

ANTIGUA AND BARBUDA



ADVANCED PASSENGER INFORMATION BILL, 2015

NO. OF 2015

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*Advanced Passenger
Information Bill 2015*

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ADVANCED PASSENGER INFORMATION BILL, 2015

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ANTIGUA & BABUDA

ADVANCED PASSENGER INFORMATION BILL, 2015

No. of 2015

AN ACT to facilitate the provision of advance passenger information relating to passengers and members of crew of an aircraft or vessel; to share the information with other States with a view to identifying persons who may pose risks to security; and for matters connected therewith.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short title and Commencement

(1) This Bill may be cited as The Advanced Passenger Information Bill, 2015.

2. Interpretation

In this Act—

“advanced passenger information (API)” means the information or data concerning a crew member, passenger or any other person travelling in an aircraft or vessel as set out in Schedule 1;

“advanced passenger information systems” means the automated electronic data interchange of API; and the screening of API by the competent authority, IMPACS and JRCC against a Watch List for any API hit;

“aircraft” includes an aeroplane or a helicopter or other means of airborne navigation by means of which persons, goods or both can travel across international borders;

“API hit” means a name present in the Watch List;

“captain” means the pilot designated by the operator, or in the case of general aviation the owner or pilot designated by the owner, as being in command and charged with the safe conduct of the flight;

“commercial aircraft” means an aircraft which engages in transporting passengers or goods for monetary gain;

“competent authority” means Chief immigration Officer or someone appointed by him;

“crew” means –

- (i) in relation to aircraft, a licensed individual charged with duties essential to the operation of an aircraft during flight;
- (ii) in relation to vessel, any individual charged with performing duties essential to the operation of the vessel and the safety and entertainment of its passengers.

“IMPACS” means the Implementing Agency for Crime and Security established under the 2006 Agreement establishing the CARICOM Implementing Agency for Crime and Security;

“JRCC” means the Joint Regional Communication Centre which is a sub-agency of IMPACS;

“Master” includes every person having command or charge of a vessel other than a pilot;

“Minister” means the Minister responsible for Immigration.

“passenger” means any person not being a bona fide member of the crew, travelling or seeking to travel on an aircraft or vessel;

“private aircraft” means any aircraft which is not a commercial or state owned or leased aircraft.

“technical stop” or **“stop for non-traffic purposes”** means an aircraft or vessel arriving for purposes of refuelling, repairs, emergency or a similar purpose other than taking on or discharging passengers, baggage, cargo or mail;

“vessel” means any ship, boat, yacht, air cushion or other floating or submersible transportation, including amphibious vehicles, hydrofoil craft and hovercraft, by means of which persons and goods can travel across international borders;

“Watch List” means a list that is used to watch or track the activities or movements of criminals and persons who have been found guilty of any offence involving stolen and lost travel documents (SLTD), criminal deportees, suspected terrorists and other persons of interest to the intelligence community;

3. Duty to provide advance passenger information

(1) This section applies to an aircraft or vessel which –

- (a) is expected to arrive in Antigua and Barbuda, or
- (b) is expected to leave Antigua and Barbuda.

(2) The captain or master of every aircraft or vessel shall provide to the competent authority and IMPACS, the relevant API and data relating to the flight or voyage as set out in Schedule 1.

(3) A captain or master who –

- (a) fails to provide the relevant API;
- (b) intentionally or recklessly provides an erroneous, faulty, misleading, incomplete or false API; or
- (c) transmits the API in an incorrect format

commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.

(4) Where the API provided is inaccurate and the captain or master of the aircraft or vessel satisfies the competent authority that the error was not made knowingly or recklessly, then notwithstanding any other provision of this enactment, the captain or master may not be charged for the offence

(5) In addition to any information provided pursuant to subsection (2) the Competent Authority may –

- (a) question any captain or master , member of crew or passenger in relation to the aircraft or vessel, any member of crew or passenger, the voyage or flight; or
- (b) request any person within the category of persons mentioned in paragraph (a) to forthwith produce any document within that person's possession or control in relation to the questions put to him.

(6) Any captain or master, member of crew or passenger who –

- (a) refuses to answer or knowingly gives a false answer to any question put to him by the Competent Authority; or
- (b) fails to comply with any requests under subsection 5(b)

commits an offence and is liable on summary conviction to a fine of Five Thousand dollars or to imprisonment for six months or to both such fine and imprisonment.

(7) The Minister may, in consultation with the Minister of National Security, waive the requirements of subsection (2) in such circumstances and subject to such conditions as the Minister may prescribe where the aircraft or vessel is –

- (a) a military or law enforcement aircraft or vessel; or
- (b) on official state business.

4. Timeframe

API data shall be submitted to the Competent Authority in accordance with the timelines set out in schedule II.

5. Powers of the Competent Authority to verify

(1) The API provided under section 3 (2) shall be verified by the Competent Authority during physical processing of any passenger or member of crew at any port of entry or exit by comparing the API information to the information contained in the travel document presented by the passenger or member of crew.

(2) The competent authority shall, if any discrepancy is found in the API, immediately correct the data and update the information in APIS.

6. Vessel or aircraft arriving

(1) Nothing in section 3 applies to an aircraft or vessel which makes a technical stop or lands, berths, anchors, or otherwise arrives or stops at any port for non-traffic purposes if the arrival is –

- (a) required by any statutory or other requirement relating to navigation;
- (b) compelled by any emergency, accident, unfavourable weather conditions, or other necessity; or
- (c) authorised by the competent authority.

(2) Where an aircraft or vessel arrives or stops for any of the reasons outlined in subsection (1) the captain or master shall –

- (a) forthwith report to the competent authority;
- (b) with the consent of the competent authority, permit any of the crew members or passengers to disembark from the aircraft or vessel; and

(c) comply with any directions given by the competent authority in respect of any crew, or passenger carried on the aircraft or vessel.

(3) Subject to any authorisation granted by the competent authority, no member of crew and no passenger on the aircraft or vessel, shall without the consent of that authority disembark from the aircraft or vessel, and all such persons shall comply with any directions given by the competent authority.

(4) A captain or master who fails to comply with or acts in contravention of this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.

(5) Notwithstanding subsection (4), the disembarkation of any member of crew or passenger from the aircraft or vessel shall not constitute an offence, if the disembarkation is necessary for reasons of health, safety or the preservation of life.

7. Powers and duties of the competent authority

(1) The competent authority shall –

- (a) co-ordinate with IMPACS on all matters relating to the APIS;
- (b) if requested, allow the crew or passenger from an aircraft or vessel access to his personal identifiable information maintained in the APIS to ensure its correctness; but no member of crew or passenger shall have access to any information provided by IMPACS or JRCC through the screening of API by IMPACS and JRCC against a Watch List for any API hit;
- (c) determine, after consultation with IMPACS, the admissibility or otherwise of any passenger or member of crew into Antigua and Barbuda;
- (d) withhold clearance for the departure of an aircraft or vessel whose captain or master has not provided the API required pursuant to section 3; and
- (e) assess the sufficiency of API information provided for each journey and review API transmissions to assess error rates.

(2) Notwithstanding sections 7(a) and (c), any decision with respect to the admissibility or inadmissibility into Antigua and Barbuda of passengers or members of crew from an aircraft or vessel shall be made solely by the competent authority.

8. Use and sharing of API with regional and international security agencies

(1) IMPACS shall use the APIS to conduct screening against Watch Lists of members of crew and passengers on aircraft and vessels that enter into, depart from and travel within the regional space in order to provide information to assist participating countries.

(2) IMPACS may share the information contained within APIS with the International Criminal Police Organization (INTERPOL) and any other national, regional or international intelligence, law enforcement or security agencies or centres approved by CARICOM Council for Security and Law Enforcement (CONSLE) in order to further national, regional or international security.

(3) API shall only be used for the purposes mentioned in this Act.

9. Retention of APIS

(1) The API collected under this Act for entry screening purposes shall be retained for a period not exceeding three years from the date of travel of the crew or the passenger.

(2) Nothing contained in subsection (1) shall apply to the data copied from the APIS into any other security database system to which a different data retention schedule applies.

10. Regulations

(1) The Minister may make regulations to give effect to the principles and provisions of this Act.

(2) The Minister may make regulations in regard to procedures for the gathering of information and for the collaboration and sharing of information with the agencies mentioned in this Act.

11. Amendment of the Schedules

(1) The Minister may by Order published in the Gazette amend Schedule I or II in consultation with CONSLE with respect to API.

(2) Any Order made under subsection (1) shall be subject to Affirmative Resolution of the House.

SCHEDULE 1

(Pursuant to Section 3(2))

ADVANCED PASSENGER INFORMATION

(a) Data relating to the flight or voyage (Header Data):

Flight Identification
Vessel Identification Number
Vessel Name
Country of Registration
Agent/Owner
Call Sign (If applicable)
Schedule Departure Date
Scheduled Departure Time
Scheduled Arrival Date
Scheduled Arrival Time
Last Place/Port of Call of Vessel or Aircraft
Place/Port of Vessel or Aircraft Initial Arrival
Subsequent Place/Port of Call within the country/regional space
Number of Persons on board

(b) Data relating to each individual on board:

Official Travel Document Number
Issuing State or Organization of the Official Travel Document
Official Travel Document Type
Expiration Date of Official Travel Document
Surname/Given Name(s)
Nationality
Date of Birth
Gender
Place of Birth
Traveller's Status
Place/Port of Original Embarkation
Port/Place of Clearance
Place/Port of Onward Foreign Destination
Passenger Name Record (PNR) Data

(As available in the traveller's Passenger Name Record in the carrier's Reservation System including all historical changes to the PNR listed)

(c) Additional Data Elements

Visa Number (if applicable)
Issue Date of Visa
Place of Issuance of the Visa
Other Document Number used for Travel (if applicable)
Type of Other Document used for Travel
Primary Residence
 Country of Primary Residence
 Address
 City
 State/Province/County
 Postal Code
Destination Address
 Address
 City
 State/Province/County
 Postal Code

(d) Date relating to the Reporting Party

Reporting Party Name
Reporting Party Telephone Number
Reporting Party Facsimile Number
Reporting Party Electronic Mail Address

SCHEDULE II
(Pursuant to Section 4)
Timeframe

In case of commercial aircraft, no later than 40 minutes prior to departure from the last port of call;

In case of a vessel arriving, no later than 40 minutes prior to the departure from the last port of call;

In case of a vessel arriving from a destination outside the regional space, no later than 24 hours prior to the arrival;

In case of a vessel arriving from a destination within the regional space, no later than 1 hour prior to the arrival of the vessel from the last port of call.

In the event of any changes to the flight/vessel header data or data relating to an individual on board, an updated API file is required prior to departure of the aircraft or vessel.



Passed the House of Representatives on
the , 2015.

Passed the Senate on the
, 2015.

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Speaker.

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President.

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Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

The Advanced Passenger Information Bill 2015 is one of CARICOM's recommended uniform legislations intended to be in effect throughout the territories. The Bill addresses the nature of the information that the Captains of aircrafts and the Masters vessels are required to provide in relation to the passengers and members of crew on board an aircraft or vessel and which is expected to arrive in Antigua and Barbuda or is expected to leave Antigua and Barbuda. The Bill also addresses the timeframe within which the information is to be provided and the penalties for failing to provide the information. The Bill also addresses the issue of information sharing as a means of further strengthening our efforts to prevent terrorism. The Bill also effectively repeals section 30 of the Immigration and Passport Act 2014, No. 6 of 2014 which formerly dealt with the provision of Advance Passenger Information.

CLAUSE 1 deals with the short title

CLAUSE 2 deals with Interpretation. Key definitions are provided including Advance passenger Information, API hit, distinction between aircraft and vessel, IMPACS, JRCC, etc.

CLAUSE 3 deals with Duty to provide advance passenger information

CLAUSE 4 deals with the timeframe for the provision of advance passenger information in relation to arriving and departing vessels.

CLAUSE 5 deals with the power of a Competent Authority to verify Advance Passenger Information

CLAUSE 6 deals with the arrival of vessels or aircraft making a technical stop and the conditions under which passengers would be allowed to disembark from said vessels or aircrafts.

CLAUSE 7 deals with the powers and duties of a Competent Authority generally in relation to the sharing of information under the act as well as the protection of data for passengers and members of crew.

CLAUSE 8 deals with the sharing of API with regional and international security agencies.

CLAUSE 9 deals with the retention of API information collected during processing of a passenger or member of crew.

CLAUSE 10 deals with the making of regulations.

CLAUSE 11 deals with the Amendment of the Schedules. There are two schedules in this Act which will replace the schedule 2 of the Immigration and Passport Act 2014, No. 6 of 2014 when the Advanced Passenger Information Bills comes into effect.