

No. 21 of 2002.

*The Passenger Facility
Charge Act 2002.*

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

13th February, 2003.

ANTIGUA AND BARBUDA

No. 21 of 2002

AN ACT to provide for the imposition of a passenger facility charge and for other matters connected thereto.

[27th February 2003]

ENACTED by the Parliament of Antigua and Barbuda as follows:—

1. This Act may be cited as the Passenger Facility Charge Act, 2002. **Short title.**

2. In this Act, except where the context otherwise requires — **Interpretation.**

"air carrier" means a person, or persons jointly, whose business includes the carriage of passengers by air;

"airport" means the V.C. Bird International Airport or any other authorised port of entry by air;

"Minister" means the Minister responsible for Finance;

"operating carrier" means the specific air carrier on which a passenger arrives in Antigua and Barbuda;

"passenger" means a person on board an aircraft other than the crew;

"passenger facility charge" means the charge referred to in section 3;

"ticketing carrier" means an air carrier on whose ticket stock the flight ticket is issued or whose numeric code is included in the ticket number.

**Passenger Facility
Charge.**

3. (1) There is established a passenger facility charge which shall be payable by every air carrier in respect of each passenger arriving in Antigua and Barbuda.

Schedule.

(2) The passenger facility charge payable shall be as prescribed in the Schedule.

**Exempted
passengers.**

4. The air carrier shall not be required to pay passenger facility charge in respect of the following passengers —

- (a) passengers transiting Antigua and Barbuda on the same flight as designated by the flight number;
- (b) children under the age of twelve (12) years at the time of travel;
- (c) persons comprising the crew of an arriving aircraft;
- (d) positioning air crew;
- (e) persons taking part in training flights;
- (f) passengers travelling on the domestic sector between Antigua and Barbuda;
- (g) persons travelling on military, scientific or meteorological flights to whom no ticket has been issued;
- (h) persons travelling on diplomatic passports;
- (i) such other persons as the Minister may by Order published in the *Gazette* exempt.

**Managing
Agency.**

5. The Commissioner of Inland Revenue shall act as agent for and on behalf of the Government of Antigua and Barbuda in the collection of the passenger facility charge.

6. The Commissioner of Inland Revenue shall be responsible for the collection, computation and analyses of the information required under this Act or Regulations made thereunder. **Administration.**

7. (1) The passenger facility charge shall be collected by — **Collection.**

- (a) the ticketing carrier or its agent at the time of issue of the ticket;
- (b) the operating carrier if not collected prior to the time the passenger boards the flight; or
- (c) the local passenger handling agent at the time of arrival in Antigua and Barbuda, in the case of general aviation flights.

(2) For the purposes of this section, "general aviation flight" means a flight other than a commercial air transport operation or aerial work operation.

(3) The passenger facility charge amount shall be shown separately from the fare on the ticket when collected at the time the ticket is issued.

8. (1) The operating carrier shall be responsible for remitting to the Commissioner of Inland Revenue all passenger facility charge amounts due for its route sector to Antigua and Barbuda. **Remittance.**

(2) The revenue from the passenger facility charge shall be accounted for separately by the operating carriers.

9. Where any changes to the intended itinerary involving an arrival in Antigua and Barbuda require an adjustment of the amount paid by the passenger, there shall be a collection or refund of the passenger facility charge, as the case may be, by the operating carrier or agent as appropriate. **Refund.**

10. (1) It shall be the duty of the operating carrier to submit to the Commissioner of Inland Revenue weekly reports together with a copy of the passenger manifest for every flight arriving in Antigua and Barbuda. **Reporting of the passenger facility charge.**

(2) Every weekly report filed by the operating carrier shall contain the following information: —

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- (a) the name of the operating carrier;
- (b) the flight number;
- (c) date of arrival;
- (d) the type of aircraft used including manufacture and series;
- (e) the total number of passengers arriving on the flight;
- (f) the number of passengers for whom the passenger facility charge is payable;
- (g) the number of passengers exempted from payment of the passenger facility charge;
- (h) the total passenger facility charges collected.

(3) Every report shall be filed no later than seven (7) days following arrival of the flight into Antigua and Barbuda.

Invoicing.

11. (1) The Commissioner of Inland Revenue shall issue, no later than fifteen (15) days after receipt of the report, invoices for the passenger facility charge to all operating air carriers based on their weekly submissions for passengers arriving during the preceding month.

(2) Any invoice submitted to an operating carrier for the passenger facility charge revenue shall be settled within **thirty** (30) days after the date of issue of the invoice.

Passenger Facility
Charge Fund.

12. (1) There is established by this Act as a special fund, a fund to be known as the Passenger Facility Charge Fund.

(2) The special fund shall be treated as if it were a special fund established under section 6 of the Finance and Audit Act and the provisions of that Act shall apply to the fund.

(3) Payments of all passenger facility charge revenue shall be made by the Commissioner of Inland Revenue into the Fund.

(4) The special fund shall be administered by the Accountant General for the purpose of improving, upgrading and mainte-

nance of the airport, as directed by the Minister **from** time to time after consultation with the Minister responsible for aviation.

13. (1) Where any operating carrier has discharged its obligation in the remittance of the passenger facility charge payment to the Commissioner of **Inland** Revenue in the time specified, there shall be paid to such operating carrier an **administration** fee for each passenger facility charge paid by the operating carrier.

Administration
Fee.

(2) The **administration** fee payable shall be as prescribed in the Schedule.

Schedule.

(3) The administration fee shall be calculated on a quarterly basis and shall only be paid to the operating carrier for any quarter where

(a) the invoiced passenger facility charge amounts for that quarter have been received within the time specified; and

(b) the passenger facility charge amounts of the previous quarter have been fully remitted.

(4) For the purposes of this section, the term "quarter" means a period of three calendar **months**.

14. (1) Any operating carrier which is in default of **payment** or settlement of the passenger facility charge invoice when due shall be charged a penalty of 2% of the invoiced passenger facility charge amount for each month or portion of the month that the payment remains outstanding.

Penalties.

(2) A penalty of five hundred (\$500.00) United States dollars shall be charged for each day that the carrier delays in **fulfilling** the reporting obligations under section 10.

(3) The Commissioner of Inland Revenue shall impose a penalty equal to 200% of the deficient passenger facility charge amount where a spot check on the reported arriving passengers reveals significant deficiencies in the reported figures.

(4) For the purposes of this section "a significant deficiency" is defined as a deficiency of 5% or more of the total number of passengers covered by the spot check.

**Powers of the
Commissioner of
Inland Revenue.**

15. (1) The right of the Commissioner of Inland Revenue to collect the passenger facility charge invoiced amounts is without prejudice to the penalties imposed.

(2) The Commissioner of Inland Revenue shall be the proper authority for instituting any legal proceedings.

Disputes.

16. Any differences arising under sections 9, 10, 11, 13 and 14 of this Act shall be referred to the Minister for settlement and shall be determined within one (1) month of registering such complaint.

Regulations.

17. The Minister may make regulations for the better administration of this Act and, in particular without prejudice to the generality of the foregoing, may make regulations for —

- (a) prescribing all matters which are required or permitted to be prescribed;
- (b) regulating the procedure for the settlement of disputes;
- (c) prescribing any forms required under this Act.

**Amendment to
Schedule.**

18. The Minister may by regulation amend the Schedule to this Act subject to negative resolution of the House.

Commencement.

19. This Act shall come into force on a date appointed by the Minister by Notice, upon publication in the *Gazette*.

SCHEDULE

sections 3 (2), 13 (2)

The amount to be paid shall be —

- (a) in the case of the passenger facility charge US \$10.00
- (b) in the case of the administration fee US \$ 0.30

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Passed the House of Representatives this
18th day of December, 2002.

Passed the Senate this 3rd day of
January, 2003.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Clerk to the House of Representatives.

S. Walker,
Clerk to the Senate.

Printed at the Government Printing Office, Antigua and Barbuda,
by Walter A. Massiah, Acting Government Printer
— By Authority, 2003.

800—2.03

[*Price*\$3.30]