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THE OFFICIAL GAZETTE 11TH FEBRUARY, 2025
LEGAL SUPPLEMENT — C

BILL No. 4 of 2025

Tuesday 11th February, 2025

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

11th February, 2025.

The following Bill which will be introduced in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.

GUYANA

BILL No. 4 of 2025

ADVANCE PASSENGER INFORMATION AND PASSENGER NAME RECORD BILL 2025

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A BILL

Intituled

AN ACT to make provision for the collection, transmission, sharing, storage and regulation of Advance Passenger Information and Passenger Name Record in respect of persons travelling to, departing from and transiting through Guyana and to operationalise the CARICOM Advance Passenger Information System and other related matters.

A.D.2025 Enacted by the Parliament of Guyana: -

PART I

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Advance Passenger Information and Passenger Name Record Act 2025 and shall come into operation on the date the Minister may, by order, appoint.

Interpretation.

2. In this Act-

"advance passenger information" or "API" means-

(a) a set of data detailing information concerning an aircraft or vessel;

(b) information concerning a passenger and crew member, or any other person travelling in an aircraft or vessel as set out in Schedule I; and

Schedule I

(c) embarkation and disembarkation data as set out in Schedule I (C);

"Advance Passenger Information – Passenger Name Record Database" or "API-PNR Database" means the centralised database established by IMPACS for the storage, management and analysis of API and PNR data;

"agent" means a person who is authorised, in writing, by the owner, captain or master of an aircraft or a vessel to perform a function under this Act on behalf of the owner, captain or master;

"aircraft" includes an aeroplane, helicopter or other means of airborne navigation by means of which persons, goods or both travel across international borders;

"anonymisation of PNR data" means the process of removing or encrypting personally identifiable information from the PNR record;

"API hit" means a name or travel document present in the Watch List System;

"automated processing of data" means the utilisation of authorised applications, software or systems to analyse, screen and compare data against Watch Lists and other predetermined criteria with no human involvement in the subsequent decision-making process;

"captain" means the owner of an aircraft, the pilot of an aircraft so designated by the operator, or the person being in command and charged with the safe conduct of the flight;

"CARICOM" means the Caribbean Community established by Article 2 of the Revised Treaty;

"CARICOM Advance Passenger Information System" or "CARICOM APIS" means –

(a) the CARICOM Electronic Manifest Single Window (CEMSIW) when used for Advance Passenger Information and Passenger Name Record data interchange; and

(b) the Advance Passenger Information – Passenger Name Record Database,

managed by the Joint Regional Communication Centre under the authority of IMPACS;

"CARICOM Council for Security and Law Enforcement" means the Organ of CARICOM incorporated under Article V of the Protocol Amending the Revised Treaty to Incorporate the Council for National Security and Law Enforcement as an Organ of the Community and the CARICOM Implementation Agency for Crime and Security as an institution of the Community signed at Placencia, Belize on 16 February 2016;

"CARICOM Electronic Manifest Single Window" or "CEMSIW" means the electronic window used for the submission or transfer of API, PNR and other information required to be submitted or transferred under this Act;

"CARICOM Member State" means a State listed in Article 3 paragraph 1 of the Revised Treaty;

"commercial aircraft" means an aircraft which engages in transporting passengers or goods for monetary gain;

"commercial vessel" means a vessel which engages in transporting passengers or goods for monetary gain;

"Competent Authority" means the person appointed as Chief Immigration Officer pursuant to section 4 of the Immigration Act;

Cap. 14:02

"Convention on Facilitation of International Maritime Traffic" or "FAL Convention" means the Convention, adopted on 9 April 1965 and entered into force on 5 March 1967;

"crew member" or "crew" means-

(a) in relation to an aircraft, any individual charged with performing duties essential to the operation of an aircraft during flight including landing or take-off; and

(b) in relation to a vessel, any individual charged with performing duties essential to the operation of the vessel and the safety and well-being of its passengers or cargo during a journey;

"data processing"-

(a) means any operation or set of operations performed on API or PNR data for the purpose of enhancing border security, immigration control, customs clearance and other law enforcement purposes; and

(b) includes the collection, analysis, recording, organisation, storage, adaptation or alteration, calling-up, retrieval, consultation, use, transfer, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of API or PNR data;

"Data Protection Officer" means the individual appointed under section 7 by the Competent Authority;

"Departure Control System" means the system used to –

(a) support pre-flight or pre-voyage processes, including checking in of passengers onto aircraft or vessels; and

(b) streamline the departure process, ensure regulatory compliance, and enhance security measures by effectively handling API and PNR data;

"depersonalisation of PNR data" means the masking of information that enables direct identification of an individual, without hindering the use of PNR data by law enforcement agencies and entities;

"embarkation and disembarkation data" mean the information set out in Schedule I (C) in relation to a passenger, crew member or any other person travelling in an aircraft or vessel and who is expected to embark or disembark in Guyana;

Schedule I

"IATA" means the International Air Transport Association founded in Havana, Cuba, on 19 April 1945;

"ICAO" means the International Civil Aviation Organization which was established pursuant to the Convention on International Civil Aviation adopted on 7 December 1944 in Chicago;

"IMO" means the International Maritime Organization which was formerly the Inter-Governmental Maritime Consultative Organisation established by the Convention on the International Maritime Organization adopted on 6 March 1948 in Geneva;

"IMPACS"-

(a) means the Implementation Agency for Crime and Security established as an Institution of CARICOM under Article VII of the Protocol Amending the Revised Treaty to Incorporate the Council for National Security and Law Enforcement as an Organ of the Community and the CARICOM Implementation Agency for Crime and Security as an institution of the Community signed at Placencia, Belize on 16 February 2016; and

(b) includes its sub-agencies, namely -

(i) the Joint Regional Communication Centre; and

(ii) the Regional Intelligence Fusion Centre;

"INTERPOL" means the International Crime Police Organisation established by the Constitution of the International Criminal Police Organization – INTERPOL adopted by the United Nations General Assembly at Vienna, Austria in 1956;

"master" includes a person having command or charge of a vessel other than a pilot;

"Minister" means the Minister responsible for home affairs;

"national border security" means the protection of national borders from the illegal movement of weapons, drugs, contraband and people, while facilitating lawful trade and travel;

"operating carrier" means the air carrier having operational control of an aircraft used for a codeshare flight;

"participating Member State" means a CARICOM Member State that utilises CARICOM APIS to support the processing and analysis of passenger and crew data and the transmission, collection, processing and screening of API and PNR data;

"passenger" means a person not being a *bona fide* crew member, travelling or seeking to travel on an aircraft or vessel;

"Passenger Information Unit" or "PIU" means the Unit established under section 5;

"passenger name record" or "PNR" means the record created by aircraft or vessel operator or their agents, for each voyage or flight booked by or on behalf of any passenger in the reservation system, Departure Control System or equivalent system as set out in Schedule VI;

Schedule VI

"personal data" has the same meaning as assigned under the Data Protection Act 2023;

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"PNR data transfer" means the transfer of PNR data to the Competent Authority and IMPACS via the CEMSIW managed by IMPACS in the format set out in Schedule VI;

"PNRGOV message" means the standard electronic message format jointly endorsed by the World Customs Organization, International Civil Aviation Organisation and International Air Transport Association used by an aircraft and a vessel to submit PNR data;

"positive match" means the matching of personal or document data of an individual resulting from a comparison, whether naturally or by means of any electronic or other device, between any personal data of the individual, or between any document used by an individual for purposes of travel, against authorised databases and Watch Lists for the purposes of the implementation of this Act;

"push method" means the method used for the transfer of PNR data from the airlines, vessels or transportation operators to the Competent Authority and IMPACS via the CEMSIW;

"private aircraft" means an aircraft which is not a commercial aircraft or state aircraft;

"private vessel" means a vessel which is not a commercial vessel or a state-owned vessel;

"Regional Data Protection Officer" means the individual, appointed by the Executive Director of CARICOM IMPACS, who is responsible for overseeing adherence to data protection standards during the course of cross-border data collection, data processing and data transfer among CARICOM Member States;

"regional space" means the air and maritime spaces managed by the respective Governments of the CARICOM Member States in accordance with international aviation and maritime law;

"Revised Treaty" means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on 5 July 2001;

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"sensitive personal data" has the same meaning as assigned under the Data Protection Act 2023;

"serious crime" means an offence against any law in Guyana for which a term of imprisonment of at least twelve months is required to be imposed;

"technical stop" means the landing of an aircraft or the berthing or anchoring of a vessel or the otherwise arrival or stopping of an aircraft or a vessel for purposes of refuelling, unexpected essential repairs, or a similar purpose other than for taking on or discharging passengers, baggage, cargo or mail;

"vessel" -

(a) means any ship, boat, barge, yacht or other floating or submersible transportation by means of which persons and goods can travel across international borders; and

(b) includes a cruise line, a cargo ship and a tugboat;

"vessel operator" –

(a) means an individual, a company, or an organisation responsible for the operation, management, and control of a particular vessel; and

(b) includes an individual, a company, or an organisation responsible for overseeing the navigation, manoeuvring, and overall operation of the vessel, as well as ensuring compliance with maritime regulations, safety protocols and operational procedures;

"Watch List" means the list maintained by IMPACS and the Competent Authority that is used for the identification, tracking and monitoring of

the activities or movements of criminals and suspicious travellers, including-

(a) terrorists or persons convicted of a criminal offence;

(b) persons suspected to be travelling on stolen and lost travel documents;

(c) criminal deportees; and

(d) other persons of interest to law enforcement and the intelligence community.

Application of this Act.

3.This Act shall apply to the collection, use, retention, transfer and protection of Advance Passenger Information and Passenger Name Record data by the Competent Authority and IMPACS.

PART II
ADMINISTRATIVE

Powers and functions of the Competent Authority.

4. (1) The Competent Authority shall-

(a) be responsible for overseeing and implementing the provisions of this Act;

(b) establish protocols, standards, issue guidelines and technical requirements for the secure transmission, storage and processing of API and PNR data;

(c) oversee the operations of the PIU in the performance of its functions;

(d) establish secure channels and reliable systems for the timely transmission, receipt, storage, management and transfer of API and PNR data from the captain or agent of an aircraft and the master of a vessel;

(e) in collaboration with IMPACS, monitor compliance with API and PNR laws, regulations and requirements, and may conduct reviews or inspections of aircraft, vessels, or transportation operators' operations to ensure

adherence to the data collection and transmission requirements;

(f) establish data transfer agreements or arrangements with other receiving Member States or their Competent Authorities, specifying the obligations, safeguards, and conditions for the use, storage and retention of the transferred PNR data;

(g) conduct audits and inspections to ensure compliance with the Act;

(h) establish cooperation and information sharing mechanisms with relevant national and international entities to enhance the effectiveness of API and PNR data usage;

(i) maintain confidentiality and data protection standards for the handling of API and PNR data;

(j) provide necessary training and support to PIU personnel and persons involved in the API and PNR data management process; and

(k) co-ordinate with IMPACS on matters relating to API and PNR and ensure compliance with this Act.

(2) In addition to the functions set out in subsection (1), the Competent Authority shall-

(a) have access to API and PNR data or the data processing results in order to examine such information further;

(b) manage API and PNR data adequately and provide an appropriate level of protection of these data in keeping with the principles of data protection as set out in Part II of the Data Protection Act 2023 and international best practices;

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(c) verify data during physical processing of any passenger or member of crew at any port of entry or exit by comparing the API information to the information

contained in the travel document presented by the passenger or member of crew;

(d) liaise and coordinate with relevant national, regional and international organisations to ensure that, in so far as it is practicable, mechanisms are established which remove the requirement of passengers to submit the same information to more than one entity in respect of the same voyage or journey;

(e) correct any erroneous data at the port of entry or exit and update the information in CARICOM APIS and API-PNR databases after verifying it from the travel or other relevant documents of the crew member or passenger;

(f) undertake appropriate action for the purposes of preventing, detecting, investigating and prosecuting terrorist offences or serious crimes as well as for border security purposes;

(g) co-ordinate with IMPACS on all matters relating to API, PNR submissions and CEMSIW;

(h) if requested, permit the crew or passenger from an aircraft or vessel access to his or her personal data maintained in the CARICOM APIS database to ensure its correctness, but no passenger shall have access to any information provided by IMPACS to the Competent Authority against a Watch List for any API hit;

(i) process all API hits, high-risk travellers and cargo information flagged and referred by IMPACS and provide timely dispositions on these referrals, in keeping with established protocols;

(j) determine after consultation with IMPACS the admissibility or otherwise of passengers or crew into Guyana;

(k) withhold clearance for the departure of an aircraft or vessel whose captain, master or agent has not provided

the API and PNR data required pursuant to section 8, pending submission of the data; and

(l) assess the sufficiency and error rates in reviewing API and PNR transmissions for each flight or voyage.

(3) Notwithstanding subsection (2)(h) and (j), any decision with respect to the admissibility or inadmissibility of passengers or crew from an aircraft or a vessel shall be made solely by the Competent Authority.

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(4) The Competent Authority shall carry out all of its activities and responsibilities in a manner consistent with the Data Protection Act 2023.

(5) In a situation where a PIU is not established, or is not operational, the Competent Authority shall process API and PNR data and shall-

(a) coordinate with IMPACS in carrying out an assessment of passengers prior to their scheduled arrival in or departure from Guyana to identify persons who require further examination by the Competent Authority; and

(b) analyse API and PNR data for the purpose of updating or creating new criteria to be used in the screening process.

(6) In a situation referred to in subsection (5), any positive match resulting from the automated processing of API and PNR data shall be individually reviewed by non-automated means to verify whether the Competent Authority shall take action in accordance with this Act.

(7) The Competent Authority shall not take any decision-

(a) that produces an adverse legal effect on a person or significantly affects a person only by reason of the automated processing of data; or

(b) on the basis of a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation,

unless failure to take the decision would be prejudicial to the interests of public health, public safety and national security.

Establishment of the PIU.

5. (1) There is established a unit to be known as the Passenger Information Unit.

(2) The PIU shall consist of the following persons who shall be appointed by the Minister-

(a) an Immigration Officer of senior rank who shall be the head of the Unit;

(b) a Police Officer;

(c) a Customs and Excise Officer;

(d) the Data Protection Officer; and

(e) such number of Immigration Officers and personnel as the Minister may determine.

Functions of the PIU.

6. (1) The PIU shall-

(a) receive, store, process, analyse and manage all API and PNR data transmitted by an aircraft and a vessel in accordance with this Act for the purpose of national security;

(b) for the purpose of prevention, detection, investigation and prosecution of terrorism and serious crimes –

(i) manage and conduct risk assessments and analysis of API and PNR data collected from an aircraft or a vessel; and

(ii) submit the results to the law enforcement personnel at ports of entry in Guyana, through the use of appropriate secure tools, technologies and intelligence methodologies;

(c) in collaboration with the Competent Authority and IMPACS, ensure that aircraft operators, vessel operators, passengers and crew members are –

(i) aware of their obligations under this Act; and

(ii) compliant with the requirements to enter and leave Guyana;

(d) in collaboration with the Competent Authority, liaise with and ensure effective communication and cooperation with Government ministries, departments and agencies, by –

(i) sharing information that it has acquired in the course of its duties under this Act; and

(ii) undertaking any other responsibility assigned by the Competent Authority;

(e) liaise, collaborate and exchange information with other national, regional and international competent authorities, including other passenger information units and national, regional and international law enforcement organisations; and

(f) establish formal arrangements with national, regional and international competent authorities, where required, to support the implementation of its functions.

(2) The PIU shall carry out all its functions, activities and responsibilities in a manner consistent with the protection of personal data and principles of data protection set out in the Data Protection Act 2023.

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(3) In processing API and PNR data, the PIU shall-

(a) coordinate with IMPACS and other competent authorities in carrying out an assessment of passengers and crew prior to their scheduled arrival in or departure from Guyana to identify persons who require further examination by the Competent Authority; and

(b) analyse API and PNR data for the purpose of updating or creating new criteria to be used in the screening and risk assessment process and share risk information and

intelligence with IMPACS to further risk assessments and generation of risk criteria.

(4) Any positive match resulting from the automated processing of API and PNR data shall be individually reviewed by non-automated means to verify whether the Competent Authority shall take action in accordance with this Act.

(5) The PIU shall be equipped with the capacity for 24/7 operation, with procedures in place to minimise disruption in the event of an emergency, system outage or failure.

Appointment and functions of Data Protection Officer.

7. (1) The Competent Authority shall appoint a qualified and experienced individual as the Data Protection Officer to oversee and ensure compliance with this Act and the Data Protection Act 2023.

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(2) In addition to the duties and functions set out in section 71 of the Data Protection Act 2023, the Data Protection Officer shall-

(a) operate independently and autonomously in performing his or her duties, free from any conflicts of interest and for this purpose shall have direct access to the highest levels of management within the Competent Authority and IMPACS;

(b) possess expert knowledge of data protection regulation, as well as a deep understanding of the specific requirements and challenges associated with the collection, processing, and management of PNR data;

(c) provide advice, guidance, and recommendations to the Competent Authority and IMPACS on matters related to the processing of PNR data;

(d) monitor the processing activities related to API and PNR data, including data collection, storage, access, use, and sharing, to ensure compliance with legal requirements

and established policies and procedures and implement related safeguards;

(e) conduct regular risk assessments regarding the processing of PNR data and identify potential risks or vulnerabilities, and shall work with relevant departments and stakeholders to implement appropriate measures to mitigate risks and safeguard the rights and privacy of individuals;

(f) be responsible for conducting or overseeing data protection impact assessments relating to the collection, processing, and management of PNR data, and ensure that these assessments are carried out in accordance with relevant legal requirements;

(g) act as the main point of contact for individuals, including passengers and crew members, regarding their rights, concerns, and inquiries related to the processing of their PNR data and in so doing shall facilitate the exercise of data subjects' rights and handle any complaints or data breaches;

(h) organise and provide training programs, workshops, and awareness campaigns to enhance the Competent Authority's and IMPACS' employees' understanding of data protection principles, obligations, and best practices related to PNR data processing;

(i) cooperate and maintain effective communication with relevant data protection authorities or regulatory bodies, providing necessary information, reports, and notifications as required by any written law;

(j) prepare periodic reports on data protection activities, incidents, and compliance status for senior management and relevant stakeholders and shall ensure transparency and accountability in the processing of PNR data;

(k) provide national oversight for the protection of PNR data; and

(l) provide advice, guidance and recommendation to the Competent Authority on API and PNR processing to ensure compliance with this Act and the Data Protection Act 2023.

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(3) The Competent Authority and IMPACS shall provide the necessary resources, authority and support to enable the Data Protection Officer to fulfil their responsibilities effectively.

(4) The Data Protection Officer's official contact information shall be made publicly available to allow individuals to reach out with inquiries, concerns or complaints related to PNR data processing.

PART III
COMMON PROVISIONS FOR ADVANCE PASSENGER INFORMATION AND PASSENGER NAME RECORD

Duty to provide API, PNR data and embarkation and disembarkation data.

8. (1) A master, a captain or an agent of an aircraft or a vessel shall provide the Competent Authority and IMPACS, via the CEMSIW, with the relevant API and PNR data relating to the passenger and crew, flight or voyage.

(2) The duty to provide API and PNR data shall apply to all aircraft and vessels, regardless of size and tonnage which are-

(a) expected to arrive in Guyana;

(b) expected to depart from Guyana; or

(c) in transit through Guyana.

(3)Where a flight is code-shared between one or more aircraft, a captain or an agent of the operating carrier shall provide API and PNR data of all passengers and crew to the Competent Authority and IMPACS via the CEMSIW.

(4) A master, a captain or an agent of an aircraft or a vessel traveling into and out of Guyana shall, via the CEMSIW, provide to the Competent Authority and IMPACS the relevant embarkation and disembarkation data as set out in Schedule I (C).

Schedule I

Technical stop.

9. (1) Nothing in section 8 applies to an aircraft or a vessel which makes a technical stop if the technical stop is-

(a) required by any statutory or other requirement relating to navigation;

(b) compelled by an emergency, accident, unfavourable weather conditions or other necessity; or

(c) authorised by the Competent Authority.

(2) Where an aircraft or a vessel makes a technical stop for a reason specified in subsection (1), the captain, agent or master-

(a) shall immediately report to the Competent Authority;

(b) shall comply with any directions given by the Competent Authority in respect of any crew member, or passenger carried on the aircraft or vessel, and

(c) shall not, without the consent of the Competent Authority, permit a crew member or passenger to disembark from the aircraft or vessel.

(3) Subject to any authorisation granted by the Competent Authority, neither a crew member nor a passenger on an aircraft or a vessel shall, without the consent of the Competent Authority, disembark the aircraft or vessel, and such person shall comply with any directive given by the Competent Authority.

(4) A captain, a master or an agent who contravenes this section commits offence and is liable on summary conviction where the contravention constitutes –

(a) a first offence, to a fine of one million dollars; and

(b) a second or repeating offence, to a fine of four million dollars or imprisonment for a term of six months, or both.

(5) Notwithstanding subsection (4), the disembarkation of a crew member or a passenger from an aircraft or a vessel shall not constitute an offence, if the disembarkation is necessary for reasons of health, safety or the preservation of life.

Restriction on disclosure of data or documentation by the Competent Authority.

10. (1) The Competent Authority shall ensure that-

(a) all data and documentation obtained or generated in the course of its functions and responsibilities is treated as confidential and that such data and documentation is subject to non-disclosure obligations; and

(b) its personnel refrain from disclosing any confidential data or documentation, except as provided for by subsection (2), expressly authorised by an enactment or with the explicit consent of the parties involved.

(2) Personnel of the Competent Authority may disclose confidential data or documentation under the following circumstances –

(a) when required by law or court order;

(b) when necessary to fulfil the purposes for which the data or documentation was collected, provided that such disclosure is in accordance with the Data Protection Act 2023; and

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(c) when disclosure is required to safeguard national security, public safety, or the prevention, detection,

investigation, or prosecution of serious crimes, including terrorist offences.

(4) The Competent Authority shall-

(a) manage all disclosed data or documentation in compliance with the Data Protection Act 2023;

(b) establish and maintain appropriate technical, organisational, and administrative measures to protect the confidentiality, integrity, and security of the disclosed data or documentation;

(c) restrict access to disclosed data or documentation to authorised personnel who have a legitimate need-to-know for the performance of their duties;

(d) implement access controls, user authentication mechanisms and monitoring systems to prevent unauthorised access or disclosure of the data or documentation;

(e) prohibit its personnel from making any unauthorised disclosure of confidential data or documentation, both during and after their employment or engagement with the authority; and

(f) implement disciplinary measures and legal remedies to address any unauthorised disclosure, including imposing penalties, suspension or termination of employment, as considered appropriate.

Advance Passenger Information and Passenger Name Record access.

11. (1) No Government ministry, department or agency shall have direct access to API and PNR data that is maintained by the Competent Authority and PIU.

(2) Notwithstanding subsection (1), the Competent Authority may, pursuant to a written request from another Government ministry, department

or agency grant access to the API and the PNR data, and such access may be limited or controlled.

(3) All data shall be validated by the Competent Authority before it is transmitted to the requesting Government ministry, department or agency.

(4) No person shall, without authorisation, access, attempt to access, facilitate access to or cause access to API and PNR data that is maintained by the Competent Authority and the PIU.

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of four million dollars or imprisonment for a term of two years, or both.

Processing of API and PNR.

12. (1) The PIU shall process API and PNR data for the following purposes –

(a) conducting risk assessment of passengers and crew before their scheduled arrival in or departure from Guyana to identify individuals who require further examination for potential involvement in terrorist related activities or serious crimes;

(b) responding, to requests received from other competent authorities and government agencies for specific cases, aimed at preventing, detecting, investigating and prosecuting terrorist offences or serious crimes; and

(c) analysing API and PNR data to update or establish new criteria used in the assessments mentioned in paragraph (a) to identify individuals involved in terrorist offences or serious crimes.

(2) PNR data shall not be processed in such a manner as to reveal the race or ethnic origin, political opinions, religion or philosophical beliefs,

trade union membership, health, sexual life or sexual orientation of an individual and where PNR data reveal such information, the data shall be deleted immediately by the PIU.

(3) When carrying out a risk assessment under subsection (1)(a) the PIU may-

(a) compare API and PNR data with authorised databases for the purpose of preventing, detecting, investigating, and prosecuting terrorist offences or serious crimes, including databases of wanted persons or objects, as permitted by law; or

(b) analyse API and PNR data using non-discriminatory criteria and share results with the relevant authorities.

(4) The assessment of passengers and crew prior to their arrival in or departure from Guyana carried out under subsection (1)(a) against established criteria shall be carried out in a non-discriminatory manner.

(5) The criteria used in the assessment of passengers and crew shall-

(a) be targeted, proportionate and specific in nature; and
(b) be regularly reviewed in consultation with the Competent Authority and IMPACS.

(6) Notwithstanding subsection (5), a criterion for the assessment of passengers shall not, in any circumstance, be based on race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sexual life or sexual orientation.

Schedule VI

(7) Where PNR data collected includes data other than those listed in Schedule VI, that data shall be deleted immediately and permanently upon receipt.

(8) The storage, processing and analysis of API and PNR data shall be carried out exclusively within a secure location within Guyana, as designated by the Minister.

(9) PNR data collected in accordance with this Act shall be processed only for the purposes of preventing, detecting, investigating and prosecuting terrorist offences and serious crime and for border security purposes.

(10) Notwithstanding subsection (9), in exceptional cases, PNR data may be processed, where necessary, for the protection of the vital interests of any individual, such as the risk of death, serious injury or threat to life or health.

Verification of API and PNR data.

13. (1)The Competent Authority and IMPACS shall establish a robust system for the verification of API and PNR data submitted by an aircraft or a vessel, ensuring the accuracy, integrity and reliability of the data collected.

(2) The Competent Authority and IMPACS shall employ appropriate mechanisms and tools to validate the API and PNR data provided by an aircraft or a vessel which may include cross checking the data against reliable and authoritative sources, such as travel documents, identity databases or immigration records.

(3) The API and PNR data shall be subject to risk assessment and analysis to identify potential anomalies, discrepancies or patterns that may require further investigation or action.

(4) Where discrepancies or inconsistencies are identified during the verification process, the Competent Authority and IMPACS shall immediately notify the relevant aircraft or vessel or submitter of API and PNR data,

following which the aircraft or vessel shall be given an opportunity to rectify the discrepancies within a prescribed timeframe.

Use, screening and sharing of API and PNR with regional and international security agencies.

14. (1) The Competent Authority and IMPACS shall use API and PNR data to conduct screening of passengers and crew on an aircraft or a vessel that-

(a) arrives, departs from and transits through Guyana; and

(b) travels within CARICOM in order to provide information to assist the Competent Authority and IMPACS, as required, and other participating Member States,

against Watch Lists and approved national, regional, and international databases.

(2) Approved national, regional and international databases shall be used to conduct screenings, as authorised by the Minister.

(3) The Competent Authority and IMPACS may share the information contained within the CARICOM APIS with INTERPOL and any other national, regional or international intelligence, law enforcement or security agencies or centres approved by the CARICOM Council for Security and Law Enforcement in order to further national, regional or international security.

(4) The API and PNR data shall only be used for the purposes of this Act and, subject to access granted by the Competent Authority under section 11 (2), to inform national compilation of statistics by Government ministries, departments and agencies authorised to do so.

Transfer of API and PNR data to competent authority in another country.

15. (1) The Competent Authority or IMPACS may transmit API and PNR data to the competent authority in another country only-

(a) in accordance with this Act; and

(b) on ascertaining that the recipient country intends to use the data in a manner consistent with this Act.

(2) Where the level of management and protection of data in the recipient country is lower than in Guyana, any conflict between the provisions of this Act and enactments of a recipient country, shall be resolved prior to the transfer of data referred to in subsection (1) by implementing appropriate safeguards.

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(3) In addition to the appropriate safeguards set out in the Data Protection Act 2023, appropriate safeguards may be provided for by –

(a) a legally binding and enforceable instrument between the Competent Authority in Guyana and the Competent Authority in the receiving country;

(b) binding corporate rules that are enforced by both Competent Authorities and which expressly confer enforceable rights on a person whose API and PNR data is requested to be transferred;

(c) a code of conduct the terms of which are agreed upon between the Competent Authority and the receiving country and which has binding and enforceable commitments of the competent authority of the receiving country to apply appropriate safeguards, including as regards to the rights of the person whose API and PNR data is being transferred; or

(d) contractual clauses between the Competent Authority and the competent authority of the receiving country to apply appropriate safeguards, including as regards to the rights of the person whose API and PNR data is being transferred.

PART IV
API OPERATING PROVISIONS

Duty to transmit API.

16. (1) A captain, master or agent of an aircraft or a vessel shall, via the CEMSIW, provide to the Competent Authority and IMPACS the relevant API data relating to the aircraft or vessel as set out in Schedule I.

Schedule I

(2) The Competent Authority, IMPACS, a captain, master or an agent of an aircraft or vessel shall collect, receive, process, store, retain and transfer all API data in accordance with this Act and the Data Protection Act 2023.

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(3) In addition to any information provided pursuant to subsection (1), the Competent Authority may-

(a) question any captain, master, agent, crew member or passenger in relation to the aircraft or vessel; or

(b) request any person mentioned in paragraph (a) to immediately produce any document within that person's possession or control in relation to the questions put to that person.

(4) A captain, master, agent, crew member or passenger shall not refuse to answer a question or knowingly give a false answer to any questions put to him or her by the Competent Authority pursuant to subsection (3) (a).

(5) A captain, a master, an agent, a crew member or a passenger who contravenes subsection (4) commits an offence and where the contravention constitutes –

(a) a first offence, the captain, master, agent, crew member or passenger is liable on summary conviction to a fine of one million dollars; and

(b) a second or repeating offence, is liable on summary conviction to a fine of four million dollars or imprisonment for a term of six months, or both.

(6) A captain, master, agent, crew member or passenger shall not refuse to produce any document within that person's possession or control, or delay the production of a document, requested under subsection (3)(b).

(7) A person who contravenes subsection (6) commits an offence and where the contravention constitutes -

(a) a first offence, is liable on summary conviction to a fine of one million dollars; and

(b) a second or repeating offence, is liable on summary conviction to a fine of four million dollars or imprisonment for a term of six months, or both.

(8) The Minister may waive the requirements of subsection (1) in such circumstances, and subject to such conditions, as the Minister may prescribe where the aircraft or vessel is-

(a) a military or law enforcement aircraft or vessel;

(b) on official Government business; or

(c) on the business of a humanitarian organisation.

API data elements.

Schedule I

17. A captain, a master or an agent of an aircraft or a vessel arriving in, departing from or transiting through Guyana shall, through the CEMSIW, transmit API data to the Competent Authority and IMPACS in a manner consistent with the list of API data elements set out in Schedule I.

Timeframe for submission of API data and embarkation and disembarkation data.

Schedule II

18. (1) API data required to be submitted pursuant to sections 16 and 17 shall be submitted in accordance with the timelines set out in Schedule II (A).

(2) In the event of technical failure, an aircraft or vessel shall transmit API by any other appropriate electronic means, in accordance with the timelines set out in Schedule II (A), ensuring the application of the appropriate level of data security.

(3) Embarkation and disembarkation data shall be submitted to the Competent Authority and IMPACS, through CEMSIW, in accordance with the timelines set out in Schedule II (B).

Protection of API data.

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19. (1) An individual may, in the prescribed form and manner and in accordance with the Data Protection Act 2023–

(a) submit a request to the Competent Authority to gain access to his or her API data to check and verify its accuracy; and

(b) where appropriate, request the correction of his or her data.

(2) The Competent Authority shall, in the prescribed form and manner –

(a) respond to a request made under subsection (1); and

(b) where appropriate, correct the individual's API data.

(3) An individual shall have the right to lodge a complaint before the Data Protection Commissioner if he or she considers that the processing of his or her API data is not in compliance with the provisions of this Act.

Retention of API data.

20. (1) Subject to subsection (2), API data collected under this Act for screening purposes shall be retained for a period not exceeding seven years from the date of travel of the crew member or the passenger.

(2) On expiry of the data retention period stipulated under subsection (1), API data shall be deleted from each database in which they

were stored, except if needed in connection with a specific case, a threat or a risk identified as being related to terrorism, serious crime or border security.

(3) Nothing contained in subsection (1) applies to the data copied from CARICOM APIS into any other security database system to which a different data retention schedule applies.

(4) Any security database that stores API data which has been sourced or copied from CARICOM APIS shall apply, at a minimum, equal levels of protection and privacy as applied by CARICOM APIS.

Failure to provide API data in accordance with Act.

21. (1) A captain, a master or an agent who fails to provide API in accordance with this Act commits an offence and, where the contravention constitutes –

(a) a first offence, is liable on summary conviction to a fine of one million dollars; and

(b) a second or repeating offence, is liable on summary conviction to a fine of four million dollars or imprisonment for a term of six months, or both.

(2) A captain, master or agent shall not intentionally or recklessly–

(a) provide erroneous, faulty, misleading, incomplete or false API; or

(b) engage in, or facilitate API transfer in an incorrect format.

(3) Subject to subsection (4), a captain, a master or an agent who contravenes subsection (2) commits an offence and, where the contravention constitutes –

(a) a first offence, is liable on summary conviction to pay a fine of one million dollars; and

(b) a second or repeating offence, is liable on summary conviction to a fine of four million dollars or imprisonment for a term of six months, or both.

(4) Where the API provided is inaccurate and the captain, master or agent 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 Act, the captain, master or agent may not be charged for an offence pursuant to subsection (1) or (3).

(5) A passenger or crew member –

(a) shall provide embarkation data and disembarkation data in accordance with this Act; and

(b) shall not intentionally or recklessly provide erroneous, misleading, incomplete, or false data.

(6) A passenger or crew member who contravenes subsection (6) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars or to imprisonment for a term of six months, or both.

PART V
PNR OPERATING PROVISIONS

Obligations of captain or agent of aircraft regarding the transfer of PNR data.

22. (1) In accordance with section 24, a captain or an agent of an aircraft shall transfer to the Competent Authority and IMPACS all PNR data which it has collected in the normal course of business in respect of passengers to be carried by the aircraft into and out of Guyana.

(2) Where a flight in respect of which PNR data is required to be collected and transmitted is code-shared between one or more aircraft, a captain or agent of the operating carrier shall transmit the PNR data of all passengers on the flight to the Competent Authority and IMPACS.

(3) A captain or an agent of an aircraft shall transfer PNR data to the Competent Authority and IMPACS by electronic means in accordance with the timelines stipulated in Schedule III.

Schedule III

(4) A captain or an agent of an aircraft may, when providing updated passenger information, limit the transmission of PNR data to an update of the information previously provided.

(5) Notwithstanding the timelines provided for in Schedule III, a captain or an agent of an aircraft shall also transfer PNR data to the Competent Authority and IMPACS on a case-by-case basis, at the request of the Competent Authority and IMPACS where access to that data is required in order to respond to a specific and actual threat related to terrorist offences or serious crime.

(6) A captain or agent of an aircraft shall maintain records of PNR data transfers, including the date, time and details of the transmission, for a specified period as required by the Competent Authority.

(7) A captain or an agent of an aircraft shall cooperate fully with the Competent Authority and IMPACS in relation to the transfer of PNR data, providing any additional information or assistance as required for the purpose of national security, law enforcement or other authorised purposes.

Obligations of master or agent of vessel regarding the transfer of PNR data.

23. (1) In accordance with section 24, a master or an agent of a vessel shall transfer to the Competent Authority and IMPACS all PNR data which it has collected in the normal course of business in respect of passengers and crew to be carried by that vessel into and out of Guyana.

(2) Where a commercial vessel or private vessel in respect of which PNR data is required to be collected and transmitted is code-shared between one or more vessels, a captain or agent of the operating carrier shall transmit

the PNR data of all passengers and crew on the vessel to the Competent Authority and IMPACS.

(3) A master or an agent of a vessel shall transfer PNR data to the Competent Authority and IMPACS by electronic means in accordance with the timelines specified in Schedule IV.

Schedule IV

(4) A master or an agent of a vessel, when providing updated passenger information, may limit the transmission of PNR data to an update of the information previously provided.

(5) Notwithstanding the timelines provided for in Schedule IV, a master or an agent of a vessel shall also transfer PNR data to the Competent Authority and IMPACS on a case-by-case basis, at the request of the Competent Authority and IMPACS where access to that data is required in order to respond to a specific and actual threat related to a terrorist offence or serious crime.

(6) A master or an agent of a vessel shall maintain records of PNR data transfers, including the date, time and details of the transmission, for a specified period as required by the Competent Authority.

(7) A master or an agent of a vessel shall cooperate fully with the Competent Authority and IMPACS in relation to the transfer of PNR data, providing any additional information or assistance as required for the purpose of national security, law enforcement or other authorised purposes.

(8) A master or an agent of a vessel shall accurately complete and submit information, including such information related to health, crew effects, ship stores and dangerous goods to the Competent Authority and IMPACS, through the CEMSIW for processing, in accordance with the data elements as reflected in Schedule V, pursuant to the Convention on Facilitation of International Maritime Traffic.

Schedule V

PNR data transfer method and format.

24. (1) Subject to subsections (4) and (5), the captain or agent of an aircraft or the master or agent of a vessel arriving at, departing from or transiting through Guyana shall transfer PNR data, collected in the course of their normal business operations to the Competent Authority and IMPACS through the CEMSIW by the push method, using the PNRGOV message format.

(2) The captain or agent of an aircraft or the master or agent of a vessel arriving at, departing from or transiting through Guyana shall not be required to collect and transfer PNR data which is not collected in the course of their normal business operations.

(3) The captain or agent of an aircraft or the master or agent of a vessel arriving at, departing from or transiting through Guyana shall not be required to filter PNR data prior to the transmission of the data to the Competent Authority and IMPACS.

(4) In the event of a technical failure, or any other exceptional case, the captain or agent of an aircraft or the master or agent of a vessel shall transfer PNR data by any other appropriate electronic means as an alternative to the push method.

Schedule VI

(5) The PNR data to be transmitted under this section shall be consistent with the data elements set out in Schedule VI.

Transmission timeframe for PNR data.

Schedule III

Schedule IV

25. (1) Subject to subsection (2), an aircraft or a vessel operating a flight or voyage arriving at, departing from or transiting through Guyana shall transfer PNR data to the Competent Authority and IMPACS in accordance with Schedule III or Schedule IV, as the case may be.

(2) In the event of a cancellation of a scheduled flight or voyage after the first transmission of PNR data, no further transmission shall be required.

(3) Where access to PNR data is required to respond to a specific threat to the public or in the interest of national security, an aircraft or a vessel shall be required to provide the Competent Authority and IMPACS, with PNR data prior to, between, or after the scheduled transmission timelines specified in Schedule III or Schedule IV, as the case may be.

Automated processing of PNR data.

26. (1) Automated processing of PNR data shall be based on objective, precise and reliable criteria that effectively indicate the existence of a risk, without leading to unlawful differentiation among individuals.

(2) Automated processing of PNR data shall not be discriminatory.

(3) A decision which produces significant adverse actions on individuals, affecting their legal interests, rights or other legal entitlements shall not be made on the sole basis of the automated processing of PNR data.

Sensitive personal data.

27. (1) Subject to subsection (3), no person shall process PNR data that is sensitive personal data and where the Competent Authority and IMPACS receive any PNR data containing sensitive personal data they shall immediately delete that data.

(2) Notwithstanding subsection (1), sensitive personal data may be processed in exceptional and immediate circumstances to protect the vital interests of an individual.

PNR data and document retention.

28. (1) PNR data provided by a captain or an agent of an aircraft or a master or agent of a vessel to the Competent Authority and IMPACS shall be retained in a database of the Competent Authority and IMPACS for a period of seven years after its transfer.

(2) PNR data retained in accordance with subsection (1) shall be deleted permanently upon the expiration of the period of seven years after the PNR data is transferred.

(3) PNR data or the results of the processing of such data that have been transferred to another competent authority by the PIU shall be deleted permanently either-

(a) on the expiration of a period of seven years after they were transferred; or

(b) where the data were retained for the purpose of the prevention, detection, investigation or prosecution of a terrorist offence or serious crime and proceedings for such offence are brought against any person, on the day on which final judgment is given in the proceedings.

(4) The Competent Authority shall retain the result of the assessment of passengers and crew for as long as is necessary to inform the competent authorities and passenger information units of other Member States of a positive match.

(5) Where the result of automated processing has, following individual review by non-automated means, proven to be negative it may be retained in order to avoid future false positive matches for as long as the underlying data are not destroyed in accordance with this Act.

(6) The PIU, under the supervision of the Competent Authority, shall maintain documentation relating to all of its processing systems and procedures and that documentation shall contain at least-

(a) the name and contact details of the organisation and personnel of the PIU entrusted with the processing of PNR data and the different levels of access authorisation;

(b) the requests made by the competent authorities and the PIUs of other Member States; and

(c) all requests for and transfers of PNR data to a third country.

(7) The PIU shall keep records of its processing operations involving collection, consultation, disclosure and erasure of PNR data.

(8) Records kept under subsection (7) in relation to consultation and disclosure shall show, in particular -

(a) the purpose, date and time of the operations; and

(b) as far as possible, the identity of the member of staff of the PIU who consulted or disclosed the PNR data and the identity of the recipients of those data.

(9) Records kept pursuant to subsection (7) shall be-

(a) used solely for the purposes of verification, self-monitoring, ensuring data integrity and security and auditing; and

(b) kept for a period of seven years.

(10) The PIU shall, on request, make available to the Data Protection Officer all documentation required to be maintained under this Act.

(11) The PIU shall put in place and implement appropriate technical and organisational measures and procedures to ensure a high level of security appropriate to the risks represented by the nature and processing of PNR data.

(12) Where a personal data breach occurs and the breach is likely to result in a high risk to the protection of the personal data concerned or affect the privacy of the data subject adversely, the breach shall be communicated to the data subject and Data Protection Officer without undue delay.

Depersonalisation and anonymisation of PNR data.

29. (1) PNR data transferred by a captain or an agent of an aircraft, or a master or an agent of a vessel to the Competent Authority and IMPACS through the CEMSIW shall, after a period of six months from the date of the transfer, be depersonalised, no longer enabling direct identification of the passengers or crew, except when used in connection with an identifiable ongoing case, threat or risk related to the purposes stipulated in this Act.

(2) The following data elements shall be removed to facilitate the depersonalisation of PNR data referred to in subsection (1) –

(a) passenger and crew name or names, including the names of other passengers and crew on the PNR and number of passengers and crew on the PNR travelling together;

(b) address and contact information of the passenger and crew;

(c) all forms of payment information, including billing address, to the extent that it contains any information which could serve to directly identify the passenger and crew to whom the PNR data relate, or any other person;

(d) frequent flyer or traveller information; and

(e) any general remarks relating to the PNR data to the extent that they contain any information which could serve to directly identify the passenger and crew to whom the PNR data relate.

(3) Depersonalised data shall be retained for statistical, analytical or research purposes, provided that it does not infringe upon the privacy rights of the individuals.

(4) PNR data may be re-personalised only if needed in connection with an identifiable ongoing case, threat or risk related to the purposes stipulated in this Act, upon authorisation by the Competent Authority.

(5) PNR data shall be deleted or anonymised after it has been retained for a period of seven years, except when used in connection with an identifiable ongoing case, threat or risk related to the purposes stipulated in this Act.

(6) Nothing contained in subsection (1) applies to PNR data copied from the databases managed by the Competent Authority and IMPACS into any other security database system to which a different data retention schedule applies.

(7) Any security database that stores PNR data which has been sourced or copied from databases managed by the Competent Authority and IMPACS shall apply, at a minimum, equal levels of protection and privacy in accordance with data protection principles set out in the Data Protection Act 2023 and international best practices.

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National oversight.

30. The Data Protection Commissioner appointed under section 72 of the Data Protection Act 2023 shall provide national oversight for the protection of PNR data.

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Competent Authority and PIU to liaise with the Regional Data Protection Officer.

31. (1) The Competent Authority and the PIU shall liaise with and provide the requisite support and information to the Regional Data Protection Officer.

(2) The Competent Authority and IMPACS shall provide the Regional Data Protection Officer with the information necessary for him or her to perform his or her duties and tasks effectively and independently.

(3) The Regional Data Protection Officer shall have access to all data pertinent to the processing of API and PNR by the Competent Authority and IMPACS.

(4) In circumstances where the Regional Data Protection Officer considers that the processing of any data has not been lawful or was not done in accordance with this Act, the Regional Data Protection Officer may refer the matter to the Data Protection Commissioner or Executive Director of IMPACS.

Agent to inform passenger of data subject rights. No. 18 of 2023

32. An agent of an aircraft or a vessel shall inform every passenger and crew of his or her rights related to the protection of his or her personal data referred to in Part III of the Data Protection Act 2023, including the right to lodge a complaint with the Data Protection Commissioner if the passenger believes that the processing of their personal data constitutes a violation of this Act or the Data Protection Act 2023.

Contravention of this Part.

33. (1) A captain or master who contravenes a provision in this Part commits an offence.

(2) Where a contravention referred to in subsection (1) constitutes-

(a) a first offence, the captain or master is liable on summary conviction to a fine of one million dollars; and

(b) a second or repeating offence, the captain or master is liable on summary conviction to a fine of four million dollars or imprisonment for a term of six months, or both.

Conflict of laws regarding transmission of PNR

34. In the event of a conflict of laws between the provisions of this Part and any enactment of another country regarding the transmission of PNR data by an aircraft or a vessel, the penalties provided for under this Part shall be suspended during the period the authorities of the States are attempting to resolve the conflict and until it is demonstrated that the States have attempted to resolve the conflict.

PART VI

EXCHANGE OF PNR DATA WITH OTHER MEMBER STATES

Transfer of PNR data by the Competent Authority or PIU to other participating Member States and competent authorities.

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35. (1) Upon receiving a request from the competent authority of a participating Member State and subject to subsection (4), the Competent Authority may share PNR data with the competent authority of the participating Member State in accordance with this law, the Data Protection Act 2023, the relevant law of that participating Member State and any applicable international agreements.

(2) The transfer of PNR data shall be limited to the purposes specified under this Act, including national security, public safety, immigration control, and the prevention, detection, investigation, and prosecution of serious crimes, including terrorist offences.

(3) The PIU, acting on the approval and guidance of the Competent Authority, shall transfer PNR data in compliance with the Act and Data Protection Act 2023, including appropriate security measures to safeguard the confidentiality, integrity and protection of the data during transmission and at the receiving end.

(4) The Competent Authority shall transfer PNR data when there is a lawful basis and a demonstrated necessity for such transfer, as determined by the Competent Authority.

(5) The Competent Authority shall assess the proportionality and necessity of the transfer, considering factors such as the gravity of the threat, the relevance of the data and the availability of alternative means to achieve the stated purposes.

(6) The PIU, acting on the approval and guidance of the Competent Authority, shall transfer the necessary and proportionate PNR data

required for the specified purposes, ensuring that the transferred data is limited to what is essential and relevant.

(7) The Competent Authority shall establish clear guidelines regarding the retention periods of transferred PNR data by the competent authority of the receiving participating Member State, ensuring that the data is retained for no longer than necessary for lawful purposes.

(8) The PIU, acting on the approval and guidance of the Competent Authority, shall engage in mutual assistance and information exchange with the competent authority of the receiving participating Member State, ensuring timely and efficient sharing of relevant information related to the transferred PNR data.

(9) The PIU shall establish mechanisms to facilitate feedback, communication, and coordination with the receiving entities, addressing queries, providing clarifications and responding to requests for additional information or cooperation.

(10) The Competent Authority shall oversee and monitor the transfer of PNR data by the PIU, ensuring compliance with this Act, the Data Protection Act 2023 and applicable agreements.

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(11) The Competent Authority shall establish an accountability framework to assess the lawfulness, necessity and effectiveness of the transfers, conducting periodic audits and assessments to evaluate the compliance of the PIU with the established requirements.

(12) The Competent Authority shall provide regular reports to relevant government bodies or legislative committees on the transfers of PNR data, including the number of transfers, the receiving entities and the purposes for which the data was transferred.

(13) The Competent Authority shall establish a transparent transfer process, subject to the limitations imposed by law or national security considerations.

Request from another participating Member State.

36. (1) Where a request for PNR data is received from the competent authority or passenger information unit of a participating Member State, but the data have not been depersonalised, the PIU in consultation with the Competent Authority may transmit any such information in its possession to the competent authority or passenger information unit of the requesting participating Member State if it believes that transmitting the data is necessary for the purpose of preventing, detecting, investigating or prosecuting terrorist offences or serious crimes.

(2) In exceptional circumstances, where a request for PNR data is received from a competent authority or passenger information unit of a participating Member State at a time other than that provided for under this Act, the PIU may request the captain or agent of the aircraft or the master or agent of the vessel to transfer the requested PNR data and in turn transfer the PNR data to the competent authority in the requesting participating Member State.

(3) A request made under subsection (2) can only be facilitated where there are reasonable grounds to believe that the data requested is necessary to respond to a specific and actual threat related to a terrorist offence or a serious crime.

Request for PNR data from another participating Member State by the Competent Authority or PIU.

37. (1) The Competent Authority or PIU may submit a request for PNR data to the competent authority or passenger information unit of a participating Member State where there are reasonable grounds to believe that the request is necessary for the prevention, detection, investigation or prosecution of a terrorist offence or serious crime.

(2) A request made under subsection (1) may be based on one or more data elements and shall include the reasons for the request.

(3) The Competent Authority or PIU may in exceptional circumstances, request the competent authority or passenger information unit of a participating Member State to request the transfer of PNR data by an aircraft or vessel to the passenger information unit of that participating Member State at a time other than the time at which the aircraft transfers the PNR data to the passenger information unit of that participating Member State and to transfer the PNR data to the passenger information unit where access to the PNR data is necessary to respond to a specific or actual threat related to a terrorist offence or serious crime.

PART VIII
MISCELLANEOUS

API and PNR to be shared with the Guyana Revenue Authority. Cap. 82:01

38. (1) Notwithstanding section 11(2), where the Competent Authority receives API and PNR data pursuant to this Act, it shall, in a timely manner, share that API and PNR data with the Guyana Revenue Authority to enable that entity to fulfil its obligations under the Customs Act.

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(2) The Guyana Revenue Authority shall apply the data protection principles set out in this Act and the Data Protection Act 2023 when processing the personal data received from the Competent Authority pursuant to subsection (1).

Requirement to submit information electronically.

39. Information to be submitted under this Act shall be submitted electronically.

Immunity from liability.

40. (1) Any person acting under the direction of the Competent Authority or IMPACS shall not be held liable for any direct, indirect, incidental, consequential or special damages including financial loss, personal

injury or reputational harm, arising from or in connection with the collection, receipt, processing, use, disclosure or transfer of API and PNR data.

(2) Subsection (1) shall not apply to any act or omission arising from negligence or wilful misconduct.

Regulations.

41. (1)The Minister may make regulations for the purpose of giving effect to the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may make regulations-

(a) specifying the circumstances in which and the conditions under which the Minister may waive the requirements set out in section 16 (1);

(b) to provide for procedures for the gathering of, collaboration on, and sharing of information with the agencies mentioned in this Act;

(c) determining the composition, procedural operations institutional and other arrangements of the PIU to ensure its effective and efficient operations;

(d) designating competent authorities to receive API and PNR data;

(e) establishing approved watchlists or criteria and databases to be used for national processing in conjunction with API and PNR data; and

(f) any other matter required to be prescribed under this Act.

Non-imposition of penalties.

42. Notwithstanding any provision under this Act in respect of the imposition of penalties, no person shall be penalised or held otherwise responsible for incomplete, delayed or erroneous messages resulting from a technical issue.

Amendment of the Schedules.

43. The Minister may, by order, amend the Schedules to the Principal Act.

Consequential Amendment. Cap. 14:02

44. The Immigration Act is amended as follows-

(a) in section 2, by deleting the definitions of the words "advance passenger information", "competent authority", "domestic space" and "passenger";

(b) by repealing section 8A;

(c) in section 12 (7) and (8), by substituting for the words 'Schedule I" wherever it occurs, the word "Schedule";

(d) in SCHEDULE I, by substituting the words "SCHEDULE I" for the word "SCHEDULE"; and

(e) in the Principal Act, by repealing SCHEDULES II and III.

SCHEDULE I **(Sections 2, 8, 16 and 17)**

ADVANCE PASSENGER INFORMATION DATA ELEMENTS AND EMBARKATION AND DISEMBARKATION DATA

(A) AIRCRAFT

(a) Data relating to the flight (Header Data)-

(i) Flight Identification
(IATA or ICAO Airline code and flight number, Registration Number)

(ii) Scheduled Departure Date
(Date of Scheduled departure of aircraft based on local time of departure location)

(iii) Scheduled Departure Time
(Time of scheduled departure of aircraft based on local time of arrival location)

(iv) Scheduled Arrival Date
(Date of the scheduled arrival of aircraft based on local time of arrival location)

(v) Scheduled Arrival Time
(Time of scheduled arrival of aircraft based on local time of arrival location)

(vi) Last Place or Port of Call of Aircraft
(Aircraft departed from this last foreign place or port of call to go to "place or port of aircraft initial arrival")

(vii) Place or Port of Aircraft Initial Arrival
(Place or port in the country of destination where the aircraft arrives from the last place or port of call of aircraft)

(viii) Subsequent Place or Port of Call within the country or regional space

(ix) Number of Persons on board [including]-
a. the total number of passengers on Board; and
b. the total number of crew members

(b) Data relating to each individual on board -

(i) Official Travel Document Number
(Passport or other Government approved travel documents)

(ii) Issuing State or Organisation of the Official Travel Document
(Name State or Organisation responsible for the issuance of the official document)

(iii) Official Travel Document Type
(Indicator to identify type of official travel document)

(iv) Expiration Date of Official Travel Document (Expiration date of the official travel document)

(v) Surname or Given Name(s)
(Family name and given name(s) of the holder as it appears on the travel document)

(vi) Nationality
(Nationality of the holder of the travel document)

(vii) Date of Birth
(Date of birth of the holder)

(viii) Gender
(Gender of the holder)

(ix) Traveller's Status
(Passenger, crew, in-transit)

(x) Place or Port of Original Embarkation
(Place or port on that journey where traveller first boarded for foreign travel)

(xi) Port or Place of Clearance
(Place or port where the traveller is cleared by the border control agencies)

(xii) Place or Port of Onward Foreign Destination
(Foreign place or port where the traveller is transiting)

(c) Data relating to the Reporting Party -

(i) Reporting Party Name
(ii) Reporting Party Telephone Number
(iii) Reporting Party Facsimile Number
(iv) Reporting Party Electronic Mail Address

(B) VESSEL

(a) Data relating to the voyage (Header Data)-

(i) Vessel Identification
(IMO or Registration number)

(ii) Country of Registration
(Country where the vessel is registered)

(iii) Agent or Owner (where applicable)
(Name of Agent for the vessel or where no Agent, Name of Owner)

(iv) Call Sign (if applicable)

(v) Scheduled Departure Date
(Date of Scheduled departure of vessel based on local time of departure location)

(vi) Scheduled Departure Time
(Time of scheduled departure of vessel based on local time of arrival location)

(vii) Scheduled Arrival Date
(Date of the scheduled arrival of vessel based on local time of arrival location)

(viii) Scheduled Arrival Time
(Time of scheduled arrival of vessel based on local time of arrival location)

(ix) Last Place or Port of Call of Vessel
(Vessel departed from this last foreign place or port of call to go to "place or port of vessel initial arrival")

(x) Place or Port of Vessel Initial Arrival
(Place or port in the country of destination where the vessel arrives from the last place or port of call of vessel)

(xi) Subsequent Place or Port of Call within the country or regional space

(xii) Number of Persons on board [including]-
a. the total number of passengers on Board; and
b. the total number of crew members

(b) Data relating to each individual on board -

(i) Official Travel Document Number
(Passport or other Government approved travel documents)

(ii) Issuing State or Organisation of the Official Travel Document
(Name State or Organisation responsible for the issuance

of the official document)

(iii) Official Travel Document Type
(Indicator to identify type of official travel document)

(iv) Expiration Date of Official Travel Document
(Expiration date of the official travel document)

(v) Surname or Given Name(s)
(Family name and given name(s) of the holder as it appears on the travel document)

(vi) Nationality
(Nationality of the holder of the travel document)

(vii) Date of Birth
(Date of birth of the holder)

(viii) Gender
(Gender of the holder)

(ix) Traveller's Status (Passenger, crew, in-transit)

(x) Place or Port of Original Embarkation
(Place or port on that journey where traveller first boarded for foreign travel)

(xi) Port or Place of Clearance
(Place or port where the traveller is cleared by the border control agencies)

(xii) Place or Port of Onward Foreign Destination
(Foreign place or port where the traveller is transiting)

(c) Data relating to the Reporting Party -

(v) Reporting Party Name
(vi) Reporting Party Telephone Number
(vii) Reporting Party Facsimile Number
(viii) Reporting Party Electronic Mail Address

(C) EMBARKATION AND DISEMBARKATION DATA

(a) Data elements relating to flight or voyage information -

(i) Residential status
(ii) Vessel Type
(iii) Airline/Vessel name
(iv) Airline/Vessel registration ID
(v) Country of embarkation
(vi) Port of embarkation
(vii) Intended date of arrival

(b) Data elements relating to personal information -
(i) First name
(ii) Last name
(iii) Gender
(iv) Date of birth
(v) Nationality
(vi) Country of birth
(vii) Country of residence
(viii) Zip code
(ix) State
(x) City
(xi) Address
(xii) Email
(xiii) Telephone number
(xiv) Approval of processing information

(c) Data elements relating to document information -
(i) Travel document type
(ii) Travel document number
(iii) Travel document issue country
(iv) Travel document expiry date
(v) Proof of travel document

(d) Data elements relating to destination information -
(i) Purpose of visit
(ii) Accommodation type
(iii) Other accommodation type
(iv) Destination name
(v) Destination address
(vi) Destination city
(vii) Length of stay

(e) Data elements relating to health information -
(i) Symptoms over the past seven 7 days
(ii) Countries visited within the last 21 days

(f) Data elements relating to customs -
- (i) Total pieces of Luggage
- (ii) Bringing of plants and livestock
- (iii) Bringing of pharmaceuticals
- (iv) Bringing of narcotics
- (v) Bringing of weapons
- (vi) Bringing of commercial merchandise
- (vii) Bringing of currency
- (viii) Bringing of animal products
- (ix) Bringing of disease agents
- (x) Bringing of soil
- (xi) Items to declare

SCHEDULE II (Section 18)

TIMEFRAME FOR SUBMISSION OF API AND EMBARKATION AND DISEMBARKATION DATA

(A) Timeframe for submission of API

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 or 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 emergency situations, submissions shall be made as soon as practicable where deemed necessary by the Competent Authority.

(B) Timeframe for submission of Embarkation and Disembarkation data

1. Passenger and Crew shall be required to submit embarkation and disembarkation data within 72 hours (including the day of arrival/departure) prior to their arrival into and departure from Guyana.

SCHEDULE III **(Sections 22 and 25)**

Timelines for Electronic Submission of PNR data by a Captain or Agent of an Aircraft

1. An aircraft shall transfer PNR data to the Competent Authority and IMPACS by electronic means via the CEMSIW in accordance with the following timelines -

(a) 48 hours before the scheduled flight departure time;

(b) 24 hours before the scheduled flight departure time;

(c) time zero which represents the actual time of departure where flight closure has been completed, that is once the passengers and crew have boarded the aircraft in preparation for departure and it is no longer possible for passengers and crew to board or leave; or

(d) in the event of technical failure or difficulty, by any other appropriate means with a tolerance of 30 minutes after the departure ensuring the same level of technical and organisational security.

2. Where a voyage is cancelled, submissions in keeping with the timeframes articulated above prior to the cancellation are still required. Only submissions due after time of cancellation are not required.

3. In emergency situations, submissions shall be made as soon as practicable where deemed necessary by the Competent Authority.

SCHEDULE IV **(Sections 23 and 25)**

Timelines for Electronic Submission of PNR Data by a Master or Agent of a Vessel

1. An aircraft shall transfer PNR data to the Competent Authority and IMPACS by electronic means via the CEMSIW in accordance with the following timelines –

(a) 48 hours before the scheduled voyage departure time;

(b) 24 hour before the scheduled voyage departure time; and

(c) time zero which represents the actual time of departure, that is once the passengers and crew have boarded the vessel in preparation for departure and it is no longer possible for passengers and crew to board or leave; or

(d) in the event of technical failure or difficulty, by any other appropriate means with a tolerance of 30 minutes after the departure ensuring the same level of technical and organisational security.

2. Where a voyage is cancelled, submissions in keeping with the timeframes articulated above prior to the cancellation are still required. Only submissions due after time of cancellation are not required.

3. In emergency situations, submissions shall be made as soon as practicable where deemed necessary by the Competent Authority.

SCHEDULE V **(Section 23)**

Data Elements to be submitted under the Convention on Facilitation of International Maritime Traffic (FAL Convention)

GENERAL DECLARATION
(IMO FAL Form 1)

<table>
<tr><td colspan="3"></td><td>☐ Arrival ☐ Departure</td></tr>
<tr><td colspan="3">1.1 Name and type of ship</td><td>1.2 IMO number</td></tr>
<tr><td colspan="3">1.3 Call sign</td><td>1.4 Voyage number</td></tr>
<tr><td colspan="3">2. Port of arrival/departure</td><td>3. Date and time of arrival/departure</td></tr>
<tr><td>4. Flag State of ship</td><td colspan="2">5. Name of master</td><td>6. Last port of call/Next port of call</td></tr>
<tr><td colspan="3">7. Certificate of registry (Port; date; number)</td><td rowspan="2">8. Name and contact details of ship's agent</td></tr>
<tr><td>9. Gross tonnage</td><td colspan="2">10. Net tonnage</td></tr>
<tr><td colspan="4">11. Brief particulars of the voyage (previous and subsequent ports of call; underline where the remaining cargo will be discharged)</td></tr>
<tr><td colspan="4">12. Brief description of the cargo</td></tr>
<tr><td>13. Number of crew</td><td colspan="2">14. Number of passengers</td><td rowspan="3">15. Remarks</td></tr>
<tr><td colspan="3">Attached documents
(indicate number of copies)</td></tr>
<tr><td colspan="2">16. Cargo Declaration</td><td>17. Ship's Stores Declaration</td></tr>
<tr><td colspan="2">18. Crew List</td><td>19. Passenger List</td><td>20.The ship's requirements in terms of waste and residue reception facilities</td></tr>
</table>

21. Crew's Effects Declaration (only on arrival)	22. Maritime Declaration of Health (only on arrival)	
23. Date and signature by the master, authorised agent or officer		

For official use

CARGO DECLARATION
(IMO FAL Form 2)

			☐ Arrival	☐ Departure	Page Number
	1.1 Name of ship		1.2 IMO number		
	1.3 Voyage number		2. Port where the report is made		
	3. Flag State of ship		4. Name of master		
	5. Port of loading/Port of discharge				
B/L No.	6. Marks and Numbers	7. Number and kind of packages; description of goods or, if available, the HS Code	8. Gross weight	9. Measurement	

10. Date and signature by the master, authorised agent or officer			

SHIP'S STORES DECLARATION
(IMO FAL Form 3)

		☐ Arrival	☐ Departure	Page Number
1.1 Name of ship		1.2 IMO number		
1.3 Call sign		1.4 Voyage number		
2. Port of arrival/departure		3. Date of arrival/departure		
4. Flag State of ship		5. Last port of call/Next port of call		
6. Number of persons on board		7. Period of stay		
8. Name of article	9. Quantity	10. Location on board		11. Official use

12. Date and signature by master, authorised agent or officer			

CREW'S EFFECTS DECLARATION
(IMO FAL Form 4)

Page Number

1.1 Name of ship				1.2 IMO number	
1.3 Call sign				1.4 Voyage number	
2. Flag State of ship					
3. No.	4. Family name	5. Given names	6. Rank or rating	7. Effects ineligible for relief from customs duties and taxes or subject to prohibitions or restrictions	8. Signature

9. Date and signature by the master, authorised agent or officer					

CREW LIST
(IMO FAL Form 5)

☐ Arrival ☐ Departure ☐ Page Number

1.1 Name of ship					1.2 IMO number			1.3 Call sign		1.4 Voyage number	
'2. Port of arrival/departure					3. Date of arrival/departure			4. Flag State of ship		5. Last port of call	
6. No.	7. Family name	8. Given names	9. Rank or rating	10. Nationality	11. Date of birth	12. Place of birth	13. Gender	14. Nature of identity document	15. Number of identity document	16. Issuing State of identity document	17. Expiry date of identity document

18. Date and signature by the master, authorised agent or officer											

PASSENGER LIST
(IMO FAL Form 6)

☐ Arrival ☐ Departure ☐ Page Number

1.1 Name of ship			1.2 IMO number			1.3 Call sign							
1.4 Voyage number			2. Port of arrival/departure			3. Date of arrival/departure			4. Flag State of ship				
5. Family name	6. Given names	7. Nationality	8. Date of birth	9. Place of birth	10. nder	11. Type of identity or travel document	12. Serial number of identity or travel document	13. Issuing State of identity or travel document	14.Expiry date of identity or travel document	15. Port of embarkation	16. Visa number if appropriate	17. Port of disembarkation	18. Transit passenger or not

19. Date and signature by the master, authorised agent or officer													

DANGEROUS GOODS MANIFEST

(IMO FAL Form 7)

(As required by SOLAS 74, chapter VII, regulations 4.2 and 7-2.2, MARPOL, Annex III, regulation 4.2 and chapter 5.4, paragraph 5.4.3.1 of the IMDG Code)

										Page Number
1.1 Name of ship			1.2 IMO number			1.3 Call sign				
1.4 Voyage number		2. Flag State of ship			3. Port of loading			4. Port of discharge		
5. Stowage Position	6. Reference Number	7. Marks & Numbers - Freight container	8. UN Number	9. Proper Shipping Name/(Technical Specifications)	10. Class/ (Subsidiary Risk(s))	11. Packing Group	12. Additional Information/Marine Pollutant/Flash point/etc.	13. Number and kind of packages	14. Mass (kg) or Volume (L)	15.EmS

		Identification No(s) - Vehicle registration No(s).								
16. Shipping Agent										
16.1 Place and date										
Signature of Agent										

SCHEDULE VI (Sections 2 and 23)

PASSENGER NAME RECORD (PNR) DATA ELEMENTS

A. Passenger Name Record or PNR Data

(As available in the traveller's Passenger Name Record in the Aircraft or Vessel Reservation System including all historical changes to the PNR listed) which shall include -

(1) PNR record locator
(2) Date of reservation or date of 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 or travel agent
(10) Travel status of passenger, including confirmations, check-in status, no show or go show information
(11) Split or divided PNR information
(12) General remarks (including all available information on unaccompanied children less than eighteen years of age, such as name and gender of the minor, language(s) spoken, name and contact details of the 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 API data collected
(19) All historical changes to the PNR listed in numbers 1 to 18

B. Additional data elements -

(1) Visa Number (if applicable)
(2) Issue Date of Visa
(3) Place where Visa was issued
(4) Other Document Number used for Travel (if applicable)
(5) The other document number used for travel when the official travel document is not required

(6) Type of Other Document used for Travel (supporting travel document)
(Indicator to identify the type of other document used for travel)
(7) Primary Residence -
(a) Country of Primary Residence
(Country where passenger resides most of the year)
(b) Address
(location identification such as - street name and number)
(c) City
(d) State or Province or County
(e) Postal Code

(8) Destination Address –

(a) Address where the passenger will be staying in the territory of disembarkation
(b) City
(c) State or Province or County
(d) Postal Code

C. Data relating to the Reporting Party -

(a) Reporting Party Name

(b) Reporting Party Telephone Number

(c) Reporting Party Facsimile Number

(d) Reporting Party Electronic Mail Address

EXPLANATORY MEMORANDUM

This Bill seeks to make provision for the collection, transmission, sharing, storage and regulation of Advance Passenger Information (API) and Passenger Name Record (PNR) in respect of persons travelling to, departing from and transiting through Guyana and to operationalise the CARICOM Advance Passenger and Crew Information System, subject to international and national standards governing data protection and other related matters.

Part I of the Bill provides for the preliminary provisions and contains clauses 1 to 3. **Clause 2** sets out the definition of keywords and expressions used throughout the Bill. **Clause 3** provides for instances where the Act applies, namely for the collection, use, retention, transfer, and protection of API and PNR data by the Competent Authority and IMPACS.

Part II of the Bill, which includes clauses 4 to 7, covers the administrative provisions of the Act. **Clause 4** provides for the powers and the functions of the Competent Authority, such as overseeing and implementing the provisions of the Act, overseeing the operations of the PIU in the performance of its functions, and conducting audits and inspections to ensure compliance with the Act. **Clause 5** establishes the Passenger Information Unit (PIU) which shall comprise of an Immigration Officer of senior rank as head, a Police Officer, a Customs and Excise Officer, the Data Protection Officer, and any number of Immigration Officers and personnel as decided by the Minister.

Clause 6 sets out the functions of the PIU. These include the receiving, storage, processing, analysing and managing of all API and PNR data transmitted by an aircraft and vessel for the purpose of national security; and collaborating with the Competent Authority and IMPACS to ensure that aircraft and vessel operators, passengers and crew members are aware of their obligations and compliant with the requirements to enter and leave Guyana. **Clause 7** provides for the appointment and functions of the Data Protection Officer. In addition to the provisions of section 71 of the Data Protection Act, 2023, the Data Protection Officer has the responsibility of, *inter alia,* monitoring the processing activities related to API data and PNR data, organising and providing training programmes, workshops, and awareness campaigns to enhance the competent authority's and IMPACS' employees' understanding of data protection principles, obligations, and best practices related to PNR data processing; and providing national oversight

for protection of PNR data. Additionally, the contact information of the Data Protection Officer shall be made publicly available.

Part III of the Bill covers the common provisions for API and PNR. It includes clauses 8 to 15. **Clause 8** compels a master, captain or agent of an aircraft or vessel to provide to the Competent Authority and IMPACS, via the CARICOM Electronic Manifest Single Window (CEMSIW), with the relevant API and PNR data relating to the passenger and crew, flight or voyage, inclusive of the embarkation and disembarkation. **Clause 9** sets out the steps that shall be taken by the captain, agent or master when an aircraft or vessel makes a technical stop. These steps include immediately notifying the Competent Authority, complying with the directions provided by said Authority, and permitting disembarkation from the aircraft or vessel only if consent is provided by the Competent Authority. Failure to comply results in the person being liable, on summary conviction, for a first offence a fine of one million dollars and for a second or repeating offence, a fine of four million dollars or imprisonment for a term of six months or both.

Clause 10 sets out the restrictions on disclosure of data or documentation by the Competent Authority. This clause requires the Competent Authority to ensure that all data and documentation obtained or generated in the course of its functions and responsibilities is treated as confidential and subject to non-disclosure obligations. Personnel should refrain from disclosing any such data or documentation, unless for instance such disclosure is required by law or is necessary to safeguard national security, public safety, or the prevention, detection, investigation, or prosecution of serious crimes, including terrorist offences. This clause also provides for the measures that the Competent Authority should take to protect data.

Clause 11 prevents ministries, government departments or agencies from having direct access to API and PNR data that is maintained by the Competent Authority and PIU. Where an entity requires API or PNR data the Competent Authority may share that information pursuant to a written request from the entity.

Clause 12 provides the reasons for which the PIU can process PNR and API data. These include conducting risk assessment of passengers and crew before their scheduled arrival in or departure from Guyana to identify persons who require further examination for potential involvement in terrorist related activities or serious crimes. This clause further provides that PNR data should not be processed in a manner that reveals sensitive personal information of the person such as their race, political opinions or religious views. Further, this clause provides

that the storage, processing and analysis of API and PNR data shall be carried out exclusively within a secure location or locations within Guyana, as designated by the Minister.

Clause 13 requires the Competent Authority and IMPACS to establish a robust system for verifying API and PNR data submitted by an aircraft or vessel. Appropriate mechanisms and tools to validate the API and PNR data, such as cross checking the data against reliable and authoritative sources, such as travel documents, shall be employed. If there are any discrepancies or inconsistencies the Competent Authority and IMPACS are required to notify the relevant aircraft or vessel for rectification within a prescribed manner. **Clause 14** requires the Competent Authority and IMPACS to use API and PNR data to conduct screenings of passengers and crew that arrive, depart and transit through Guyana and travel within CARICOM against Watch Lists and approved national, regional, and international databases. This clause also provides that information within the CARICOM API may be shared with INTERPOL or any other law enforcement or security agencies to further national, regional and international security.

Clause 15 provides that API and PNR data may be transferred from the Competent Authority or IMPACS to the competent authority of another country in accordance with this Act and the Data Protection Act 2023.

Part IV of the Bill, which is inclusive of clauses 16 to 21, covers the API operating provisions. **Clause 16** obliges a captain, master or agent of a vessel or aircraft to provide the Competent Authority and IMPACS with the relevant API data relating to the aircraft or vessel. The transmission of data shall be done in accordance with the provisions of this Act and the Data Protection Act 2023. This clause also empowers the Competent Authority to question any captain, master, agent, crew member or passenger in relation to an aircraft or vessel and request these persons to produce any documentation. Failure to comply would result in the person being liable, on summary conviction, for a first offence, a fine of one million dollars and for a second or repeating offence, a fine of four million dollars or imprisonment for a term of six months or both.

Clause 17 requires the captain, master or agent of an aircraft or vessel arriving from or transiting through Guyana to transmit API data to the Competent Authority and IMPACS in a manner that is consistent with the API data elements. **Clause 18** provides for the timeframe for the submission of API data and the embarkation and disembarkation of data. **Clause 19** provides for the protection of API data and allows a person to request to the Competent

Authority for access to their API data for verification, accuracy and correction purposes. This clause also allows a person to lodge a complaint with the Data Protection Commissioner if they believe that the processing of the API data is not in compliance with the law.

Clause 20 provides for the retention of the API data. API data shall be retained for no more than seven years from the date of travel of the crew members or passengers, except where the data is connected to a specific case, threat, or risk related to terrorism or a serious crime, or where the data is copied into any other security database system with a different data retention schedule. **Clause 21** provides for offences relating to failure to provide API data in accordance with the Act, for instance, it is an offence not to provide API information, and likewise it is an offence to intentionally or recklessly provide erroneous, faulty, misleading, incomplete or false API.

Part V of the Bill, which is inclusive of clauses 22 to 34, covers the PNR operating provisions. **Clause 22** sets out the obligations of the captain or agent of an aircraft regarding the transfer of PNR data. All PNR data collected in the normal course of business must be transferred to the Competent Authority and IMPACS in electronic format as set out in Schedule III. Records of all transfers must be properly maintained. **Clause 23** sets out the obligations of the master or agent of an aircraft or vessel regarding the transfer of PNR data. All PNR data collected in the normal course of business must be transferred to the Competent Authority and IMPACS in electronic format as set out in Schedule IV.

Clause 24 provides that PNR data must be transferred through CEMSIW by the push method using the PNRGOV message format. The PNR data transmitted shall be consistent with the data elements set out in Schedule VI. **Clause 25** stipulates that the transfer of PNR data to the Competent Authority and IMPACS must be done in accordance with the provisions of Schedules III or IV.

Clause 26 provides that automated processing of PNR data shall be based on precise and reliable criteria which effectively indicate the existence of a risk without leading to unlawful differentiation among individuals. Furthermore, it must not be discriminatory, and any decision that produces significant adverse actions on individuals affecting their legal interests, rights or other legal entitlements should not be made on the sole basis of automated processing. **Clause 27** prevents a person from processing PNR data that is sensitive personal data and requires the Competent Authority and IMPACS to delete such data. However, in the case where it is done to protect the vital interests of a person, such data may be processed.

Clause 28 stipulates that PNR data provided by a captain, master, or agent of an aircraft or vessel shall be retained after its transfer for a period of seven years, after which it must be permanently deleted. **Clause 29** covers the depersonalisation and anonymisation of PNR data. This shall be done after a period of six months has passed.

Clause 30 provides that the Data Protection Commissioner shall provide national oversight for the protection of PNR data. **Clause 31** stipulates that the Competent Authority and the PIU shall provide the support and information to the Regional Data Protection Officer that will allow that Officer to perform their duties independently and effectively.

Clause 32 provides that an agent of an aircraft or vessel shall inform every passenger of their rights as it relates to the protection of personal data. **Clause 33** provides that failure to inform passengers of their rights is an offence, and any person found guilty is liable on summary conviction for a first offence, to a fine of one million dollars, and for a second or repeating offence, to a fine of four million dollars or imprisonment for a term of six months or both. **Clause 34** provides that where there is a conflict of laws between the provisions in this Act and the legislation of another country regarding the transmission of PNR data, the penalties under this Part shall be suspended until the two States have resolved the conflict.

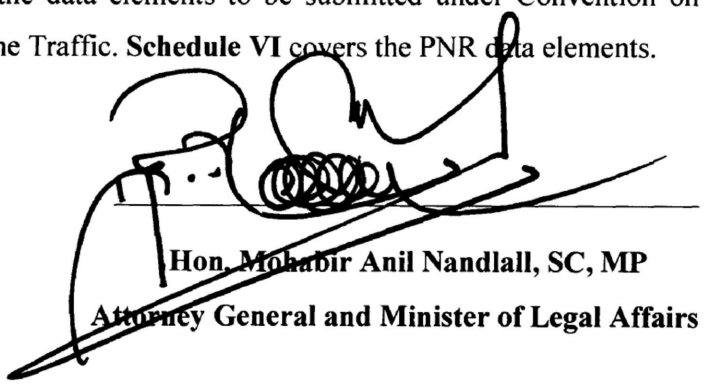
Part VI of the Bill covers the exchange of PNR data with other Member States. It includes clauses 35 to 37. **Clause 35** sets out guidelines to be followed in relation to the transfer of PNR data by the Competent Authority or PIU to other participating Member States and Competent Authorities. The data shall be shared in accordance with this Act and the Data Protection Act 2023 coupled with the relevant law of the Member State and any applicable international agreement. The necessity of the transfer shall be assessed by the Competent Authority. Mechanisms to facilitate proper communication and establish an accountability framework shall be provided by the PIU. Regular reports to the relevant government bodies on said transfer shall also be done.

Clause 36 provides that PNR data shall be transmitted if the Competent Authority is of the belief that such transfer is necessary to prevent, detect, investigate or prosecute a terrorist offence or any other serious crime.

Clause 37 makes provision for the instances where the Competent Authority requests PNR data from the competent authority or PIU of a participating Member State. This can be done where there are reasonable grounds to believe that the request is necessary for the prevention, detection, investigation or prosecution of a terrorist offence or any other serious crime.

Part VII provides for miscellaneous matters and is inclusive of clauses 38 to 44. **Clause 38** provides that the Competent Authority shall share information with the Guyana Revenue Authority. **Clause 39** requires the information being submitted under the Act to be done electronically. **Clause 40** prevents any person acting under the directions of the Competent Authority from liability for any direct, indirect, incidental, consequential or special damages arising from the collection, receipt, processing, use, disclosure or transfer of API or PNR data. **Clause 41** empowers the Minister to make regulations. **Clause 42** provides that a person shall not be penalised or held responsible for any incomplete, delayed or erroneous messages resulting from a technical issue. **Clause 43** gives the Minister the power to amend the Schedules provided in the Act. **Clause 44** amends the Immigration Act, Cap 14:02 by repealing the provisions that deal with API and PNR.

This Bill also provides six schedules. **Schedule I** provides for the API data elements and embarkation and disembarkation data elements. **Schedule II** provides for the timeframe for submission of API and embarkation and disembarkation data. **Schedule III** covers the timelines for electronic submission of PNR data by a Captain or Agent of an Aircraft. **Schedule IV** deals with the timelines for electronic submission of PNR data by a Master or Agent of a Vessel. **Schedule V** provides for the data elements to be submitted under Convention on Facilitation of International Maritime Traffic. **Schedule VI** covers the PNR data elements.



Hon. Mohabir Anil Nandlall, SC, MP

Attorney General and Minister of Legal Affairs