

Wake Island community. In addition, it is impractical to attempt to provide counsel, either public or private, on Wake Island.

It has been determined that, in order to preclude any possible denial of constitutional guarantees to any persons accused of crimes on Wake Island, each criminal offense should be deleted from Part 165 that is so serious, in the Administrator's judgment, as to require a jury trial or public defender (where appropriate). Accordingly, 20 of the offenses listed in § 165.41 and perversion (one item named in another listed offense) are eliminated by these amendments, as well as gambling, wagering, operating, or participating in a lottery on the Airport (§ 165.43(g)). Section 165.45 also is eliminated because it only serves to define narcotics and dangerous drugs.

A number of the offenses eliminated will be subject to the jurisdiction of the District Court of Hawaii. Some of them are not offenses under the United States Code, and the District Court of Hawaii does not have jurisdiction. However, the FAA would not, consistently with the determination made herein, prosecute an alleged violator of any of these regulatory provisions at the present time, thus it is not meaningful to prohibit these acts in Part 165.

Finally, § 165.59 (Substitution of penalty) also is eliminated because it would allow punishment of more than 6 months confinement for the petty offenses kept in § 165.41.

Since FAA management is involved, compliance with notice and public procedure under 5 U.S.C. section 553 is not required.

In consideration of the foregoing, effective March 6, 1969, Part 165 is amended as hereinafter set forth:

1. By amending § 165.41 to read as follows:

§ 165.41 General criminal offenses.

No person may, while on Wake Island—

(a) Throw away any paper, debris, refuse, garbage, litter, bottle, or can, except into a receptacle or area designated for that purpose;

(b) Commit any act of nuisance;

(c) With intent to provoke a breach of the peace or under such circumstances that a breach of the peace may be occasioned thereby, act in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to any other person;

(d) Possess or display (publicly or privately) any pornographic literature, film, device, or any matter containing obscene language, that tends to corrupt morals;

(e) Make any obscene or indecent exposure of his person;

(f) Commit any disorderly, obscene, or indecent act;

(g) Commit any act of voyeurism (Peeping Tom);

(h) Enter upon any assigned residential quarter or areas immediately ad-

acent thereto, without permission of the assigned occupant;

(i) Throw away any paper, debris, refuse, garbage, litter, bottle, or can, except into a receptacle or area designated for that purpose;

(j) Commit any act of nuisance;

(k) With intent to provoke a breach of the peace or under such circumstances that a breach of the peace may be occasioned thereby, act in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to any other person;

(l) Be drunk in any public place;

(m) Use any profane or vulgar language in a public place;

(n) Loiter or roam about Wake Island, without any lawful purpose, at late and unusual hours of the night;

(o) Lodge or sleep in any place without the consent of the person in legal possession of that place;

(p) Grossly waste any potable water; or

(q) Being a male, knowingly enter any area, building, or quarter reserved for women, except in accordance with established visiting procedures.

§ 165.43 [Amended]

2. By striking out paragraph (g) of § 165.43.

§ 165.45 [Deleted]

3. By striking out § 165.45.

§ 165.59 [Deleted]

4. By striking out § 165.59.

(Sec. 10, 62 Stat. 453; 49 U.S.C. 1159; sec. 48, 74 Stat. 424; E.O. 11048; agreement between FAA and the Department of Interior, February 5, 1962; sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c); § 1.4(b)(2) of the regulations of the Office of the Secretary of Transportation)

Issued in Washington, D.C., on January 27, 1969.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 69-1398; Filed, Feb. 3, 1969; 8:47 a.m.]

See correction

[Docket No. 9382; Amdt. 165-3]

PART 165—WAKE ISLAND CODE

Elimination of Certain Criminal Offenses on Wake Island

The purpose of these amendments to Part 165 of the Federal Aviation Regulations is to eliminate certain criminal offenses not considered as petty offenses.

The Wake Island Court is vested with judicial authority in criminal matters by Part 165. Section 165.95(a) provides that there is no trial by jury which, in any event, would not be feasible within the

[Docket No. 2382; Amdt. 165-3]

PART 165—WAKE ISLAND CODE

Elimination of Certain Criminal Offenses on Wake Island; Correction

Paragraphs (a), (b), and (c) of § 165.41 appearing in the FEDERAL REGISTER issue for Tuesday, February 4, 1969, page 1635, are not correct as they now stand, and these three paragraphs should be corrected to read as follows:

§ 165.41 General criminal offenses.

* * * * *

(a) Sell or give an alcoholic beverage manufactured for consumption (including beer, ale, or wine) to any person who is not at least 18 years of age, without the permission of that person's parent or guardian;

(b) Procure for, engage in, aid or abet in, or solicit for prostitution;

(c) Use any building, structure, vehicle, or public lands for the purpose of lewdness, assignation, or prostitution;

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Issued in Washington, D.C., on February 11, 1969.

OSCAR BAKKE,

For the Acting Administrator.

[F.R. Doc. 69-2020; Filed, Feb. 17, 1969; 8:45 a.m.]