

CERTAIN OFFENCES AGAINST AIR NAVIGATION ACT
B.E. 2558

BHUMIBOL ADULYADEJ, REX.;
Given on the 7th Day of February B.E. 2558;
Being the 70th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to improve the law on certain offences against air navigation;
Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1 This Act is called the “Certain Offences against Air Navigation Act, B.E. 2558”.

Section 2 This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3 The following shall be repealed:

- (1) Certain Offences against Air Navigation Act, B.E. 2521;
- (2) Certain Offences against Air Navigation Act (No.2), B.E. 2538;

Section 4 This Act shall not apply to aircraft used in military, police or customs services of foreign State.

Section 5 In this Act:

“**aircraft**” means an aircraft according to the Act on Air Navigation;

“**Thai aircraft**” means aircraft registered according to the Act on Air Navigation, and includes aircraft situated in or flying over the Kingdom, as follows:

- (1) foreign aircraft which a Thai air operator, according to the Act on Air Navigation, leases or uses in operation with or without crew

(2) aircraft which has not been registered for bearing the nationality according to the Convention on International Civil Aviation, done at Chicago on the 7th day of December B.E. 2487;

“foreign aircraft” means an aircraft which is not a Thai aircraft;

“aircraft in flight” means an aircraft which is at any time from the moment when all its external doors are closed following embarkation of passenger and crew member until the moment when any such door is opened for disembarkation of passenger and crew member; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

“aircraft in service” means an aircraft which is from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew member for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft in flight;

“airport” means an aerodrome according to the Act on Air Navigation which is providing services to the public;

“cigarette” means cigarette according to the Act on Tobacco;

“act of physical violence” means forcible attack according to the Penal Code¹;

“assault” means committing forcible injury against another not serious to the extent that causes the victim to sustain any bodily or mental harm;

“performing an act of violence” means causing injury to other person bodily or mentally;

“crew member” means a person assigned by an operator or an aircraft owner, to have duties on an aircraft during a flight duty period;

“aircraft commander” means the pilot designated by an air operator, or the pilot designated by an aircraft owner, as being in command and charged with the safe conduct of each flight;

¹ “Forcible attack” means an assault against the person or mind of a person, whether by physical force or by any other means, and includes any action by which a person places another in the state of being incapable of resistance, whether by intoxicant, hypnotization or any other similar means; <http://library.siam-legal.com/thai-law/criminal-code-terminology-section-1/>

“**competent authority**” means an official, appointed by Commissioner General for the implementation of this Act, who has powers and duties to be notified, to accept the report or dealing with an act or crime that occurs in aircraft in flight. In case of Thai aircraft landing outside the Kingdom, competent authority means an official who has powers and duties therefor in that State.

“**in-flight security officer**” mean a person appointed by the Minister of Transport to have powers and duties to protect and suppress crimes committed on board an aircraft according to Section 38, and means a person who has powers and duties therefor, in case of a foreign aircraft.

“**Minister**” means the Minister having charge and control over the execution of this Act.

Section 6 The Prime Minister, the Minister of Defense, the Minister of Foreign Affairs, the Minister of Transport and the Minister of Interior shall have charge and control over the execution of this Act and shall have the power to appoint competent officers and issue ministerial regulations and rules for the execution of this Act with regard to his respective powers and duties.

Such ministerial regulations shall come into force upon their publications in the Government Gazette.

CHAPTER 1

Offences against Air Navigation and Aircraft

Section 7 Any person who on board of an aircraft in flight refuses to follow a lawful instruction, for the purpose of maintaining good order and discipline on board, given by the aircraft commander, or on behalf of the aircraft commander by a crew member, shall be liable to imprisonment for a term of not exceeding one year, or to a fine of not exceeding forty thousand baht, or both.

If the commission of such act according to the first paragraph is a refusal to follow a lawful instruction for the purpose of ensuring the safety of the aircraft or of any person or property on board, the alleged offender shall be liable to imprisonment for a term of not exceeding five years, or to a fine of not exceeding two-hundred thousand baht, or both.

Section 8 Any person who on board an aircraft in flight commits any of the following acts, shall be liable to a fine of not exceeding twenty thousand baht:

- (1) smoking in a lavatory or smoking elsewhere not specifically arranged for smoking;
- (2) operating a portable electronic device when such act is prohibited; or
- (3) possessing any item prohibited from being brought onto an aircraft.

If the commission of such act according to the first paragraph is committed for the purpose of disrupting a device involving safety of that aircraft, the alleged offender shall be liable to imprisonment for a term of not exceeding one year, or to a fine of not exceeding forty thousand baht, or both.

For any of the offences according to the first paragraph, the aircraft commander shall have the power to accept a maximum fine from the alleged offender. Once the maximum fine is paid by the alleged offender, the case shall be settled.

Section 9 Any person who on board an aircraft in flight tampers with a smoke detector or any other safety -related device on board of that aircraft, shall be liable to imprisonment for a term of not exceeding one year, or to a fine of not exceeding forty thousand baht, or both.

Section 10 Any person who on board an aircraft in flight commits an *act of physical violence* against person shall be liable to imprisonment for a term of not exceeding two years, or to a fine of not exceeding eighty thousand baht, or both.

Section 11 Any person who on board an aircraft in flight commits any of the following acts shall be liable to imprisonment for a term of not exceeding three years, or to a fine of not exceeding one-hundred and twenty thousand baht, or both;

- (1) performing against the body of a person with an aim of sexual harassment;
- (2) performing such a disgraceful act in public by undressing himself or exhibiting his undress person; or
- (3) verbally assaulting or performing any other acts of obscenity.

Section 12 Any person who commits on board an aircraft any of the following acts, if such act is likely to endanger the safety of the aircraft or of any person on board or if such act jeopardizes the good order and discipline on board the aircraft, shall be liable to imprisonment for a term of not exceeding five years, or to a fine of not exceeding two hundred thousand baht, or both:

- (1) committing an assault, intimidation or threat, whether physical or verbal, against a person;
- (2) causing damage to, or destruction of, property;
- (3) consuming alcoholic beverages or drugs resulting in intoxication; or
- (4) performing any act in any way to cause chaotic incident on board.

Section 13 Any person who commits on board an aircraft any of the following acts, if such act interferes with the performance of the duties of the aircraft commander or a crew member or lessens the ability of the aircraft commander or the crew member to perform those duties, shall be liable to imprisonment for a term of not exceeding seven years, or to a fine of not exceeding two-hundred eighty thousand baht, or both:

(1) committing an assault, intimidation or threat, whether physical or verbal against the aircraft commander or a crew member; or

(2) Terrifying or frightening the aircraft commander or a crew member by intimidation or threat, whether through the use of physical force or by any other means.

Section 14 Any person, without any reasonable ground, who enters or hides himself in an aircraft in service, or refuses to leave such aircraft after having to do so by an order of the aircraft commander, shall be liable to imprisonment for a term of not exceeding one year, or to a fine of not exceeding forty thousand baht, or both.

Section 15 Any person who on board an aircraft in flight performs an act of violence against a person on that aircraft, if that act is likely to endanger safety of that aircraft, shall be liable to imprisonment for a term of five to ten years, or to a fine of two hundred thousand to four hundred thousand baht, or both.

Section 16 Any person who on board an aircraft in flight murder other person, if such an act is likely to endanger safety of that aircraft, shall be liable to death penalty.

Section 17 Any person who on board an aircraft in flight, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, shall be liable to death penalty, or to imprisonment for life or for a term of ten to twenty years.

Section 18 Any person who commits any of the following acts shall be liable to death penalty or to imprisonment for life or for a term of fifteen to twenty years and a fine of six hundred thousand to eight hundred thousand baht:

(1) destroying an aircraft in service;

(2) causing damage to an aircraft in service which renders it incapable of flight, or which endangers or is likely to endanger its safety in flight; or

(3) placing or causing 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.

Section 19 Any person who uses a weapon or any material commits any of the following acts, if such act endangers or is likely to endanger safety at that airport, shall be liable to death penalty or to imprisonment for life or for a term of fifteen to twenty years and a fine of six hundred thousand to eight hundred thousand baht:

(1) performing an act of violence against a person at an airport which causes or is likely to cause serious injury or death;

- (2) destroying or seriously damages the facilities of an airport or aircraft not in service located thereon; or
- (3) disrupting the services of the airport.

Section 20 Any person who uses any weapon, device or substance murdering other person, if such act endangers or is likely to endanger safety at that airport, the person shall be liable to death penalty.

Section 21 Any person who destroys or causes damages to air navigation facilities according to the Act on Air Navigation or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight, shall be liable to death penalty or to imprisonment for life or for a term of fifteen to twenty years and a fine of six hundred thousand to eight hundred thousand baht.

Section 22 Any person who communicates information which he knows to be false, thereby causing or likely to cause persons in an airport or on board of an aircraft in flight to be frightened, shall be liable to imprisonment for a term of not exceeding five years, or to a fine of not exceeding two-hundred thousand baht, or both.

If the act thereby endangering or being likely to endanger the safety of an aircraft in flight, the person committing such act shall be liable to imprisonment for a term of five to fifteen years, or to a fine of two-hundred thousand to six-hundred thousand baht, or both.

Section 23 Whoever is an accessory to the commission of any offence under Section 15, Section 16, Section 17, Section 18, Section 19, Section 20, Section 21 or Section 22 shall be liable to the same punishment as the principle in such offence.

Section 24 Whoever attempts to commit the offence under Section 15, Section 16, Section 17, Section 18, Section 19, Section 20, Section 21 or Section 22 shall be liable to punishment as the offender of such offence.

Section 25 Whoever prepares to commit an offence under sections Section 17, Section 18, Section 19 and Section 20 shall be liable to a half of the punishment provided by such relevant section.

CHAPTER 2

**Powers and Duties of An Aircraft Commander, A Competent Authority
and An In-Flight Security Officer**

Section 26 The aircraft commander of Thai aircraft in flight, when having reasonable grounds to believe that a person has committed, or is about to commit, on board an aircraft one or more of the following acts, may impose upon such person reasonable measures including restraint which are necessary to protect the safety of the aircraft, or of persons or property therein; or to maintain good order and discipline on board; or to enable him to deliver such person to competent authorities or to disembark such person:

- (1) offences against penal law;
- (2) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein; or
- (3) acts which jeopardize good order and discipline on board.

The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person who has committed, or is about to commit such act as stated in (1), (2) or (3).

Section 27 Any crew member or passenger on board Thai aircraft in flight may also take reasonable preventive measures without such authorization, as mentioned in Section 26, Paragraph 2, when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein but the aircraft commander may later issue an order revoking such measures.

Section 28 The aircraft commander of Thai aircraft shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Section 26, notify the competent authority of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

Section 29 After Thai aircraft has landed, measures of restraint imposed upon a person in accordance with Section 26 shall not be continued beyond any point at which the aircraft lands unless:

- (1) those measures to enable him to deliver such person to the competent authority to institute criminal proceedings;
- (2) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to the competent authority;
- (3) that person agrees to onward carriage under restraint; or
- (4) the competent authority of that country refuses to permit disembarkation or to take his delivery of that person.

In the case as mentioned in (4), the aircraft commander shall have the power to continue the restraint imposed upon such person in accordance with Section 26 until that person has been delivered to the competent authority of Thailand or other countries; or that person has arrived at his destination of journey.

Section 30 After Thai aircraft has landed outside the Kingdom, the aircraft commander may:

(1) in so far as it is necessary to protect the safety of the aircraft, or of persons or property therein; or to maintain good order and discipline on board, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft in flight an act which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board;

(2) deliver, to the competent authority of any Contracting State in the territory in which the aircraft lands, any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the Thai penal law as stated in the Ministerial Regulation of the Ministry of Transport.

Section 31 The aircraft commander of Thai aircraft shall report to the authorities of the State in which he disembarks any person pursuant to Section 30 (1), the fact of, and the reasons for, such disembarkation.

The aircraft commander of Thai aircraft shall, as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with Section 30 (2), notify the authorities of such State of his intention to deliver such person and the reasons therefor. The aircraft commander shall furnish the competent authority to whom any suspected offender is delivered in accordance with the provisions of this Section with evidence and information which, under Thai law, are lawfully in his possession.

Section 32 The delivery of the suspected offender to the competent authority with the request that the authority prosecute the suspected offender pursuant to Section 30 (2) or not, or the affirmation that no similar request has been or will be made by the commander or the operator to any other State is required by the law of landing State shall adhere to rules and conditions as prescribed in the Rules and under conditions jointly prescribed by the Permanent Secretaries of the Ministry of Foreign Affairs, Ministry of Transport and Ministry of Interior.

Section 33 In notifying of or making a report, on the fact of, and the reasons for such restraint or disembarkation, to the competent authority of the landing State in accordance with Section 28 or Section 31 as the case may be, the aircraft commander of Thai aircraft shall follow rules and means as determined by that State.

The aircraft commander of Thai aircraft shall as soon as practicable notify Thai embassy or consul and report to Thai competent authority the measure taken under Section 26 or the disembarkation or delivery of any person for the prosecution under Section 30.

Section 34 When Thai aircraft has landed in the Kingdom, the aircraft commander shall have powers as prescribed in Section 30 *mutatis mutandis*, except that the offence against penal laws according to Section 30 (2) is necessarily not a serious offence as stated in the Ministerial Regulation of the Ministry of Transport.

The aircraft commander shall make a report on disembarkation of any person and submit it to the competent authority, as well as notify the authority of his intention to deliver the suspected offender to the authority for the prosecution. In doing so, the provision of Section 31 shall apply *mutatis mutandis*.

Section 35 When a foreign aircraft has landed in the Kingdom and the aircraft commander delivered the suspected offender to the competent authority, to enable criminal proceedings to be instituted in the Kingdom, such competent authority shall take such delivery only when the act committed by that person constitutes an offence against Thai penal laws.

Section 36 Subject to Section 35, when a foreign aircraft has landed in the Kingdom and the aircraft commander disembarks or delivers any person to the competent authority to institute criminal proceedings in the Kingdom, the competent authority may not allow such disembarkation or not take the delivery of such person to enable criminal proceedings to be instituted in any of the following cases:

(1) the aircraft commander has not reported or notified the competent authority conforming to the Rules jointly made by the Permanent Secretaries of the Ministry of Foreign Affairs, Ministry of Transport, and Commissioner General of Royal Thai Police;

(2) the State of registration of the aircraft is a non-Contracting State of the Convention on Offences and Certain Other Acts Committed on Board Aircraft done at Tokyo on 14 September B.E. 2506 (1963);

(3) an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft but does not constitute an offence against Thai penal laws; or

(4) the aircraft commander has delivered the suspected offender to the competent authority, with the request that the authority prosecute the suspected offender for such offences as stated in Section 7, Section 8, Section 9, Section 10, Section 11, Section 12, and Section 13 but the aircraft commander or the air operator does not make an affirmation that no similar request has been or will be made by the commander or the operator to any other State.

In such case as contemplated in (1) or (2), the competent authority may allow such disembarkation or take the delivery of that person to enable criminal proceedings to be instituted, in accordance with the Rules jointly made by the Permanent Secretaries of the Ministry of Foreign Affairs, Ministry of Transport, and Commissioner General of Royal Thai Police.

Receipts of the report or the notification from any aircraft commander of foreign aircraft as well as methods for conducting a preliminary enquiry into the facts by the competent authority shall be in accordance with the Rules jointly made by the Permanent Secretaries of the Ministry of Foreign Affairs, Ministry of Transport, and Commissioner General of Royal Thai Police.

In a case in which the results of such preliminary enquiry show that any criminal proceeding cannot be instituted and there is no request for extradition, the competent authority shall take the suspected offender in custody or take other measures to ensure the presence of the suspected offender for such time as is reasonably necessary to enable his journey from the Kingdom unless when such person has the right to entry into or admission to the Kingdom, the competent authority shall release that person from custody.

Section 37 For actions taken in accordance with this Act, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken. Unless such actions have not been taken in good faiths nor have been unreasonably necessary under the circumstances.

Section 38 In order to prevent and suppress any offence committed on board an aircraft in flight, which is a transport aircraft pursuant to the Act on air navigation, the Minister of Transport shall have the power to appoint a person to be an in-flight security officer upon the advice of the Permanent Secretary of the Ministry of Defense and Commissioner General of Royal Thai Police.

Any person who will be appointed to be an in-flight security officer in accordance with the first paragraph shall have the general qualifications and not be under any of the general prohibitions as specified in the Ministerial Regulations of the Ministry of Transport.

Criteria for having an in-flight security officer on board any aircraft and guidelines on how the officer performs his duties, including on carriage of weapons shall be prescribed in the Rules issued by the Minister of Transport.

Section 39 The air operator shall be responsible for all expenditures incurred from the travelling of any in-flight security officer as prescribed in the Rules issued by the Minister of Transport.

Section 40 In the execution of duties pursuant to this Act, the competent authorities and the in-flight security officers shall be the official according to the Criminal Code and be the superior administrative or police official according to the Criminal Procedure Code.

Section 41 In the execution of duties according to Section 38, an in-flight security officer shall present an official identity card to a relevant person, except in the case of an emergency.

The identity card of an in-flight security officer shall be in the form as required by the Minister of Transport and published in the Government Gazette.

CHAPTER 3 Jurisdictions

Section 42 Whoever commit the offences, as prescribed in Section 18, Section 22, Section 23, Section 24 and Section 25 against Thai aircraft situated outside the Kingdom, shall be punished in the Kingdom.

Section 43 Whoever commit the offences, as prescribed in Section 7, Section 8, Section 9, Section 10, Section 11, Section 12 and Section 13 on board a foreign aircraft, shall be punished in the Kingdom if such aircraft is in flight outside the Kingdom and the next landing of such aircraft is in the Kingdom.

The term 'in flight' as used in the first paragraph means the period from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

Section 44 Whoever commit the offence, as prescribed in Section 12, only when such act is likely to endanger safety of a foreign aircraft; and the offences as prescribed in Section 15, Section 16, Section 17, Section 18, Section 22 Paragraph 2, Section 23 and Section 24 on board a foreign aircraft or against such aircraft outside the Kingdom, shall be punished in the Kingdom, if:

- (1) such aircraft is in flight outside the Kingdom, and the aircraft subsequently lands in the Kingdom with the alleged offender still on board; or
- (2) in the case in which the alleged offender is present in the Kingdom and the offender has not been extradited pursuant to the Act on extradition.

Section 45 Whoever commit the offences, as prescribed in Section 19 and Section 20 at any airport, serving international civil aviation, which is situated outside the Kingdom and the offence as prescribed in Section 21 against air navigation facilities, serving for international air navigation, which is situated outside the Kingdom, shall be punished in the Kingdom in the case in which the alleged offender is present in the Kingdom and the offender has not been extradited pursuant to the Act on extradition.

Section 46 Section 10 and Section 11 of the Criminal Code shall be applied to any act committed outside the Kingdom, which constitutes an offence pursuant to this Act or to any act, which is punishable in the Kingdom according to this Act.

Transitory Provisions

Section 47 Those who were designated to be the competent authorities pursuant to the Certain Offences against Air Navigation Act B.E. 2521 shall be the competent authorities pursuant to this Act until the Commissioner General of Royal Thai Police designates persons to be the competent authority according to this Act.

Section 48 Such delivery of the suspected offender; receipts of notifications and reports; and preliminary enquiries as having been pending before this Act's coming into force shall be undertaken and continued in accordance with the Certain Offences against Air Navigation Act B.E. 2521 until accomplished.

Section 49 Meanwhile the Ministerial Regulation has not yet been promulgated to determine serious offences according to Section 30, such offences which are punishable with a maximum imprisonment of five years or more shall constitute the serious offences pursuant to Section 30 of this Act.

Countersigned by:
General Prayut Chan-O-Cha
Prime Minister