

**SPECIAL ISSUE**

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LEGAL NOTICE NO. 1

**THE KENYA CITIZENSHIP AND IMMIGRATION ACT**

**(No. 12 of 2011)**

IN EXERCISE of the powers conferred by section 59 of the Kenya Citizenship and Immigration Act, 2011, the Cabinet Secretary for Interior and National Administration makes the following Regulations—

**THE KENYA CITIZENSHIP AND IMMIGRATION  
(AMENDMENT) REGULATIONS, 2023**

1. These Regulations may be cited as the Kenya Citizenship and Immigration (Amendment) Regulations, 2023.

Citation.

2. The Kenya Citizenship and Immigration Regulations, 2012, (hereinafter referred to as the “Principal Regulations”) are amended in regulation 2 by inserting the following new definitions in proper alphabetical sequence.

Interpretation.

“advance passenger information” 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 Tenth 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 undertaking commercial air transport operations in Kenya;

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

“control agency” means an agency that is listed in the Eleventh Schedule;

“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;

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

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

“specified offence” means an offence specified in the Twelfth Schedule.

3. The Principal Regulations are amended in regulation 8 (3), by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorization”.

4. The principal Regulations are amended by inserting the following regulations immediately after regulation 15—

15A The Director shall establish an Electronic Travel Authorization system to facilitate prescreening of travelers entering the country.

Electronic travel authorization system.

15B. (1) Each person intending to travel into the country shall apply to the Director for Electronic Travel Authorization through the electronic portal and be in possession of the Authorization before embarkment.

Application for electronic travel authorization.

(2) An application under sub-regulation (1) shall be in Form 22 as set out in the First Schedule and shall include biographical information, travel itinerary and any other information relating to the application that the Director may require.

15C (1) Each carrier coming into the country shall not onboard a passenger who does not hold a valid Electronic Travel Authorization.

Carriers not to on board passengers without electronic travel authorization.

(2) The Captain in charge of a carrier shall be responsible for ensuring that each passenger on board the aircraft holds a valid Electronic Travel Authorization.

Passengers to be returned to the last port of call or country of origin.

15D Any carrier that brings into Kenya a person who does not hold a valid Electronic Travel Authorization shall return that passenger to his or her last port of call or country of origin.

Surcharge for conveying inadmissible passenger.

15E The owner or a person in charge of carrier who conveys a passenger without a valid Electronic Travel Authorization shall be liable to the surcharge specified in section 44 (3) (d).

15F. Possession of an Electronic Travel Authorization shall not constitute final authority to enter the country.

Electronic Travel Authorization not final authority for entry.

5. The Principal Regulations are amended by inserting the following new regulations immediately after regulation 16—

16A (1) Each carrier entering into Kenya or its operator or agent shall submit advance passenger information and passenger Name record to the Director in the manner set out in the Tenth Schedule, or an interface control document, within the timeframe specified in the Thirteenth Schedule.

Carriers to submit advance passenger information and passenger records.

(2) A carrier or agent shall, before submitting Advance Passenger Information or Passenger Name Record data under these Regulations, register with the Director in the form set out in the Fifteenth Schedule.

(3) In this regulation, “interface control document” means the technical document setting out the Advance Passenger Information data and Passenger Name Record data which an aircraft operator has agreed to provide to the Director and the manner in which such data is to be provided;

16B (1) Where access to specific Advance Passenger Information or Passenger Name Record data is necessary to respond to a threat, actual or potential, of a specified offence specified in the Twelfth Schedule being committed, an aircraft operator shall, upon request by the Director, transfer the data to the Director.

Carrier to provide data to Director in certain circumstances

(2) The captain in charge of a carrier shall be responsible for ensuring that the data required under subregulation (1) is provided to an immigration officer within the specified time.

16C. Where a carrier operator or its agent provides data under regulation 16A or 16B, that operator shall ensure that the data provided is—

Accuracy and format of data.

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

16D (1) Subject to regulation 16B (3), any carrier or agent in command who contravenes regulation 16C shall be liable to pay an administrative penalty of Ten Thousand United States Dollars.

Administrative Penalty.

(2) An administrative penalty payable under subregulation (1) shall be recoverable by the Director as a civil debt.

(3) An administrative penalty shall not be payable under subregulation (1) where the aircraft operator or pilot in command of the aircraft satisfies the Director that the contravention was not made knowingly or recklessly.

16E (1) For purposes of carrying out assessment under these regulations, an Immigration officer may:

Power of Immigration Officer.

- (a) compare Advance Passenger Information or Passenger Name Record Data against databases of persons or objects sought or under alert watch list for purposes of preventing, detecting, investigating or

prosecuting a specified offence specified in the Twelfth Schedule; or

- (b) process Advance Passenger Information or Passenger Name Record data in accordance with the provisions of the Data Protection Act, 2019.

(2) In this regulation, “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.

16F.(1) Where an Immigration Officer determines that a passenger or crew member should be subject to further examination by a control agency listed in the Eleventh Schedule, the immigration officer shall give that control agency access to Advance Passenger Information or Passenger Name Record data or the result of processing that data.

Data to be provided to control agency on case-by-case basis.

(2) The provisions of the Data Protection Act, 2019, shall apply with respect to the provisions of subregulation (1).

16H. The Immigration Officer shall carry out the processing and analysis of Advance Passenger Information or Passenger Name Record data exclusively within a secure location within Kenya.

Processing and analysis of data.

16I. (1) The Director shall, six months after taking possession of Advance Passenger Information data and Passenger Name Record data, depersonalize the data by masking from display in that data—

Depersonalization of data.

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

(2) In this regulation, “depersonalize” means to render unreadable data elements which could serve to identify a data subject to another person.

16J. (1) The Director may reverse the depersonalization of data under regulation 16I where such reversal is necessary for the purpose of preventing, detecting, investigating or prosecuting a specified offence specified in the Twelfth Schedule.

Reversal of depersonalization.

(2) The Director shall keep Advance Passenger Information data or Passenger Name Record data in a database for a period not exceeding five years from the date of receipt of the data where that data is required for the investigation of the commission of a specified offence specified in the Twelfth Schedule or court proceedings.

6. The principal Regulations are amended by deleting regulation 18.

7. The principal Regulations are amended in regulation 56, by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorisation”.

8. The principal Regulations are amended by adding the following new regulation immediately after regulation 60—

60A. (1) Despite the deletion of regulation 18—

- (a) any application made to the Director shall be processed as if it had been made under regulation 15B; and
- (b) any visa that has been granted before the deletion of regulation 18 shall remain valid for its unexpired period except where it is otherwise revoked in accordance with the provisions of the Act.

(2) The Director shall issue a successful applicant with an Electronic Travel Authorisation.

9. The principal Regulations are amended in the First Schedule, by deleting the word “visa” wherever it appears in Form 22 and substituting therefor the words “Electronic Travel Authorisation”.

10. (1) The principal Regulations are amended by deleting the Fifth Schedule.

(2) Despite the deletion of the Fifth Schedule, the categories of persons specified in Category 2 and Category 3 of the deleted Schedule shall be subject to the same conditions, restrictions and directions as if they had made an application under regulation 15B.

11. Paragraph (c) of the Ninth Schedule to the principal Regulations is amended—

- (a) by deleting the word “visa” appearing in the opening words thereat and substituting therefor the words “Electronic Travel Authorisation”;
- (b) in subparagraph (i), by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorisation”;
- (c) in subparagraph (ii), by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorisation”;

- (d) in subparagraph (iii), by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorisation”;
- (e) in subparagraph (iv), by deleting the word “visa” and substituting therefor the words “Electronic Travel Authorisation”.

12. The principal Regulations are amended by adding the schedules set out in the Schedule hereto immediately after the Ninth Schedule.

**SCHEDULE**

**(Regulation 5)**

**TENTH SCHEDULE**

**[Regulations 2, 16A (1)]**

**PART I – ADVANCE PASSENGER INFORMATION 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 – ADVANCE PASSENGER INFORMATION DATA ELEMENTS  
RELATING TO PASSENGER OR CREW MEMBER ON BOARD**

1. Official travel document number
2. Issuing State or organization 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. Place or port of original embarkation
20. Place or port of clearance
21. Place or port of onward foreign destination
22. Passenger name record locator number or unique identifier

### **PART III – PASSENGER NAME RECORD DATA ELEMENTS**

#### **Passenger Name Record name details**

1. Passenger name
2. Family name
3. Given name/initial
4. Title
5. Other names on Passenger Name Record

#### **Address details**

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

#### **Contact telephone number(s)**

11. [Telephone details]

### **PART IV – PASSENGER NAME RECORD DATA ELEMENTS**

#### **Any collected Advance Passenger Information data**

1. Any collected Advance Passenger Information data (including name on passport, date of birth, sex, nationality, passport number)

#### **Frequent flyer information**

2. Frequent flyer account number

#### **PNR locator code**

3. File locator number
4. Booking reference
5. Reservation tracking number

#### **Number of passengers on Passenger Name Record**

6. [Number]

**All date information**

7. PNR creation date
8. Booking date
9. Reservation date
10. Departure date
11. Arrival date
12. Passenger Name Record first travel date
13. Passenger Name Record last modification date
14. Ticket issue date
15. Late booking date for flight

**Split or divided Passenger Name Record information**

16. Multiple passengers on PNR
17. Other passengers on PNR
18. Other PNR reference
19. Single passenger on booking

**All ticketing field information**

20. Date issue or purchase of ticket
21. Selling class of travel
22. Ticket number
23. One-way ticket
24. Ticket issue city

**All travel itinerary for Passenger Name Record**

25. PNR flight itinerary segments or ports
26. Itinerary history
27. Origin city or board point
28. Destination city
29. Active itinerary segments
30. Cancelled segments
31. Layover days
32. Flown segments
33. Flight information
34. Flight departure date
35. Board point
36. Arrival port

- 37. Open segments
- 38. Inbound flight connection details
- 39. On-carriage information
- 40. Confirmation status

**Form of payment of information**

- 41. All forms of payment (cash, electronic, credit card number and expiry date, prepaid ticket advice (PTA) exchange)
- 42. Details of person or travel agency paying for ticket

**All check-in information**

- 43. Check-in time
- 44. Check-in status
- 45. Confirmation status

**All seat information**

- 46. Seats requested in advance

**All baggage information**

- 47. Number of bags
- 48. Bag tag number for each bag
- 49. Weight of bag for each bag
- 50. All pooled baggage information
- 51. Head of pool
- 52. Number of bags in pool
- 53. Bag status
- 54. Bag destination or offload point

**Received-from information**

- 55. Name of person making the booking

**Go-show information**

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

**No-show information**

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

**General remarks**

- 58. All information in general remarks section

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

- 59. All IATA codes

**ELEVENTH SCHEDULE**

**(Regulations 2, 16F (1))**

**CONTROL AGENCIES**

1. Directorate of Immigration Services
2. Directorate of Criminal Investigations
  - (a) Anti-Narcotics Unit
  - (b) Transnational organized Crime Unit
  - (c) Antiterrorism Police Unit
3. National Intelligence Service
4. Kenya Revenue Authority – Customs
5. Port Health

**TWELVETH SCHEDULE**

**(Regulations 2, 16B (1) & 16 (1)(a) , 16J)**

**SPECIFIED OFFENCES**

1. Participation in a criminal organization
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
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 unauthorized entry and residence
13. Murder, grievous bodily injury
14. Illicit trade in human organs and tissue
15. Kidnapping, illegal restraint and hostage-taking
16. Organized 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. Piracy
- 26. Sabotage
- 26. Trafficking in stolen vehicles
- 27. Industrial espionage
- 28. Any customs or revenue offence

THIRTEENTH SCHEDULE

(Regulation 16A (1))

PART I – TIMEFRAME FOR PROVISION OF ADVANCE PASSENGER INFORMATION DATA

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

PART II – TIMEFRAME FOR PROVISION OF PASSENGER NAME RECORD DATA

Passenger Name Record 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.

FOURTEENTH SCHEDULE

(Regulation 16 B (4) (b))

FORMAT OF ADVANCE PASSENGER INFORMATION AND PASSENGER NAME RECORD DATA

| S/No. | Type of Data                       | Format of Data                                                                   |
|-------|------------------------------------|----------------------------------------------------------------------------------|
| 1.    | Advance Passenger information data | UN/EDIFACT (PAXLST) format 02B or 05B                                            |
| 2.    | Passenger Name Record data         | IATA PNRGOV 13.1,14.1, 15.1, 16.1, 17.1, 18.1 message standard in EDIFACT format |

## FIFTEENTH SCHEDULE

(Regulation 16 B (5) (i))

## ADMINISTRATIVE PENALTY

An administrative penalty not exceeding USD 10,000

## SIXTEENTH SCHEDULE

(Regulation 16 A (1) (ii))

## 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. ....

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. ....

Dated the 1st January, 2024.

**KITHURE KINDIKI,***Cabinet Secretary for Interior and National Administration.*





