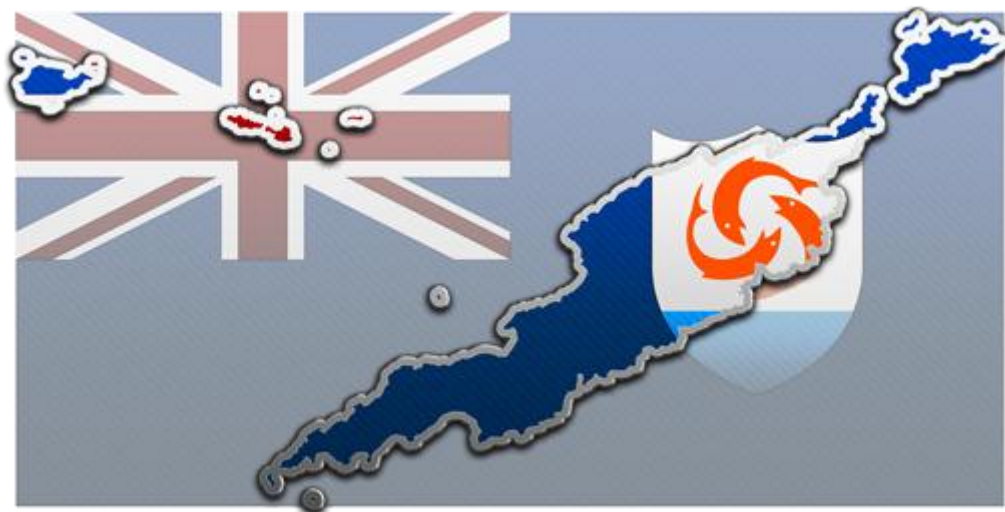


Government of Anguilla

Personal Watercraft (Jet Skis)

Draft Policy



Ministry of Economic Development, Investment, Commerce & Tourism

August, 2014

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POLICY DOCUMENT ON REINTRODUCTION OF PERSONAL WATER CRAFT

Background

In the 1970s the Government of Anguilla recognized and established the tourism sector as the main pillar of its economic and social development. With its pristine beaches, crystal-clear coastal waters, highly developable lands and friendly people, it was natural for Anguilla to wade into the tourism market. These advantages placed the island into a class by itself; especially with visitors who wanted to experience the natural charm of a Caribbean Territory unspoiled by over development.

The Malliouhana Hotel, Anguilla's first luxury hotel, opened in the early 1980s as the island's premiere accommodation. The charm of this establishment emanated from its understated opulence where visitors were treated with the best Anguilla had to offer in terms of unequaled guest service, culinary experiences, one of the region's most exquisite wine collections and water sports, without the glitz common to other regional resorts. Malliouhana's business model was survived and thrived on repeat guests and word of mouth referrals rather than massive public relations and sales and marketing campaigns.

The second property to firmly establish Anguilla as a high-end tourist destination was Cap Juluca which opened its doors in 1988. As with Malliouhana the level of luxury and service that this establishment brought to the island quickly drew a number of new visitors to the island. Tourist arrivals were mainly during the winter months, as is still the case, and visitors originated mainly from the North Eastern United States. Cap Juluca also offered water sports facilities and subsequently purchased charter boats to further expand the range of services offered.

These main hotels have operated over the last three decades on the model of repeat guests who continue to bring their families to Anguilla for wholesome experiences. To this end, a number of policy initiatives were undertaken by successive Governments to enhance, improve and expand the tourism amenities on the island.

The Government of Anguilla continues to identify and recognize the socio-economic benefits of tourism and has diversified the product over the years to remain current with the changing times and demographics. In particular, government's policy with regard to the ownership structure of resorts was changed in 2002 with the execution of a Memorandum of Agreement (MOA) with Flag Luxury Properties. This model combined the traditional hotel with condominiums, privately-owned villas, and Estate Homes. This mixed-ownership structure allowed for visitors to invest in Anguilla and own a part of the resort, while allowing them to visit the island regularly.

This model has been replicated numerous times since 2002 and is now the main development model of the island: Cuisinart Golf and Spa, Cap Juluca, Malliouhana, Viceroy, Manoah, Zemi Beach, Solaire and Altamer to name a few.

Today Anguilla has a mix of tourism products which include ultra-luxury resorts, standalone holiday homes, condominiums, inns and guest houses. The inns and guest houses serve the

middle to lower range of the industry and collectively market themselves as “*the Charming Escapes*.”

The natural result of the mixed-ownership structure of resorts mentioned above is that properties such as Viceroy, Cuisinart Golf and Spa and Malliouhana (which is currently under new ownership and slated to open in November 2014) have instituted aggressive sales and marketing campaigns globally in order to move their real estate inventory. This means that the traditional family groups that vacation on the island will be supplemented by other groups who have not traditionally vacationed in Anguilla.

Viceroy, in particular, has conducted significant marketing efforts on the west coast of the United States. This has been very successful as the island has seen a steady increase in the number of visitors from that region. Residents of the U.S west coast have an affinity to water sports, and developers as well as visitors have been lobbying the government to increase these activities. The Department of Statistics reports a steady increase of tourist arrivals over the last seven seasons. In 2013 arrivals eclipsed those of 2008 when the global economy began to contract as a result of the Great Recession. New exciting products in the Anguilla tourism market will ensure that the upward trend continues so that the island will experience pre-2008 levels of arrivals in the short term.

Table 1 Tourist Arrivals by Year

2006	2007	2008	2009	2010	2011	2012	2013
72,962	77,652	68,284	57,891	61,998	65,783	64,698	69,068

Government’s stated policy is also to actively pursuing small, high end cruise lines and yacht businesses to berth in Anguilla’s territorial waters. This will further diversify the tourism sector and create more sea-based activities.

The Minister of Finance and Tourism along with his cabinet have agreed that encouraging local entrepreneurs to invest in new water sporting activities is a goal that will improve to socio-economic development of Anguilla by creating jobs and business opportunities. In particular the Minister has decided that it would be beneficial to increase the number of motorized water sports on island. Currently, a number of water sporting activities are offered including water skiing, water safaris (using a propeller-driven dingy), sport fishing and non-motorized sporting activities.

Government therefore wants to reintroduce the use of Jet Skis (Personal Water Craft) in Anguilla’s territorial waters as a well regulated sporting and leisure activity.

In the early 1970s, Kawasaki Motors Corporation introduced a personal watercraft (PWC) in the United States known as the Jet Ski. The two terms are often used interchangeably. According to the U.S. Coast Guard, a PWC is any inboard boat under 16 feet in length in which riders sit, stand, or kneel on the vessel rather than sit or stand inside it. PWCs are powered by a 2-stroke or 4-stroke gasoline engine, the same engine type used in cars. The PWC generates its power by drawing water in through the bottom of the boat by an internal propeller (impeller) and

accelerates it through a nozzle at the back of the boat. The screw-shaped impeller creates thrust for propulsion and steering.

PWC designs range from single passenger watercraft to the more popular multi-passenger watercraft. They are powerful enough to tow an individual behind the vessel. Similar vessels which are trademarked as “Wave Runners” and “Sea Doo” are motorized vessels which have been widely used in the tourism industry for recreational purposes.

This Policy Paper therefore outlines the approach that will guide Anguilla’s PWC Policy in particular, with the desired effect of reintroducing the use of Jet Ski – like vessels in its territorial waters.

The Law

Over the last four (4) years, the Government has stated that it will revisit the Jet Ski Prohibition Act 2000. The act states that “Jet Ski” means any motorized craft or vessel marketed under the name of Jet Ski, wave runner, wave jammer or water scooter and includes any other similar craft or vessel howsoever called.”

The Act also prohibits the use of the same in Anguilla’s waters by stating that:

“Any person who –

(a) places, rides or drives a jet ski in the territorial sea of Anguilla;

(b) being the owner, or having the custody or control, of a jet ski, allows any other person to place, ride or drive a jet ski in the territorial sea of Anguilla; or

(c) is present in or on a jet ski while it is being placed, ridden or driven in the territorial sea of Anguilla;

commits an offence and is liable on summary conviction to a fine of \$5,000 or imprisonment for 3 months or both.”

The Act further states that: *“Upon the conviction of any person for an offence under this Act, the Magistrate’s Court may order the forfeiture of any jet ski used in connection with the commission of the offence.”*

Policy Imperatives

The Government, mindful of the lost opportunities for its people due to this prohibition, has decided to repeal the Jet Ski Prohibition Act and replace it with legislation reflective of its Jet Ski policy as stated in this document. The penalties of breaching the Act are stated above. It is important to note that this prohibition does not only apply to jet skis operated by individuals who either reside on the island or who are guests of hotels, resorts, villas and condominiums. It also applies to the luxury yachts that berth in Anguilla’s waters that have jet skis as part of their water sports equipment. Yacht owners cannot use their Jet Skis locally and leave the territory for other

islands that permit their use. This has the potential to negatively impact the economy, and it is also incongruent with government's policy of attracting luxury yachts to Anguilla and the establishment of luxury yacht marinas.

This policy is underpinned by an approach that seeks to achieve the right balance of safety, respect for others using our territorial waters and the enhancement of water sports.

The government will establish four (4) Authorised Areas (AAs) in Anguilla where Jet Skis can be used. These areas also apply to luxury yachts that utilize jet skis as part of their entertainment and recreation, and local owners of private PWCs who intend to use their vessels in Anguilla waters. The AAs are indicated in Maps 1 – 5 and are identified as:

1. Crocus Bay
2. Long Bay
3. Forest Bay and
4. The Southern side of Road Bay

These locations have been chosen in light of the fact that they can provide the maximum opportunities and benefits for local entrepreneurs to develop businesses. Additionally, there will be no more than four (4) total licenses to own and operate Jet Skis companies island-wide in Anguilla's territorial waters (one for each area), and the licenses will only be granted to Belongers of Anguilla. These licences will be granted under the provisions of the Beach Control and the Trades Businesses, Occupations and Professions Licencing Acts.

The Beach Vending Committee will establish a competitive system of request for proposals for each area and consider the grant of licences to operators who in its opinion meet international and national standards of safety, have policies and procedures in place for respecting others using our territorial waters, and provide added value to the tourism industry through the responsible enhancement of water sports and training of staff and operators on the proper care and use of jet skis.

Subsequent to the grant of a licence under the Beach Control Act, a Business Licence will be considered under the Trades Businesses, Occupations and Professions Licencing Act.

The holders of Licences granted under this policy cannot impede the use of the AAs by local individuals who own private PWCs. The Licencees also cannot impede the use of the AAs by PWCs from luxury yachts as well. However, the Licencees will not be held responsible for the actions of private PWC operators, but will be responsible to report reckless or negligent behaviour to the relevant authority that negatively impacts their business or their patrons.

Question 1: Should the Jet Ski Prohibition Act 2000 be repealed?

Question 2: Should Personal Water Craft (Jet Skis) be allowed to operate in Anguilla's territorial waters?

Question 3: Is the use of PWC in keeping with Anguilla's tourism product?

Question 4: Are the proposed Authorised Areas appropriate and safe for the operations of PWC?

Question 5: Should the GoA consider more or less than 4 PWC Operator licences?

Question 6: Should Anguilla Off-shore cays be approved for PWC operations?

Question 7: Should Licences be granted to Non-Belongers of Anguilla?

Jet Skiing

Jet Skis will be permitted to travel at a maximum rate of speed of five (5) knots in a “No wake zone” (NWZ). This NWZ is determined to be from the shoreline outwards to 1300 feet from the shoreline in the authorised area. The speed of a jet ski can be increased to a maximum of 35 knots upon exiting the “No Wake Zone” to a distance of no more than 5000 feet from the shoreline in the authorised area. The total permitted area in which jet skiing is allowed is delineated on the maps of each area in yellow. Jet skis are not permitted beyond 5000 feet of the shoreline in the Authorised Area.

Jet skis will also not be permitted to travel within a 300 feet distance from any swimmer regardless of where the swimmer is. They will also be banned from swimming only areas. For the avoidance of doubt PWCs will be continued to be banned elsewhere in Anguilla other than the AAs. Additionally, dedicated channels that require Jet Skis use to get on and off beaches and launching ramps in the AA will be prescribed and the 5 knot restriction enforced whilst Jet Skis are in them.

Personal Watercraft Safety (PWC) Regulations will be developed in keeping with the following generally accepted principles:

- Operators must be at least 16 years of age,
- Operators and passengers must wear a U.S. Coast Guard approved life jackets,
- Operators must either hold a PWC Operator’s Licence from a relevant authority or pass a basic safety and operation test,
- Operators must maintain 5 knots or slower within 150 feet of another PWC, vessel, shore, pier, piling, bridge structure or abutment,
- Licencee must have PWC equipped with an operating self-circling device or kill switch,
- May not operate above idle speed in water less than 18 inches in depth,
- May not operate between sunset and sunrise,
- May not Jump, or attempt jumping, the wake of another vessel within 100 feet of that vessel,
- May not operate within 300 feet of people in the water or surf fishing activities,
- May not disturb waterfowl and wildlife,
- May not operate in a reckless and/or negligent manner,

- May not operate if under the influence of alcohol, illicit drugs or pharmaceuticals that impair judgement or capacity to operate safely,
- Licencee must properly maintain and care for PWCs so as not to pollute coastal waters, coastline and beaches, and
- Mechanical work to PWCs may not be done on the beach, but rather at an approved facility up land.

Markers indicating the areas approved for jet skiing will be established and maintained by the government. Laws and regulations relating to the approved areas will be strictly enforced by the Royal Anguilla Police Force and the Department of Fisheries and Marine Resources who will be authorised to issue tickets to individuals/operators and Licencees who breach regulations.

Fines for individual/operator non-compliance with regulations will range from US\$ 200.00 to \$350.00 per offence; the latter being reserved for offences such as operating within 300 feet of swimmers. In an effort to ensure compliance jet ski business and other licencees may be revoked by the government for non-compliance of both the operators and the business.

Because some PWC models can travel at speeds of up to 65 M.P.H., the most important safety concern is the driver's ability to operate the vessel. There is particular concern surrounding the use and operation of PWC by people aged 15 and under because of their lack of driving experience. Hence the policy of the government, in keeping with international standards, will be to prohibit the use of PWCs by individuals younger than age 16. This recommendation is also made by the National Association of State Boating Law Administrators (NASBLA) of the U.S.A.

Personal watercrafts freestyle driving is driving a PWC in such a manner that the driver of another vessel would be unable to predict the course and speed of the vessel being operated by the operator intending to freestyle in order to avoid a collision.

In order to minimise accidents due to freestyling it will be prohibited under the following circumstances:

- Within 150 feet of another PWC or vessel,
- Within 300 feet of a person in the water, and
- Within the No Wake Zone.

Wave and wake jumping is defined as driving your personal watercrafts (PWC) over a wave or swell with the aim of becoming airborne. The wave or the swell may be formed naturally or by the passage of a vessel.

In order to minimise accidents due to Wave and Wake jumping it will be prohibited under the following circumstances:

- Within 150 feet of another PWC or vessel,
- Within 300 feet of a person in the water, and
- Within the No Wake Zone.

Personal watercrafts (PWC) are prohibited in all Marine Parks, and operations must be limited to the AAs.

Question 8: Should the maximum operating distance of 5000 feet be reduced or expanded? If so to what extent?

Question 9: Should swimming be banned from Authorised Areas?

Question 10: Is 16 years of age the appropriate limit to permit individuals to operate a PWC?

Question 11: Should there be other institutions other than the RAPF and the Department of Fisheries enforcing regulations of Authorised Areas?

Question 12: Should fees for licences be set at a rate to cover the cost of enforcement?

Operator Licensing

While Personal Water Craft (PWC) or Recreational Boat Operator (RBO) Licences will not be required to operate jet skis or like vessels in the Authorised Areas, businesses must perform basic tests on operators to ascertain their capacity to safely operate jet skis. Individuals who are in possession of a PWC or RBO General Operator License from either a government or some other authority (and can present said licence at time of rental) will be exempted from taking the basic test.

Question 13: Is the combination of approved personal licences and minimal on-site testing sufficient to ensure safe operations of PWC in Anguilla's territorial waters?

Vessel registration

PWC vessels will need to be registered and operators should exhibit a capacity to safely and responsibly operate them. Emphasis on safety, observing zones and respecting other users of bays and coastal waters will be placed on all operators and businesses.

In Anguilla any person wishing to operate any boat with an engine used (or capable of being used) for propulsion must be registered and in a seaworthy condition. Registration must be renewed every 12 months. This same standard will apply to PWC.

Insurance

Insurance for jet skis will be made mandatory. If jet skis are uninsured then liability for jet ski riders involved in accidents, where they are negligent, will fall on the individual operator or the owner of the watercraft. This means potentially difficult and lengthy action against individuals by victims should they seek to recover costs. The government will mandate compulsory third party No Fault insurance to these Jet Ski vessels whether owned by the Licencee or by a private

individual. PWCs from luxury yachts must also be insured in a similar manner, and evidence of such must be available upon demand by the relevant enforcement agency.

Question 14: Is the proposed level of insurance coverage sufficient?

Education and Regulation

While the regulatory approach to licensing and approval for jet skis in Anguilla will have the “light touch” approach when compared to motor vehicles on roads, the government must still be vigilant to ensure that the sector is properly regulated, and the users of the services are well educated as to what to expect with regard to operating jet skis in Anguilla.

In Anguilla individuals under the age of sixteen (16) will not be allowed to operate jet skis. A pamphlet similar to one attached to this policy will be shared with all operators who shall acknowledge in writing to the Licencee that they have understood the material and have agreed to abide by the laws and policies of Anguilla.

Question 15: Other than the proposed literature that will be shared with individuals who operate PWC, should there other educational activities geared at their safe use?

Environmental

Though PWC manufacturers have worked to address some of the environmental issues regarding PWCs, several issues still exist. These can often be mitigated with proper use by PWC operators. For example, refuelling the vessel on land rather than in the water reduces the chances of gasoline spillage into the water. In shallow waters, PWCs stir up sediment and prevent light penetration, thereby depleting the water and its inhabitants of oxygen. Riding PWCs in low water levels also destroys vegetation and sea grass beds, and operating the vessel near the shoreline can disrupt wildlife.

Anguilla, as part of this policy on PWCs will introduce boating zone regulations for these approved areas for safety and noise issues. They will help improve these problems because they prevent vessels from operating at full speed in low water levels and from operating near the shoreline.

Noise Pollution

Globally 8% of PWC use is on oceans. The remaining 92% is on lake-type waters in large countries.

PWCs produce a lot of noise because they continually leave the water. When PWC are airborne, the water cannot muffle the engine noise and when the vessels re-enter the water, a loud smacking noise is produced. Communities have responded to the issue of PWC noise pollution in various ways. Banning the operation of PWCs between sunset and sunrise is a restriction almost completely standardized in some lakes and oceans across the world. Regulations such as

distance limits of PWC use near shorelines and higher taxes on PWC sale and use are also popular methods.

Licence to operate a PWC business in an Authorised Area

The Government proposes a two tiered system of licencing to for the conduct of PWC businesses in Authorised Areas. These licences will be granted under the provisions of the Beach Control and the Trades Businesses, Occupations and Professions Licencing Acts.

The Beach Vending Committee will establish a competitive system of request for proposals for each area and consider the grant of licences to operators who in its opinion meet international and national standards of safety, have policies and procedures in place for respecting others using our territorial waters, and provide added value to the tourism industry through the responsible enhancement of water sports and training of staff and operators on the proper care and use of jet skis.

Subsequent to the grant of a licence under the Beach Control Act, a Business Licence will be considered under the Trades Businesses, Occupations and Professions Licencing Act.

In addition to the regular requirement for a Business Licence all proposals/applications for the establishment of a PWC business will not be considered unless the principals:

- (a) are competent in the use and operation of proposed equipment and vessels;*
- (b) are highly skilled as swimmers and properly trained in the procedure for rescuing and resuscitating drowning persons (or have full time staff with these skills on site during operating hours); and*
- (c) are holders of valid First Aid Certificate and are suitably qualified in the procedures for cardio-pulmonary resuscitation(or have full time staff with these skills on site during operating hours).*

Licences will be granted with the following conditions (other conditions may be added as the industry evolves):

1. A licensed water sports business shall ensure that appropriate instruction as to the use of jet ski machines used in water sports services be given to each person before the machine is used by that person in jet skiing.
2. A licensed water sports business shall not permit any person under the age of sixteen (16) years to participate in Jet Ski activities.
3. A licensed water sports business which provides jet-skiing sunfish sailing or board sailing activities, as the case may be, shall provide in connection therewith a boat or vessel for use in rescuing and conveying to shore, any person who, while engaged in any such activity, is injured or otherwise in need of such services.
4. Every such boat shall be equipped with a First Aid Kit and such life-saving equipment as the Ministry may specify.
5. All PWC vessels must be registered by Licencees to ensure seaworthiness.
6. A Licenced business must carry at least third party No Fault Insurance.

7. Licencee must provide safety and other literature to its patrons relating to the operations of the PWC in the AA.
8. A Licencee must ensure that the business is being operated to stipulated environmental standards.
9. A Licencee must ensure that they are operating in accordance with the licence which is subject to revocation in the case of breaches.

Question 16: Are these preliminary conditions sufficient to ensure effective licensing of operators of PWC? If not, what else should be included?

Process of obtaining a Licence to operate Jet Skis

The application for a Jet Ski Business Licence:

1. Submission of a completed Business Licence Application for the specific activity being applied for. This should be accompanied by first aid certification, a Business Plan, and documentation with regard to an onsite rescue vessel.
2. Approval from the Department of Physical Planning showing where the entity is proposed to be located. This is necessary so as to ensure that operationally all the requirements are in place and would indicate if the facility has met all the required operational standards in:
 - a. Safety
 - b. Health
 - c. Aesthetics
3. Approval from the Beach Vending Committee under the Beach Control Act.
4. Once the requisite documents are in place and the property has met the required standards, the application is then forwarded to the Ministry of Economic Development for review and approval or disapproval.
5. The company making the application would then be informed in writing within fifteen (15) working days by the Ministry of Economic Development as to whether or not they have been granted a licence.

The following is a list of documents which are required in order to obtain a Jet Ski Licence.

1. Copy of Certificate of Incorporation;
2. List of Directors;
3. Copy of Registration of Business Name (where applicable i.e. if Business Name is different from the name of the Company);
4. Copy of Tax Clearance;
5. Copy of Public Liability Insurance Certificate;
6. List of proposed employees stating job title and description;
7. Copy of CPR, First Aid certificates and Lifeguard licences for employees;

8. Copy of area map of the Beach location company will operate from;
9. Permission to operate from location;
10. Management plan on site regarding maintenance, preservation, safety, disaster preparedness, environmental safe practices and training of staff.

Question 17: Is the process for licencing transparent enough to ensure an objective system for approving Operator/Business licences?

CONSULTATION RESPONSES SHOULD BE SENT TO:
mofgoa@gov.ai Or Via post to The Ministry of Economic Development, Investment, Commerce & Tourism, P.O. Box 60, The Valley, Anguilla, AI2640.

DEADLINE FOR CONSULTATION RESPONSES: October 24, 2014.