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I assent,



SAMUEL WEYMOUTH TAPLEY SEATON

Governor-General

2nd August, 2017.

SAINT CHRISTOPHER AND NEVIS

No. 1 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 States with a view to identifying the persons who may pose risks to security; and for matters connected therewith.

[Published 3rd August 2017, Extra-Ordinary Gazette No 37 of 2017.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

1. Short title and commencement.

This Act may be cited as the Advance Passenger Information Act, 2017, and shall come into operation on such date as the Minister may, by Order published in the *Gazette* appoint.

2. Interpretation.

In this Act

“advance 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 I;

“advance passenger information system (APIS)” 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 can travel across international borders;

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

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

“competent authority” means the Chief Immigration Officer or such officer or entity as the Minister may appoint;

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- “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;
- “Minister” means the Minister in charge of the subject of Immigration and Emigration;
- “passenger” means any person not being a bona fide member of the crew, travelling or seeking to travel on an aircraft or vessel;
- “Participating Countries” refers to the participating members of CARICOM in the APIS including Barbados, Antigua and Barbuda, Trinidad and Tobago, Guyana, St Lucia, St Vincent and the Grenadines, Dominica, Jamaica and Grenada;
- “private aircraft” means any aircraft which is not a commercial or state 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 or other floating or submersible transportation by means of which persons can travel across international borders;
- “Watch List” means a list that is used to watch or track the current activity or movements of criminals; including such criminals as
- (a) terrorist;
 - (b) criminal deportees;
 - (c) other persons of interest to the intelligence community; or
 - (d) persons who have been found guilty of involvement with
 - (i) terrorist financing,
 - (ii) money laundering,
 - (iii) organised crime,
 - (iv) stolen or lost travel documents.

3. Duty to provide advance passenger information.

- (1) This section applies to an aircraft or vessel which
- (a) is expected to arrive in Saint Christopher and Nevis; or
 - (b) is expected to leave Saint Christopher and Nevis.

(2) Under sub-section (1), 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 I.

- (3) A captain or master who
- (a) fails to provide API in accordance with sub-section (2); or

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- (b) intentionally or recklessly provides erroneous, faulty, misleading, incomplete or false API or 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 an offence.

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

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

4. Timeframe.

A timeframe is provided for the provision of API under section 3 and as set out in Schedule II to this Act.

5. Powers of the Competent Authority to verify.

(1) The API provided under section 3 shall be verified by the competent authority during physical processing at any port by using the travel documents provided by the crew member or passenger.

(2) The competent authority shall, if any discrepancy is found in the API, correct the data at the port of entry or exit and update the information in APIS after verifying it from the travel or other relevant documents of the crew member or passenger.

(3) The captain or master and any crew member or passenger thereof shall:

- (a) answer any question asked by the competent authority relating to the aircraft or vessel and its crew, passengers, voyage or flight and any persons that are carried by the vessel; and
- (b) forthwith at the request of the competent authority, produce any documents within that person's possession or control relating to any of those matters.

(4) A person referred to in sub-section (3) who

- (a) refuses to answer any question put to that person by the competent authority under sub-section (3)(a) or knowingly gives a false answer to the question; or
- (b) fails to comply with any request made under sub-section (3)(b),

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

6. Vessel or aircraft arriving for non-traffic purposes or making a technical stop.

(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 for non-traffic purposes if the arrival is

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- (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 sub-section 1 the captain or master shall

- (a) forthwith report to the competent authority;
- (b) not without the consent of the competent authority, permit any of the crew 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 passengers carried on the aircraft or vessel.

(3) Subject to any authorisation granted by the competent authority, no member of the 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 sub-section (4), the disembarkation of crew members or passengers from the aircraft or vessel shall not constitute an offence, where 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;
- (c) determine, after consultation with IMPACS, the admissibility or otherwise of passengers or crew;
- (d) ground an aircraft whose captain has not provided the API required pursuant to section 3, pending submission of the API; and
- (e) assess the sufficiency, and error rates in review of API transmissions for each journey.

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

(3) Notwithstanding sections 7(1) (b), neither the crew nor the passenger from an aircraft or vessel 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.

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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 crew members 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 of

- (a) this Act;
- (b) national security;
- (c) border security;
- (d) Customs control;
- (e) any other purpose deemed necessary by the Minister, by Order published in the *Gazette*

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 sub-section (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) In particular, regulations may be made in regard to procedures for collaboration and coordination of information gathering and sharing under 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 negative resolution of the National Assembly.

SCHEDULE I

(Pursuant to Section 3(2))

ADVANCE PASSENGER INFORMATION

- (a) **Data relating to the flight or voyage (Header Data):**
- **Flight Identification**
(IATA Airline code and flight number)
 - **Vessel Identification**
(Vessel name and voyage number)
 - **Country of Registration**
(Country where vessel is registered)
 - **Agent/Owner(Where applicable)**
(Name of Agent for the vessel or where no Agent, Name of owner)
 - **Call Sign (If applicable)**
 - **Schedule Departure Date**
(Date of Scheduled departure of vessel based on local time of departure location)
 - **Scheduled Departure Time**
(Time of scheduled departure of vessel based on local time of arrival location)
 - **Scheduled Arrival Date**
(Date of scheduled arrival of vessel based on local time of arrival location)
 - **Scheduled Arrival Time**
(Time of scheduled arrival of vessel based on local time of arrival location)
 - **Last Place/Port of Call of Vessel or Aircraft**
(Vessel departed from this last foreign place/port of call to go to "place/port of vessel initial arrival")
 - **Place/Port of Vessel or Aircraft Initial Arrival**
(Place or Port in the country of destination where the vessel arrives from the "last place or Port of call of vessel or aircraft)
 - **Subsequent Place/Port of Call within the country/regional space**
 - **Number of Passengers on board**
(Total number of passengers on board)
 - **Number of crew on board**
- (b) **Data relating to each individual on board:**
- **Official Travel Document Number**
(Passport, or other Government approved travel documents)

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- **Issuing State or Organization of the Official Travel Document**
(Name State or Organization responsible for the issuance of the official 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 travel document)
- **Nationality**
(Nationality of the holder of the travel document)
- **Date of Birth**
(Date of birth of the holder)
- **Gender**
(Gender of the holder)
- **Place of Birth**
(Please give City and Country of birth)
- **Traveller's Status**
(Passenger, crew, in-transit)
- **Place/Port of Original Embarkation**
(Place/Port on that journey where traveller first boarded for foreign travel)
- **Port/Place of Clearance**
(Place/Port where the traveller is cleared by the border control agencies)
- **Place/Port of Onward Foreign Destination**
(Foreign place/port where the traveller is transiting)
- **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) must include:
 - (1) PNR record locator
 - (2) Date of reservation/issue of ticket
 - (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

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- (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
 - (16) All baggage information
 - (17) Number and other names of travellers on PNR
 - (18) Any Advance Passenger Information (API) data collected
 - (19) All historical changes to the PNR listed in numbers 1 to 18
- (c) **Additional Data Elements**
- **Visa Number (if applicable)**
 - **Issue Date of Visa**
(Place where Visa issued)
 - **Place of Issuance of the Visa**
(Place where Visa was issued)
 - **Other Document Number used for Travel (if applicable)**
(The other document number used for travel when the official travel document is not required)
 - **Type of Other Document used for Travel (supporting travel document)**
(Indicator to identify type of other document used for travel)
 - **Primary Residence**
 - Country of Primary Residence
(Country where Passenger resides most of the year)
 - Address
(location identification such as: street name and number)
 - City
 - State/Province/County
 - Postal Code
 - **Destination Address**
 - Address where Passenger will be staying in territory of Disembarkation
 - City
 - State/Province/County
 - Postal Code

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- (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

1. In case of commercial aircraft, no later than 40 minutes prior to departure from the last port of call;
2. In case of a private aircraft, no later than 40 minutes prior to the departure from the last port of call;
3. In case of a vessel arriving from outside the regional space, no later than 24 hours prior to arrival;
4. 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.
5. 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.
6. In the case of vessels and aircraft a API file is required five (5) minutes immediately following take-off.

ANTHONY MICHAEL PERKINS
Speaker

Passed by the National Assembly this 23rd day of May, 2017.

JOSÉ LLOYD
Clerk of the National Assembly