

CRIMES (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 77, 1967.

An Act to make provisions with respect to crimes relating to aircraft, the imposition of monetary penalties in conjunction with the granting of recognizances to be of good behaviour and the imposition of cumulative sentences; to make further provisions with respect to assaults on prison officers; to create offences relating to certain fraudulent agreements; for these and other purposes to amend the Crimes Act 1900, and certain other Acts; and for purposes connected therewith. [Assented to, 14th December, 1967.]

BE

Crimes (Amendment).

No. 77, 1967 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and citation. **1.** This Act may be cited as the "Crimes (Amendment) Act, 1967".

Amendment of Act No. 40, 1900. **2.** The Crimes Act 1900, as amended by subsequent Acts, is amended—

Sec. 1.
(Short title and contents of Act.)

(a) (i) by omitting from the matter relating to Part IV in section one the words, figures and letters "(12) *Of vehicles or boats.—ss. 154A, 154B.*" and by inserting in lieu thereof the following new matter:—

(12) *Of vehicles or boats.—s. 154A.*

(12A) *Larceny and illegal use of aircraft.—s. 154B.*

(ii) by inserting in the same matter after the figures and letter "178B." the following new matter:—

(f3) **OBTAINING CREDIT BY FRAUD.—s. 178C.**

(iii) by inserting in the same matter after the figures "185" the following new matter:—

(g1) **FRAUDULENT ARRANGEMENTS.—s. 185A.**

(iv) by inserting in the same matter after the figures "204." the following new matter:—

(3A) *Offences relating to aircraft.—ss. 204A–204E.*

(v) by omitting from the matter relating to Part X in the same section the figures and letter "353B" and by inserting in lieu thereof the figures and letter "353C";

(vi) by omitting from the same matter the figures "357" and by inserting in lieu thereof the figures and letter "357A";

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- (vii) by inserting in the matter relating to Part XII No. 77, 1967 in the same section after the figures and letter "440A." the following new matter :—
 (8B) *Imposition of fine on deferment or suspension of sentence.*—s. 440B.
- (viii) by omitting from the matter relating to Part XVI in the same section the figures "577" and by inserting in lieu thereof the figures "579";
- (b) (i) by inserting in section four immediately before the definition of "*Banker*" the following new definition :—
 "Aircraft" includes any machine that can derive support in the atmosphere from the reactions of the air. Sec. 4.
(Interpretation.)
- (ii) by inserting next after the definition of "*Loaded arms*" the following new definition :—
 "*Member of the crew*" in relation to an aircraft means a person having functions or duties on board the aircraft.
- (c) by inserting next after section thirty-two the following new sections :— New secs.
32A, 32B.
- 32A. Whosoever destroys an aircraft with intent to cause the death of a person or with reckless indifference to the safety of the life of a person shall be liable to penal servitude for life. Destruction
of aircraft.
- 32B. Whosoever while on board an aircraft assaults or intimidates or threatens with violence a member of the crew of the aircraft so as to interfere with the performance by the member of his functions or duties connected with the operation of the aircraft or so as to lessen his ability to perform those functions or duties shall be liable to penal servitude for fourteen years. Assault, &c.,
on member
of crew of
aircraft.
- (d) by omitting from section 154A the words "aeroplane or other aircraft,"; Sec. 154A.
(Unlawfully
using
another's
vehicle or
boat.)
- (e)

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New sec.
154B.Stealing air-
craft and
unlawfully
taking or
exercising
control of
aircraft.

- (e) by inserting next after the same section the following short heading and new section :—

Larceny and illegal use of aircraft.

154B. (1) Whosoever steals any aircraft shall be liable to penal servitude for ten years.

(2) Whosoever without lawful excuse takes or exercises control, whether direct or through another person, of an aircraft shall be deemed to be guilty of larceny and be liable to penal servitude for seven years.

(3) Whosoever without lawful excuse 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 shall be deemed to be guilty of larceny and be liable to penal servitude for fourteen years.

(4) Whosoever without lawful excuse, by force or violence or threat of force or violence, 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 shall be deemed to be guilty of larceny and be liable to penal servitude for twenty years.

New secs.
204A-204E.Acts
prejudicial
to safe
operation of
aircraft.

- (f) by inserting next after section two hundred and four the following short heading and new sections :—

Offences relating to aircraft.

204A. Whosoever does any act or thing with intent to prejudice the safe operation of an aircraft shall be liable to penal servitude for fourteen years.

204B.

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204B. Whosoever while on board an aircraft No. 77, 1967 does any act or thing that is likely to endanger the safety of the aircraft shall be liable to penal servitude for seven years. Acts endangering safety of aircraft.

204c. (1) Subject to this section whosoever— Dangerous article on aircraft.

(a) carries or places a dangerous article on board an aircraft;

(b) delivers a dangerous article to a person for the purpose of its being placed on board an aircraft; or

(c) has a dangerous article in his possession on board an aircraft,

shall be liable to penal servitude for seven years.

(2) This section shall not apply—

- (a) to or in relation to any act done with the consent of the owner or operator of the aircraft given with a knowledge of the nature of the article concerned; or
- (b) to or in relation to the carrying or placing of a firearm or ammunition for a firearm on board an aircraft with permission granted under the Air Navigation Regulations made under the Air Navigation Act 1920 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament.

(3) In this section “dangerous article” means—

- (a) a firearm, ammunition for a firearm, a weapon or an explosive substance; or
- (b) a substance or thing that, by reason of its nature or condition, may endanger the safety of an aircraft or of persons on board an aircraft.

204D.

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Threat to
destroy, &c.,
aircraft.

204D. Whosoever 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 aircraft or to kill or injure all or any of the persons on board an aircraft shall be liable to imprisonment for two years.

False information as to
plan, &c., to
prejudice
safety of
aircraft or
persons
thereon.

204E. Whosoever makes a statement or conveys information, being a statement or information that he knows to be false, to the effect, or from which it could reasonably be inferred, that there has been or is to be a plan, proposal, attempt, conspiracy or threat to—

- (a) take or exercise control by force or violence of an aircraft;
- (b) destroy, damage or endanger the safety of an aircraft; or
- (c) kill or injure all or any of the persons on board an aircraft,

shall be liable to imprisonment for two years.

New sec.
353c.

- (g) by inserting next after section 353B the following new section :—

Arrest by
commander
of aircraft.

353c. (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 having committed, or of having attempted to commit, an offence on or in relation to, or affecting the use of, an aircraft and that person in command or a person authorised by him for the purpose may hold the person so arrested in custody until he can be brought before a Justice or other proper authority to be dealt with according to law.

(2) The person in command of an aircraft may, where he considers it necessary so to do in order to prevent an offence on or in relation to,

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to, or affecting the use of, the aircraft or to avoid **No. 77, 1967**
 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; or
 - (b) if the aircraft is not in the course of a flight, remove a person from the aircraft.
- (h) by inserting next after section three hundred and **New sec. 357A.**
 fifty-seven the following new section :—

357A. (1) Where any person reasonably **Powers of search.**
 suspects that an offence involving the safety of an
 aircraft has been, is being or may be committed
 on board or in relation to an aircraft and—

- (a) he is the commander of the aircraft; or
- (b) a Justice, on the basis of that suspicion, authorises him in writing so to do,

he may, subject to subsection two of this section, search the aircraft, any person on board, or about to board, the aircraft and any luggage or freight on board, or about to be placed on board, the aircraft.

(2) A female shall not be searched pursuant to subsection one of this section except by a female.

3. The Crimes Act 1900, as amended by subsequent **Further amendment of Act No. 40, 1900.**
 Acts, is further amended by inserting next after section 440A
 the following new section :—

440B. (1) Where a person is convicted on indictment **Imposition of fine on sentence being deferred or suspended.**
 of an offence, not being the offence of homicide, rape,
 or other offence punishable by death or penal servitude
 for life, and the Court defers sentence, or suspends the
 execution of a sentence in accordance with the provisions
 of this Act and, in either case, requires the offender to
 enter

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enter into a recognizance conditioned that he be of good behaviour, the Court may, in addition, impose a fine not exceeding two thousand dollars.

(2) The Court, when imposing a fine under this section—

- (a) shall direct that the recognizance referred to in subsection one of this section be further conditioned on the payment to a specified person, at a specified time or by specified instalments at specified times, of the fine so imposed; and
- (b) may, if it thinks fit, require the offender to give security for the observance of any such direction.

(3) Unless the Court otherwise directs, the provisions of section four of the Fines and Penalties Act, 1901, as amended by subsequent Acts, shall not apply to or in respect of a fine imposed under this section.

(4) Upon the forfeiture of a recognizance entered into under subsection one of this section any order made under that subsection for the imposition of a fine shall be vacated and any moneys paid under the order shall be forfeited.

Further amendment of Act No. 40, 1900.

Sec. 444.
(Sentence during any unexpired sentence may be cumulative.)

4. The Crimes Act 1900, as amended by subsequent Acts, is further amended—

- (a) (i) by omitting from subsection one of section four hundred and forty-four the word "Where" and by inserting in lieu thereof the words "Subject to subsection three of this section, where";
- (ii) by inserting in the same subsection after the word "may" the words ", whether or not that person has commenced to serve that unexpired term,";

(iii)

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- (iii) by omitting from the same subsection the words **No. 77, 1967** —
 “commence at a future day to be named by the Judge, and to be within, or at the expiration of the period of such unexpired sentence” and by inserting in lieu thereof the following words :—

commence—

- (a) at the expiration of the period of such unexpired sentence; or
- (b) where any sentence previously passed on that person commences on or after the day on which he so stands convicted, at the expiration of the period of any such sentence.

- (iv) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections :—

(1A) Where, upon the same indictment or otherwise, a person is convicted of two or more offences, the Judge may direct that the sentences imposed in respect of the convictions shall be served consecutively, in which case the term of each sentence so imposed, other than—

- (a) a sentence in respect of which a direction has been given under subsection one of this section; or
- (b) where no direction under that subsection has been given, the first sentence imposed,

shall commence at the expiration of the period of the sentence imposed immediately before it.

(2) Except to the extent that the Judge otherwise directs under subsection one or (1A) of this section, or where the Judge directs that subsection three of this section shall not apply, a sentence imposed upon a person in the circumstances

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circumstances referred to in those subsections, and an unexpired sentence then being served by that person, shall be concurrent.

(3) Where a person is convicted of assault or any other offence against the person of another and, at the time of the assault or such other offence the person so convicted was serving a sentence of penal servitude or imprisonment the term of which is unexpired at the time he is sentenced for his conviction of the assault or other offence, the sentence for that conviction shall, unless the Judge directs that this subsection shall not apply thereto, commence—

- (a) at the expiration of the period of such unexpired sentence; or
- (b) where any sentence previously passed on that person commences on or after the day on which he so stands convicted, at the expiration of the period of that sentence or, if there is more than one such sentence, at the expiration of the period of the sentence that last expires.

(4) Nothing in this section shall be construed as authorising a Justice or Justices to give a direction, make an order or impose a sentence having the effect of requiring a person to be imprisoned at the expiration of a sentence that had not expired when the direction, order or sentence was given, made or imposed, for a term in excess of that for which that person could have been required to be so imprisoned by a direction, order or sentence lawfully given, made or imposed by the Justice or Justices immediately before the commencement of the Crimes (Amendment) Act, 1967.

(b)

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- (b) (i) by omitting from section four hundred and forty-five the word "such" where firstly occurring; **No. 77, 1967**
 Sec. 445.
 (Proof of previous conviction.)
- (ii) by inserting in the same section after the word "sentence" where firstly occurring the words "referred to in section four hundred and forty-four of this Act";
- (c) by omitting section four hundred and forty-seven. **Sec. 447.**
 (Sentences on two or more counts.)
- 5. The Crimes Act 1900, as amended by subsequent Acts, is further amended—** **Further amendment of Act No. 40, 1900.**
- (a) by inserting in section fifty-eight after the words "custom-house officer," the words "prison officer,"; **Sec. 58.**
 (Assault with intent to commit felony on certain officers.)
- (b) by inserting in section four hundred and ninety-three after the word "dollars" the words "or, where the offender at the time of the assault was undergoing imprisonment, to imprisonment for a term not exceeding six months, or to pay a fine exclusive of costs, if ordered, of two hundred dollars"; **Sec. 493.**
 (Common assaults.)
- (c) (i) by inserting in section four hundred and ninety-four after the words "custom-house officer," the words "prison officer,"; **Sec. 494.**
 (Aggravated assaults.)
- (ii) by inserting in the same section after the word "duty," the words "or any person acting in aid of such officer,".

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No. 77, 1967 6. The Crimes Act 1900, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 40, 1900.

- (a) by inserting next after section one hundred and eighty-five the following new short heading and section :—

Fraudulent Arrangements.

Inducing person to enter into certain arrangements by misleading, &c., statement, &c.

185A. (1) Whosoever, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to take part or offer to take part in any arrangements with respect to property other than marketable securities, being arrangements the purpose or effect, or pretended purpose or effect, of which is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of the property or otherwise) to participate in or receive profits or income alleged to arise or to be likely to arise from the acquisition, holding, management or disposal of such property, or sums to be paid or alleged to be likely to be paid out of such profits or income, shall be liable to penal servitude for five years.

(2) Any person guilty of conspiracy to commit an offence under subsection one of this section shall be punishable as if he had committed such an offence.

(3) Without limiting the generality of subsection one of this section a statement, promise or forecast shall, for the purposes of that subsection, be deemed to be misleading or deceptive if it is of such a nature that it would reasonably tend to lead to a belief in the existence of a state
of

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of affairs that does not in fact exist, whether or not the statement, promise or forecast indicates that that state of affairs does exist. No. 77, 1967

(4) Where a body corporate is convicted of an offence under subsection one of this section any director of the body corporate, or any manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity shall, if he consented to or connived at the commission of that offence, be guilty of that offence and be liable to be proceeded against and punished accordingly.

(5) Without limiting the generality of subsection four of this section, a person shall, for the purposes of that subsection, be deemed to be a director of a body corporate if he occupies in relation thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions the directors of the company or any of them act :

Provided that a person shall not, by reason only that the directors of a body corporate act on advice given by him in a professional capacity, be taken, for the purposes of this subsection, to be a person in accordance with whose directions or instructions those directors act.

(6) In this section "marketable securities" has the meaning ascribed to that expression in the Companies Act, 1961, as amended by subsequent Acts.

- (b) by inserting in paragraph (f) of section four hundred and seventy-seven after the words "one hundred and seventy-nine," the figures and letter 185A," Sec. 477.
(List of offences within this jurisdiction.)

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No. 77, 1967 7. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by omitting subsection two of section ninety-one and by inserting in lieu thereof the following subsection :—

Amendment
of Act No.
27, 1902.
Sec. 91.

(Where
defendant
already in
prison
under prior
conviction.)

(2) Where, upon a defendant referred to in subsection one of this section being adjudged to be imprisoned, a direction has been given that the imprisonment shall commence at or after the termination of the imprisonment then being undergone by him, the Justice or Justices issuing such warrant shall thereby order that the imprisonment shall commence in accordance with the direction so given.

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1967.

Amendment
of Act No.
9, 1952.

8. (1) The Prisons Act, 1952, as amended by subsequent Acts, is amended—

Sec. 23.
(Offences
against
prison
discipline.)

(a) by omitting paragraph (c) of section twenty-three and by inserting in lieu thereof the following paragraph :—

(c) common or aggravated assault ;

(b) by omitting paragraph (g) of the same section.

(2) The Prisons Act, 1952, as amended by subsequent Acts and by this Act, may be cited as the Prisons Act, 1952-1967.

LIQUOR