be so capable;

"Firearms Act" means the Firearms Act [CAP 198];

"in-flight security officer" means a person authorised by law to provide security services on board an aircraft on the ground and in flight, within and outside Vanuatu;

"international airport" means any airport designated as an airport of entry and departure for international air traffic and has formalities relating to customs, immigration, public health, animal and plant quarantine;

"ICAO" has the same meaning as in the Civil Aviation Act;

"military aircraft" means an aircraft that involves naval and air-force services including customs and police services;

"passenger" in relation to any contract of carriage means:

(a) a person carried pursuant to a contract of carriage of the person whether the contract of carriage is for international carriage or domestic carriage; and

(b) a person who has reported to an employee or agent of a carrier for the purpose of going on board an aircraft pursuant to a contract to carry him or her as a passenger;

"Penal Code Act" means the Penal Code Act [CAP 135];

"prohibited item" means:

(a) any blunt, pointed or bladed item capable of being used to cause injury; or

(b) any chemical, toxic, explosive or highly combustible substance posing a risk to, the health of passengers or crew, the security or safety of the aircraft or any property; or

(c) any object capable or appearing capable of discharging a projectile or causing injury; or

(d) any ammunition; or

(e) any explosive substance or device or any other injurious substance or device of any kind whatsoever which could be used to endanger the safety of the aircraft or of persons on board the aircraft; or

(f) any other dangerous or offensive weapons of any kind; or

(g) any item that:

(i) is listed in, or classified in accordance with, the ICAO's Security *Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*; or

(ii) if not listed or classified, has features or properties which in the opinion of the Director might reasonably qualify it for listing or classification as prohibited items under the ICAO's Security *Manual for Safeguarding International Civil Aviation Against Acts of Unlawful Interference*.

"security area" means an area that is declared by the Director to be a security area under section 99 of the Civil Aviation Act and includes an enhanced security area and a sterile security area;

"The Tokyo Convention" means the Convention on Offences and Certain Other Acts Committed on Board Aircraft, made in Tokyo on the 14th day of September 1963;

"unruly passenger offence" means an offence committed under Division 2 of Part 3;

"Vanuatu aircraft" means an aircraft that is registered or required to be registered in Vanuatu under the Civil Aviation Act;

(2) For the purposes of this Act, an aircraft is in flight from the time when all its external doors are closed after embarkation until the time when any external door is opened for disembarkation.

(3) In the case of a forced landing, an aircraft is in flight until the time when the competent authorities of the country in which the forced landing takes place, or, in the case of a forced landing in a place that is not within the territorial limits of any country, the competent authorities of any country, assume responsibility for the aircraft and for persons and property on board the aircraft.

(4) For the purposes of this Act, an aircraft is in service from the time when pre-flight preparations of the aircraft by ground personnel or by the crew of the aircraft, begins for a specific flight until:

(a) the flight is cancelled; or

(b) twenty-four hours after the aircraft, having commenced the flight, lands; or

(c) the aircraft, having commenced the flight, makes a forced landing and any competent authorities referred to in subsection (3) assume responsibility for the aircraft and for persons and properties on board the aircraft; or

(d) the aircraft, having commenced the flight, ceases to be in flight,

whichever is the latest.

1A. Application of the Act to public private partnerships

To avoid doubt, this Act applies to an airport that operates as a public private partnership as defined under the Public Private Partnerships Act No. 23 of 2024.

PART 2 – SECURITY ON THE GROUND AND AT AIRPORTS

Division 1 – Offences relating to airports

2. Offences relating to an international airport

(1) A person commits an offence if the person, whether in or outside Vanuatu, intentionally does any of the following acts at an international airport:

(a) destroys or seriously damages the facilities of the airport; or

(b) destroys or seriously damages an aircraft that is not in service and is located at the airport; or

(c) disrupts the services of the airport.

(2) A person who commits an offence under this section is liable on conviction to a term of imprisonment not exceeding 14 years.

3. Offences relating to a domestic airport

(1) A person commits an offence if the person intentionally does any of the following acts at a domestic airport:

(a) destroys or seriously damages the facilities of the airport; or

(b) destroys or seriously damages an aircraft that is not in service and is located at the airport; or

(c) disrupts the services of the airport.

(2) A person who commits an offence under this section is liable on conviction to a term of imprisonment not exceeding 5 years, or a fine not exceeding VT 5 million, or both.

Division 2 – Offence of taking prohibited items onto an aircraft and into a security area

4. Taking firearms or prohibited items onto an aircraft and into a security area

(1) A person commits an offence if the person takes or attempts to take a firearm or prohibited item on board an aircraft or into security area and the person:

(a) does not have lawful authority or a reasonable excuse to do so; or

(b) does not have the permission of the owner or operator of the aircraft or any air navigation facility within the security area; or

(c) does not have the permission of a person duly authorised by the owner or operator to give such permission.

(2) A person who contravenes subsection (1) is liable on conviction to a term of imprisonment not exceeding 5 years.

Division 3 – Prohibited actions at an airport

5. Disruptive or alarming conduct at an airport

(1) A person commits an offence if the person, while at an airport, and in a manner contrary to public order or safety at the airport:

(a) uses any threatening, offensive or insulting words or gestures; or

(b) behaves in a threatening, offensive, insulting or disorderly manner; or

(c) without justification makes an alarming statement or uses alarming words or behaves in an alarming manner.

(2) A person commits an offence if the person while at an airport:

(a) behaves in a manner that interferes with the performance by aircrew, airline officials or airport workers of their duties; or

(b) behaves in a manner that interferes with, or is likely to interfere with, the performance by aviation security officers of their duties.

(3) A person who commits an offence under paragraph (1)(a), (b) or (c), or paragraph (2)(a) is liable on conviction to a fine not exceeding VT 400,000.

(4) A person who commits an offence under paragraph (2)(b) is liable on conviction to a term of imprisonment not exceeding 2 years or a fine not exceeding VT800,000, or both.

Division 4 – Powers of search and screening

6. Screening and search of passengers and baggage

(1) An authorised officer may, with the consent of the passenger, screen and search:

(a) the passenger; or

(b) any baggage, personal effects or other articles not being checked baggage in the possession of the passenger; or

(c) the articles referred to in paragraph (b), in the possession of another person who is accompanying the passenger or is a servant or agent of the carrier,

before the passenger boards any aircraft in Vanuatu pursuant to any contract providing for the carriage of the passenger by air from any place in Vanuatu to any other place (whether in Vanuatu or elsewhere).

(2) If the passenger refuses to be screened or searched or to allow his or her baggage, personal effects, or other articles not being checked baggage that is in his or her possession to be screened or searched:

(a) the carrier may refuse to carry the passenger or his or her baggage (whether checked or unchecked); or

(b) the Director or an authorised officer may direct the carrier to refuse embarkation of that passenger or the loading of that passengers baggage (whether checked or unchecked) onto any aircraft; or

(c) if embarkation is refused under paragraph (b), an authorised officer may, in writing, direct the passenger to leave the airport for a period not exceeding 24 hours; or

(d) an authorised officer may place the passenger under surveillance at the airport for a period not exceeding 24 hours.

(3) A carrier is not liable to any civil proceeding, other than a proceeding in respect of any right that the passenger may have for the recovery of the fare or any part thereof, by reason of the fact that the carrier has refused to carry the passenger who has refused to be searched or to allow his or her baggage to be searched.

(4) If a person is searched, the person is not required to remove any article of clothing except:

(a) shoes or footwear; and

(b) a coat or similar apparel of outer clothing; and

(c) any glasses, sunglasses, hat, face mask, head covering or similar apparel.

(5) Unless a search is made by means of any mechanical, electrical or other similar device, a female passenger can only be searched by a female authorised officer.

7. Screening and search of other persons and articles

(1) If an authorised officer has reasonable grounds to suspect that a security risk exists, the authorised officer may, with the consent of the person affected, screen and search:

(a) any person who is found in any security area; or

(b) any personal effects, tools, packages or any other articles whatsoever in the possession of any person who is found in any security area; or

(c) any person who has access to, or, in the opinion of the Director, has the potential to access any aircraft, security area at any airport or air navigation facility:

(i) whether lawfully or unlawfully; or

(ii) whether in person or indirectly by means of placement or delivery of any article, matter or substance, on, within, to or in close proximity to such aircraft, security area or air navigation facility.

(2) If an authorised officer has reasonable grounds to suspect that a security risk exists, the authorised officer may search:

(a) any vehicle within any security area or in any area declared by the Director under section 99 of the Civil Aviation Act that is adjacent to any such area; or

(b) any aircraft or class of aircraft; or

(c) any air navigation facility or class of air navigation facility.

(3) If a person is searched, the person is not required to remove any article of clothing except:

(a) shoes or footwear; and

(b) a coat or similar apparel of outer clothing; and

(c) any glasses, sunglasses, hat, face mask, head covering or similar apparel.

(4) Unless a search is made by means of any mechanical, electrical or other similar device, a female passenger can only be searched by a female authorised officer.

8. Screening and search of checked baggage, cargoes and mails

(1) An authorised officer may screen or search any checked baggage, cargo or mail before it is loaded onto any aircraft in Vanuatu pursuant to a contract providing for the carriage of the baggage, cargo or mail by air from a place in Vanuatu to any other place (whether in Vanuatu or elsewhere).

(2) If an authorised officer, upon screening or searching of any checked baggage, cargo or mail, has reasonable grounds to suspect that an offence under this Act or the Civil Aviation Act has been, is being, or is likely to be, committed by any person in relation to the aircraft on which that checked baggage, cargo, or mail was to be carried, the authorised officer may without warrant take action under subsection (3).

(3) An authorised officer may:

(a) if a suspected offence relates to checked baggage, search the passenger or passengers reasonably suspected of having checked that baggage; or

(b) if a suspected offence relates to cargo, search such cargo; or

(c) if a suspected offence relates to mail, search such mail,

and may take possession of any firearm or prohibited article found in the course of that search.

9. Offence of Impersonation and obstruction of authorised officers

(1) A person who is not an authorised officer commits an offence if:

(a) the person holds himself or herself out as being an authorised officer:

(i) by words, conduct, demeanour; or

(ii) by the assumption of the dress, name, designation; or

(iii) by description of an authorised officer; or

(b) the person:

(i) willfully obstructs; or

(ii) incites or encourages any other person to obstruct,

an authorised officer in the exercise of his or her duties under this Act.

(2) A person who contravenes subsection (1) is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding VT160, 000, or both.

10. Powers of police to search a passenger declining to allow search

(1) This section applies to a person if:

(a) under subsection 6(2), a carrier has refused to carry the person, or has been directed by the Director or any authorised officer not to carry, or load the baggage of, the person; and

(b) a police officer has reasonable grounds to suspect that an offence under this Act in relation to the aircraft on which the person was to be carried has been, is being, or is likely to be, committed, whether by the person or by any other person.

(2) The police officer may without warrant:

(a) search the person including his or her baggage; and

(b) detain the person for the purposes of that search; and

(c) take possession of firearm or prohibited item found in the course of that search.

(3) Any police officer who exercises the power of search conferred by subsection (2):

(a) must identify himself or herself to the person who is being searched; and

(b) must also inform the person that the search is being made pursuant to this section.

(4) The police officer must, if not in uniform and if so required, produce evidence that he or she is a member of the Vanuatu Police Force.

11. Evidence of offences

(1) Nothing found in the course of a search or a screening made under section 6, 7, 8 or 10 is admissible as evidence in any criminal proceedings against:

(a) the person who, or whose baggage, has been screened, or searched; or

(b) the consignor of any cargo that has been screened or searched;

other than any proceedings set out in subsection (2).

(2) The proceedings are:

(a) proceedings in respect of an offence against this Act; or

(b) the criminal offence of treason or any offence punishable by imprisonment for a term of 3 years or more or life; or

(c) in respect of an offence against the Firearms Act (relating to the unlawful possession of firearms and ammunition); or

(d) in respect of an offence against the Dangerous Drugs Act [CAP 12] relating to the importation, sale, supply and possession of certain dangerous drugs in Vanuatu.

12. Powers and duties of the Director to require screening

(1) The Director may, if he or she has reasonable grounds to believe that a security risk exists, direct an aviation security service provider, by notice in writing, to screen and if necessary, to undertake reasonable searches of:

(a) any person boarding an aircraft; or

(b) any person, having access to, or in the opinion of the Director, has the potential to access any aircraft, security area at any airport or air navigation facility:

(i) whether lawfully or unlawfully; or

(ii) whether in person or indirectly by way of placement or delivery of any item, matter or substance to, on, within or in close proximity to, any such aircraft , security area or air navigation facility; or

(c) any item to be carried by an aircraft; or

(d) any item carried by or in the possession of any of the persons referred to in paragraph (a) or (b).

(2) The Director may, if he or she has reasonable grounds to believe that a security risk exists, direct an aviation security service provider, by notice in writing, to screen and if necessary, to undertake reasonable searches of:

(a) any vehicle within any security area or any area declared by the Director under section 99 of the Civil Aviation Act that is adjacent to any such area; or

(b) any aircraft or class of aircraft; or

(c) any air navigation facility or class of air navigation facility.

(3) In deciding whether or not a direction is necessary to meet a security risk, the Director may consult, whenever he or she considers appropriate, representative groups in the aviation industry and any government department.

(4) A direction remains in force until it is revoked by the Director.

Division 5 – Powers of aviation security service providers

13. Additional functions and duties of aviation security service providers

Without limiting section 96 of the Civil Aviation Act, an aviation security service provider has the following additional functions and duties:

(a) to screen and search any persons or items specified in subsection 12(1);

(b) to exercise the powers and functions of authorised officers for the purpose of Part 2;

(c) to undertake the duties of in-flight security officers as may be authorised in writing by the Director;

(d) to liaise and co-operate with in-flight security officers, or persons of equivalent functions and duties not being aviation security officers of Vanuatu who enter Vanuatu on board an aircraft registered in a member state of ICAO other than Vanuatu, as may be authorised in writing by the Director;

(e) to provide security support services to a police officer when requested by the Commissioner of Police if:

(i) the Commissioner of Police is satisfied that the provision of those services to a police officer is necessary to enable the police officer to carry out his or her security duties; and

(ii) the aviation security service is satisfied that the provision of those services to the police officer will not compromise aviation security.

14. Powers and duties of an aviation security officer relating to dangerous goods

(1) Without limiting the functions and duties conferred by section 96 of the Civil Aviation Act, an aviation security officer may screen any person boarding any aircraft or any item to be carried by an aircraft for the purpose of detecting dangerous goods.

(2) If dangerous goods are detected and the aviation security officer has reasonable grounds to believe that the dangerous goods may not be lawfully carried on an aircraft, the aviation security officer may seize and detain the dangerous goods for the purpose of determining whether or not the dangerous goods may be lawfully carried on an aircraft.

(3) If the aviation security officer determines that the dangerous goods may not be lawfully carried on an aircraft, the aviation security officer must notify the relevant operator of the aircraft or delivery service as soon as practicable and detain the dangerous goods until they are dealt with in accordance with subsection (4).

(4) The aviation security officer must:

(a) deliver the dangerous goods to the operator of the aircraft or delivery service; or

(b) with the prior approval of the Director, destroy or otherwise dispose of the dangerous goods.

(5) If the aviation security officer determines that the dangerous goods may be lawfully carried on an aircraft, the aviation security officer must, as far as practicable, return the dangerous goods to the owner of the dangerous goods.

(6) Despite anything in this section, if the aviation security officer has reasonable grounds to believe that the dangerous goods poses an imminent risk to the safety, of the aircraft, the aviation security officer may destroy or otherwise dispose of the dangerous goods.

(7) The aviation security officer must report the detection of dangerous goods in accordance with the Civil Aviation Rules or, in the absence of any such provision in the Rules, as the Director may direct.

PART 3 – SECURITY OF AIRCRAFT, PASSENGERS, BAGGAGE AND CARGOES IN FLIGHT

Division 1 – Other offences relating to an aircraft

15. Other offences relating to an aircraft

(1) A person commits an offence if the person, whether in or outside Vanuatu:

(a) on board an aircraft in flight, commits an act of violence which is likely to endanger the safety of the aircraft; or

(b) destroys an aircraft in service; or

(c) causes damage to an aircraft in service which renders the aircraft incapable of flight or which is likely to endanger the safety of the aircraft in flight; or

(d) places or causes to be placed on an aircraft in service anything which is likely to destroy the aircraft, or to cause damage to the aircraft which will render it incapable of flight, or which is likely to endanger the safety of the aircraft in flight; or

(e) destroys, damages, or interferes with the operation of any air-navigation facility used in international air navigation, where the destruction, damage, or interference is likely to endanger the safety of an aircraft in flight; or

(f) endangers the safety of an aircraft in flight by communicating any information which the person knows to be false to any other person.

(2) A person who commits any offence under subsection (1) is liable on conviction to a term of imprisonment not exceeding 10 years or a fine not exceeding VT 10 million, or both.

(3) In this section, act of violence means an act which, if committed in Vanuatu, would constitute:

(a) intentional homicide or intentional assault as defined in sections 106 and 107 of the Penal Code Act; or

(b) any of the offences specified in section 105,108, 114, 115, 119, 133, 134,135,144,145 or 146 of the Penal Code Act ; or

(c) any of the offences specified in section 25, 26, 27, 28 or 30 of the Firearms Act.

16. Application of section 15

(1) If both locations of take-off and of actual landing of the aircraft (not being a Vanuatu aircraft) are in the territory of the country in which the aircraft is registered, or, in the

case of an aircraft that is subject to joint or international registration, in the territory of one of the countries having an interest in the aircraft, section 15 applies only if:

(a) the alleged offender is a Vanuatu citizen or a person ordinarily resident in Vanuatu; or

(b) the act occurred in Vanuatu; or

(c) the alleged offender is present in Vanuatu; or

(d) the aircraft is leased without crew to a lessee:

(i) whose principal place of business is in Vanuatu; or

(ii) in any other case, who is a Vanuatu citizen or a person ordinarily resident in Vanuatu.

(2) Section 15 does not apply to an aircraft used in military, customs or police service unless:

(a) the alleged offender is a Vanuatu citizen or a person ordinarily resident in Vanuatu; or

(b) the act occurred in Vanuatu.

Division 2 – Unruly passenger offences

17. Application of this Division

(1) This Division applies to any unruly passenger offence committed:

(a) on an aircraft in Vanuatu, regardless of the nationality of the aircraft; or

(b) on an aircraft in flight outside Vanuatu, regardless of the nationality of the aircraft, if the next landing of the aircraft is in Vanuatu.

(2) A person authorised by the Director to exercise a power or function under this Division must carry a warrant of authority issued by the Director that specifies:

(a) the name of, and the office or offices held by, that person; and

(b) the powers and functions that the person is authorised to exercise under this Division.

(3) A member of the police may exercise all or any of the powers and functions that may be conferred on a person authorised by the Director under this Division.

(4) For the purposes of this Division, a person authorised by the Director includes (but is not limited to) an aviation security officer authorised by the Director.

18. Actions that endanger safety of a passenger in an aircraft

(1) A person commits an offence if the person acts in a manner that endangers any person in an aircraft.

(2) A person who commits an offence under subsection (1) is liable on conviction to a term of imprisonment not exceeding 2 years or a fine not exceeding VT800,000, or both.

19. Disruptive conduct towards crew member or any other person

(1) A person commits an offence if the person while in an aircraft:

(a) uses any threatening, offensive or insulting words or gestures towards a crew member or any other person; or

(b) behaves in a threatening, offensive, insulting or disorderly manner towards a crew member or any other person; or

(c) behaves in a manner that interferes with the performance by a crew member of his or her duties; or

(d) intentionally interferes with the performance by a crew member of his or her duties.

(2) A person who commits an offence under paragraph (1)(a), (b) or (c) towards a crew member is liable on conviction to a fine not exceeding VT 400,000.

(3) A person who commits an offence under paragraph (1)(d) towards a crew member is liable on conviction to a term of imprisonment not exceeding 2 years or a fine not exceeding VT 800,000, or both.

(4) A person who commits an offence under paragraph (1)(a) or (b) towards any other person is liable on conviction to a fine not exceeding VT200,000.

20. Interference with aircraft

(1) A person commits an offence if the person tampers or interferes with any aircraft, any component of an aircraft, or its equipment, including, but not limited to smoke detectors.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 800,000.

21. Intoxicated persons on aircraft

(1) A person (except a person under medical care) commits an offence if the person:

(a) is intoxicated and boards an aircraft; or

(b) becomes intoxicated in an aircraft.

(2) A person who commits an offence under:

(a) paragraph (1)(a) is liable on conviction to a fine not exceeding VT 400,000; or

(b) paragraph (1)(b) is liable on conviction to a fine not exceeding VT 250,000.

(3) For the purposes of this section, a person is intoxicated if the pilot-in-command (or senior flight attendant authorised by the pilot-in-command for this purpose) has reasonable cause to believe that the person is under the influence of an intoxicating liquor or substance and is:

(a) incapable of properly conducting himself or herself; or

(b) presenting a hazard or potential hazard to the aircraft or to persons on the aircraft; or

(c) a risk to the good order and discipline required on an aircraft.

(4) For the purposes of this section, a person is under medical care if the person:

(a) is under the supervision of an attendant; and

(b) has become intoxicated as a result of taking medication in accordance with a medical prescription.

22. Non-compliance with commands given by pilot-in command

(1) A person commits an offence if the person fails to comply with any commands given to the person directly by the pilot-in command, or indirectly by the pilot-in-command through a crew member, in accordance with his or her duties under the Civil Aviation Act or the Civil Aviation Rules.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 400,000.

23. Portable electronic devices not to be operated

(1) A person commits an offence if the person operates a portable electronic device on board an aircraft when instructed not to operate a portable electronic device by a crew member, passenger information signs, or placards.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 200,000.

24. Non-compliance with seating and seatbelt instructions

(1) A person commits an offence if the person fails to comply with an instruction given by a crew member, passenger information signs, or placards to:

(a) occupy a seat or berth; or

(b) fasten or keep fastened any installed safety belt or safety harness.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 200,000.

25. Smoking prohibited

(1) A person commits an offence if the person smokes:

(a) when instructed not to smoke by a crew member, passenger information signs, or placards; or

(b) in contravention of subsection 125(6) of the Civil Aviation Act.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT 200,000.

(3) In this section, smoke means to smoke, hold, or otherwise have control over an ignited product, weed or plant.

26. Dangerous goods

(1) A person commits an offence if the person carries or causes to be carried on an aircraft any dangerous goods.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding VT200, 000.

27. Procedure for unruly passenger offences

(1) If any offence specified in this Division is alleged to have been committed by any person, the pilot-in-command of the aircraft at the time of the alleged offence may, by any available means, notify:

(a) the Director; or

(b) an aviation security officer; or

(c) a member of the police

of the alleged offence.

(2) If the Director, an aviation security officer or a police officer has reasonable cause to suspect that a person has committed any offence specified in this Part, he or she may require the person to provide his or her full name, address, and date of birth.

(3) If the Director, an aviation security officer or a police officer has reasonable grounds to believe that any details provided under subsection (2) are false or misleading, he or she may require the person to give such verification of those details as is reasonable in the circumstances to require that person to provide.

(4) A police officer may arrest a person without warrant if the person:

(a) without reasonable excuse, refuses or fails to comply with a request under subsection (2) or (3); and

(b) persists to refuse or fail to comply after being warned by the aviation security officer or a police officer that he or she may be arrested for committing an offence by that refusal or failure.

(5) A person commits an offence and is liable on conviction to a fine not exceeding VT80, 000 if the person, without reasonable excuse:

(a) refuses or fails to comply with a request under subsection (2) or (3); or

(b) gives details that are false or misleading to the Director, an aviation security officer or police officer in response to such a request.

(6) Evidence produced by the defendant to the Director or an aviation security officer or a police officer under subsection (3) must be inspected without delay and returned to the defendant as soon as practicable after the inspection has concluded.

28. Liability for offences against this Division despite extra-territoriality

A person who commits an act or omission on an aircraft in flight outside Vanuatu that would be an offence against this Division if it had occurred in Vanuatu is liable as if the act or omission had occurred in Vanuatu.

29. Liability for offences under the Penal Code Act despite extra-territoriality

(1) A person who commits an act or omission on an aircraft in flight outside Vanuatu that is an offence equivalent to an offence of idle and disorderly conduct, intentional assault, or an indecent act in a public place under the Penal Code Act is liable under that Act as if the act or omission had occurred in Vanuatu.

(2) To avoid doubt, any person who commits an act or omission on an aircraft that would be an offence of idle and disorderly conduct, intentional assault, or an indecent act in a public place under the Penal Code Act is liable under that Act as if the reference to a public place in any of the provisions of the Penal Code Act includes an aircraft.

30. Foreign aircraft outside Vanuatu

(1) Proceedings are to be commenced for an unruly passenger offence committed on a foreign aircraft outside Vanuatu if:

(a) the pilot-in-command:

(i) makes a request in the prescribed form to the Director or a person authorised by the Director to commence proceedings; and

(ii) provides an undertaking in the prescribed form that he or she (or the operator of the aircraft) has not made or will not make a similar request to the authorities of any other state; and

(b) the Public Prosecutor gives his or her consent for the proceedings to commence.

(2) To avoid doubt, a person may, in respect of an unruly passenger offence, be arrested, charged, remanded in custody or released on bail before the Public Prosecutor decides whether or not to consent to the proceedings.

(3) In any proceedings for an offence under this Part, the pilot–in–command's request and undertaking, if made in the prescribed form or forms, are:

(a) admissible in evidence; and

(b) in the absence of proof to the contrary, sufficient evidence of the matters stated in the form or forms.

Division 3 – Powers of an aircraft commander

31. Powers of an aircraft commander

(1) This section applies if the commander of an aircraft in flight, wherever that aircraft may be, has reasonable cause to believe that any person on board the aircraft has performed or is about to carry out on board the aircraft:

(a) anything which is an offence under the law of the country in which the aircraft is registered (not being a law of a political nature or a law based on racial or religious discrimination); or

(b) anything (whether an offence or not) which jeopardizes or may jeopardize:

(i) the safety of the aircraft or of persons or property on board the aircraft; or

(ii) the good order and discipline on board the aircraft.

(2) The commander may take with respect to the person such reasonable measures, including restraint, as may be necessary to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain the good order and discipline on board the aircraft or to enable the commander to disembark that person in any country in which the aircraft may be or deliver that person:

(a) in Vanuatu to any member of the Vanuatu Police Force; or

(b) in any other country which is a party to the Tokyo Convention to any person exercising functions corresponding to those of a member of the Vanuatu Police Force.

(3) Any member of the crew of an aircraft and any other person on board the aircraft may:

(a) at the request or with the authority of the commander of the aircraft, or any member of the crew may if so required by the commander, assist in restraining any person whom the commander is entitled to restrain; or

(b) without the commander's request or authority, perform with respect to any person on board the aircraft such reasonable measures, including restraint, as he or she has reasonable cause to believe is immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(4) Any restraint imposed on any person on board an aircraft under the powers conferred by subsection (2) or (3) must not be continued after the aircraft ceases to be in flight unless the commander of the aircraft notifies the appropriate authorities of the country in which the aircraft ceases to be in flight, either before or as soon as reasonably

practicable after that time, that a person on board is under restraint and provides reasons for such restraint.

(5) If the commander of the aircraft gives notice, under subsection (4), restraint of the person may continue:

(a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with the consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsections (6) and (7); or

(b) if the person under restraint agrees to continue his or her journey under restraint on board that aircraft.

(6) If the commander of an aircraft has reasonable cause to believe that a person on board the aircraft has carried out or is about to carry out on board the aircraft anything (whether an offence or not) which jeopardizes or may jeopardize:

(a) the safety of the aircraft or of persons or properties on board the aircraft; or

(b) the good order and discipline on board the aircraft,

the commander may, if he or she considers it necessary to do so in order to protect the safety of the aircraft, disembark that person in any country in which the aircraft may be.

(7) If the commander of an aircraft has reasonable cause to believe that any person on board the aircraft has carried out on board the aircraft anything which in the commander's opinion is a serious offence under the law of the country in which the aircraft is registered, the commander may deliver that person:

(a) in Vanuatu to any member of the Vanuatu Police Force; or

(b) in any other country which is a party to the Tokyo Convention to any person exercising functions corresponding to those of a member of the Vanuatu Police Force.

(8) If the commander of an aircraft disembarks any person, in the case of a Vanuatu aircraft, in any country, or, in the case of any other aircraft, in Vanuatu, the commander must report the reasons for, disembarking that person to an appropriate authority in the country of which disembarking has occurred (being, in Vanuatu, a member of the Vanuatu Police Force).

(9) If the commander of an aircraft intends to deliver any person in Vanuatu or, in the case of a Vanuatu aircraft, in any other country which is a party to the Tokyo Convention, her intention and of the reasons for his or her intention to an appropriate authority in that country (being, in Vanuatu, a member of the Vanuatu Police Force).

(10) Any commander of an aircraft who without reasonable cause fails to comply with the subsection (8) or (9) is liable on conviction to a fine not exceeding VT800,000.

(11) A person who in good faith imposes reasonable measures, including restraint, on another person in accordance with the provisions of this section is not guilty of an offence and is not liable to any civil proceeding in respect of those measures.

32. Arrest of persons delivered to a police officer

(1) A police officer must accept delivery of a person whom the commander of an aircraft seeks to deliver to him or her in accordance with section 31 if the commander has

reasonable grounds to suspect that person of having done on board that aircraft anything that is an offence under this Act or any other Act.

(2) If a police officer accepts delivery of a person under subsection (1), the police officer must arrest that person.

33. Power to search persons on an aircraft

If the commander of an aircraft in flight has reasonable grounds to suspect that an offence under this Act has been, is being, or is likely to be, committed on board an aircraft or in relation to that aircraft, the commander, or any member of the crew of the aircraft, or any other person on board the aircraft authorised by the commander to do so, may:

(a) search any person or baggage on board the aircraft; and

(b) take possession of any article found which has been used or could be used to effect or facilitate the commission of such offence under this Act.

PART 4 – MISCELLANEOUS

34. Public Prosecutor's consent required for prosecutions

(1) Subject to subsection (2), no proceedings for the trial and punishment of any person charged with an offence under section 2 or 15 may be instituted in any court except with the prior written consent of the Public Prosecutor.

(2) Despite the fact that the consent of the Public Prosecutor to commence proceedings for trial has not been obtained, a person charged with an offence under section 2 or 15 may be arrested, or a warrant for the person's arrest may be issued and executed, and the person may be remanded in custody or on bail, until that consent has been obtained.

35. Aircraft in military, customs, or police service

Nothing in section 4, 6, 8, 11 or 12 applies to an aircraft used in the military, customs, or police service of any country, including Vanuatu.

36. Joint registration of an aircraft

If an aircraft is subject to joint or international registration, the aircraft is deemed for the purposes of this Act to be registered in the country which, according to the records of the ICAO, is the country of registration.

37. Penal Code Act not affected

Except as expressly provided in this Act, nothing in this Act is to be construed so as to limit or affect the operation of any provision of the Penal Code Act.

Table of Amendments

1A Inserted by Act No 24 of 2024