



GUYANA

ACT No. 9 of 2007

**PRE-CLEARANCE (ICC CRICKET WORLD CUP WEST INDIES 2007)
ACT 2007**

I assent.

**Samuel Hinds,
Prime Minister,
Performing the
functions of the
President.**

31st January, 2007.

ARRANGEMENT OF SECTIONS

**PART I
PRELIMINARY**

**Short.
Interpretation.
Agreement shall have the force of law.
Reciprocity.**

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**PART II
ADMINISTRATION OF PRE-CLEARANCE LAWS**

5. Pre-clearance laws.

**PART III
PRE-CLEARANCE AND INTRANSIT AREAS**

6. Pre-clearance areas.
7. Access to pre-clearance.
8. Arrival in intransit area.
9. Right to leave pre-clearance area.

**PART IV
POWERS OF PRE-CLEARANCE OFFICERS**

10. Powers of pre-clearance officer.
11. Assistance of proper officer.
12. Deferral or refusal of clearance.

**PART V
OFFENCES AND PUNISHMENT**

13. False or deceptive statements.
14. Obstruction of officer.

**PART VI
CIVIL LIABILITY AND IMMUNITY**

15. Immunity from suit.
16. Decisions not reviewable.

**PART VII
MISCELLANEOUS**

17. Regulations.
18. Amendment of Schedules.
19. Expiry of Act.

SCHEDULE 1
SCHEDULE 11
SCHEDULE 111

An Act to make provision for a Specified State to pre-clear certain passengers and goods in Guyana for entry into that Specified State for the purposes of immigration, customs, public health, food inspection and plant and animal health.

A. D. 2007

Enacted by the Parliament of Guyana as follows:-

**PART I
PRELIMINARY**

Short title.

1. This Act may be cited as the Pre-clearance (ICC Cricket World Cup West Indies 2007) Act 2006.

Interpretation.

2. In this Act –

Cap. 82:01

“customs officer” means a customs officer within the meaning of the Customs Act;

“CWC 2007” means the ICC Cricket World Cup West Indies 2007;

“CWC 2007 Inc.” means ICC Cricket World Cup West Indies 2007 Inc., a company incorporated in the territory of the

British Virgin Islands, or its authorised representatives;

“GCC” means Global Cricket Corporation Pte Limited, a company

incorporated in Singapore;

"goods" includes baggage, livestock, merchandise, money and stores but does not include anything prescribed by regulations made under paragraph 17 (2) (a);

"ICC" means the International Cricket Council, a company limited by guarantee and incorporated in the territory of the British Virgin Islands;

"IDI" means ICC Development (International) Limited, a company incorporated under the laws of the territory of the British Virgin Islands;

"immigration officer" means an immigration officer within the meaning of the Immigration Act;

"Minister" means the Minister of Home Affairs;

"pre-clearance area" means an area designated by the Minister under section 6;

"pre-clearance laws" means the laws of a Specified State with respect to the admission of a person to or the importation of goods into that Specified State;

"pre-clearance officer" means a person authorised by a Specified State to perform pre-clearance duties in Guyana for the purposes of the admission of a person to or the importation of goods into that Specified State;

Schedule I

“prescribed passenger” means a person specified in Schedule 1;

“proper officer” means the competent officer for the purposes of immigration, customs, public health, food inspection or plant or animal health; and

“Specified State” means a State specified by the Minister by order.

Agreement shall have the force of law.

3. This Act shall give legal effect to an agreement, the form of

which is specified in Schedule II between Guyana and another specified State.

Schedule II

Reciprocity.

4. The Minister may by order restrict any immunity or privileges under this Act in relation to a Specified State where in his opinion the immunity or privileges exceeds those accorded to Guyana by that State.

PART II ADMINISTRATION OF PRE-CLEARANCE LAWS

Pre-clearance laws.

5. (1) Pre-clearance laws may be administered in Guyana in a pre-clearance area with respect to -

- (a) a prescribed passenger seeking admission to a Specified State; and

(b) goods to be imported into specified State by a prescribed passenger.

(2) Penalties under pre-clearance laws may be enforced by pre-clearance officers in Guyana.

(3) Nothing in this Act precludes a proper officer from enforcing the laws of Guyana in a pre-clearance area.

PART III PRE-CLEARANCE AND INTRANSIT AREAS

Pre-clearance
area.

6. The Minister may designate by order –
- (a) any area as a pre-clearance area where pre-clearance officers may pre-clear prescribed passengers and their goods for entry into a Specified State;
 - (b) all or part of a pre-clearance area as an “intransit area”, for the pre-clearance of prescribed passengers and their goods that are in transit through Guyana by air to a Specified State.

Access to pre-
clearance
area.

7. (1) A person who is not –
- (a) a prescribed passenger destined for a Specified State; or
 - (b) a person, or a member of a category of persons, specified in

Schedule III

Schedule III,

shall not enter a pre-clearance area.

- (2) A person, other than a person specified in Schedule III, who enters

a pre-clearance area shall report to a pre-clearance officer without delay.

(3) A pre-clearance officer may order a person, other than a person specified in Schedule III, who is in a pre-clearance area to report to him or to leave the area.

(4) A person ordered to leave a pre-clearance area under subsection (3) shall report without delay to an immigration officer and a customs officer for examination.

(5) A person who -

(a) enters a pre-clearance area when not authorised to do so; or

(b) fails to comply with subsection (2) or (4),

commits an offence and is liable on summary conviction to a fine of \$160,000 dollars.

Arrival in
intransit area.

8. (1) A prescribed passenger intending to travel to a Specified State through an intransit area, shall report without delay on arrival in Guyana to a pre-clearance officer at the intransit area.

(2) A pre-clearance officer may defer clearance of any prescribed passenger who fails to report to a pre-clearance officer in accordance with subsection (1).

Access to pre-
clearance
area.

9. (1) Subject to subsection (2), a prescribed passenger may, at any stage of the pre-clearance process, leave the pre-clearance area without departing for a Specified State.

(2) Subsection (1) does not apply where a pre-clearance officer informs a passenger that the officer suspects on reasonable grounds that the passenger has committed an offence under sections 13 or 14.

(3) A prescribed passenger, whether travelling from Guyana or in transit through Guyana, who leaves a pre-clearance area without departing immediately for a Specified State is subject to the laws of Guyana relating to the departure of persons and the exportation of goods from Guyana.

PART IV POWERS OF PRE-CLEARANCE OFFICERS

Powers of
pre-clearance
officer.

10. (1) A pre-clearance officer may exercise the powers and perform the duties under this Act only in a pre-clearance area.

(2) Notwithstanding subsection (1), a pre-clearance officer may, outside a pre-clearance area, examine any aircraft that is subject to pre-clearance, and any goods that are in, or that are to be loaded onto that aircraft.

(3) After an examination described in subsection (2), the pre-clearance officer may request that a prescribed passenger, or anything that is in or that is to be loaded onto the aircraft, be sent to a pre-clearance area to be dealt with in accordance with this Act.

Assistance of
proper
officer.

11. A pre-clearance officer may request a proper officer to assist in exercising the powers of search, examination, seizure and detention conferred on the pre-clearance officer under the pre-clearance laws, and the proper officer is authorised to exercise those powers.

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ance.

12. (1) A pre-clearance officer may, in his discretion, defer clearance onwards to a Specified State of any prescribed passenger or of any goods.

(2) Where clearance is deferred under subsection (1), the laws of Guyana relating to the departure of persons or the exportation of goods from Guyana shall apply.

(3) Where a prescribed passenger, does not satisfy a pre-clearance officer that -

- (a) he can be admitted to; or
- (b) that his goods can be imported into,

a Specified State in accordance with pre-clearance laws, the officer may refuse to pre-clear the prescribed passenger or the goods.

(4) Where clearance is refused under subsection (3), the competent pre-clearance officer shall immediately inform the competent local officer of the refusal and supply all data relevant to that decision.

**PART V
OFFENCES AND PUNISHMENT**

lse or
eceptive
atements.

13. (1) A person who makes an oral or written statement to a pre-clearance officer with respect to the pre-clearance of that person or any goods for entry into a Specified State that the person knows to be false or deceptive or to contain information that the person knows is false or deceptive commits an offence and is liable on summary conviction to a fine of \$160,000 dollars.

(2) A term of imprisonment may not be imposed for default of payment of a fine imposed under subsection (1).

(3) A complaint for an offence under subsection (1) may be made at anytime.

Obstruction of
officer.

14. A person who resists or wilfully obstructs –
- (a) a pre-clearance officer or a proper officer in the execution of the officer's duty; or
 - (b) any person lawfully acting in aid of such an officer,
- commits an offence and is liable on summary conviction to a fine of \$160,000 or to imprisonment for one month.

PART VI CIVIL LIABILITY AND IMMUNITY

Immunity from
suit.

15. (1) No action or other proceeding of a civil nature may be brought against a pre-clearance officer in respect of anything that is done or omitted to be done in good faith by the officer under this Act.

(2) A pre-clearance officer is not a servant of the State for the purposes of the State Liability and Proceedings Act 1984.

No. 20 of 1984

(3) For the purposes of this section, the term "pre-clearance officer" includes any person who assists a pre-clearance officer at the officer's request, but does not include a proper officer.

Decisions not
reviewable.

16. The decision of a pre-clearance officer to refuse pre-clearance or to refuse the admission of persons to or the importation of goods into the Specified State is not subject to judicial review in Guyana.

PART VII
MISCELLANEOUS

- Regulations.** 17. (1) The Minister may make regulations for carrying out the purposes and provisions of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may make provision –
- (a) excluding anything from the definition of “goods” in section 2 ; and
 - (b) prescribing anything that by this Act is to be prescribed.
- Amendment of Schedule.** 18. The Minister may by order amend any Schedule to this Act.
- Expiry of Act.** 19. The Act expires on 30th June, 2007.

SCHEDULE I**S.2****PERSONS WHO MAY BE PRE-CLEARED**

- (i) members of participating teams as determined by IDI;
- (ii) officials, staff and advisers of CWC 2007 Inc., WICB, ICC, IDI and GCC;
- (ii) sponsors appointed by GCC and approved by IDI in relation to CWC 2007;
- (iii) suppliers of products or services appointed as such for CWC 2007 by CWC 2007 Inc. or GCC;
- (iv) umpires and match referees appointed as such for CWC 2007.
- (v) members of the media accredited as such by GCC and approved by IDI in relation to CWC 2007;
- (vi) aircraft crew members; and
- (vii) spouses and dependents mentioned in paragraphs (i) to (v)

SCHEDULE 11

S.3

Agreement between [State] and [State] on the Pre-clearance of Passengers and Goods for the purposes of CWC 2007

The Governments of [State] and [State],

CONSIDERING that pre-clearance of certain passengers, goods and aircraft crew by [their respective State's] immigration, customs and public health food inspection and plant and animal health authorities may facilitate travel between the two countries especially in view of the volume of passengers anticipated for Cricket World Cup (CWC)2007 ,

Have agreed as follows-

**ARTICLE I
USE OF TERMS**

In this Agreement –

“Act” means the Pre-clearance (ICC Cricket World Cup West Indies 2007) Act [];

“competent authority” means the competent officer for the purposes of immigration, customs, public health, food inspection or plant or animal health;

“Destination State” means the State to which the flight is to depart;

“Originating State” means the State from which the flight is to depart;

“Party” means a party to this Agreement;

"pre-clearance" means the procedure whereby the competent authority of the [Destination State] conducts, in the [Originating State], inspection of passengers, goods and aircraft crew required by the [Destination State] pre-clearance laws for entry into the [Destination State];

"pre-clearance laws" means the laws of the [Destination State] with respect to immigration, customs, public health, food inspection and plant and animal health] that are applicable to the admission of a person travelling to or the importation of goods into, the [Destination State];

"prescribed passenger" means a person specified in the Schedule.

ARTICLE II SCOPE

Any person mentioned in the Schedule to this Agreement who is on a non-stop flight by a scheduled or chartered air carrier from the [Originating State] to the [Destination State] shall be eligible for pre-clearance.

ARTICLE III DURATION AND LOCATION

Pre-clearance shall be conducted at the airports of the Originating State for a period of [] commencing on a date to be agreed by the Parties.

ARTICLE IV DENIAL OF PASSAGE

1. A pre-clearance officer may, in accordance with the pre-clearance laws of the Destination State, refuse passage onwards to the [Destination State] to any prescribed passenger, goods or aircraft crew if the prescribed passenger or crew member –

- (a) refuses to answer questions of a pre-clearance officer relevant to his immigration status;
- (b) refuses to submit to search authorised by the Act; or
- (c) is found by the pre-clearance officer to be inadmissible to the [Destination State].

2. Notwithstanding paragraph 1, except in circumstances arising under Article VI (5), no citizen of the [Destination State] or alien lawfully resident in the [Destination State] may be refused passage onwards to the [Destination State].

ARTICLE V ORIGINATING STATE

1. The [Originating State] shall -

- (a) permit pre-clearance officers to carry out pre-clearance of prescribed passengers, goods and aircraft crew on flights subject to pre-clearance and to determine the procedures for carrying out pre-clearance;
- (b) arrange for the provision of the pre-clearance facilities as agreed by the Parties; and
- (c) permit the installation and operation of such communications and inspection aids and equipment as the [Destination State] may require and as are agreed by the [Originating State] as being necessary for pre-clearance.

2. Where a prescribed passenger or aircraft crew member is refused passage onwards, the competent authority of the [Originating State] shall, upon request by a pre-clearance officer,

provide appropriate law enforcement assistance to prevent such person from boarding the aircraft.

3. Upon request of a pre-clearance officer, the [Originating State] shall provide appropriate medical assistance and, where necessary, access to medical isolation facilities for any prescribed passenger who is suspected of having an infectious disease, for which isolation or other special treatment is required by the laws of the [Originating] or [Destination] State.

ARTICLE VI DESTINATION STATE

1. The [Destination State] shall provide, in agreement with the [Originating State], an appropriate number of pre-clearance officers to carry out, with reasonable speed and efficiency, pre-clearance for -

- (a) prescribed passengers and goods; or
- (b) flights to which pre-clearance has been extended in accordance with this Agreement.

2. A flight is eligible for pre-clearance where all the passengers on board are prescribed passengers.

3. Pre-clearance shall be conducted in accordance with this Agreement and the Act, except that pre-clearance may be denied in the case of any flight where -

- (a) there is likely to be a commingling of passengers who have and who have not been pre-cleared; or
- (b) after consultation with the competent authority of the Originating State, the competent authority of the Destination State determines that there is an insufficient number of pre-clearance officers to carry out pre-clearance

with reasonable speed and efficiency or that pre-clearance facilities would be over-taxed.

4. The competent authorities of the Destination State (and, as appropriate, other authorities) shall consult regularly with –

- (a) the competent authorities of the Originating State; and
- (b) the air carriers concerned,

on matters relating to the implementation of this Agreement.

5. The Destination State may defer clearance onwards as it deems necessary of any prescribed passenger, goods or aircraft crew member.

6. Where a prescribed passenger or aircraft crew member is refused passage onwards to the [Destination State], the competent authority of the [Destination State] shall immediately inform the competent authority of the [Originating State] of the refusal and supply all data relevant to that decision.

ARTICLE VII PRE-CLEARANCE OFFICERS

1. Pre-clearance officers of the Destination State assigned to pre-clearance duties in the [Originating State] under the Act, shall not be subject to the jurisdiction of the judicial or administrative authorities of the [Originating State] in respect of anything that is done or omitted to be done by them in good faith in the exercise of their duties under the Act.

2. The immunity accorded under paragraph 1 may be waived by the Government of the [Destination State].

3. The [Originating State] shall take all appropriate steps to protect the facilities used by the pre-clearance officers for the purposes of carrying out pre-clearance, against intrusion or damage.

and to protect the official archives and documents maintained by the competent authority of the [Destination State] at such facilities.

4. Pre-clearance officers of the [Destination State], assigned to pre-clearance duties in the [Originating State] pursuant to the Act, shall enjoy such privileges as shall be agreed by the State Parties by an exchange of notes.

ARTICLE VIII COST

1. The [Destination State] shall be responsible for –

- (a) the cost of posting pre-clearance officers in the [Originating State];
- (b) the cost of the pre-clearance officers; and
- (c) any pre-diagnostic and diagnostic medical (including hospital) costs arising from the application of paragraph 3 of Article V.

2. The [Originating State] shall be responsible for providing adequate and secure inspection facilities for pre-clearance.

ARTICLE IX INTERPRETATION, APPLICATION, AMENDMENT

1. A Party may at any time request consultations concerning the interpretation, application, or amendment of this Agreement.

2. Consultations shall begin within [] days from the date of the receipt of the request by the other Party.

**ARTICLE X
ENTRY INTO FORCE AND EXPIRATION**

This Agreement shall enter into force upon signature -

- (a) enter into force upon signature; and
- (b) subject to any other right of a Party to terminate same, terminate on 30 June 2007.

SCHEDULE

Prescribed passengers -

- (i) members of participating teams as determined by IDI;
- (ii) officials, staff and advisers of CWC 2007 Inc., WICB, ICC, IDI and GCC;
- (ii) sponsors appointed by GCC and approved by IDI in relation to CWC 2007;
- (iii) suppliers of products or services appointed as such for CWC 2007 by CWC 2007 Inc. or GCC;
- (iv) umpires and match referees appointed as such for CWC 2007.
- (v) members of the media accredited as such by GCC and approved by IDI in relation to CWC 2007.
- (vi) Spouses and dependants of persons mentioned in paragraph (i) to (v).

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done at _____

On this the _____ day of _____, 2007

For the Government of [State] For the Government of [State]

For the Government of [State]

For the Government of [State]

SCHEDULE III**S.7****Persons and Categories of Persons who may enter a Pre-clearance Area**

For the purposes of section 7(1) (b), the following persons and categories of persons may enter a pre-clearance area –

- (a) a person who is –
 - (i) required to enter the pre-clearance area to perform functions of their employment; and
 - (ii) the holder of a restricted area pass for the airport.
- (b) a person who is required to enter the pre-clearance area in order to perform maintenance or repair of the airport facilities or emergency services at the airport;
- (c) any other person who -
 - (i) has permission from the airport operator to enter the pre-clearance area; or
 - (ii) is the holder of a restricted area pass for the airport and has a legitimate requirement to enter the pre-clearance area at the time in question.

Passed by the National Assembly on 31st January, 2007.

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

(BILL No. 7/2007)