

M O N T S E R R A T

ADVANCE PASSENGER INFORMATION ACT

No. 11 of 2017

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Advance Passenger Information Act, 2017

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I ASSENT

(Sgd.) Elizabeth Carriere
Governor

DATE: 21.08.2017

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No. 11 of 2017

AN ACT TO FACILITATE THE PROVISION OF ADVANCE INFORMATION RELATING TO PASSENGERS AND CREW MEMBERS OF AN AIRCRAFT OR VESSEL; TO SHARE THE INFORMATION WITH OTHER TERRITORIES OR STATES WITH A VIEW TO IDENTIFYING PERSONS WHO MAY POSE RISKS TO SECURITY; AND FOR MATTERS CONNECTED THEREWITH.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

1. Short title and commencement

(1) This Act may be cited as the Advance Passenger Information Act, 2017.

- (2) This Act comes into operation by Order, on a date appointed by the Governor acting on the advice of Cabinet.

2. Interpretation

In this Act—

“**advance passenger information**” means the information or data as set out in Schedule 1 in respect of a crew member or a passenger;

“**advance passenger information hit**” means information held in any form and includes a name, number or photograph on a watch list;

“**advance passenger information system**” means—

(a) the automated electronic data interchange of advance passenger information; and

(b) the screening of advance passenger information by IMPACS, the JRCC and the competent authority against a watch list for an advance passenger information hit;

“**aircraft**” includes an aeroplane, helicopter or other means of airborne navigation used to travel across an international border;

“**captain**” means the pilot of an aircraft 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 a flight;

“**commercial aircraft**” means an aircraft which transports passengers or goods for monetary gain;

“**competent authority**” means—

(a) the person appointed as Chief Immigration Officer under section 3 of the Immigration Act (Cap. 13.01); or

(b) an officer authorised by the Chief Immigration Officer;

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“crew member” means—

- (a) in relation to an aircraft, a licensed individual charged with duties essential to the operation of the aircraft during a flight; and
- (b) 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 during a journey;

“Council” means the Council for National Security and Law Enforcement established under Article 17a of the Treaty Establishing the Caribbean Community and Common Market signed at Chaguaramas on 4 July 1973;

“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” means a person having command or charge of a vessel;

“passenger” means a person not being a crew member travelling or seeking to travel on an aircraft or vessel;

“private aircraft” means an aircraft which is not a commercial aircraft or an aircraft owned by the Government of Montserrat;

“technical stop” means the arrival of an aircraft or vessel in Montserrat for purposes of refuelling, repairs, or as a result of an accident, unfavourable weather conditions, emergency or a similar purpose other than taking on or discharging passengers, baggage, cargo or mail;

“vessel” means a ship, boat, yacht, air cushion or other floating or submersible transportation device

used to travel across an international border;
and

“watch list” means a list that is used to watch or track the activities or movements of criminals and persons who have been convicted of an offence involving stolen and lost travel documents, 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 is expected to—
 - (a) arrive in Montserrat; or
 - (b) depart from Montserrat.
- (2) A captain or a master shall submit advance passenger information to the competent authority and IMPACS in accordance with subsection (3).
- (3) The advance passenger information referred to in subsection (2) shall be provided—
 - (a) in case of commercial aircraft, no later than 45 minutes before departure from the last port of call;
 - (b) in case of a private aircraft, no later than 45 minutes before the departure from the last port of call;
 - (c) in case of a vessel arriving from a country listed in Schedule 2, no later than one hour before the arrival of the vessel from the last port of call; and
 - (d) in case of a vessel arriving from a country other than a country listed in Schedule 2, no later than 24 hours before arrival.
- (4) If a change is made to the advance passenger information submitted to the competent authority and IMPACS, the captain or master shall resubmit the advance passenger information no later than 15 minutes after departure from the last port of call.

- (5) If a captain or a master—
- (a) fails to provide the advance passenger information in accordance with subsection (3); or
 - (b) intentionally or recklessly provides erroneous, misleading, incomplete or false advance passenger information,
- the captain or master commits a summary offence and is liable to a fine of \$10,000 or one year imprisonment or to both.
- (6) A captain or a master of a vessel may not be charged with an offence under subsection (4) if the captain or master satisfies the competent authority that the submission of erroneous, misleading, incomplete or false advance passenger information was not made knowingly or recklessly.
- (7) The Governor may waive the requirements of sub-section (2) in such circumstances and subject to such conditions as the Governor may direct if the aircraft or vessel is—
- (a) a military, law enforcement aircraft or vessel; or
 - (b) on official Government business.

4. Powers of the competent authority to verify

- (1) The advance passenger information provided under section 3 shall be verified by the competent authority during the physical processing of a passenger or crew member at a port of entry or departure by comparing the advance passenger information to the information contained in the travel document presented by the passenger or crew member.
- (2) If the competent authority identifies a discrepancy in the advance passenger information, the competent authority shall correct the data at the port of entry or departure and update the information in the advance passenger information system.
- (3) The captain, master, crew member or passenger shall—

- (a) answer a question asked by the competent authority, relating to an aircraft or a vessel, crew member, passenger, flight or journey; and
 - (b) immediately, at the request of the competent authority, produce a document in his possession or control relating to a matter referred to under paragraph (a).
- (4) A person referred to under subsection (3) who—
 - (a) refuses to answer a question posed to him by the competent authority;
 - (b) knowingly gives false information to the competent authority; or
 - (c) fails to comply with any request made under subsection (3)(b),commits a summary offence and is liable to a fine of \$5,000 or six months' imprisonment or to both.

5. Non-traffic purposes or technical stops

- (1) Section 3 does not apply to an aircraft or vessel which lands, berths, anchors or otherwise arrives in Montserrat if the arrival is—
 - (a) required by any law or other requirement relating to navigation;
 - (b) a technical stop; or
 - (c) authorised by the competent authority.
- (2) If an aircraft or vessel arrives or stops for a reason outlined under subsection (1), the captain or master shall—
 - (a) immediately report to the competent authority;
 - (b) not allow a crew member or passenger to disembark from the aircraft or vessel without the consent of the competent authority; and

- (c) comply with a direction given by the competent authority in respect of a crew member or passenger on the aircraft or vessel.
- (3) Subject to an authorisation granted by the competent authority, a crew member or passenger on an aircraft or vessel shall not disembark from the aircraft or vessel without the consent of the competent authority.
- (4) A crew member or passenger shall comply with a direction given by the competent authority.
- (5) A captain, master, crew member or passenger who contravenes this section commits a summary offence and is liable to a fine of \$10,000 or one year imprisonment or to both.
- (6) Despite subsection (5), the disembarkation of a crew member or passenger from an aircraft or a vessel is not an offence if the disembarkation is necessary for reasons of health, safety or the preservation of life.

6. Powers and duties of the competent authority

- (1) The competent authority shall—

 - (a) co-ordinate with IMPACS on all matters relating to the advance passenger information system;
 - (b) if requested, allow a crew member or passenger from an aircraft or a vessel access to his personal identifiable information maintained in the advance passenger information system to ensure its correctness;
 - (c) determine, after consultation with IMPACS, the admissibility of a passenger or crew member into Montserrat;
 - (d) withhold clearance for the departure of an aircraft or vessel for which the captain or master has not provided the advance passenger information required under section 3;
 - (e) assess the sufficiency of the advance passenger information provided for each flight or journey; and

(f) review the advance passenger information transmissions to assess error rates.

- (2) Despite paragraph (1)(b), a crew member or passenger shall not be granted access to information provided by IMPACS or JRCC through the screening of advance passenger information by IMPACS or JRCC against a watch list for any advance passenger information hit.

7. Use and sharing of advance passenger information

- (1) IMPACS shall use the advance passenger information system to conduct screening against watch lists of crew members and passengers on aircrafts and vessels that enter into, depart from and travel within the countries listed in Schedule 2 in order to provide information to assist the countries listed in Schedule 2.
- (2) IMPACS may share the information contained in the advance passenger information system with the International Criminal Police Organisation and any other national, regional or international intelligence, law enforcement or security agency or centre approved by the Council in order to further national, regional or international security.
- (3) Advance passenger information shall only be used for the purposes of this Act.

8. Retention of advance passenger information

- (1) The advance passenger information collected under this Act for entry screening purposes shall be retained by the competent authority for a period not exceeding three years from the date of travel of a crew member or a passenger.
- (2) Subsection (1) does not apply to data copied from the advance passenger information system into any other security database system to which a different data retention rule applies.

9. Regulations

The Governor acting on the advice of Cabinet may make regulations—

- (a) to establish procedures for collaboration and coordination of information gathering and sharing;
- (b) to exempt an aircraft or a vessel with respect to advance passenger information; or
- (c) generally, for the better carrying out of this Act.

10. Amendment of the Schedules

- (1) The Governor acting on the advice of Cabinet may by Order amend the Schedules.
- (2) An Order made under subsection (1) shall be laid before the Legislative Assembly and is subject to affirmative resolution.

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SCHEDULE 1

(Section 2)

ADVANCE PASSENGER INFORMATION

(a)	Data relating to the flight or voyage [<i>Header Data</i>]:	
	Flight Identification (<i>if applicable</i>)	
	Vessel Identification (<i>if applicable</i>)	
	Vessel Name	
	Country of Registration	
	Agent/Owner	
	Call Sign (<i>if applicable</i>)	
	Scheduled 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:	
	Crew	
	Passengers	
	Data relating to each individual on board:	

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(b)	Official Travel Document Number
	Issuing State or Organisation 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 (<i>Passenger, Crew, In transit</i>)
	Place/Port of Original Embarkation
	Place/Port of Clearance
	Place/Port of Onward Foreign Destination
<u>Passenger Name Record (PNR) Data</u> <i>(as available in the traveller's Passenger Name Record in the carrier's Reservation System including all historical changes to the PNR listed)</i>	
	(1) PNR record locator (2) date of reservation/issue of ticket

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	<ul style="list-style-type: none">(3) date(s) of intended travel(4) name(s)(5) address and contact information (telephone number, e-mail address)(6) all forms of payment information, including billing address(7) complete travel itinerary for specific PNR(8) frequent flyer information(9) travel agency/Travel agent(10) travel status of passenger, including confirmations, check-in status, no show or go show information(11) split/divided PNR information(12) general remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent)(13) ticketing field information, including ticket number, date of ticket issuance and one way tickets, Automated Ticket Fare Quote fields(14) seat number and other seat information(15) code share information
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	<p>(16) all baggage information</p> <p>(17) number and other names of travellers on PNR</p> <p>(18) any advance passenger information data collected</p> <p>(19) all historical changes to the PNR listed in numbers 1 to 18</p>
(c)	Additional Data Elements:
	Visa Number (<i>if applicable</i>)
	Issue Date of the Visa
	Place of Issuance of the Visa
	Other Document Number used for Travel (<i>if applicable</i>)
	Type of Other Document used for Travel
	Primary Residence:
	Country of Primary Residence
	Address
	City
	State/Province/County
	Postal Code
	Destination Address:
	Address

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		City
		State/Province/County
		Postal Code
(d)	Data relating to the Reporting Party:	
	Reporting Party Name	
	Reporting Party Telephone Number	
	Reporting Party Facsimile Number	
	Reporting Party Electronic Mail Address	

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SCHEDULE 2

(Sections 3 & 7)

Antigua and Barbuda
Barbados
Belize
Commonwealth of Dominica
Co-operative Republic of Guyana
Grenada
Jamaica
Saint Christopher and Nevis
Saint Lucia
St. Vincent and the Grenadines
The Republic of Suriname
Trinidad and Tobago

(Sgd.) Shirley Osborne

SPEAKER

Passed by the Legislative Assembly this 27th day of July, 2017.

(Sgd.) Judith Baker

CLERK OF THE LEGISLATIVE ASSEMBLY