

ANTIGUA AND BARBUDA

THE IMMIGRATION AND PASSPORT (AMENDMENT) ACT, 2007

No. of 2007

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A BILL FOR

AN ACT to amend the Immigration and Passport Act to impose an obligation on the master of a vessel to transmit passenger data to the immigration authority at the intended port of arrival, in advance of the arrival of the vessel in Antigua and Barbuda and for incidental and connected matters.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Immigration and Passport (Amendment) Act, 2007.

2. Interpretation

In this Act “principal Act” means the Immigration and Passport Act, Cap. 208.

3. Amendment of section 2 of the principal Act

The principal Act is amended in section 2 by inserting, in the appropriate alphabetical sequence, the following definitions—

“ “advance passenger information” means the information in respect of a passenger, crew member or other occupant transported in the vessel; and

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

4. Amendment of section 26 of the principal Act

The principal Act is amended in section 26—

(a) by repealing subsections (1) and (2) and substituting the following subsections—

“(1) Prior to departure of a vessel from the last port of call for Antigua and Barbuda, the master shall provide to the immigration authority at the intended port of arrival in Antigua and Barbuda, in such form and manner as may be

approved by the Minister, the data set out in the Schedule in respect of the vessel and each person on board.

(2) Subsection (1) shall not apply to a ship not exceeding 100 net tons.

(2a) A person, being the master of a vessel bound for a port in Antigua and Barbuda, who intentionally or recklessly—

- (a) fails to transmit the data in accordance with subsection (1); or
- (b) transmits incomplete or false data,

commits an offence and is liable on summary conviction to a fine not exceeding \$300,000.

(2b) The Cabinet may waive the requirements of subsection (1) in such circumstances and on such conditions as it may prescribe by regulations made under this Act.”; and

(b) by amending subsection (3)—

- (i) by repealing the word “list” wherever it appears and substituting the word “data”; and
- (ii) by repealing the words “of three thousand dollars” and substituting the words “not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both”.

5. Insertion of schedule in the principal Act

The principal Act is amended by adding at the end the following schedule—

“SCHEDULE

Advance Passenger Information

Data relating to the flight or voyage

Flight Identification

(IATA Airline code and flight number)

Vessel Identification

(vessel name and voyage number)

Scheduled Departure Date

(Date of scheduled departure of vessel or aircraft (based on local time of departure location))

Scheduled Departure Time

(Time of scheduled departure of vessel or aircraft (based on local time of departure location))

Scheduled Arrival Date

(Date of scheduled arrival of vessel or aircraft (based on local time of arrival location))

Scheduled Arrival Time

(Time of scheduled arrival of vessel or aircraft (based on local time of arrival location))

Last Place/Port of Call of Vessel or Aircraft

(Vessel or Aircraft departed from this last foreign place/port of call to go to “place/port of vessel or aircraft initial arrival”)

Place/Port of Vessel or Aircraft Initial Arrival

(Place/port in the country of destination where the vessel or aircraft arrives from the “last place/port of call of vessel or aircraft”)

Subsequent Place/Port of Call within the country

(Subsequent place/port of call within the country)

Number of Passengers

(Total number of passengers on board)

Data relating to each individual passenger

(a) Core Data Elements of the Official Travel Document

Official Travel Document Number

(Passport or other official travel document number)

Issuing State or Organisation of the Official Travel Document

(Name of the State or Organisation responsible for the issuance of the official travel document)

Official Travel Document Type

(Indicator to identify type of official travel document)

Expiration Date of Official Travel document

(Expiration date of the official travel document)

Surname/Given Name(s)

(Family name and given name(s) of the holder as it appears on the official travel document.)

Nationality

(Nationality of the holder)

Date of Birth

(Date of birth of the holder)

Gender

(Gender of the holder)

(b) Additional Data elements (If applicable)

Visa Number

(Number of the Visa issued)

Issue Date of the Visa

(Date of the Visa issuance)

Place of Issuance of the Visa

(Name of the place where the Visa was issued)

Other Document Number Used for Travel

(The other document number used for travel when the official travel document is not required)

Type of Other Document used for Travel

(Indicator to identify type of document used for travel)

Place of Birth

(Place of birth such as city and country)

Traveller's Status

(Passenger, Crew, In-transit)

Place/Port of Original Embarkation

(Place/port where traveller originates foreign travel)

Place/Port of Clearance

(Place/port where the traveller is cleared by the border control agencies)

Place/Port of Onward Foreign Destination

(Foreign place/port where traveller is transiting)".

EXPLANATORY NOTE

This Bill would amend the Immigration and Passport Act to make provision for the Advance Passenger Information (API) System.

The new section 26(1) and (2) would impose an obligation to transmit passenger data to border control authorities. The data is to be transmitted prior to departure from last port of call.

The data to be transmitted is set out in the new schedule and were culled from the WCO/ICAO/IATA Guidelines on Advance Passenger Information. The data is the maximum set of API data that could be required by border control authorities.

A ship not exceeding 100 net tons would be exempt from the API System.

Non-compliance with the obligation attracts a penalty if intentionally or recklessly caused.

The penalty for a passenger who supplies false information to be included in the data has been increased to take account of changed world circumstances.