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 Act 2019

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

**ADVANCE CARGO INFORMATION ACT 2019**

**No. 7 of 2019**

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**I ASSENT**

**Andrew Pearce**

Governor

**DATE: 14 August 2019**

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

**No. 7 of 2019**

**An Act to facilitate the provision of advance information relating to cargo of an aircraft or vessel; the sharing of the information with other territories or States with a view to identifying persons who may pose risks to security; the interchange of electronic data to facilitate trade and for related matters.**

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

1. Short title and commencement

**(1)** This Act may be cited as the Advance Cargo Information Act, 2019.

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

1. Interpretation

In this Act—

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 **“advance cargo information”** means the information or data set out in Schedule 1 in respect of cargo on an aircraft or vessel and includes a manifest, airway bill, bill of lading, document and other information or data in respect of—

1. all imports, exports, and transhipment of goods;
2. stores;
3. any package for which there is no airway bill or bill of lading; and
4. all mail sent or received by postal or courier service,

but excludes advance passenger information;

**“Advance Cargo Information System”** or **“ACIS”** means the electronic manifest single window for advance cargo information interchange;

**“advance passenger information”** has the same meaning as in section 2 of the Advance Passenger Information Act (No. 11 of 2017)

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

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

**“break bulk”** means cargo that must be loaded individually, and not in intermodal containers;

**“bulk”** means cargo that is transported unpackaged and in large quantities;

**“carrier”** means the person transporting goods in an aircraft or vessel or in charge of or responsible for the operation of the aircraft or vessel;

**“cargo”** means goods, mail, package, stores and crew member’s effects carried on board an aircraft or vessel for consideration;

**“cargo information”** means information required under this Act in respect of cargo;

**“cargo manifest”** means a list of cargo being imported, exported, transhipped, or warehoused;

**“cargo reporter”** means a freight forwarder, consolidator and non-vessel operating common carrier;

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

**“competent authority”** means—

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*(a)* the Comptroller of Customs and Excise appointed under section 84 of the Montserrat Constitution Order (Cap. 1.01);or

*(b)* an officer authorised by the Comptroller of Customs and Excise;

**“consolidator”** means a person who provides the consolidation service of combining cargo from multiple shippers into a single shipment

**“containerize”** means to package in uniform sealed containers for shipment;

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

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

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

**“data message”** means a messaging standard for the electronic communication between cargo stakeholders such as masters, shippers, freight forwarders, ground-handling agents, and regulators, as well as customs and security agencies;

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

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

**“freight forwarder”** means a person who provides the service of arranging storage and shipping of goods on behalf of the shipper;

**“goods”** includes stores, animal, aircraft or vessels, articles, material and currency;

**“IMPACS”** means the Implementing Agency for Crime and Security established under the 2006 Agreement establishing the CARICOM Implementing Agency for Crime and Security;

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

**“long haul flight”** means a flight with a duration of more than eight hours;

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

**“regional space”** means the collective territories of the Caribbean Community who are participants of ACIS;

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 **“representative”** means a person who is authorised in writing by an importer, exporter, freight forwarder, non-vessel operating common carrier or consolidator to transact business under this Act on his behalf;

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

**“short haul flight”** means a flight with a duration of less than eight hours;

**“transmission”** means the process of sending and sharing information using an analogue or digital information signal;

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

**“watch list”** means a list used to watch or track the activities or movements of—

1. criminals including terrorist;
2. cargo that is suspicious, prohibited or otherwise of interest to the intelligence community; and

*(b)* other persons of interest to the intelligence community.

1. Application

This Act applies to an airplane or vessel that—

1. is expected to or has arrived in Montserrat from a place outside Montserrat; or
2. is expected to depart or is departing from Montserrat for a place outside Montserrat,

and which is carrying cargo arriving from or going to a place outside of Montserrat, whether or not the aircraft or vessel is also carrying domestic cargo or passengers.

1. Duty to provide advance cargo information
2. A commander of an aircraft, master of a vessel, the agent of the commander or master and a cargo reporter shall provide advance cargo information to the competent authority through the Advance Cargo Information System in accordance with the Schedule 2.
3. Subsection (1) applies in respect of an aircraft or vessel that—
4. is laden or in ballast; and
5. arrives, departs, is intended to arrive or is intended to depart into or from Montserrat.

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1. If the distance between the country of departure and Montserrat does not allow the commander, master, agent or cargo reporter to provide the advance cargo information in the manner specified in Schedule 2, the competent authority—

*(a)* may exempt the commander, master, agent; or cargo reporter from the requirements in Schedule 2; and

*(b)* shall establish alternative arrangements for the commander, master, agent or cargo reporter to provide the advance cargo information.

1. Technical stops
2. Section 4 does not apply in respect of an aircraft or vessel that arrives in Montserrat for the purpose of refuelling or repairs or as a result of an accident, unfavourable weather conditions, emergency or a similar purpose.
3. A commander of an aircraft or master of a vessel that arrives in Montserrat in the circumstances under subsection (1) shall—
4. immediately report to the competent authority;
5. not permit cargo to be off loaded from the aircraft or vessel without the prior consent of the competent authority; and
6. comply with any direction given by the competent authority in respect of any cargo on the aircraft or vessel.
7. Offence

**(1)** If a commander, master, agent or cargo reporter —

*(a)* fails to provide the advance cargo information in accordance with section 4; or

*(b)* intentionally or recklessly provides erroneous, misleading, incomplete or false advance cargo information,

the commander, master, agent or cargo reporter commits an offence and is liable on summary conviction to a fine of $10,000 or one year imprisonment or to both.

**(2)** A commander, master, agent or cargo reporter may not be charged with an offence under subsection (1)*(b)* if the commander, master, agent or cargo reporter satisfies the competent authority that the submission of erroneous, misleading, incomplete or false advance cargo information was not made knowingly or recklessly.

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1. Waiver

The Governor may waive the requirements of sections 4 and 5 in the circumstances and subject to conditions as the Governor may direct, if the aircraft or vessel is—

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

*(b)* on official Government business.

1. Use and sharing of advance cargo information

**(1)** The competent authority may share the advance cargo information within the Advance Cargo Information System with the persons approved by the Governor on the advice of the Cabinet by Order.

**(2)** IMPACS may use the advance cargo information to conduct screening against databases and watch lists in order to provide information to assist the countries listed in Schedule 3.

**(3)** Advance cargo information shall only be used for the purposes of this Act.

1. Retention of advance cargo information

The advance cargo information collected under this Act shall be retained by the competent authority for a period not exceeding seven years from the date the information is collected.

1. Regulations

The Governor acting on the advice of Cabinet may make regulations—

1. to prescibe procedures for the reporting and processing of advance cargo information;
2. to establish procedures for collaboration and coordination of information gathering and sharing; and

*(b)* to prescribe matters that are necessary for carrying out or giving effect to this Act.

1. Amendment of the Schedules

**(1)** The Governor acting on the advice of Cabinet may by Order amend the Schedules.

**(2)** An Order made under subsection (1) shall be subject to the negative resolution of the Legislative Assembly.

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SCHEDULE 1

*(Section 2)*

**ADVANCE CARGO INFORMATION**

**PART 1**

**ELECTRONIC MANIFEST MANAGEMENT ASYCUDA**

**A). AIR CARGO DATA MESSAGES**

In keeping with Industry Standards as stated in the CARICOM Business Rules

**Cargo Manifest:**

To be submitted by Airlines

**Master Air Waybill:**

To be submitted by Airlines

**House Air Waybill:**

To be submitted by Freight Forwarded / Representatives

**Response Message:**

To be handled by the filing party

**B). MARITIME CARGO DATA MESSAGES**

In keeping with Industry Standards as stated in the CARICOM Business Rules

**Cargo Manifest:**

To be submitted by Master/Agent

**Master Waybill:**

To be submitted by Master/Agent

**House Waybill:**

To be submitted by Freight Forwarded / Representatives

**Response Message:**

To be handled by the filing party

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**PART 2**

**ADVANCE CARGO INFORMATION SYSTEM DATA FIELDS**

| **No.** | **DATA FIELDS** | **DESCRIPTION** | **MANDATORY** |
| --- | --- | --- | --- |
| **Tracking Nos.**  | **General Information**  | General details with respect to voyage and aircraft or vessel  | YES |
| 1 | Office of departure/arrival  | Code of the Customs office of departure or arrival  | YES |
| 2 | Voyage number/aircraft or vessel number  | Voyage number, which uniquely identifies the current journey of the means of transport (aircraft or vessel)  | YES |
| 3 | Date of departure  | Date when the means of transport leaves the place of departure  | YES |
| 4 | Time of departure  | Estimated date when the means of transport departs the place of departure  | Yes |
| 5 | Date of arrival  | Estimated date when the means of transport arrives at the place of destination  | YES |
| 6 | Time of arrival  | Estimated time when the means of transport arrives at the place of destination  | NO |
| 7 | Place of departure  | Place (LOCODE) where current voyage begins on the current means of transport  | YES |
| 8 | Place of destination  | Place (LOCODE) where current voyage ends for the current means of transport  | YES |
| 9 | Port of last call  | The place (LOCODE) where the vessel or aircraft last reported before docking at the place of arrival.  | YES |
|  | **Shipping Information** |  |  |
| 10 | Aircraft or vessel code  | Aircraft or vessel code assigned to the party undertaking the transport of the goods  | YES |
| 11 | Agent  | Code of the Agent in charge of the aircraft or vessel reporting during the stay in port  | YES |
|  | **Totals** |  | YES |
| 12 | Bills  | Total number of waybills on manifest  | YES |
| 13 | Packages  | Total number of packages on manifest  | YES |
| 14 | Vehicles  | Total number of motor vehicles on manifest  | YES |
| 15 | Containers  | Total number of containers on manifest  | YES |
| 16 | Gross Weight  | Total gross weight contained in the manifest  | YES |

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|  |  |  |  |
| --- | --- | --- | --- |
|  | **Transport** |  | YES |
| 17 | Mode  | Identifying the mode of transport  | YES |
| 18 | Nationality  | Flag/Nationality of means of transport  | YES |
|  |  |  |  |
| 19 | Identity  | Aircraft or vessel) name  | YES |
| 20 | Registration  | Aircraft or vessel registration number  | YES |
| 21 | Place  | Port where the aircraft or vessel was registered  | NO |
| 22 | Date  | Date of registration  | NO |
| 23 | Master  | Name of Captain of the aircraft or vessel  | YES |
|  | **Tonnage** |  |  |
| 24 | Gross and Net Tonnage  | Tonnage of the aircraft or vessel - Information data not requested for Customs management of the manifest purpose  | YES |
| 25 | Office of destination  | Office of destination. Code of the Customs office of destination in case of transit  | Conditional |
|  | **Co-Loader** |  |  |
| 26 | Co-loader code  | Carrier code of the party sharing the Aircraft or vessel when multiple parties involved  | Conditional |
| **BL** | **Waybill Segment** |  | YES |
| 27 | Waybill reference number  | This is the « Identifier» of the transport document. This is the reference assigned by the carrier or agent (e.g. Bill of lading or Airway bill number; it is unique in the manifest)  | YES |
| 28 | Waybill type  | Alphanumeric code for the type of transport document  | YES |
| 29 | Nature  | Code of the document: export-22, import-23, transit-24, transhipment-28, FROB-26.  | YES |
| 30 | Waybill Line  | The ‘line number’ is a sequence number used to identify each item –bill of lading or airway bill in the manifest  | YES |
| 31 | Previous Document  | Reference of the previous document (master waybill) when consolidated cargo  | Conditional |
| 32 | UCR  | Unique consignment reference number  | NO |
| 33 | Place of loading  | Place (LOCODE) where the goods were originally loaded on the means of transport  | YES |
| 34 | Place of unloading  | Place (LOCODE) where the goods will be ultimately unloaded/discharged from the means of transport  | YES |
| 35 | FAS/Liner  | Terms of conditions for transported goods (accepted values F or L)  | YES |
|  | **Carrier** |  | YES |
| 36 | Carrier  | Carrier Code, name and address of the party undertaking the transport of the goods.  | YES |
| 37 | Carrier Name  | The name of the Shipping Line or the Airline transporting cargo to and from [Guyana]  | YES |
| 38 | Carrier Address  | The address of the Shipping Line or the Airline transporting cargo to and from Guyana.  | YES |
| 39 | Shipping agent  | Code of the Shipping Agent in charge of the ship management during the stay in port  | YES |
|  | **Exporter/ Shipper** |  | YES |
| 40 | Exporter code  | Exporter Code  | NO |
| 41 | Exporter name  | Exporter Name  | YES |
| 42 | Exporter address  | Exporter Address  | YES |
|  | **Transport** |  | YES |
| 43 | Place of loading on current transport  | Place (LOCODE) where the goods were loaded on current transport (if there was a change of vessel, it would be recorded here)  | YES |
| 44 | Place of discharge from current transport  | Place (LOCODE) where the goods will be discharged from current transport (if there was further transhipment to be done, it would be recorded here)  | YES |
|  | **Notify** |  | YES |
| 45 | Notify code  | Code of the notifying party.  | NO |
| 46 | Notify name  | Name of the notifying party  | YES |
| 47 | Notify address  | Address of the notifying party  | YES |
|  | **Consignee** |  | YES |
| 48 | Consignee  | Consignee code  | NO |
| 49 | Consignee name  | Name of the consignee  | YES |
| 50 | Consignee address  | Full address of the consignee  | YES |
|  | **Goods Details** |  | YES |
| 51 | Total containers  | Total number of containers for this transport document.  | YES |
| 52 | Packages codes  | Kind of packages (packaging type code)  | YES |
| 53 | Marks  | Marks and Numbers  | YES |
| 54 | Manifested packages  | Number of packages as indicated on the waybill.  | YES |
| 55 | Vehicles  | Total number of vehicles for this waybill  | YES |
| 56 | Manifested gross weight  | Gross weight as indicated on the waybill. This field must be accurately captured as the data are compared to  | YES |
| 57 | Volume (CBM)  | Volume of the goods in cubic metres.  | NO |
| 58 | Description of goods  | Commercial description of the goods from the waybill data (e.g. clothes, machines…).  | YES |
| 59 | H.S. Code  | Tariff Code for goods  | NO |
| 60 | UNDG  | Dangerous goods code (UNDG)  | Conditional |
| 61 | Place of Origin  | Place where goods are loaded into container for shipment (free text area)  | NO |
| 62 | Place of Destination  | Place where goods will be unloaded from container (free text area)  | NO |
| 63 | Location  | Code of the place where the goods are located in a shed or container park.  | NO |
|  | **Declared Values and Seal Details** |  | YES |
| 64 | Value code  | Value code  | YES |
| 65 | P/C  | Prepaid or collect indicator for the value code  | Conditional |
| 66 | (Freight value) Amount  | Amount for the value code  | YES |
| 67 | (Freight) Currency  | Currency code for the value code  | YES |
| 68 | Customs value  | Customs value of goods  | YES |
| 69 | Customs currency  | Customs currency code  | YES |
| 70 | Insurance value  | Insurance cost of the goods  | YES |
| 71 | Insurance currency  | Insurance currency code  | YES |
| 72 | Transport value  | Overall freight cost  | YES |
| 73 | Transport currency  | Overall freight currency code  | YES |
| 74 | Seals Number  | Number of seals affixed on non-containerized cargo  | Conditional |
| 75 | Marks of seals  | Description Marks or references number of seals.  | Conditional |
| 76 | Party  | Code of the party having affixed the seals.  | Conditional |
| 77 | Information  | Additional Information when required.  | NO |
| **CT** | **Container Segment** |  |  |
| 78 | Container Number  | Container number(s) for container(s) relating to waybill.  | YES |
| 79 | Number of packages  | Number of packages in container  | YES |
| 80 | Ctn. Type  | Container size-type  | YES |
| 81 | E/F  | Empty/Full indicator  | YES |
| 82 | Seal Number  | Quantity of seals affixed and seal numbers (3 fields)  | YES |
| 83 | Party  | Party affixing the seals  | YES |
| 84 | Empty Weight  | Empty weight of container (KG)  | YES |
| 102 | Goods Weight  | Weight of goods in container (KG)  | YES |
| 103 | Min. Temp.CE  | Minimum temperature in Celsius for refrigerated containers  | Conditional |
| 104 | Max. Temp. CE  | Maximum temperature in Celsius for refrigerated containers  | Conditional |
| 105 | Humidity  | Temperature in Celsius that the goods should be stored.  | Conditional |
| 106 | Dangerous Code  | UNDG code for dangerous goods.  | Conditional |
| 107 | H.S. Code  | Tariff Code for goods in container.  | NO |
| 108 | Goods Description  | Description of goods in container.  | YES |
| 109 | Ctn. Disposition  | (Cargo disposition, accepted values "CY. CFS and P. UNSTUFF). Required only when BL nature 23 and container is not empty  | Conditional |
| 110 | Volume  | Volume of cargo per container  | Yes |
| 111 | Container line code  | Code identifying shipping container owner.  | Yes |
| **VS**  | **Vehicle Segment** |  |
| 112 | Chassis Number  | Chassis Number of Vehicle  | YES |
| 113 | Engine Number  | Engine Number of Vehicle  | YES |
| 114 | Engine Size  | Engine (cc) or (kw)  | YES |
| 115 | Odometer Reading  | Mileage of vehicle  | YES |
| 116 | Make/Brand  | Make and Brand of Vehicle  | YES |
| 117 | Year  | Year of Manufacture  | YES |
| 118 | Colour  | Colour of Vehicle  | YES |
| 119 | New/Used  | If vehicle new or used  | YES |

SCHEDULE 2

*(Section 4)*

**TIMEFRAME FOR SUBMISSION OF ADVANCE CARGO INFORMATION**

1. The advance cargo information must be submitted in keeping with CARICOM’s messaging standards specifications as set out in Part 1 of the First Schedule

2. The information set out in Part 2 of Schedule 1(Advance Cargo Information)shall be provided at the latest—

1. for incoming cargo (import) by aircraft—

(i) in the case of short haul flight, at time of “Wheels Up” of the aircraft;

(ii) in the case of long haul flight, 4 hours prior to arrival at the first port in the country of destination;

*(b)* for outgoing cargo (export) by aircraft (short and long haul flight), at the time of departure (“Wheels Up”) of the aircraft;

*(c)* for incoming cargo (import) by vessel—

1. containerized cargo: 24 hours before arrival; at first port in the country of destination;

(ii) bulk or break bulk: 24 hours before arrivalat first port in the country of destination; and

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*(d)*for outgoing cargo (export) by vessel—

1. containerized cargo: 24 hours before loading at port of departure;

(ii) bulk or break bulk: 24 hours before departure to the first port in the country of destination.

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SCHEDULE 3

*(Section 8)*

**LIST OF COUNTRIES FOR SHARING**

**ADVANCE CARGO INFORMATION**

Antigua and Barbuda

Barbados

Belize

Commonwealth of Dominica

Co-operative Republic of Guyana

Grenada

Jamaica

Saint Christopher and Nevis

Saint Lucia

St. Vincent and the Grenadines

The Republic of Suriname

Trinidad and Tobago

**SHIRLEY OSBORNE**

Speaker

 Passed by the Legislative Assembly this 29th day of July, 2019.

**JUDITH BAKER**

Clerk of the Legislative Assembly