

Part IV—Piracy

51 Interpretation

In this Part:

act of piracy means an act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or aircraft and directed:

- (a) if the act is done on the high seas or in the coastal sea of Australia—against another ship or aircraft or against persons or property on board another ship or aircraft; or
- (b) if the act is done in a place beyond the jurisdiction of any country—against a ship, aircraft, persons or property.

Australia includes the External Territories.

coastal sea of Australia means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or Territory;

and includes airspace over those seas.

high seas means seas that are beyond the territorial sea of Australia and of any foreign country and includes the airspace over those seas.

offence against this Part includes:

- (a) an offence against a provision of this Part because of section 5; and
- (b) an offence against section 6, 7 or 7A that relates to an offence against a provision of this Part; and
- (c) an offence against subsection 86(1) because of paragraph (a) of that subsection, being an offence that relates to an offence against a provision of this Part.

pirate-controlled ship or aircraft means a private ship or aircraft which is under the control of persons that:

- (a) have used, are using or intend to use the ship or aircraft in the commission of acts of piracy; or

(b) have seized control of the ship or aircraft by an act of piracy.

place beyond the jurisdiction of any country means a place, other than the high seas, that is not within the territorial jurisdiction of Australia or of any foreign country.

private ship or aircraft means a ship or aircraft that is not being operated for naval, military, customs or law enforcement purposes by Australia or by a foreign country, and includes a ship or aircraft that has been taken over by its crew or passengers.

ship means a vessel of any type not permanently attached to the sea-bed, and includes any dynamically supported craft, submersible, or any other floating craft, other than a vessel that has been withdrawn from navigation or is laid up.

52 Piracy

A person must not perform an act of piracy.

Penalty: Imprisonment for life.

53 Operating a pirate-controlled ship or aircraft

(1) A person must not voluntarily participate in the operation of a pirate-controlled ship or aircraft knowing that it is such a ship or aircraft.

Penalty: Imprisonment for 15 years.

(2) This section applies to acts performed on the high seas, in places beyond the jurisdiction of any country or in Australia.

54 Seizure of pirate ships and aircraft etc.

(1) A member of the Defence Force or a member of the Australian Federal Police may seize:

- (a) a ship or aircraft that he or she reasonably believes to be a pirate-controlled ship or aircraft; or
- (b) a thing on board such a ship or aircraft, being a thing that appears to be connected with the commission of an offence against this Part.

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- (2) A seizure may be effected:
 - (a) in Australia; or
 - (b) on the high seas; or
 - (c) in a place beyond the jurisdiction of any country.
- (3) The Supreme Court of a State or Territory may:
 - (a) on the application by the custodian of, or a person with an interest in, a ship, aircraft or thing seized under this section, order that the ship, aircraft or thing be returned to its lawful owner; or
 - (b) on its own motion, or on application:
 - (i) if:
 - (A) a person has been convicted of an offence against this Part; and
 - (B) the ship, aircraft or thing was used in, or was otherwise involved in the commission of, the offence;order that the ship, aircraft or thing be forfeited to the Commonwealth; or
 - (ii) make any order relating to the seizure, detention or disposal of the ship, aircraft or thing.
- (4) An order to return a ship, aircraft or thing may be made subject to conditions, including conditions as to the payment to the Commonwealth of reasonable costs of seizure and detention and conditions as to the giving of security for payment of its value should it be forfeited.

55 Written consent of Attorney-General required

- (1) A prosecution for an offence against this Part requires the consent of the Attorney-General.
- (2) Despite subsection (1):
 - (a) a person may be arrested for an offence referred to in subsection (1), and a warrant for such an arrest may be issued and executed; and
 - (b) a person may be charged with such an offence; 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.

56 Evidence of certain matters

- (1) A certificate by the Minister for Foreign Affairs and Trade, or by an eligible person authorised by that Minister to make such a certificate, stating that:
- (a) specified waters were, at a specified time:
 - (i) part of the high seas; or
 - (ii) within the coastal sea of Australia; or
 - (b) a specified place was, at a specified time, a place beyond the jurisdiction of any country;
- is, for the purposes of any proceedings for an offence against this Part, evidence of the facts stated in the certificate.
- (2) In this section:

eligible person means an SES employee in the Department of Foreign Affairs and Trade.