

ANTIGUA AND BARBUDA



THE IMMIGRATION AND PASSPORT (AMENDMENT) BILL 2016

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ANTIGUA AND BARBUDA

THE IMMIGRATION AND PASSPORT (AMENDMENT) BILL, 2016

No. of 2016

AN ACT to amend the Immigration and Passport Act, 2014 No. 6 of 2014 and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Immigration and Passport (Amendment) Bill, 2016.

2. Interpretation

(1) In this Act “the principal Act” means the Immigration and Passport Act 2014, No. 6 of 2014.

3. Amendment of Section 3 – Interpretation

Section 3 of the principal Act is amended –

(a) By inserting in the correct alphabetical order the following definitions:

“aircraft” means any aeroplane or helicopter or other means of airborne navigation by means of which persons, goods or both can travel across international borders.

“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.

“crew” means –

- (i) In relation to an aircraft, a licensed pilot and persons authorized by the owner or agent of the aircraft to perform duties essential to the operation of the aircraft or the safety and well being of the passengers during the flight;
 - (ii) In relation to a vessel, an individual charged with performing duties essential to the operation of the vessel and the safety and entertainment of its passengers;
- and

“member of crew” has the like connotation in the particular context.

(b) By repealing the definition of “competent authority” and substituting the following –
“Competent authority” means the Chief Immigration Officer or someone appointed by him.

(c) By inserting in the definition of “owner” –

(i) after the words “in relation to” the words “an aircraft or”; and

(ii) by inserting after the words “in charge of the” the words “aircraft or” .

(d) By repealing the definition of “vessel” and substituting the following –

“designated Port” means a port of entry as defined in the principal Act and any port so prescribed by law and notified by publication in the Gazette.

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

4. Amendment to section 6 – Functions, Powers etc. of Immigration Officer

Section 6 of the principal Act is amended –

(a) In subsection (1) (a) by –

(i) inserting after “and search” the words “an aircraft or”; and

(ii) inserting after the words “Barbuda from” the words “an aircraft or”.

(b) In subsection (1) (g) by –

(i) inserting after the words “require the” the words “captain,” and

(ii) inserting after the words “persons on the” the words “aircraft or”

5. Amendment of Section 17 – Regulation of Entry and Departure

Section 17 of the principal Act is amended as follows –

(a) In subsection (3) by –

(i) repealing the words “a vessel” and substituting with the words “an aircraft or vessel”;

(ii) inserting after the words “disembark from the” the words “aircraft or”

(b) In subsection (4) by –

(i) inserting after the words “subsection (3), the” the words “captain or”;

(ii) repealing the words “a vessel” and substituting the words “an aircraft or vessel”.

6. Amendment to Section 24 – Bona fide visitors

Section 24 of the principal Act is amended in subsection (1) by repealing the words “a vessel” and substituting the words “an aircraft or vessel”.

7. Amendment section 25 – Requirement of student permit

Section 25 of the principal Act is amended in subsection (5) by repealing the words “a vessel” and substituting the words “an aircraft or vessel”.

8. Amendment of section 30 – Master of vessel to provide passenger information

Section 30 of the principal Act is repealed in its entirety.

9. Amendment section 31 – Duty of captain or master to prevent landing etc.

Section 31 of the principal Act is amended –

- (a) In subsection (1) by repealing the words “the master of a vessel to which section 30 applies may” and substituting the words “Every captain or master of an aircraft or vessel must”
- (b) In the umbrella of subsection (2) by –
 - (i) inserting after the words “, where the” the words “captain or”;
 - (ii) repealing the word “arriving” and substituting the words “that arrives”;
 - (iii) repealing the words “from a place outside Antigua and Barbuda”.
- (c) In subsection 2(a) by repealing the words “a member of the crew of the vessel has deserted from the vessel while in Antigua and Barbuda” and substituting the words “a member of the crew who is not a citizen of Antigua and Barbuda intends to desert the aircraft or vessel on arrival in Antigua and Barbuda;”
- (d) In subsection 2 (b) by –
 - (i) inserting after the words “on board the” the words “aircraft or”;
 - (ii) repealing the word “while”;
- (e) In subsection 2(c) by –
 - (i) inserting after the words “on board the” the words “aircraft or”;

- (ii) repealing the word “while”
- (iii) repealing the words “master of the vessel” in the continuation of subsection (2)
- (iv) repealing the words “ship of” at paragraph (ii) and substituting “the aircraft or vessel”

(f) In subsection 3 by –

- (i) inserting after the words “Where the” the words “captain or”;
- (ii) repealing the words “of a vessel”;
- (iii) inserting after the words “control of the” the words “captain or”;
- (iv) inserting after the words “master, the” the words “captain or”;

10. Amendment of section 32 – Liability for repatriation

Section 32 of the principal Act is amended as follows –

(a) In subsection (1) by –

- (i) inserting after “Antigua and Barbuda on an” the words “aircraft or”;
- (ii) repealing the words “from a place outside Antigua and Barbuda”;
- (iii) inserting in paragraph (a) after the words “by the” the words “captain or”;
- (iv) inserting in paragraph (a) after the words “master of the” the words “aircraft or”;
- (v) inserting in paragraph (a) after the word “that” the words “aircraft or”.
- (vi) inserting in paragraph (b) after the words “agent of the” the words “aircraft or”;
- (vii) inserting after “in any other” the words “aircraft or”.

(b) In subsection (2) by –

- (i) inserting after the words “given to the” the words “captain”;
- (ii) repealing the article “a” and substituting “an aircraft or vessel”;
- (iii) inserting after the words “Antigua and Barbuda, the” the words “captain or”;
- (iv) inserting in paragraph (a) after the first “the” the words “aircraft or”;
- (v) inserting in paragraph (b) after the words “any other” the words “aircraft or”.
- (vi) inserting in the continuing paragraph after the words “by the same” the words “aircraft or”.

(c) In subsection (3) by –

- (i) inserting after the words “subsections, the” the words “owner’s or agents of the aircraft or vessel on which the immigrant and any dependent arrived”;
- (ii) repealing the word “master”;
- (iii) repealing the word “at the expense of the master”;
- (iv) repealing the words “of such”;
- (v) inserting after the word dependents the words “of such immigrant”.

(d) In subsection (4) (b) by –

- (i) inserting after the word “owner” the words “or agent”;
- (ii) inserting after the words “of the” the words “aircraft or”.

- (e) In subsection 5 by inserting after the words “agents of the” the words “aircraft or”

11. Amendment of Section 33 – Discharge of crew of an aircraft or vessel, etc.

- (a) In subsection (1) by –
 - (i) repealing the article “a” and substituting “an aircraft or”
 - (ii) inserting after the words “discharged from the” the words “aircraft or”.
- (b) In subsection (2) by –
 - (i) by repealing the article “a” and substituting “an aircraft or”;
 - (ii) by inserting after the words “unless the owner,” the word “captain”;
 - (iii) by inserting after the words “or agent of the” the words “aircraft or”;
- (c) In subsection (3) –
 - (i) by repealing in the article “a” in the introductory paragraph and substituting “an aircraft or”;
 - (ii) at paragraph (a) by inserting after the words “from the” the words “aircraft or”;
 - (iii) at paragraph (b) by inserting after the words “deserts from the” the words “aircraft or”;
 - (iv) at paragraph (c) by inserting after the words “Antigua and Barbuda by the” the words “aircraft or”;

12. Amendment of Section 34 – Liability of captain or master etc. for expenses

Section 34 of the principal Act is amended as follows –

- (a) In subsection (1) by –
 - (i) inserting after “The” the word “captain,”;
 - (ii) repealing the article “a” and substituting “an aircraft or”;
- (b) In subsection (2) by –
 - (i) inserting after the word “from the” the word “captain,” ;
 - (ii) by inserting after the words “agents of the” the words “aircraft or”

13. Amendment of section 35 – Offences committed by member of crew, etc.

Section 35 of the principal Act is amended as follows –

- (a) In the opening paragraph by –
 - (i) repealing the words “a vessel” and substituting “an aircraft or”;
 - (ii) inserting after the words “an extra hand,” the words “who is not”;

- (iii) repealing the words “other than a”;
- (iv) inserting after the words “Barbuda of the” the words “aircraft or”;
- (v) inserting after the words “or while the” the words “aircraft or”.

(b) In paragraph (a) by –

- (i) inserting after the words “order the member of the crew of the” the words “the aircraft or”;
- (ii) inserting after the words “readiness of the” the words “aircraft or”;
- (iii) inserting after the words “custody aboard the” the words “aircraft or”;
- (iv) inserting after the words “if the member of crew of the” the words “aircraft or”.

(c) In paragraph (b) by –

- (i) inserting after the words “order the member of the crew of the” the words “aircraft or”;
- (ii) inserting after the words “against the member of the crew of the” the words “aircraft or”.

14. Amendment of section 50 – Order respecting refusal of entry into Antigua and Barbuda

Section 50 of the principal Act is amended as follows –

(a) In subsection (2) (a) by–

- (i) inserting after the words “to the” the words “captain or”;
- (ii) inserting after the words “of the” the words “aircraft or”;
- (iii) inserting after the words “requiring the” the words “captain or”;
- (iv) inserting after the words “master of the” the words “aircraft or”;
- (v) inserting after the words “Barbuda in that” the words “aircraft or”.

(b) In subsection (2) (b) by –

- (i) inserting after the words “the owner or” the words “agent”;
- (ii) inserting after the words “of the” the words “aircraft or”
- (iii) repealing the words “or the agent of the owner of the vessel”;
- (iv) repealing the word “and” which appears after “owner” and substituting the word “or”;
- (v) repealing the words “in a vessel” and substituting the words “in an aircraft or vessel”.

(c) In subsection (2) (c) by –

- (i) inserting after the words “the owner or” the words “agent”;
- (ii) inserting after the words “of the” the words “aircraft or”
- (iii) repealing the words “or the agent of the owner of the vessel”;
- (iv) repealing the word “and” which appears after “owner” and substituting the word “or”;

- (v) repealing the words “in a vessel” and substituting the words “in an aircraft or vessel”.
- (d) In subsection (5) by inserting after the words “owners or agents of the” the words “aircraft or”.
- (e) In subsection (7) by inserting after the words “owners or agents of the” the words “aircraft or”
- (f) In subsection (8) by repealing the words “a vessel” and substituting “an aircraft or vessel”.

15. Amendment to section 51 – Removal of prohibited and illegal immigrants from Antigua and Barbuda

Section 51 (1) (a) of the principal Act is amended by inserting after the words “by a specified” the words “aircraft or”.

16. Amendment to section 52 – Deportation Orders

Section 52 (4) of the principal Act is amended as follows –

- (a) At paragraph (b) by inserting after the word “suitable” the words “aircraft or”;
- (b) At paragraph (c) –
 - (i) By repealing the words “a vessel” and substituting the words “an aircraft or vessel”;
 - (ii) By inserting after the words “long as the” the words “aircraft or”.

17. Amendment to section 53 – Detention of persons

Section 53 of the principal Act is amended as follows –

- (a) In subsection (3) (a) by inserting after the words “detained on the” the words “aircraft or”;
- (b) In subsection (4) –
 - (i) In the umbrella by inserting after the words “(3) from the” the words “aircraft or”;

- (ii) At paragraph (b) by inserting after the words “owners of the” the words “aircraft or”.

18. Amendment to section 55 – Notification of reasons for detention and arrest

Section 55 of the principal Act is amended by –

- (a) In subsection (2) by –
 - (i) inserting after the words “if possible, the” the word “captain,”;
 - (iii) inserting after the words “local agent of the” the words “aircraft or”.

19. Amendment of section 69 – Power of the Chief Immigration Officer to impose fixed penalties etc.

Section 69 (2) of the principal Act is amended as follows –

- (i) By repealing the words “a vessel” and substituting the words “an aircraft or vessel”;
- (ii) By inserting after the words “in respect of the owner,” the words “captain,”;
- (iii) By inserting after the words “representative of the” the words “aircraft or”;
- (iv) By inserting after the words “of such owner,” the words “captain,”.

20. Amendment of section 77 – Police officers, etc. to assist immigration officers

Section 77 (2) of the principal Act is amended as follows –

- (i) By repealing the words “a vessel” and substituting the words “an aircraft or vessel”;
- (ii) By inserting after the words “may board such” the words “aircraft or”.

21. Amendment to section 78 – Power to postpone decision

Section 78 (1) (b) of the principal Act is amended by repealing the words “a vessel” and substituting the words “an aircraft or vessel”

22. Amendment of section 79 – Power to make regulations

Section 79 (2) of the principal Act is amended as follows –

- (a) In subsection (2) (a)(xi) by repealing the words “a vessel” and substituting the words “an aircraft or vessel”.
- (b) In subsection (2) (j) by inserting after the words “Barbuda, on the” the words “aircrafts or”;
- (c) In subsection (2) (k) by inserting after the words “carried by” the words “aircraft or”
- (d) In subsection (2) (l) by –
 - (i) inserting after the words “a crew of” the words “an aircraft or”;
 - (ii) Inserting after the words “persons on board” the words “the aircraft or”;

23. Amendment of section 80 – Amendment of schedules 1 and 2

Section 80 of the principal Act is amended by repealing the word “and Schedule 2”.

24. Repeals

Schedule 2 of the Immigration and Passport Act 2014, No. 6 of 2014 is repealed.

EXPLANATORY MEMORANDUM

The amendment is as a result of the passing of the Advanced Passenger Information Bill 2015 which is a CARICOM model legislation. The duty of Captains and masters to provide advance passenger information was the subject of section 30 of the Immigration and Passport Act 2014, No. 6 of 2014. Therefore, with the passing of the Advanced Passenger Information Bill, the provisions of section 30 of the Immigration and Passport Act, 2014 were no longer required.

Additionally, the meaning of vessel in the Immigration and Passport Act 2014 differs from the meaning given in the Merchant Shipping Act, the ECCAA regulations and even in the Interpretation Act for Antigua and Barbuda, Cap. 224. It is only in the Immigration and Passport Act that “vessel” was used to refer to both seaborne and airborne means of transportation. In order to have a uniform definition of vessel, the meaning was changed in the Immigration and Passport Act 2014. This also necessitated the inclusion of a definition for “aircraft” which was taken from the IATA definition.

The sections affected by the change in definition of vessel and the removal of section 30 – Advance Passenger Information are being amended by this bill.