



Crimes (Ships and Fixed Platforms) Act 1992

Act No. 173 of 1992 as amended

This compilation was prepared on 28 May 2001

31	No prosecution except on indictment.....	13
32	Evidence of certain matters.....	13
33	Section 38 of the Judiciary Act.....	14
Schedule 1—Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation		15
Schedule 2—Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf		26
Notes		31

An Act to make provision in relation to certain crimes against the safety of ships and of fixed platforms

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Crimes (Ships and Fixed Platforms) Act 1992*.

2 Commencement [see Note 1]

- (1) Parts 1 and 4 commence on the day on which this Act receives the Royal Assent.

Section 4

- (b) omit to perform an act.

fixed platform means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration for, or exploitation of, resources or for other economic purposes.

foreign country means a place outside Australia that is:

- (a) an independent sovereign state; or
- (b) an area of land (whether or not it is self-governing) that is not part of an independent sovereign state[(((Snden)12.c8

Part 2—Provisions relating to the Convention

Division 1—Offences in relation to ships

8 Seizing a ship

A person must not take possession of, or take or exercise control over, a private ship by the threat or use of force or by any other kind of intimidation.

Penalty: Life imprisonment.

9 Acts of violence

A person must not perform an act of violence against a person on board a private ship knowing that the act is likely to endanger the safe navigation of the ship.

Penalty: 15 years imprisonment.

10 Destroying or damaging a ship

- (1) A person must not engage in conduct that causes the destruction of a private ship.

Penalty: Life imprisonment.

- (2) A person must not engage in conduct that causes damage to a private ship or its cargo, knowing that such damage is likely to endanger the safe navigation of the ship.

Penalty: Life imprisonment.

11 Placing destructive devices on a ship

- (1) A person must not place or cause to be placed on a private ship, by any means, a device or substance that is likely to destroy the ship.
- (2) A person must not place or cause to be placed on a private ship, by any means, a device or substance that is likely to cause damage to the ship or its cargo knowing that it is likely to endanger the safe navigation of the ship.

Section 16

16 Causing injury to a person

A person who engages in conduct that causes injury to another person in connection with the commission or attempted commission of an offence against any of sections 8 to 13 is guilty of an offence.

Penalty: 10 years imprisonment.

17 Threatening to endanger a ship

- (1) A person must not threaten to do an act that would constitute an offence against section 9, 10 or 12 with intent to compel an individual, a body corporate or a body politic to do or refrain from doing an act, if that threat is likely to endanger the safe navigation of the ship concerned.

Penalty: 2 years imprisonment.

Part 2 Provisions relating to the Convention

Division 2 Powers of ship's master

Section 19

Division 2—Powers of ship's master

19 Arrest of offenders etc.

- (1) A ship's master may arrest and hold in custody any person whom

(5) A ship's master who fails to comply with subsection (3) or (4) is guilty of an offence.

Penalty: \$2,000.

(5A) Subsection (5) does not apply if the ship's master has a reasonable excuse.

Part 3 Provisions relating to the Protocol

Section 21

Penalty: Life imprisonment.

26 Causing grievous bodily harm

A person who engages in conduct that causes grievous bodily harm

Section 29

- (b) the alleged offence had an Australian element or a Protocol State element.
- (2) Paragraph (1)(a) does not apply if the person is in Australia only because he or she was extradited to Australia in relation to the acts that constituted the offence.

Part 4—Miscellaneous

30 Written consent of Attorney-General required

- (1) A prosecution for an offence:
 - (a) against Division 1 of Part 2 or Part 3; or
 - (b) created by section 11.1 or 11.2 of the *Criminal Code* in relation to an offence against any of sections 8 to 16 and sections 21 to 27;may not be begun except with the consent of the Attorney-General or of a person authorised by the Attorney-General to give consent.
- (2) Despite subsection (1):
 - (a) a person may be arrested for such an offence, and a warrant for such an arrest may be issued and executed; and
 - (b) a person may be charged with an offence against this Act; and
 - (c) a person so charged may be remanded in custody or on bail; but no further step in the proceedings referred to in subsection (1) is to be taken until the Attorney-General's consent has been given.
- (3) Nothing in subsection (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

31 No prosecution except on indictment

Despite section 4J of the *Crimes Act 1914*, an offence:

- (a) against Division 1 of Part 2 or Part 3; or
 - (b) created by section 11.1 or 11.2 of the *Criminal Code* in relation to an offence against any of sections 8 to 16 and sections 21 to 27;
- may not be tried except on indictment.

32 Evidence of certain matters

A certificate by the Attorney-General, or a person authorised by the Attorney-General to give such a certificate, stating any of the following:

Section 33

- (a) that a specified State was, at specified times, a Convention or Protocol State;
- (b) the extent to which a specified Convention or Protocol State had, at specified times, extended its jurisdiction under Article 6(2) of the Convention or Article 3(2) of the Protocol;
- (c) that specified waters were, at a specified time:
 - (i) within the internal waters or territorial sea, or above the continental shelf, of Australia or of a specified foreign country; or
 - (ii) beyond the territorial sea of Australia and of any foreign country;

is, for the purposes of any proceedings under this Act, evidence of the facts stated in the certificate.

33 Section 38 of the Judiciary Act

A matter arising under this Act, including a question of interpretation of the Convention or Protocol for the purposes of this Act, is, for the purposes of section 38 of the *Judiciary Act 1903*, taken not to be a matter arising directly under a treaty.

Schedule 1—Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

Section 3

The States Parties to this Convention,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

RECOGNIZING in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

DEEPLY CONCERNED about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

CONSIDERING that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in

Schedule 1 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

RECALLING FURTHER that resolution 40/61 “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security”,

RECALLING ALSO that by resolution 40/61, the International Maritime Organization was invited to “study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures”,

HAVING IN MIND resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

NOTING that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

AFFIRMING the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board

(c) a ship which has been withdrawn from navigation or laid up.

2 Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

ARTICLE 3

- 1 Any person commits an offence if that person unlawfully and intentionally:
- (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
 - (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
 - (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
 - (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or

1 This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2 In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

ARTICLE 5

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

ARTICLE 6

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

- (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
- (b) in the territory of that State, including its territorial sea; or
- (c) by a national of that State.

5 This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

ARTICLE 7

1 Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2 Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3 Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

- (a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;
- (b) be visited by a representative of that State.

4 The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5 When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

ARTICLE 8

1 The master of a ship of a State Party (the “flag State”) may deliver to the authorities of any other State Party (the “receiving State”) any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.

guarantees provided for such proceedings by the law of the State in the territory
of which he is present.

ARTICLE 11

1 The offences set forth in article 3 shall beprBl sie 4 .8(31beth 1(c)11(l)-2.u(rBl)ded)13.1a

1 State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2 States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

ARTICLE 13

1 States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:

- (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;
- (b) exchanging information in accordance with their national law, and

Schedule 1 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

ARTICLE 21

- 1 This Convention shall be deposited with the Secretary-General.
- 2 The Secretary-General shall:
 - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
 - (ii) the date of the entry into force of this Convention;
 - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
 - (iv) the receipt of any declaration or notification made under this Convention;
 - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
- 3 As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

(b) performs an act of violence against a person on board a fixed platform if

Schedule 2 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf

acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof. However, this Protocol shall not enter into force before the Convention has entered into force.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

ARTICLE 7

1 This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

4 A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

ARTICLE 8

1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2 The Secretary-General shall convene a conference of the States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

ARTICLE 9

1 This Protocol shall be deposited with the Secretary-General.

2 The Secretary-General shall:

- (a) inform all States which have signed this Protocol or acceded thereto, and all Members of the Organization, of:

- (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
 - (ii) the date of entry into force of this Protocol;
 - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
 - (iv) the receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;
- (b) transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.

3 As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 10

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

Table of Acts

Notes to the *Crimes (Ships and Fixed Platforms) Act 1992*

Note 1

The *Crimes (Ships and Fixed Platforms) Act 1992* as shown in this compilation comprises Act No. 173, 1992 amended as indicated in the Tables below.

Act Notes

(a) The *Crimes (Ships and Fixed Platforms) Act 1992* was amended by Schedule 17 only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:

(1) Subject to this section, this Act commences at the later of the following times:

(a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;

Item 15 commenced on 24 May 2001.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3	am. No. 24, 2001
S. 5A	ad. No. 24, 2001
S. 6	am. No. 24, 2001
S. 8	am. No. 24, 2001
Ss. 10, 11	am. No. 24, 2001
Ss. 12, 13	rs. No. 24, 2001
Ss. 14-16	am. No. 24, 2001
S. 18	am. No. 24, 2001
Ss. 20, 21	am. No. 24, 2001
Ss. 23-27	am. No. 24, 2001
Ss. 29-31	am. No. 24, 2001

Table A
