

No. 6 of 2019

Advance Passenger Information  
(Amendment) Act 2019

MONTserrat 1

# **M O N T S E R R A T**

## **ADVANCE PASSENGER INFORMATION (AMENDMENT) ACT**

**No. 6 of 2019**

### **ARRANGEMENT OF SECTIONS**

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2	Interpretation
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4	Section 3 replaced
5	Section 4 amended
6	Section 5 amended
7	Section 6 amended
8	Section 10 amended
9	Schedule 3 inserted

**I ASSENT**

**Andrew Pearce**

Governor

**DATE: 14 August 2019**

# **M O N T S E R R A T**

**No. 6 of 2019**

**AN ACT TO AMEND THE ADVANCE PASSENGER INFORMATION ACT (NO. 11 OF 2017).**

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 (Amendment) Act, 2019.
- (2) This Act comes into force on a date appointed by Order of the Governor acting on the advice of Cabinet.

## **2 Interpretation**

In this Act, “**principal Act**” means the Advance Passenger Information Act (No. 11 of 2017).

**3 Section 2 amended**

Section 2 of the principal Act is amended—

- (a) by deleting the definition of “**advance passenger information system**” and substituting the following definition—

“**Advance Passenger Information System**” means the automated electronic data interchange of advance passenger information and screening of advance passenger information by the competent authority and IMPACS against a watch list for an advance passenger information hit;”;

- (b) by deleting the definition for “**captain**”;

- (c) by deleting the definition for “**watch list**” and substituting the following definition—

“**watch list**” means a list used to watch or track the activity or movement of—

- (a) criminals including terrorist and criminal deportees; and  
(b) other persons of interest to the intelligence community.”; and

- (d) by inserting the following definitions in the correct alphabetical sequence—

“**agent**” has the same meaning as in section 2 of the Customs (Control and Management) Act (Cap. 17.04);

“**commander**” has the same meaning as in section 2 of the Customs (Control and Management) Act (Cap. 17.04); and

“**commercial vessel**” means a vessel which transports passengers or goods for monetary gain;”.

**4 Section 3 replaced**

Section 3 of the principal Act is deleted and the following section is substituted—

**“3. Duty to provide advance passenger information**

- (1) This section applies to an aircraft or vessel which is expected to arrive in or depart from Montserrat.

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

## 5 Section 4 amended

Section 4 of the principal Act is amended by—

- (a) inserting, immediately after subsection (2), the following as subsection—

“(2A) In proceedings for failure to comply with this Act, the corrected data is *prima facie* evidence of the accuracy of the advance passenger information.”; and
- (b) deleting the chapeau to subsection (3) and substituting the following—

“The commander, master, agent, crew member or passenger shall—”.

**6 Section 5 amended**

Section 5 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “captain or master” and substituting the words “commander, master or agent”; and
- (b) in subsection (5), by deleting the words “A captain, master,” and substituting the words “A commander, master, agent.”.

**7 Section 6 amended**

Section 6 of the principal Act is amended—

- (a) in subsection (1)(d), by deleting the words “captain or master” and substituting the words “commander, master or agent”; and
- (b) by inserting, immediately after subsection (2), the following as subsection (3)—
  - “(3) If the exigencies of a case make the provision of advance passenger information in accordance with this Act impracticable, the competent authority may take or permit action in a form or manner it deems necessary.”.

**8 Section 10 amended**

Section 10(2) of the principal Act is amended by deleting the words “affirmative resolution” and substituting the words “negative resolution”.

**9 Schedule 3 inserted**

The principal Act is amended by inserting, immediately after Schedule 2, the following Schedule—

**“SCHEDULE 3**

*(section 3)*

**TIMEFRAME FOR SUBMISSION OF ADVANCE  
PASSENGER INFORMATION**

1. Advance passenger information shall be submitted—

- (a) in the case of a commercial vessel or commercial aircraft arriving from a country listed in Schedule 2, no later than 40 minutes prior to its departure from the last port of call;
  - (b) in the case of a private vessel or aircraft arriving from a country listed in Schedule 2, no later than 40 minutes prior to its departure from the last port of call;
  - (c) in the case of a vessel or aircraft arriving from a country other than a country listed in Schedule 2, no later than 24 hours prior to arrival of that vessel or aircraft;
  - (d) in the case of a commercial vessel or commercial aircraft, no later than five minutes immediately following the departure of that vessel or aircraft; and
  - (e) in the case of a private vessel or aircraft, prior to departure of that vessel or aircraft.
2. In the event of a change to a vessel or aircraft data relating to the flight or voyage [*Header Data*] or data relating to an individual on board, updated advance passenger information is required to prior to departure of the aircraft or vessel.”.

**SHIRLEY OSBORNE**

Speaker

Passed by the Legislative Assembly this 29<sup>th</sup> day of July, 2019.

**JUDITH BAKER**

Clerk of the Legislative Assembly