

Government Notice No. 182 of 2021

THE IMMIGRATION ACT

Regulations made by the Minister under section 21(b) of the Immigration Act

1. These regulations may be cited as the Immigration (Advance Passenger Information and Passenger Name Record Data) Regulations 2021.

2. In these regulations –

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which –

(a) a person is fatally or seriously injured as a result of –

(i) being in the aircraft;

(ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or

(iii) direct exposure to jet blast,

except where the injuries are from natural causes, self-inflicted or inflicted by other persons, or where the injuries are to stowaways hiding outside the areas normally accessible to the passengers and crew; or

- (b) the aircraft sustains damage or structural failure which –
- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
 - (ii) requires major repair or replacement of the affected component,

except for engine failure or damage, where the damage is limited to a single engine, including its cowlings or accessories, or where the damage is to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, aircraft skin, or for minor damage resulting from hail or bird strike to main rotor blades, tail rotor blades or landing gear;

“advance passenger information” or “API” means the biographic data of a passenger or crew member and the flight details of an aircraft operator, set out in Parts I and II of the First Schedule and collected before the departure of an aircraft;

“aircraft” means a machine that can derive support in the atmosphere from the reactions of the air, otherwise than by the reaction of the air against the surface of the earth;

“aircraft operator” means an operator operating commercial air transport operations in Mauritius;

“airline” means any air transport enterprise offering or operating a scheduled international air service;

“commercial air transport” means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;

“control agency” means an agency that is listed in the Second Schedule and entitled to access or request from the immigration officer API data, PNR data or the result of the processing of API data or PNR data;

“crew member” means a person assigned by an aircraft operator or airline to duty on an aircraft during a flight period;

“data subject” means an identified or identifiable individual, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that individual;

“depersonalise” means to render unreadable data elements which could serve to identify a data subject to a user;

“interface control document” means the technical document setting out the API data and PNR data which an aircraft operator has agreed to provide to the immigration officer and the manner in which such data is to be provided;

“INTERPOL” means the International Criminal Police Organization;

“passenger” means any person, not being a bona fide crew member, travelling or seeking to travel on an aircraft;

“passenger name record” or “PNR” means information set out in Part III of the First Schedule that is created by an airline reservation system in the normal course of the business of an airline for managing a booking;

“personal data” means any information relating to a data subject;

“pilot in command”, in relation to an aircraft, means a person who is in charge of the piloting of the aircraft, without being under the direction of any other pilot in the aircraft;

“process” means to perform an operation or set of operations on personal data or sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

“specified offence” means an offence specified in the Third Schedule;

“technical stop”, in relation to an aircraft, means landing for the purpose of refuelling, repairs or such other similar purpose, other than for taking on or discharging passengers, baggage, cargo or mail;

“third country” means a country other than Mauritius;

“watch list” means a list that is used to watch or track the activities or movements of criminals and persons who have been found guilty of any offence involving stolen and lost travel documents, criminal deportees, suspected terrorists and other persons of interest to the intelligence community.

3. (1) Subject to regulations 4 and 13(1), an aircraft operator shall, in respect of an aircraft scheduled for landing in, or departing

from, Mauritius, provide to the immigration officer, the data set out in the First Schedule, or in the interface control document, within the time specified in the Fourth Schedule.

(2) An aircraft operator providing data under paragraph (1) shall inform a data subject of the manner of processing the data under these regulations.

4. Where access to specific PNR data is necessary to respond to threat, actual or potential, of a specified offence being committed, an aircraft operator shall, upon request by the immigration officer, forthwith transfer that PNR data to the immigration officer.

5. The pilot in command shall ensure that API data is communicated to the immigration officer within the time specified in the Fourth Schedule.

6. Where an aircraft operator provides data under regulation 3, that operator shall ensure that the data provided is –

- (a) not erroneous, faulty or misleading; and
- (b) in the format specified in the Fifth Schedule.

7. The immigration officer shall verify the API data provided under regulation 3 during physical processing at any port by using the travel documents provided by a crew member or a passenger.

8. (1) Subject to regulation 9, any aircraft operator or pilot in command who contravenes regulation 3, 4, 5 or 6 shall be liable to pay to the immigration officer such administrative penalty as is specified in the Sixth Schedule.

(2) An administrative penalty under paragraph (1) shall be recoverable as a civil debt.

9. An administrative penalty shall not apply under regulation 8 where the aircraft operator or pilot in command, as the case may be, satisfies the immigration officer that the contravention was not made knowingly or recklessly.

10. A person providing API data or PNR data shall, where necessary, assist the immigration officer in understanding the data.

11. (1) Subject to paragraph (2), the data under regulation 3 or 4 shall be transmitted –

- (i) electronically;
- (ii) securely; and
- (iii) in accordance with the Data Protection Act.

(2) Where, owing to technical constraints, data under paragraph (1) cannot be transmitted electronically, an aircraft operator shall transmit that data in such form as the immigration officer may approve, provided that the data is transmitted securely and in accordance with the Data Protection Act.

12. Nothing in these regulations shall be construed as imposing a liability on a third party processing data on behalf of an aircraft operator.

13. (1) The immigration officer may, on good cause shown, allow an aircraft operator to submit –

- (a) less information than is required under the First Schedule; or
- (b) information required under the First Schedule outside the time specified in the Fourth Schedule.

(2) The immigration officer shall delete or destroy any data not related to API or PNR transmitted to him by an aircraft operator.

14. An aircraft operator shall, before submitting API or PNR data under these regulations, register with the immigration officer in the form set out in the Seventh Schedule.

15. Nothing in these regulations shall be construed as negating the liability of an aircraft operator to submit data or information under any other enactment.

16. The immigration officer shall not process API and PNR data, except for –

- (a) carrying an assessment of passengers before their scheduled arrival in, departure from, or transit through Mauritius;
- (b) identifying persons who require further examination by him or other control agencies;
- (c) responding, on a case by case basis, to a duly reasoned request from a competent authority of a third country or from INTERPOL;
- (d) analysing PNR data for the purpose of updating or creating new criteria to be used when carrying out the assessment referred to in paragraph (a).

17. For the purpose of carrying out an assessment under regulation 16(a), the immigration officer may –

- (a) compare API data or PNR data against databases of persons or objects sought or under alert or watch lists for the purpose of preventing, detecting, investigating or prosecuting a specified offence;
- (b) process API data and PNR data against pre-determined criteria, that are –
 - (i) targeted, proportionate and specific;

- (ii) set and regularly reviewed in cooperation with control agencies; and
- (iii) not based on the race, ethnic origin, political opinions, religion, philosophical beliefs, trade union membership, health, sexual life or sexual orientation of a person.

18. (1) Where the immigration officer determines that a passenger or crew member should be subject to further examination by a control agency, the immigration officer shall give that agency access to API data and PNR data or the result of processing that data.

(2) The immigration officer shall not give access to PNR data or the result of processing that data to a control agency otherwise than on a case by case basis and, in the case of automated processing of API data and PNR data, following individual review of the processed data by non-automated means.

(3) The immigration officer shall carry out the processing and analysis of API data and PNR data exclusively within a secure location in Mauritius.

19. API data and PNR data accessed by a control agency under regulation 18, whether processed or not, may be further processed by that agency solely for the purpose of carrying out its lawful functions.

20. The immigration officer shall ensure that –

- (a) access to API data and PNR data is restricted to a limited number of officers who are specifically authorised to process that data; and
- (b) a physical as well as an electronic system is in place to ensure the security of API data and PNR data.

21. (1) The immigration officer shall, in respect of API data and PNR data, maintain documentation relating to all processing systems and procedures under its responsibility.

- (2) The documentation under paragraph (1) shall contain –
- (a) the name and particulars of the personnel entrusted with the processing of API data and PNR data;
 - (b) the levels of authorisation of control agency personnel to access API data and PNR data on a case by case basis; and
 - (c) details of requests made by competent authorities of third countries.

22. The immigration officer shall, 6 months after the transfer of API data and PNR data to him, depersonalise API and PNR data by masking out from display in that data –

- (a) names;
- (b) addresses;
- (c) contact information;
- (d) frequent flyer information; or
- (e) any other information by which a person can be identified.

23. The immigration officer may reverse the depersonalisation of data under regulation 22 where such reversal is necessary for the purpose of preventing, detecting, investigating or prosecuting a specified offence.

24. The immigration officer shall keep API data or PNR data in his database for a period not exceeding 5 years from the date of receipt

of that data, except where that data is required for investigations or court proceedings.

25. The immigration officer shall, in respect of API data and PNR data, keep records of the following processing operations –

- (a) collection;
- (b) consultation;
- (c) transfer; or
- (d) deletion.

26. The regulations shall not apply to –

- (a) military or law enforcement aircrafts;
- (b) State flights;
- (c) an aircraft compelled to land in Mauritius due to an emergency, an accident or unfavourable weather conditions;
- (d) technical stops;
- (e) an aircraft overflying the airspace of Mauritius and not landing in, or departing from, Mauritius.

27. These regulations shall come into operation on 27 July 2021.

Made by the Minister on 27 July 2021.

FIRST SCHEDULE

[Regulations 2 and 3]

**PART I – API DATA ELEMENTS RELATING TO FLIGHT
(HEADER DATA)**

1. Flight identification
2. Scheduled departure date
3. Scheduled departure time
4. Scheduled arrival date
5. Scheduled arrival time
6. Last place or port of call of aircraft
7. Place or port of initial arrival of aircraft
8. Subsequent place or port of call within the country
9. Number of passengers

**PART II – API DATA ELEMENTS RELATING TO
PASSENGER OR CREW MEMBER ON BOARD**

1. Official travel document number
2. Issuing State or organisation of the official travel document
3. Official travel document type
4. Expiration date of official travel document
5. Surname and given names
6. Nationality
7. Date of birth

8. Gender
9. Seating information
10. Baggage information
11. Visa number
12. Issue date of visa
13. Place of issuance of visa
14. Other document number used for travel
15. Type of other document used for travel
16. Primary residence (country of primary residence, address, city, state, province, county, postal code)
17. Destination address (address, city, state, province, county, postal code)
18. Place of birth
19. Traveller's status
20. Place or port of original embarkation
21. Place or port of clearance
22. Place or port of onward foreign destination
23. Passenger name record locator number or unique identifier

PART III – PNR DATA ELEMENTS

PNR name details

1. Passenger name

2. Family name
3. Given name/initial
4. Title
5. Other names on PNR

Address details

6. Contact address
7. Billing address
8. Email address
9. Mailing address
10. Home address

Contact telephone number(s)

11. [Telephone details]

Any collected API data

12. Any collected API data (including name on passport, date of birth, sex, nationality, passport number)

Frequent flyer information

13. Frequent flyer account number

PNR locator code

14. File locator number
15. Booking reference
16. Reservation tracking number

Number of passengers on PNR

17. [Number]

All date information

18. PNR creation date

19. Booking date

20. Reservation date

21. Departure date

22. Arrival date

23. PNR first travel date

24. PNR last modification date

25. Ticket issue date

26. Late booking date for flight

Split or divided PNR information

27. Multiple passengers on PNR

28. Other passengers on PNR

29. Other PNR reference

30. Single passenger on booking

All ticketing field information

31. Date issue or purchase of ticket

32. Selling class of travel

33. Ticket number

34. One-way ticket

35. Ticket issue city

All travel itinerary for PNR

36. PNR flight itinerary segments or ports

37. Itinerary history

38. Origin city or board point

39. Destination city

40. Active itinerary segments

41. Cancelled segments

42. Layover days

43. Flown segments

44. Flight information

45. Flight departure date

46. Board point

47. Arrival port

48. Open segments

49. Inbound flight connection details

50. On-carriage information

51. Confirmation status

Form of payment (FOP) information

- 52. All FOP (cash, electronic, credit card number and expiry date, prepaid ticket advice (PTA) exchange)
- 53. Details of person or travel agency paying for ticket

All check-in information

- 54. Check-in time
- 55. Check-in status
- 56. Confirmation status

All seat information

- 57. Seats requested in advance

All baggage information

- 58. Number of bags
- 59. Bag tag number for each bag
- 60. Weight of bag for each bag
- 61. All pooled baggage information
- 62. Head of pool
- 63. Number of bags in pool
- 64. Bag status
- 65. Bag destination or offload point

Received-from information

- 66. Name of person making the booking

Go-show information

67. Go-show identifier (After check-in and flight close-out)

No-show information

68. No-show history (only available after flight close-out)

General remarks

69. All information in general remarks section

Free text or code fields in OSI, SSR, SSI, remarks and history

70. All IATA codes

SECOND SCHEDULE

[Regulation 2]

CONTROL AGENCIES

1. Anti-Drug and Smuggling Unit
2. Counter Terrorism Unit
3. Criminal Investigation Division
4. National Security Service
5. Mauritius Revenue Authority – Customs

THIRD SCHEDULE

[Regulation 2]

SPECIFIED OFFENCES

1. Participation in a criminal organisation
2. Trafficking in human beings
3. Terrorism
4. Sexual offences, including exploitation of children and child pornography
5. Illicit trafficking in narcotic drugs, psychotropic substances and precursor chemicals
6. Illicit trafficking in weapons, munitions and explosives
7. Corruption
8. Fraud

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9. Laundering of the proceeds of crime
 10. Computer-related crime or cybercrime
 11. Environmental crime, including illicit trafficking in endangered species
 12. Facilitation of unauthorised entry and residence
 13. Murder, grievous bodily injury
 14. Illicit trade in human organs and tissue
 15. Kidnapping, illegal restraint and hostage-taking
 16. Organised and armed robbery
 17. Illicit trafficking in cultural goods, including antiques and works of art
 18. Offences involving infringement of intellectual or industrial property rights
 19. Counterfeiting currency
 20. Forgery of administrative documents and trafficking therein
 21. Illicit trafficking in hormonal substances and other growth promoters
 22. Illicit trafficking in nuclear or radioactive materials
 23. Crimes within the jurisdiction of the International Criminal Court
 24. Unlawful seizure of aircraft
 25. Sabotage

- 26. Trafficking in stolen vehicles
 - 27. Industrial espionage
 - 28. Any customs or revenue offence
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FOURTH SCHEDULE

[Regulations 3 and 5]

PART I – TIMEFRAME FOR PROVISION OF API DATA

1. Aircraft scheduled to land in Mauritius Whenever boarding is completed or immediately after start of taxi at the last port of call
2. Aircraft scheduled to depart from Mauritius Whenever boarding is completed
3. Whenever there are changes to the flight header data or data relating to an individual on board Updated API file before departure of aircraft

PART II – TIMEFRAME FOR PROVISION OF PNR DATA

PNR data shall be provided –

- (a) 24 hours before the scheduled flight departure time;
 - (b) if no PNR data is available 24 hours before the scheduled flight departure time, not later than 2 hours prior to the scheduled departure time, where that data becomes available;
 - (c) whenever boarding is completed; or
 - (d) immediately after start of taxi.
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FIFTH SCHEDULE

[Regulation 6]

FORMAT OF API AND PNR DATA

SN	TYPE OF DATA	FORMAT OF DATA
1.	API data	UN/EDIFACT (PAXLST) format 02B or 05B
2.	PNR data	IATA PNREGOV 13.1,14.1, 15.1, 16.1, 17.1, 18.1 message standard in EDIFACT format

SIXTH SCHEDULE

[Regulation 8]

ADMINISTRATIVE PENALTY

An administrative penalty not exceeding USD 10,000

SEVENTH SCHEDULE
[Regulation 14]

Airline Registration Form

1. Company name

IATA/ ICAO code

Mailing address

2. Business contact

Name

Title

Email address

Telephone no. Mobile no.

3. Technical contact

Name

Title

Email address

Telephone no. Mobile no.

4. Technical support 24 hours/ 7 days technical support desk

Name

Title

Email address

Telephone no. Mobile no.

5. Service provider (if applicable)

Name

Title

Email address

Telephone no. Mobile no.
