

Air piracy

Article 369. The same penalty as is provided for in the cases mentioned in subparagraphs 2 and 4 of the above article shall be imposed when the acts are committed on board aircraft, whether inside or outside the national airspace.

International criminal organizations

Article 370. Any person controlling or belonging to organizations of an international character engaged in the slave trade, the traffic in persons or the perpetration of acts of air piracy or infringing the provisions of the treaties adopted by El Salvador to protect human rights shall be punished by a term of imprisonment of between 5 and 15 years.

XV. FIJI⁵⁰

1. SUMMARY OF RELEVANT PROVISIONS OF THE PENAL CODE (CAP. 17): PART IX: OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILITY

Section 71 of Cap. 17 proscribed foreign enlistment against any friendly States, whether in military or naval capacity. Any person who breaches Section 71 of the Penal Code is guilty of misdemeanour.

Under Section 72 any person who is guilty of piracy or crime connected with, or relating or akin to piracy, shall be liable to life imprisonment.

Section 73 declares it illegal for any person to hijack any aircraft or assist any person in hijacking an aircraft, whatever his nationality or citizenship, whatever the State in which the aircraft is registered, and whether the aircraft is in Fiji or elsewhere. Any person convicted under this Section is liable to life imprisonment.

Section 74 states that any offence committed in the course of hijacking shall be declared to be an offence under the Code and any person shall be liable to be convicted of any such offence as if it is done in relation to such hijacking.

Section 76 creates an offence of aircraft sabotage as including destruction of aircraft in service or damaging an aircraft so as to render it incapable of flight or endanger its safety in flight. It is also an offence to place or cause to be placed on an aircraft in service by any means whatsoever, a device or substance which is likely to destroy that aircraft or cause damage to the same so as it is

⁵⁰ Transmitted to the Secretariat by that Government on 22 July 1997.

incapable of flight or cause damage so as to endanger its safety during flight. In addition, to damage or destroy navigation facilities or interfere with their operation amounts to an offence. Any communication of information which is known to be false, which is likely to endanger the safety of an aircraft in flight is also an offence. The sanction for any person convicted under any provision of Section 76 is life imprisonment.

Lastly, a person who aids and abets in the carrying out of any of the foregoing is equally guilty of an offence under this Code. A prosecution under Chapter IX of the Penal Code requires the consent of the Director of Public Prosecutions.

The Police, through the Special Branch, had been the principal agency of Government to assess intelligence information on activities that may be prejudicial to the country's interests. It was considered that there were shortcomings under such arrangement and Government, therefore, enacted the Fiji Intelligence Service Decree of 1990.⁵¹

Section 2 of the Decree defines security as meaning the protection of the country from espionage, sabotage, seditious intentions, active measures of foreign interventions and terrorism.

“Terrorism” is further defined as including:

- (a) acts of violence for the purpose of achieving a political objective in Fiji or in a foreign country (including acts of violence for the purpose of influencing the policy or acts of a government in Fiji or in a foreign country); and
- (b) training, planning, preparations or other activities for the purposes of violent subversion in a foreign country or for the purposes of the commission in a foreign country of other acts of violence of a kind referred to in paragraph (a); and
- (c) acts that are offences punishable under any law relating to internationally protected persons, the hijacking of aircraft or the protection of aircraft.

The Decree gives the Director of the Service extensive powers.

⁵¹ The full text of the Fiji Intelligence Service Decree 1990 is available for consultation from the Codification Division, Office of Legal Affairs.

2. CIVIL AVIATION (SECURITY) ACT 1994⁵²

(Act. No. 10 of 1994)

AN ACT

To make provision for offences against the safety of civil aviation; the protection of civil aviation from acts of unlawful interference: airport security; the powers of search and arrest of operators and commanders of aircraft and related matters.

Enacted by the Parliament of Fiji—

PART I — PRELIMINARY

Short Title and commencement

1. (1) This Act may be cited as the Civil Aviation (Security) Act, 1994.
- (2) Parts I, II, III, V and VI of this Act shall enter into force on the date of publication in the *Fiji Republic Gazette*.
- (3) Part IV of the Act shall not enter into force until 3 months after assent.

Interpretation

2. (1) In this Act, unless the context otherwise requires:

“act of violence”, in relation to the provisions of Part II of this Act, means:

- (a) any act done in Fiji which constitutes an offence against the Penal Code, and
- (b) any act done outside Fiji which, if done in Fiji, would constitute such an offence as is mentioned in paragraph (a);

“air navigation installation” means any building, works, apparatus, or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land contiguous or adjacent to any such building, works, apparatus of equipment and used wholly or mainly for purposes connected therewith;

“airport” means the aggregate of the land, buildings, and works comprised in an airport within the meaning of the Air Navigation Regulations 1981;

⁵² The Civil Aviation (Security) Regulation 1994 (Section 17) has been forwarded by Fiji to the Secretariat and is available for consultation from the Codification Division, Office of Legal Affairs.

“airport security officer” means a person appointed to the Airport Security Service for the purpose of performing the duties of an airport security officer;

“Airport Security Service” means the service established under Section 22;

“article” includes any substance, whether in solid or liquid form or in the form of a gas or a vapour;

“Authority” means the Civil Aviation Authority of Fiji;

“explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him;

“firearm” includes an air gun or air pistol;

“operator”, in relation to an aircraft, means the person having the management of the aircraft for the time being;

“security air navigation installation” means an air navigation installation so designated under Section 20;

“security airport” means an airport so designated under Section 20.

(2) For the purpose of Part II of this Act:

(a) the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board; and

(b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends twenty-four hours after the flight lands having completed that flight, and also at any time (not falling within that period) while in accordance with the preceding paragraph, the aircraft is in flight.

(3) Subject to Section 59 of the Interpretation Act, Part II of this Act shall not be construed as:

(a) conferring a right of action in any civil proceedings in respect of any contravention of this Act; or

(b) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

PART II — OFFENCES AGAINST THE SAFETY OF CIVIL AVIATION

Hijacking

3. (1) A person on board aircraft in flight who unlawfully, by the use of force or by threats of any kind or by any other form of intimidation, seizes or exercises control of that aircraft commits the offence of hijacking, whatever his nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply to an aircraft used in military, customs or police service unless

- (a) the person seizing or exercising control of the aircraft is a citizen of Fiji or resident in Fiji; or
- (b) his act is committed in Fiji; or
- (c) the aircraft is used in the military, customs or police service of Fiji.

(3) A person who commits, or attempts to commit, the offence of hijacking is liable on conviction to imprisonment for life.

Other offences committed in the course of hijacking

4. Where outside Fiji any person of whatever nationality or citizenship, while on board an aircraft wherever registered, does any act which would constitute an offence under the Penal Code if done in Fiji shall be liable to be convicted of such offence if it is done in connection with the offence of hijacking.

Aircraft sabotage

5. (1) A person who:

- (a) destroys an aircraft in service or causes damage which renders it incapable of flight or which is likely to endanger its safety in flight; or
- (b) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
- (c) performs an act of violence on board an aircraft in flight likely to endanger the safety of that aircraft,

commits the offence of aircraft sabotage whatever his nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply to any act committed in relation to an aircraft used in military, customs or police service, unless—

- (a) the act is committed in Fiji; or
- (b) where the act is committed outside Fiji—
 - (i) the person committing it is a citizen of Fiji or is resident in Fiji; or
 - (ii) the aircraft is used in the military, police or customs service of Fiji.

(3) A person who commits, or attempts to commit, an offence under this Section is liable on conviction to imprisonment for life.

Endangerment of aircraft

6. (1) A person who—

- (a) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
- (b) communicates any information which is false, misleading or deceptive in a material particular and he knows this to be so, if such act endangers the safety of an aircraft in flight or is likely to endanger the safety of an aircraft in flight,

commits the offence of endangerment of aircraft.

(2) The provisions of subsection (1) shall not apply to the commission of any act unless either the act is committed in Fiji, or where it is committed outside Fiji—

- (a) The person committing it is a citizen of Fiji or resident in Fiji; or
- (b) The commission of the act is likely to endanger the safety in flight of a civil aircraft registered in Fiji or leased without crew to a lessee whose principal place of business, or, if he has no principal place of business, whose permanent residence, is in Fiji; or
- (c) The act is committed on board a civil aircraft which lands in Fiji with the person who committed the act still on board.

(3) The provisions of paragraph (a) of subsection (1) shall not apply to any act committed outside Fiji in relation to air navigation facilities situated outside Fiji which are used in connection with international air navigation, unless the person

committing the act is a citizen of Fiji or is resident in Fiji.

(4) A person who commits, or attempts to commit, an offence under this Section is liable on conviction to imprisonment for life.

(5) In this Section—

(a) “civil aircraft” means an aircraft other than an aircraft used in military, customs or police service of a country other than Fiji;

(b) a reference to air navigation facilities includes reference to any property used in connection with the provision of such facilities including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.

Airport sabotage

7. (1) A person who by means of any device, weapon or substance—

(a) performs at an airport an act of violence which causes or is likely to cause death or serious personal injury and endangers or is likely to endanger the safe operation of the airport or the safety of persons at the airport;

(b) destroys or seriously damages property used for the provision of any facilities at an airport (including any apparatus or equipment so used), or any aircraft which is at such airport, but is not in service, in such a way as to endanger or be likely to endanger the safe operation of the airport or the safety of persons at the airport; or

(c) disrupts the services at an airport in such a way as to endanger or be likely to endanger the safe operation of the airport or the safety of persons at the airport,

commits the offence of airport sabotage whether the act is committed in Fiji or elsewhere and whatever his nationality.

(2) The provisions of paragraph (b) of subsection (1) shall not apply to an aircraft used in military, customs or police service unless—

(a) the act is committed in Fiji; or

(b) where the act is committed outside Fiji—

(i) the person committing it is a citizen of Fiji or a person resident in Fiji; or

(ii) the aircraft is used in the military, customs or police service of Fiji.

(3) A person who commits, or attempts to commit, an offence under this Section is liable on conviction to imprisonment for life.

(4) In this Section “airport” means an airport serving international civil aviation.

Ancillary offences

8. (1) It shall be an offence for any person in Fiji to induce or assist the commission outside Fiji of an act which—

(a) would, but for subsection (2) of Section 3, be an offence under that Section; or

(b) would, but for subsection (2) of Section 5, be an offence under that Section; or

(c) would but for subsection (2) or subsection (3) of Section 6, be an offence under that Section; or

(d) would, but for subsection (2) of Section 7, be an offence under that Section.

(2) A person who commits, or attempts to commit, an offence under this Section shall be liable on conviction to imprisonment for life.

(3) Subsection (1) shall have effect without prejudice to the operation, in relation to any offence under Sections 3, 5, 6 or 7, of any rule of law or written law relating to parties to an offence or accessories.

Extradition

9. (1) For the purposes of the Extradition Act there shall be deemed to be included in any extradition treaty with a State which is a party the relevant Convention or the Protocol any offence under the preceding provisions of this Part unless such offence has been described in that extradition treaty.

(2) Where no such extradition treaty as is mentioned in Section 5 of the Extradition Act has been made with a State which is a party to the relevant Convention or the Protocol, that Section shall have effect as if that Convention or the Protocol were such a treaty with that State; but that Act shall have effect as if the only extradition offences within the meaning of that Act were the offences which are offences in pursuance of that Convention or the Protocol.

(3) A certificate given under the hand of the Minister that any foreign State is a party to the relevant Convention or the Protocol shall be sufficient evidence of that

fact.

(4) For the purposes of subsections (1) and (3) the relevant Convention and the Protocol are the Conventions and the Protocol described in subsection (5).

(5) For the purposes of subsection (2)—

(a) the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16th December 1970 is a relevant Convention and the offences in pursuance of that Convention are the offences under or by virtue of Section 3 or 4 or paragraph (a) of subsection (1) of Section 8 and attempts to commit such offences; and

(b) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September 1971 is the other relevant Convention and the offences which are offences in pursuance of that Convention are the offences under or by virtue of Section 5 or 6 or paragraph (b) or (c) of subsection (1) of Section 8 and attempts to commit such offences; and

(c) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Montreal Convention (mentioned in paragraph (b) above) signed at Montreal on 24 February 1988 is the Protocol and the offences which are in pursuance of the Protocol are the offences under or by virtue of Section 7 or paragraph (d) of subsection (1) of Section 8 or attempts to commit such offences.

(6) For the purposes of the Extradition Act, any act wherever committed which—

(a) is an offence under the preceding provisions of this Part or an attempt to commit such an offence, or would be such an offence or attempt but for subsection (2) of Section 3, subsection (2) of Section 5, subsection (2) or (3) of Section 6 or subsection (2) of Section 7; and

(b) is an offence against the law of any State to which that Act has been applied by this Section,

shall be deemed to be an offence committed within the jurisdiction of that State.

Taking of aircraft

10. (1) A person who, without lawful excuse, takes or exercises control, whether direct or through another person, of an aircraft commits an offence.

(2) A person who, without lawful excuse, —

(a) takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first-mentioned person, is on board the aircraft; or

(b) by force or violence or threat of force or violence or any other form of intimidation, or by any trick or false pretence, takes or exercises control, whether direct or through another person, of an aircraft while another person, not being an accomplice of the first-mentioned person, is on board the aircraft, commits an offence.

(3) A person who commits, or attempts to commit an offence—

(a) under subsection (1) is liable on conviction to imprisonment for fourteen years;

(b) under subsection (2) is liable on conviction to life imprisonment.

Threats and false statements respecting aircraft

11. (1) A person who—

(a) threatens, states that it is his intention to, or makes a statement from which it can be reasonably inferred that it is his intention, to destroy, damage or endanger the safety of an aircraft or to kill or injure all or any of the persons on board an aircraft; or

(b) makes a statement or conveys information, which statement or information he knows to be false, to the effect, or from which it can be reasonably inferred, that there has been, is or is likely to be a plan, proposal, attempt, conspiracy or threat to—

(i) hijack an aircraft

(ii) destroy, damage or endanger the safety of an aircraft; or

(iii) kill or injure all or any of the persons on board an aircraft;
or

(c) communicates any information which he knows to be false or performs any other act for the purpose of causing, or which is likely to cause, inconvenience to persons travelling upon or about to travel upon an aircraft in service or which is likely adversely to affect the journey or passage, of an aircraft in service,

commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for seven years or to both such fine and imprisonment.

(2) The provisions of this Section apply if the act is committed in Fiji, whether

the aircraft in relation to which it is committed is in or outside of Fiji, or if the act is committed outside of Fiji, it is committed—

- (a) in relation to an aircraft, in Fiji;
- (b) in relation to an aircraft which is registered in Fiji or leased without a crew to a lessee whose principal place of business, or if he has no principal place of business, where his permanent residence is in Fiji, or is in the military, customs or police service of Fiji;
- (c) the act is committed on board an aircraft which lands in Fiji with the person who committed the act still on board.

Threats and false statements respecting airports

12. A person who—

- (a) threatens, states that it is his intention, or makes a statement from which it could reasonably be inferred that it is his intention, to destroy, damage or endanger the safety of an airport or any part thereof or any air navigation installation; or
- (b) makes a statement or conveys information, which statement or information he knows to be false, to the effect or from which it can reasonably be inferred, that there has been, is or is to be a plan, proposal, attempt or conspiracy or threat—
 - (i) to take or exercise control, by force or violence, of an airport or part thereof or of any air navigation installation; or
 - (ii) to destroy, damage or endanger the safety of an airport or any part thereof or any air navigation installation; or
 - (iii) to kill or injure any persons who are, or maybe, within the limits of any airport or any air navigation installation,

commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for seven years or to both such fine and imprisonment.

Offences in relation to certain dangerous articles

13. (1) It is an offence for any person without lawful authority or reasonable excuse to have with him—

- (a) in any aircraft registered in Fiji whether at a time when the aircraft is in Fiji or not; or

- (b) in any other aircraft at a time when it is in, or in flight over, Fiji; or
- (c) in any part of an airport in Fiji; or
- (d) in any air navigation installation in Fiji which is not associated with an airport,

any article to which this Section applies.

(2) This Section applies to the following articles, that is to say—

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not;
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive; and
- (c) an article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(3) For the purposes of this Section a person who is for the time being in an aircraft, or in part of an airport, shall be treated as having with him in the aircraft, or in that part of the airport, as the case maybe, an article to which this Section applies if—

- (a) where he is in the aircraft, the article or an article in which it is contained, is in the aircraft and has been caused (whether by him or by any other person) to be brought there as being, or as forming part of, his baggage on a flight in the aircraft or has been caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight; or
- (b) where he is in part of an airport (otherwise than in an aircraft), the article, or an article in which it is contained, is in that or any other part of the airport and has been caused (whether by him or by any other person) to be brought into the airport as being, or as forming, part of, his baggage on a flight from that airport or has been caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight on which he is also to be carried, notwithstanding that the circumstances may be such that (apart from this subsection) he would not be regarded as having the article with him in the aircraft or in a part of the airport, as the case may be.

(4) A person guilty of an offence under this Section is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding seven years or to both such a fine and imprisonment.

(5) Nothing in subsection (3) shall be construed as limiting the circumstances in which a person would, apart from that subsection, be regarded as having an article with him as provided in subsection (1).

Prosecutions of offences

14. Proceedings for an offence under the preceding Sections of this Part shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Powers exercisable on suspicion of an intended offence

15. (1) Where a police officer has reasonable cause to suspect that a person about to embark on an aircraft in Fiji, or a person on board such an aircraft, intends to commit in relation to the aircraft, an offence under this Part, the police officer may prohibit him from travelling on board the aircraft, and for the purpose of enforcing that prohibition the police officer —

(a) may prevent him from embarking on the aircraft or, as the case may be, may remove him from the aircraft; or

(b) may arrest him without warrant and detain him for so long as may be necessary for that purpose.

(2) Subsection (1) shall have effect without prejudice to the operation, in relation to an offence under this Act of any law conferring powers of arrest without warrant or concerning the use of force in making an arrest.

PART III — PROTECTION OF CIVIL AVIATION FROM ACTS OF UNLAWFUL INTERFERENCE

Purposes of Part

16. (1) The purposes of this Part are the protection against acts of unlawful interference—

(a) of aircraft, and of persons or property onboard aircraft;

(b) of airports, and of persons who are at any time in an airport or property which forms part of an airport or is at any time within an airport; and

(c) of air navigation installations which do not form part of an airport,

and references in this Part to "the purposes of this Part" shall be construed accordingly.

(2) In this Part "act of unlawful interference" means any act (whether actual or potential, and whether done or to be done in Fiji or elsewhere) which when done in Fiji constitutes, or if done in Fiji would constitute, an offence against the provisions of Part II of this Act.

Power to make regulations

17. (1) The Minister may make such regulations as may appear to him to be requisite or expedient —

(a) for carrying out any standard or recommended practice relating to safeguarding international civil aviation against acts of unlawful interference adopted in accordance with the Convention on International Civil Aviation 1944 and any amendment of any such standard or recommended practice adopted in accordance with that Convention;

(b) generally, for purposes of this Part.

(2) Any regulation made under this Section may, for the purposes of securing compliance therewith, contain provisions—

(a) imposing penalties not exceeding a fine of \$10,000 and imprisonment for a term not exceeding seven years or both such fine and imprisonment; and

(b) prohibiting the grant of, or requiring the suspension or revocation of, any licence, permit or certificate which authorises the operation of air services to which the regulation applies and which may be, or has been, granted under the Civil Aviation Act.

(3) The provisions of this Section shall not derogate from the provisions of Section 3 of the Civil Aviation Act.

Directions of the Minister

18. (1) The Minister may for the purposes of this Part give to the Authority any general or special directions in writing and the Authority shall act in accordance with any such direction.

(2) The Minister shall consult the Authority before giving any directions under this Section.

PART IV — AIRPORT SECURITY

Application of Part

19. (1) This Part applies to any airport or air navigation installation owned, managed or operated by the Authority.

(2) The Minister may by regulations under Section 17 apply the provisions of this Part with such adaptations and modifications as he considers expedient to any other airport or air navigation installation in Fiji.

Security airports and air navigation installations

20. (1) The Minister may, by notice in the Gazette, designate any airport or air navigation installation as a security airport or a security air navigation installation.

(2) Nadi International Airport and Nausori International Airport shall be deemed to be designated by the Minister under this Section as security airports.

Airport Security

21. The prevention of the commission of offences against the provisions of Part II of this Act at any security airport or security air navigation installation, the protection of persons and property from dangers arising from the commission or attempted commission of such crimes, and the maintenance of public safety and order at such airports and installations shall be the joint responsibility of the Fiji Police Force and the Airport Security Service.

Airport Security Service

22. The Authority shall establish a service to be known as the Airport Security Service comprising such employees of the Authority as are appointed to it as airport security officers.

Functions and duties of Airport Security Service

23. The Airport Security Service shall have the following functions and duties —

(a) to carry out passenger and baggage screening of all international aircraft passenger services and of such other services where the service or the screening is judged advisable by the Authority and, where necessary, to undertake searches of passengers, baggage, cargo, aircraft, airports and air navigation installations;

(b) to carry out airport security patrols and patrols of air navigation installations;

(c) generally, to maintain public safety and order at airports and air navigation installations;

(d) to review, inquire into and keep itself informed on security techniques, systems, devices, practices, and procedures, related to the protection of civil aviation and persons employed in or using it;

(e) for the purpose of better carrying out of any of its functions under this Act to co-operate with the Fiji Police, Government departments, operators and authorities administering the airport security services of other countries, and with any appropriate international organisation;

(f) to exercise and perform such other functions and duties as may be conferred on it by any law.

Powers of the Police

24. (1) Nothing in this Part shall limit the powers, functions, duties or responsibilities of the Fiji Police Force under this or any other law.

(2) Every police officer shall have and may exercise any of the powers conferred upon an airport security officer by the provisions of this Part.

Right of access

25. (1) Subject to subsection (2), an airport security officer on duty may at any time enter any security airport or security air navigation installation, or any aircraft, building, or place, in any part of such an airport or air navigation installation, for the purpose of exercising and carrying out his powers, functions, and duties under this Part:

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 a police officer has taken command of any situation at such an airport or air navigation installation, the right of any airport security officer to enter any part thereof or any aircraft, building, or place shall be subject to such limitation as the senior police officer present specifies.

Power of arrest

26. (1) Every airport security officer is justified in arresting without warrant any person on or in the vicinity of any security airport or security air navigation installation if he has reasonable grounds to believe that an offence has been or is being committed by that person against any provision of Part II of this Act.

(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 whom he arrests to a police officer.

Security areas

27. (1) The Authority may for security reasons declare, by a sign or signs affixed at the perimeter thereof, that an area within a security airport or security air navigation 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 Authority 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 be 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 who, on being found in a security area —

(a) fails or refuses to state his name and address, and his authority to enter the security area after having been requested to do so under subsection (3) of this Section 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 committed 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 Authority to pass through any security area

forming part of those gateways or thoroughfares.

Search of persons and goods

28. (1) No person who, before boarding an aircraft at a security airport, is required by an airport security officer —

- (a) to submit to a search of his person, or
- (b) to permit a search to be carried out of the goods that he intends to take, or have placed, on board the aircraft,

shall board the aircraft unless he submits to the search or permits the search to be carried out, as the case may be.

(2) Where, after having boarded an aircraft, a person who is required by an airport security officer—

- (a) to submit to a search of his person, or
- (b) to permit a search to be carried out of the goods that he took or had placed on board the aircraft,

refuses to submit to the search or to permit the search to be carried out (as the case may be), the airport security officer may order that person to leave the aircraft and remove from the aircraft the goods that he took, or had placed, on board the aircraft, and the person shall thereupon remove himself from the aircraft and remove, or authorise the removal of, the goods from the aircraft.

(3) No person who, having been required by an airport security officer to permit a search of goods that he intends to have transported on an aircraft, refuses to permit the search to be carried out shall place, or attempt to place, the goods or cause the goods to be placed on board the aircraft.

(4) Where goods are received at an airport for transport on an aircraft and are not accompanied by a person who may give the permission referred to in subsection (3), an airport security officer may carry out a search of the goods and, in carrying out that search, may use such force as may reasonably be necessary to gain access to the goods.

(5) An airport security officer, and any person whom he calls upon to assist him, may—

- (a) use such force as may be reasonably necessary to remove from an aircraft any person who fails or refuses forthwith to leave an aircraft after having been ordered to do so pursuant to subsection (2) or
- (b) remove goods from an aircraft where a person —

- (i) fails or refuses to remove, or authorise the removal of, the goods after having been ordered to do so pursuant to subsection (2);
- (ii) has placed the goods, or caused the goods to be, placed on board the aircraft having refused to permit a search pursuant to subsection (3).

(6) A person commits an offence who —

- (a) boards an aircraft after failing or refusing to submit to a search required under subsection (1); or
- (b) fails or refuses forthwith to leave an aircraft after being ordered to do so under subsection (2); or
- (c) fails or refuses to remove, or authorise the removal of, goods from an aircraft after being ordered to do so under subsection (2); or
- (d) places or attempts to place, or causes to be placed on board an aircraft goods after having refused to permit a search of the goods under subsection (3).

(7) Any person who commits an offence under subsection (6) of this Section, 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 practicable be delivered to a police officer.

(8) In this Section "goods" means anything that may be taken or placed on board an aircraft as personal belongings, baggage or cargo.

(9) Nothing in this Section shall be construed as limiting the right of an operator of an aircraft arising from a law, contract or a rule of law—

- (a) to refuse to embark any person or good on board the aircraft, or
- (b) to search any person or good on the aircraft; or
- (c) to remove from the aircraft any person or good.

Search of a female

29. A female shall not be searched except by a female unless the search is made by means of any mechanical, electrical or electronic or other similar device.

Delivery of persons to police

30. (1) A police officer shall accept delivery of a person whom an airport security officer has detained under this Part and whom the airport security officer seeks to deliver to him if the police officer has reasonable grounds to suspect that person of having done or omitted to do anything that is an offence against subsection (7) of Section 27 or subsection (7) of Section 28 of this Act.

(2) A police officer shall accept delivery of a person whom an airport security officer has arrested under Section 26 and whom the airport security officer seeks to deliver to him.

(3) A police officer who accepts delivery of a person pursuant to subsection (1) or subsection (2) shall forthwith arrest the person.

(4) An airport security officer who detains any person in accordance with the provisions of subsection (7) of Section 27 or subsection (7) of Section 28 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.

Personation and obstruction of airport security officers

31. Every person commits an offence 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.

Offences and penalties

32. Every person who commits an offence against subsection (6) of Section 27, subsection (6) of Section 28 or Section 31 shall be liable, on conviction, to fine not exceeding \$2000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART V — POWERS OF OPERATORS AND COMMANDERS OF
AIRCRAFT

33. (1) The operator of an aircraft or any employee or agent authorised by him for

the purpose may, with the consent of the passenger, search any passenger and his baggage before the passenger boards the aircraft in Fiji.

(2) If the passenger declines to allow him or his baggage to be searched, the operator of the aircraft may refuse to carry him.

(3) An operator of an aircraft shall not be liable to any civil proceeding, other than a proceeding in respect of any right that the passenger may have for the recovery of any fare or any part thereof, by reason of the fact that the operator has refused to carry a passenger who has declined to allow himself or his baggage to be searched.

(4) Any search made in pursuance of subsection (1) of a female shall be done by a female except where it is done by means of any mechanical or electrical or electronic or other similar device.

(5) The operator of an aircraft or any employee or agent authorised for the purpose by him may examine any cargo before the cargo is loaded on to the aircraft in Fiji.

Unauthorised presence on board aircraft

34. A person who—

(a) gets into or onto an aircraft at an airport in Fiji without the permission of the operator of the aircraft or a person acting on his behalf, or

(b) remains on an aircraft at such an airport after being requested to leave by the operator of the aircraft or a person acting on his behalf commits an offence and is liable on conviction to a fine of \$2000 or six months imprisonment or both such fine and imprisonment.

Searches of persons

35. If the person in command of an aircraft in flight has reasonable grounds to suspect that an offence under Part II has been, is being, or is likely to be, committed on board or in relation to that aircraft, he, or any, member of the crew of the aircraft or any other person on board the aircraft authorised by him to do so, may search any person or baggage on board the aircraft, and may take possession of any article found which has been used or could be used to effect or facilitate the commission of an offence under that Part.

Arrest of persons

36. (1) The person in command of an aircraft may, on board the aircraft, with such assistance as is necessary, arrest without warrant a person whom he finds committing, or reasonably suspects of intending to commit, or of having

committed, or of having attempted to commit an offence under Part II and that person in command or a person authorised by him may hold the person so arrested in custody until he can be brought before the proper authority to be dealt with in accordance with law.

(2) The person in command of an aircraft may, where he considers it necessary so to do in order to prevent an offence under Part II or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as he thinks necessary—

(a) place a person who is on board the aircraft under restraint or in custody; and

(b) if the aircraft is not in the course of a flight, remove a person from the aircraft.

(3) Subsections (1) and (2) shall have effect without prejudice to the operation in relation to any offence under Part II of this Act of Section 3 of Schedule I of the Tokyo Convention Act 1967 (Overseas Territories) Order 1968.

PART VI — GENERAL POWER TO MAKE REGULATIONS

Regulations

37. The Minister may, notwithstanding the provisions of Section 17, make regulations, not inconsistent with this Act, prescribing matters —

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Passed by the House of Representatives this seventh day of June, in the year of our Lord one thousand, nine hundred and ninety-four.

Passed by the Senate this seventh day of July, in the year of our Lord one thousand, nine hundred and ninety-four.