ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER A57

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 19/2009, in force 26 October 2009
Act 4/2012, in force 30 April 2012
Act 16/2016, in force 30 December 2016
R.A. 33/2016, in force 19 September 2016

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER A57

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 19/2009, in force 26 October 2009
Act 4/2012, in force 30 April 2012
Act 16/2016, in force 30 December 2016
R.A. 33/2016, in force 19 September 2016

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying) without the written permission of the Government of Anguilla except as permitted by the Copyright Act or under the terms of a licence from the Government of Anguilla.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT

TABLE OF CONTENTS

PART 1

PRELIMINARY

SECTION

1. Interpretation

PART 2

ESTABLISHMENT, COMPOSITION AND OPERATION

2. Establishment of the Authority

The Board and its Operation

3. The composition and operation of the Board
4. Committees
5. Chairperson, Deputy Chairperson and interim chairperson
6. Remuneration, expenses and allowances of members
7. Resignation and removal of members
8. Procedures of Board

Officers and Employees

9. Liability of members
10. Appointment of Chief Executive Officer
11. Appointment of officers and employees
12. Remuneration of officers and employees
13. Exclusive authority of Board over officers and employees
14. Secondment of public officers
15. Transfer of services of public officers and preservation of pensions, allowances and other benefits

PART 3

POWERS AND DUTIES, PROVISIONS RELATING TO LAND, PROPERTY AND UNDERTAKINGS OF THE AUTHORITY

16. Powers and duties of the Authority
17. General powers of Authority
18. Immunity from distress of property of the Authority on premises other than those of Authority
19. Vesting of property relating to the Authority
20. Malicious interference with rights of Authority
21. Judicial review

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

PART 4

FINANCIAL PROVISIONS

22. Annual business plan
23. Funds and resources of the Authority and their application
24. Recovery of sums
25. Application of revenue of the Authority
26. Borrowing powers
27. Guarantee of borrowing of the Authority
28. Monies recovered to be paid into account of the Authority
29. Investment of surplus funds
30. Accounts and audit
31. Audit or acceptance of accounts by Chief Auditor
32. Annual accounts and report
33. Exemption from duties and taxes

PART 5

RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSER

34. Liability for loss of goods
35. Bonded warehouse
36. Limitation of liability for loss
37. Burden of proof in proceedings under section 34

PART 6

SHIP AND AIRCRAFT DUES AND CHARGES, TARIFF BOOK

38. Dues and charges
39. Payment of dues and charges
40. Appointment of agent
41. Security for charges
42. Detention by authorised officer
43. Certificate of authorised officer required before clearance requested
44. All goods considered to be in custody of authority
45. Power to determine conditions and carriage or warehousing of goods or other service or facility
46. The Authority may retain goods until freight is paid
47. Consignor or consignee liable for payment of carriage or warehousing
48. Duty to deliver description of goods
49. Power to levy charges
50. Effect of non-removal of goods
51. Application of the proceeds of sale
52. Compilation of dues and charges and Tariff Book

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

PART 7

PILOTAGE

53. Compulsory pilotage
54. Authority to employ pilots
55. Appointment and functions of the Pilotage Committee
56. Constitution of Pilotage Committee
57. Rules
58. Examination for licence
59. Enquiries by Pilotage Committee
60. Submission of Pilotage Committee's findings and recommendations to Authority
61. Liability of the owner and person in charge
62. Pilotage Committee and Authority not liable for loss or damage occasioned by pilots

PART 8

GENERAL RULES AND SPECIAL EMERGENCY PROVISIONS

63. Supply of information
64. Power of Chief Executive Officer
65. Disorderly conduct
66. Gambling
67. Sanitation
68. Preservation of property
69. Firearms, explosives and inflammable material
70. Power in respect to wrecks
71. Fire on board ship or aircraft
72. Fire at premises of lessee or occupier at a port
73. Accidents in ports
74. Liability for demurrage or other charges
75. Power to kill animals found trespassing
76. Delegation of Authority
77. Non-liability of Authority

PART 9

MOTOR VEHICLES AT THE PORTS

78. Traffic signs
79. Permits
80. Passenger vehicles
81. Public service vehicles
82. Motor vehicles generally
83. Intoxication while operating a vehicle
84. Omnibuses

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

PART 10

RETURNS OF INFORMATION AND REGULATIONS

85. Minister may require returns
86. Regulations

PART 11

OFFENCES

87. Damaging property likely to endanger life
88. Endangering safety of other persons
89. Failure to comply with directions under section 64
90. Failure to employ Authority Pilot
91. Failure to comply with section 63
92. Offence where authorised officer refused entry
93. False returns
94. Evasion of dues and charges
95. Demanding improper amount
96. Miscellaneous offences
97. Removal of animals and things
98. Chief Executive Officer's *fiat*
99. Proof
100. Powers of arrest
101. Place of trial
102. Chief Executive Officer may confer power on officers
103. Obstruction of person authorised by Authority
104. Offences by directors, officers or agents of the Authority
105. Offences and penalties
106. Notice
107. Appeals

PART 12

LEGAL PROVISIONS

108. Notice of claims
109. Limitation
110. Restriction on execution against property of the Authority
111. Overpayment or underpayment of dues and charges

PART 13

CITATION AND
TRANSITIONAL PROVISIONS

112. Citation
113. Transitional regulations

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

114. Transitional rates, terms and conditions of service and charges
115. Transitional lease of land, vesting of personal property and assignment of contracts
SCHEDULE 1: Limits of Ports
SCHEDULE 2: Procedures of Board
SCHEDULE 3: Recorders and Reporting of Accidents Relating to Aircraft
SCHEDULE 4: Offences and Penalties Relating to Aircraft

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA AIR AND SEA PORTS AUTHORITY ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act—

"aircraft" means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

"airport" means the airport at Clayton J. Lloyd International Airport described in Part 1 of Schedule 1, an aerodrome within the meaning of the Air Navigation (Overseas Territories) Order, 2007 No. 3468 and any amendments thereto, and includes all Crown property where any such aerodrome is situated, and any other airport deemed by the Governor in Council to be an aerodrome;
(Act 4/2012, s. 2(a))

"animal" means any animate thing of any kind except a human being;

"Authority" means the Anguilla Air and Sea Ports Authority established under section 2;

"Authority Pilot" means a person licensed to act as an Authority Pilot under section 58 and employed by the Authority under section 54;

"beacon" means any light, mark or sign used as an aid to navigation other than a buoy, and includes aeronautical beacons and such other aids as are commonly used in aviation;

"Board" means the Board of the Authority established under section 3(1);

"buoy" means any anchored float and includes any floating light, mark or sign used as an aid to navigation;

"business plan", in relation to a financial year, means—

(a) the business plan approved under section 22; and

(b) all amendments to the business plan approved under that section for the financial year;

"Chairperson" means the person designated under section 5(1) as Chairperson;

"charges" mean any charges, dues or rates levied by the Authority under this Act;

"Chief Auditor" has the same meaning as assigned to it in the Financial Administration and Audit Act;

"Chief Executive Officer" means the person appointed as Chief Executive Officer under section 10 and any person deputising for or acting under the authority of the Chief Executive Officer;

"container" means a non-expendable receptacle which is capable of being securely fastened and sealed and which is designed for transportation of goods in bulk;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"Court" means the Magistrate's Court or the High Court as applicable;

"customer" means a customer of the Authority and includes a potential customer;

"Customs" has the same meaning assigned to it in the Customs Act;
(Act 16/2016, s. 1)

"Deputy Chairperson" means the person designated under section 5(1) as Deputy Chairperson;

"dues" include pilotage dues, ship dues and cargo dues levied under this Act;

"financial year" means the 12 month period ending on 31st December in each year;

"foreshore" means that part of the coast and the sea contiguous thereto from the mean of the highest and lowest tides to the seaward edge of the furthest reef within the territorial waters of Anguilla or 1,000 yards seawards of the above mean where no such reef exists;

"goods" means all kinds of moveable property including animals;

"Government" means the Government of Anguilla;

"harbour" means a prescribed area of land and sea used by vessels for the embarkation of goods and passengers;

"interim chairperson" means the interim chairperson designated under section 5(3);

"land" means land as defined in the Registered Land Act;

"master" means the captain or other person in charge of a ship or aircraft and any agent appointed by him in writing;

"member" means a member of the Board appointed under section 3(1);

"Minister" means the member of Executive Council responsible for ports;

"Ministry" means the Ministry responsible for ports;

"owner" when used in relation to—

(a) goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, unloading or delivery of such goods;

(b) any ship or aircraft, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such person;

whether or not such goods or ships or aircraft are subject to any lien;

"perishable goods" mean goods liable to rapid deterioration and, in particular, includes fish, fruit, vegetables, meat, poultry, game, butter, eggs, milk, cheese, plants, and small animals;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"person in charge", in relation to an aircraft, means the pilot in command or other person having charge, command or control of the aircraft, and in relation to a ship the master or other person (other than an Authority Pilot) having charge, command or control of the ship;

"Pilotage Committee" means the Pilotage Committee appointed under section 55;

"port" means an airport or a seaport;

"premises" include any immovable property whether open or enclosed, whether built on or not, whether public or private and whether maintained or not under statutory authority;

"prescribed" means prescribed by regulation under section 86;

"public officer" means public officer within the meaning of section 73(1) of the Constitution of Anguilla;

"regulations" means the regulations made under this Act;

"sea port" means the port of Road Bay, Blowing Point and Corito Bay as described respectively in Parts 2, 3 and 4 of Schedule 1 and includes any other place declared by the Minister as a seaport;
(Act 4/2012, s. 2(b))

"ship" includes any ship, vessel, tug or boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed;

"Tariff Book" means the Tariff Book prepared and published under section 52(4) of this Act;

"vehicle" means any vehicle towed or propelled by any means whatsoever for the portage of goods or persons otherwise than by sea or air;

"vessel" means any description of watercraft including air-cushion craft used or capable of being used as a means of transportation;

"wreck" includes jetsam, flotsam, lagan, and any derelict found in or on the shores of the sea or any tidal waters.

PART 2

ESTABLISHMENT, COMPOSITION AND OPERATION

Establishment of the Authority

2. (1) The Anguilla Air and Sea Ports Authority is established with an exclusive right to manage the ports of Anguilla.

(2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its name.

(3) The Authority has an exclusive right to the use of its name.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(4) The common seal shall be kept in such custody as the Board directs and shall be authenticated by the Chairperson or Deputy Chairperson or by any member duly designated by the Chairperson.

(5) Contracts and instruments made by the Board, other than those required by law to be under seal and resolutions of the Board, may be authenticated under the hand of the Chairperson or Deputy Chairperson.

The Board and its Operation

Composition and operation of the Board

3. (1) The affairs of the Authority shall be managed by a Board consisting of not more than 10 members appointed by the Governor in Council from among persons experienced or engaged in business management, industrial relations, engineering, shipping, airport management, import and export operations, tourism or law or areas such as shipping, airlines, labour relations, community services, finance, law, trade, science and tourism, but no more than 2 members shall be public officers.

(2) Each member shall be appointed for a term not exceeding 3 years.

(3) A person is disqualified from being appointed and from remaining a member if the person—

(a) is under the age of 18 years;

(b) is a member of the House of Assembly;

(c) is an officer or employee of the Authority;

(d) is an undischarged bankrupt;

(e) is of unsound mind; or

(f) has been convicted of an offence involving dishonesty, whether in Anguilla or outside, or of a contravention of this Act or the regulations.

(4) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

(5) A notice of the appointment of a member shall be published without delay in the *Gazette* after the appointment.

(6) The Board is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member, other than a disqualification referred to in subsection (3).

(7) If a member is—

(a) absent from Anguilla; or

(b) unable to act;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

the Minister may appoint a person who is eligible to be so appointed to act during the member's absence or inability to act.

Committees

4. (1) The Board may establish any committees that it considers appropriate to advise it on the furtherance of the objects of the Authority.

(2) A committee may consist of Board members or persons who are not Board members or both.

(3) The members of a committee of the Board may be paid an attendance allowance if the Board considers it appropriate.

Chairperson, Deputy Chairperson and interim chairperson

5. (1) The Governor in Council shall designate, from among the members who are not public officers, one person to be Chairperson and another to be Deputy Chairperson of the Board.

(2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent or unable to act or the office of Chairperson is vacant.

(3) If, by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices, the Board does not have a chairperson, the Board may designate one of the members as an interim chairperson.

Remuneration, expenses and allowances of members

6. (1) The members shall be paid such remuneration as may be determined by the Governor in Council.

(2) The Board may—

(a) reimburse the reasonable expenses of members; or

(b) establish allowances for the reimbursement of reasonable expenses of members, incurred in the course of the carrying out of their responsibilities as members.

Resignation and removal of members

7. (1) A member may at any time resign by giving written notice to the Minister and a resignation is effective upon receipt of the notice by the Minister.

(2) The Governor in Council may, by written notice, remove a member from office if the Governor in Council is satisfied that—

(a) the member has, without the consent of the Board, been absent from 3 or more consecutive meetings of the Board;

(b) the member is or becomes disqualified under section 3(3) from being appointed or from remaining as a member;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) the member has an interest that is likely to affect prejudicially the exercise and performance of his or her responsibilities as a member;

(d) the member is unable or unfit to carry out his or her responsibilities as a member; or

(e) it is in the public interest to do so.

(3) If a member resigns, is removed from his or her office or his or her office is vacated by death prior to the expiry of the term for which he or she has been appointed, the Governor in Council may appoint a new member to replace him or her.

(4) An appointment of a member under subsection (3) may be for the unexpired period of the term of office of the member in whose place he or she is appointed.

(5) A notice of the resignation or removal or the vacating of office by death of a member shall be published in the *Gazette* without delay after such resignation, removal or death, as may be the case.

Procedures of Board

8. Schedule 2 has effect with respect to procedures of the Board.

Officers and Employees

Liability of members

9. No action for damages may be commenced against a member or a committee member who is not a member for anything done or not done in good faith by the member or committee member while carrying out his or her responsibilities or exercising his or her powers under this Act.

Appointment of Chief Executive Officer

10. (1) The Board shall, at such remuneration and on such terms and conditions as it considers appropriate, appoint a Chief Executive Officer of the Authority, who shall be a full-time officer of the Authority and shall not engage in any other trade, profession, occupation or business without the consent of the Board.

(2) Without prejudice to the generality of subsection (1), the Chief Executive Officer shall—

(a) attend meetings of the Board;

(b) carry out the directives of the Board; and

(c) perform such other functions in accordance with this Act and the terms and conditions of his or her contract of employment.

(3) Under the direction of the Board, the Chief Executive Officer is responsible for—

(a) the management of the Authority; and

(b) providing technical advice and guidance to the Board on matters of policy.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(4) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent from Anguilla or is unable to act, the Board may appoint an officer of the Authority to act on his or her behalf.

Appointment of officers and employees

11. The Board shall, in addition to the Chief Executive Officer, appoint at such remuneration and on such terms and conditions as it considers appropriate a Finance Manager and such other officers and employees as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Authority.

Remuneration of officers and employees

12. (1) The Governor in Council may give to the Board directions of a general nature in relation to the remuneration of the officers and employees of the Authority and the Board shall follow such directions in appointing the Chief Executive Officer, Finance Manager and such other officers and employees as are necessary on such terms and conditions as it considers appropriate for the proper carrying out of the responsibilities and the exercise of powers of the Authority.

(2) No officer or employee of the Authority appointed under subsection (1) shall engage in any other trade, profession, occupation or business without the consent of the Board.

(3) Whenever the office of Finance Manager is vacant or the Finance Manager is absent from Anguilla or is unable to act, the Chief Executive Officer may appoint an officer of the Authority to act on his or her behalf.

(4) The Board may delegate to the Chief Executive Officer the power—

(a) to appoint employees or classes of employees; and

(b) to consent on behalf of the Board to any such employee engaging in any trade, profession, occupation or business.

Exclusive authority of Board over officers and employees

13. (1) Except in respect of public officers who are seconded to the Authority, the Board has final authority in respect to the appointment, termination, promotion or discipline of its officers or employees.

(2) The Board may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this Act with respect to termination of employment or discipline of its officers or employees to any one or more members of the Board, or with the approval of the Governor in Council, to the Chief Executive Officer.

Secondment of public officers

14. (1) The Governor may approve the secondment of such public officers for service with the Authority as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers.

(2) A public officer seconded under subsection (1) shall, in relation to payment of salary, pension, gratuity and the like and to other rights and to discipline, be treated as if the public officer were not so seconded.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Transfer of services of public officers and preservation of pensions, allowances and other benefits

15. (1) All public officers employed in the Airport and Sea Ports Department of the Government are transferred, on 26 October 2009, to the service of the Authority at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before then.

(2) The Board may, on or after 26 October 2009—

(a) terminate the employment; or

(b) vary the terms and conditions of service;

of any person referred to in subsection (1) in the same manner and to the same extent as before that date.

(3) The rights of a person referred to in subsection (1) to a pension, allowance or gratuity for which he or she would have been eligible had he or she remained in the public service are preserved, and his or her service with the Authority shall be pensionable under the Pensions Act as if the person had not been so transferred.

PART 3

POWERS AND DUTIES, PROVISIONS RELATING TO LAND, PROPERTY AND UNDERTAKINGS OF THE AUTHORITY

Powers and duties of the Authority

16. The objects of the Authority are to engage in activities such as to—

(a) manage and operate the ports including related port facilities and regulate all commercial activities in the ports in such a manner that the public has access to services that are reliable, efficient, safe and economic;
(Act 4/2012, s. 3)

(b) maintain and from time to time to repair, alter or replace, in whole or in part, the ports of Anguilla, and related facilities;

(c) upgrade and extend the ports and related facilities in all parts of Anguilla to the extent that it is reasonable for the Authority to do so.

General powers of Authority

17. (1) In addition to the other powers conferred upon the Authority in this Act and the regulations, the Authority has the power to do all things necessary for, or ancillary or incidental to, the carrying out of its objects, including the power to—

(a) co-ordinate and integrate systems of airports, seaports and port services and to levy charges and dues for the use of the facilities and services provided;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) design, construct, acquire by purchase, lease or otherwise and operate facilities relating to the ports;

(c) enter into any transaction which in the opinion of the Authority, is necessary to ensure the proper performance of its functions and to ensure the commercial viability of the Authority;

(Act 4/2012, s. 4)

(d) in particular and without prejudice to the generality of the provisions of paragraphs (a), (b) and (c), it is the duty of the Authority to—

(i) manage and operate the ports as appears to be best calculated to serve the public interest,

(ii) regulate and control navigation within the limits of such ports and their approaches,

(iii) maintain, improve and regulate the use of such ports and the services and facilities therein as it considers necessary or desirable,

(iv) provide for such ports and the approaches thereto such pilotage services, air traffic control services, beacons, buoys and other navigational services and aids as it considers necessary or desirable,

(v) exercise the duties and functions in any enactment relating to shipping, aviation and navigation formerly exercisable by the Ministry of the Government of Anguilla with responsibility for ports,

(vi) carry out exclusively the loading, unloading, landing and carrying of all goods to and from all ships and aircraft in a Port, and

(vii) engage in commercial activity in a port;

(Act 4/2012, s. 4)

(e) open, maintain or close an account with any bank in Anguilla that holds a licence under the Banking Act[1];

(f) write off debts; and

(g) make reasonable contributions to charitable or philanthropic causes by way of sponsorship or otherwise.

(2) The Authority may, with the approval of the Minister, authorise in writing any person, corporation or other body to carry out the functions stated in this section subject to such conditions and restrictions as the Authority may consider desirable.

(3) The Authority may, with the approval of the Minister, enter into an agreement with Customs to collect, on behalf of the Authority, any dues and fees levied for the use of the facilities and services provided by the Authority.

(Act 16/2016, s. 3)

[1] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(4) The agreement referred to in subsection (3) may include a provision to compensate Customs for the services provided to the Authority under the agreement.

(Act 16/2016, s. 3)

Immunity from distress of property of the Authority on premises other than those of Authority

18. Notwithstanding any other Act, except where the Authority otherwise agrees, all property of the Authority in, on, under, through or over land registered in the name of a person, other than the Authority—

(a) is and remains the property of the Authority;

(b) is not a fixture in relation to the land; and

(c) is not liable—

(i) to distress, seizure, attachment or execution under any process of any court or otherwise, or

(ii) to proceedings in insolvency, bankruptcy, liquidation, receivership or otherwise against the person in whose name the land is registered.

Vesting of property relating to the Authority

19. (1) Property in connection with or in relation to the Authority that, immediately before the 26 October 2009, was vested in the Crown or the Government, remains vested in the Crown or Government.

(2) All wayleaves, easements and other rights in relation to land of whatsoever nature that, immediately before 26 October 2009, were enjoyed by the Crown or the Government in, on, through, under or over any land in connection with or in relation to the property of the Authority, remain to be enjoyed by the Crown or the Government.

(3) Any wharf, dock, or other public work constructed by the Government along, across or extending out from the foreshore within the limits of a port and the land on which the same is constructed, any land reclaimed from the sea, and any part of the foreshore situate within these limits, may be vested in the Authority by the Governor in Council upon such terms and conditions as he or she may determine.

(4) This section does not derogate from or interfere with the use of private rights and the payment of adequate compensation under any enactment providing for compensation.

Malicious interference with rights of Authority

20. (1) Notwithstanding anything in this Act or the regulations, if a person wilfully or maliciously places or permits another person to place on any land anything that obstructs, hinders or interferes with the exercise by the Authority of any of its rights or powers under this Act or the regulations, the Authority may remove the thing in question at the cost of the person who placed the thing or permitted the thing to be placed on the land, and the Authority shall not be required to reinstate the land or pay compensation for any damage caused by the removal.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) If a disagreement arises with respect to a matter under subsection (1), the Authority or person who placed the thing or permitted the thing to be placed on the land may apply to the Minister for an order respecting the Authority's duty to reinstate the land or pay compensation under that subsection, and the Minister may, after consultation with the Executive Council, make such order as he sees fit.

Judicial review

21. A person aggrieved by an order of the Minister made under section 20 has a right to have the order reviewed by the High Court.

PART 4

FINANCIAL PROVISIONS

Annual business plan

22. (1) The Authority shall, not later than 4 months before the commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial year, and submit to the Minister, a proposal for a business plan for the financial year in accordance with the regulations.

(2) The Authority shall in each financial year set aside in a fund, to be called the Expansion Reserve Fund, an amount that is not less than 1% of the gross recurrent revenue of the Authority in the previous financial year and not more than the amount, if any, set by the Minister.

(3) The Minister may, on the request of the Authority, extend the time for submitting a proposal for a business plan.

(4) The estimated expenditure of the Authority shall include an amount for the reserves of the Authority.

(5) The Minister shall, as soon as practicable, consider the proposal for a business plan and may—

(a) approve the proposal as submitted;

(b) with the approval of the Authority, amend the proposal and approve it as amended; or

(c) refer the proposal back to the Authority with directions that the Authority take any further action on it that the Minister considers appropriate.

(6) Where the Minister refers the proposal for a business plan back to the Authority under paragraph (5)(c), he or she shall provide the Authority with his or her reasons for not approving it.

(7) A proposal for a business plan that is referred back to the Authority under paragraph (5)(c) must be resubmitted to the Minister as directed by the Minister, and, when it is resubmitted, subsections (3) and (6) apply.

(8) When a proposal in relation to a financial year is approved, it becomes the business plan for that financial year.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(9) The Authority—

(a) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and

(b) shall, on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.

(10) Subsections (4), (6), (7) and (8) apply to a proposal submitted to the Minister under subsection (9).

(11) Notwithstanding anything in this section, when—

(a) the proposal for a business plan for a financial year is not approved one month before the commencement of the financial year; and

(b) it appears to the Minister and the Authority that the business plan is not likely to be approved before the commencement of the business year;

the Minister and the Authority may agree on an interim business plan for the first quarter of the financial year pending the approval of the proposal for a business plan for the financial year, and that interim business plan is the business plan of the Authority until the proposal for a business plan for the financial year is approved under this section.

(12) The Authority shall in each financial year implement the business plan for that financial year.

Funds and resources of the Authority and their application

23. (1) The funds and resources of the Authority are—

(a) the sums received by the Authority in respect of dues and charges levied and payable under the provisions of this Act and any regulations;

(b) all other sums other than loans that may become payable to or vested in the Authority in respect of any matter incidental to its powers and duties;

(c) money appropriated by the House of Assembly for the purposes of the Authority;

(d) interest and dividends from the investment of the Authority's funds;

(e) money borrowed by the Authority under this or any other Act;

(f) personal property of the Authority and money derived from the dealing with or disposal of the personal property held by the Authority;

(g) all other money lawfully received or made available to the Authority; and

(h) payments into the Consolidated Fund relating to the Authority, including any fines imposed by the Court.

(2) The funds and resources of the Authority shall be applied for the purposes of the Authority.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Recovery of sums

24. In addition to any other remedy given under this Act, all dues, charges, compensation, damages, costs, expenses or other sums due to the Authority under the provisions of this Act may be recovered by the Authority as a civil debt.

Application of revenue of the Authority

25. The revenue of the Authority in any financial year shall be applied in payment of the following charges—

(a) the interest and other charges on, and provisions for repayment of, any loan payable by the Authority;

(b) the sums required to be paid towards the repayment of any loan made to the Authority;

(c) the remuneration, fees and allowances payable under this Act;

(d) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and staff, employed in or in connection with the activities carried on by the Authority;

(e) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of the Authority, and the discharge of the functions of the Authority properly chargeable to revenue account;

(f) such sums as the Authority may consider appropriate to set aside in respect of obsolescence and depreciation or renewal of the property or installations of the Authority;

(g) the cost, or any portion thereof, of any new works, plant, or appliances not being a renewal of property of the Authority, which the Authority may determine to charge to revenue;

(h) sums to be appropriated to the Expansion Reserve Fund established under section 22;

(i) any other expenditure authorised by the Authority and properly chargeable to revenue.

Borrowing powers

26. (1) The Authority may, with the approval of the Minister and to the extent that it considers it necessary to carry out its objects—

(a) borrow money by way of loan, advance or overdraft;

(b) obtain goods and services on credit; or

(c) do both the things referred to in paragraphs (a) and (b).

(2) Notwithstanding subsection (1), the approval of the Minister is not required if, in a financial year—

(a) the total money borrowed by way of loan, advance or overdraft; and

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) the total value of goods and services, other than goods and services obtained on credit by the Authority that are paid for in less than 30 days after the end of the financial year or such greater time as may be prescribed;

do not exceed $1,000,000 or such greater amount as may be prescribed for the purposes of this subsection.

(3) The Government, with the approval by resolution of the House of Assembly, may act as guarantor in respect of a loan or the payment of goods and services obtained on credit by the Authority.

Guarantee of borrowing of the Authority

27. With the approval of the House of Assembly the Minister may guarantee, in such manner and on such conditions as he or she may think fit, the repayments of the principal of and the payments of interest and other charges on any authorised borrowing by the Authority.

Monies recovered to be paid into account of the Authority

28. All fines, compensation, damages, costs or other sums directed to be paid in respect of any offence, proceeding or matter arising out of the performance of the duties, powers and functions under this Act or any regulations shall be paid into the account of the Authority.

Investment of surplus funds

29. Subject to the written instructions of the Minister, the Board may invest any of its funds not immediately required for carrying out the responsibilities or exercising the powers of the Authority.

Accounts and audit

30. (1) The Authority shall—

(a) keep proper books of account of its income and other receipts and expenditures; and

(b) ensure that—

(i) all money received is promptly and properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Authority.

(2) The books of account kept under subsection (1) shall—

(a) be sufficient to record and explain the Authority's transactions;

(b) enable the Authority's financial position to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) Within 3 months after the end of each financial year, the Authority shall prepare accounts containing—

(a) a statement of the assets and liabilities of the Authority at the end of the financial year;

(b) a statement of the revenue and expenditure of the Authority during the financial year;

(c) such other financial statements for the financial year as may be specified in writing by the Minister; and

(d) proper and adequate explanatory notes to the statements;

and the accounts shall be audited by an external auditor appointed by the Board with the approval of the Chief Auditor.

(4) The external auditor shall be a qualified accountant.

(5) The Authority shall not appoint as an external auditor, and no person shall act as an external auditor of the Authority, if, in the financial year in which the appointment is made or in the preceding financial year, the person—

(a) is or was a member;

(b) has or had a direct or indirect interest in a contract with the Authority, other than the contract respecting the external audit; or

(c) is or was employed by the Authority in a capacity other than as external auditor.

Audit or acceptance of accounts by Chief Auditor

31. Without delay after the completion of the audit by the auditor appointed by the Board, the Board shall submit the accounts to the Chief Auditor, who—

(a) may audit the accounts; or

(b) may accept the audit of the external auditor appointed by the Board with the approval of the Chief Auditor;

and, not later than 3 months after receipt of the accounts, forward to the Board a report on the examination and audit of the accounts of the Authority or a report evidencing his or her acceptance of the audit of the external auditor appointed by the Board.

Annual accounts and report

32. (1) Within 3 months after the receipt of the report of the Chief Auditor, the Board shall submit to the Minister—

(a) its audited accounts and a copy of the report of the Chief Auditor; and

(b) an annual report of its operations and activities for that financial year.

(2) The annual report shall contain such matters as the Minister may require.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) The Minister shall, without delay after receipt, table the audited accounts of the Authority, the report of the Chief Auditor and its annual report before the House of Assembly, if it is sitting, and, if it is not then sitting, without delay after it next sits.

(4) As soon as reasonably practicable after the audited accounts of the Authority, the report of the Chief Auditor and the annual report of the Authority have been tabled before the House of Assembly, the Authority shall cause its audited accounts, the report of the Chief Auditor and its annual report to be published in the *Gazette*.

Exemption from duties and taxes

33. Notwithstanding any provision contained in any other law the Authority is not liable to pay any import duty, stamp duty, income tax, municipal tax, rate or any other duty or tax whatsoever.

PART 5

RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSER

Liability for loss of goods

34. (1) Subject to the provisions of this Act or any regulations or of any contract, the Authority is not liable for the loss, misdelivery or detention of, or damage to goods—

(a) delivered to or in the possession of the Authority, otherwise than for the purposes of carriage and warehousing except where such loss, misdelivery, detention or damage is caused by lack of reasonable foresight and care on the part of any person employed by or on behalf of the Authority;

(b) accepted by the Authority for carriage or warehousing where such loss, misdelivery, detention or damage occurs otherwise than while the goods are intransit or being warehoused and is not caused by the want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority.

(2) However, the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from—

(i) act of God,

(ii) act of war or the Queen's enemies,

(iii) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person,

(iv) fire, flood, tempest, riots, civil commotion, strikes, lockouts, stoppage or restraint of labour from whatever cause, whether partial or general,

(v) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration or vermin,

(vi) deficiency in the contents of unbroken packages,

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(vii) unprotected cargo, insufficiency or improper packing or leakage from defective drums, containers or packages.

(3) Further, where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing the limitation contained in section 36 shall apply. Any claim in respect of a single package shall not exceed $1,000.

Bonded warehouse

35. (1) If any warehouse of the Authority is approved and appointed under any enactment relating to customs, the Authority may give general security by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such bonded warehouse or for the due exportation of such goods.

(2) When such security has been given by the Authority, a further security shall not be required by the Comptroller of Customs from any other person to the same effect.

(3) This section shall not be taken however to absolve any person who is liable to pay duties from paying any such duty as he or she would be compelled to pay in respect of any such goods.

Limitation of liability for loss

36. The liability of the Authority in respect of any goods accepted by the Authority for carriage or warehousing and in relation to which an account, false in any material particular, has been given under section 48, shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

Burden of proof in proceedings under section 34

37. In any proceedings to which the provisions of section 34 apply, it shall not be necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

PART 6

SHIP AND AIRCRAFT DUES AND CHARGES, TARIFF BOOK

Dues and charges

38. Subject to the provisions of this Act and the regulations—

(a) every ship which enters a port for the purpose of loading or unloading cargo or embarking or disembarking passengers or which occupies an anchorage or berth within a port; and

(b) every aircraft which uses a port;

shall pay to the Authority the dues and charges in respect of such ship or aircraft and for any service performed or facility provided in respect of such ship or aircraft in accordance with the regulations under this Part.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Payment of dues and charges

39. All dues and charges payable under this Part shall be paid at the prescribed time, and where no such time is prescribed such dues and charges shall be paid on demand. All dues and charges are considered to have been demanded when they become payable.

Appointment of Agent

40. Every ship and aircraft shall appoint an agent who shall be responsible for the payment of the dues and charges without prejudice to the recovery by the agent from the owner or person in charge of the ship or aircraft of such sums paid on behalf of any such ship or aircraft.

Security for charges

41. An agent who intends to incur a liability in respect of any of the sums mentioned in section 38 may deposit with the Authority, or guarantee such sums as are in the opinion of the Authority reasonable, having regard to the amount or probable amount of the sums which such agent is liable to pay to the Authority.

Detention by authorised officer

42. (1) Where any sums mentioned in section 39 are owing in respect of any ship or aircraft, any officer authorised by the Chief Executive Officer may with such assistance as he or she considers necessary enter such ship or aircraft and may arrest the ship or aircraft and the furniture, fixtures and equipment, and may detain it until the said sums are paid.

(2) Where, after such arrest, such sums remain unpaid for a period of 7 days an officer authorised by the Chief Executive Officer may cause the ship or aircraft and the furniture, fixtures and equipment thereof arrested to be sold, and out of the proceeds of such sale he or she shall retain the amount necessary to meet the expenses of the detention and sale and shall after paying the amount of any sums which are owing to the Authority, deliver the balance to the agent.

(3) Where any ship or aircraft in respect of which the sums mentioned in section 39 are owing and have not been secured as provided in section 40 leaves a port and enters or is in any other port, then such ship or aircraft may be dealt with as if such sums so owing and not secured as aforesaid were sums owing in respect of such other port.

Certificate of authorised officer required before clearance requested

43. (1) Before the person in charge of a ship or aircraft in a port shall obtain outward clearance from that port he or she shall first obtain from an officer authorised by the Chief Executive Officer a certificate stating that—

(a) all dues and charges in respect of the ship or aircraft and all penalties and expenses to which the ship or aircraft and the person in charge are liable under this Act or regulations have been paid or secured to the satisfaction of the person authorised by the Chief Executive Officer; and

(b) he or she has complied with the provisions of this Act and the regulations.

(2) Without prejudice to any proceedings which may be instituted under this Act, the proper officer within the meaning of the Customs Act may withhold clearance under the Customs Act of any vessel in respect of whom fees, dues and charges are payable if he is notified by the Accountant General

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

or authorised public officer that adequate arrangements for the payment of such fees, dues and charges have not been made.

All goods considered to be in custody of authority

44. Notwithstanding the Customs Act or any other enactment all goods except the goods mentioned in section 137 of that Act shall on importation or exportation by sea or air be considered to be in the custody of the Authority.

Power to determine conditions and carriage or warehousing of goods or other service or facility

45. The Authority may subject to the provisions of this Act and the regulations determine—

(a) the conditions upon which goods shall be carried or warehoused and different conditions may be determined in different cases;

(b) the charges for the carriage or warehousing of goods by the Authority and for any other service or facility performed or provided by the Authority.

The authority may retain goods until freight is paid

46. (1) Where the agent of a ship or aircraft from which any goods have been landed at a port and accepted by the Authority for carriage or warehousing or for delivery to the consignee, notifies the Chief Executive Officer in writing that the freight or other charges in respect of such goods remain unpaid, the Chief Executive Officer shall retain the goods and refuse delivery of them to the consignee or any other person until—

(a) the payment of such freight or other charges in respect of such goods; or

(b) the production of a receipt for, or a release from, the payment of such amount signed, or purporting to be signed by or on behalf of the agent.

(2) Where the Authority causes to be delivered any goods in respect of which a notice is given under subsection (1) to a person making such payment or producing such receipt or release as is referred to in paragraph (a) or (b) of that subsection, the Authority shall be freed from all liability to any person in respect of the goods.

(3) This section shall not be construed as requiring any person to take into the custody of the Authority any goods which would not otherwise be receivable by the Authority under the provisions of this Act or any regulation or as requiring the Authority to inquire into the validity of any claim made for freight or any other sums mentioned in any notice given by an agent under subsection (1).

Consignor or consignee liable for payment of carriage or warehousing

47. The consignor of or the person tendering any goods for carriage or warehousing by the Authority, or the consignee of or person receiving any goods which have been carried or warehoused by the Authority, is liable in accordance with the regulations under this Part for the charges of such carriage or warehousing and any other services performed or facility provided by the Authority in respect of the goods.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Duty to deliver description of goods

48. (1) The consignor of or the person tendering any goods for carriage or warehousing by the Authority, and, on request by the Chief Executive Officer, the consignee of or person receiving any goods which have been carried or warehoused by the Authority, shall deliver to the Chief Executive Officer the documents as prescribed in the regulations under this Part to enable him or her to determine the charges payable in respect of the carriage or warehousing or any other service performed or facility provided in respect of the goods.

(2) The Chief Executive Officer may, for the purpose of verifying the documents delivered under subsection (1) require such consignor, person or consignee, as the case may be, to permit him or her to examine such goods.

(3) If such consignor, person or consignee fails to deliver the documents referred to in subsection (1) or to permit such goods to be examined as required in subsection (2), the Chief Executive Officer may, in respect of the goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for such carriage or warehousing unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.

(4) If in respect of goods which have been carried or warehoused by the Authority, any document delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, the Chief Executive Officer may refuse to deliver such goods unless in respect of warehousing or carriage of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid without prejudice to any penalty that may be imposed under any other section of this Act.

Power to levy charges

49. In respect of all goods in custody of the Authority under section 44, the Chief Executive Officer is entitled to levy such charges as may be determined in accordance with the regulations made under this Act, and he or she may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

Effect of non-removal of goods

50. (1) Subject to the provisions of this section and without prejudice to the provisions of section 49 where any goods in the custody of the Authority and on any premises of the Authority are not removed therefrom within a period of 15 days from the time when the goods were placed in or on such premises the Chief Executive Officer shall cause a notice to be served on the owner requiring him or her to remove the goods.

(2) Where—

(a) the owner of any goods in the possession of the Authority is not known;

(b) the notice referred to in subsection (1) cannot for any reason be served; or

(c) there has been a non-compliance with the provisions of any notice served under subsection (1);

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

the Chief Executive Officer, may within a reasonable time not being less than 6 weeks sell the goods by public auction after giving 7 days notice in the *Gazette* before the sale.

(3) Where the goods are perishable the Chief Executive Officer may require their removal within a shorter period, not being less than 24 hours after the landing of the goods or he or she may sell the goods without giving the said notice but shall as soon as practicable inform the owner of the action that has been taken.

Application of the proceeds of sale

51. The proceeds of any sale under section 50 shall be applied by the Authority as follows, and in the following order—

(a) in the payment of any duty payable in respect of the goods;

(b) in the payment of the expenses of sale;

(c) in payment of the sums due to the Authority in respect of the carriage or warehousing and other service performed or facility provided in respect of the goods;

(d) in payment of freight and other claims of which notice under the provisions of this Act has been given;

and by rendering the surplus, if any to the owner on demand, and if no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the funds of the Authority, whereupon all rights to the same of the owner shall be extinguished.

Compilation of dues and charges and Tariff Book

52. (1) Subject to the provisions of this Act, the dues, charges and conditions for any service or facility performed or provided by the Authority when determined, shall be in the form of regulations, and shall be first submitted to and approved by the Minister after consultation with the Executive Council.

(2) Such regulations shall have effect from the date of their publication or from such later date as may be specified therein.

(3) Subject to the approval of the Minister, and without prejudice to subsection (1) and (2), the regulations shall be considered to have been made and be embodied in the Tariff Book as provided in accordance with subsection (4).

(4) The Authority shall cause to be prepared and published in such manner as it may think fit a Tariff Book containing all matters which under this Act or any regulation are required to be contained therein, together with such other matters as the Authority may determine.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

PART 7

PILOTAGE

Compulsory pilotage

53. (1) Seaports are compulsory pilotage ports and all ships other than exempted ships, navigating whether by entering, leaving or moving within their limits shall be under the pilotage of an Authority Pilot.

(2) For the purposes of this section the following ships are exempted ships—

(a) ships belonging to Her Majesty;

(b) ships owned or operated by the Authority;

(c) pleasure yachts or fishing vessels;

(d) ferrying boats plying as such exclusively within the limits of a port;

(e) ships of less than 100 tons gross register;

(f) ships trading exclusively between seaports and other parts of the State;

(g) tugs, dredges, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the State.

(3) The Chief Executive Officer may exempt from compulsory pilotage any ship in any particular case.

Authority to employ pilots

54. (1) Subject to the provisions of this Act, the Authority may employ such number of Authority Pilots as it considers necessary or expedient for the purpose of providing an adequate and efficient pilotage service.

(2) A person shall not be employed as an Authority Pilot unless he or she is in possession of a valid licence to act as an Authority Pilot issued under section 58.

(3) The Authority may require an Authority Pilot to give a bond in favour of the Authority for the proper performance of his or her duties in such amount as the Authority determines.

Appointment and functions of the Pilotage Committee

55. The Authority shall appoint a Pilotage Committee for the purpose of—

(a) holding examinations and issuing, on behalf of the Authority, licences to act as an Authority Pilot;

(b) holding inquiries concerning the conduct of Authority Pilots in the discharge of their duties;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service of the Authority;

(d) investigating and advising on such matters as may be referred to the Committee by the Authority; and

(e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

Constitution of Pilotage Committee

56. (1) The Pilotage Committee shall consist of—

(a) the Chief Executive Officer who shall be the chairperson of the Committee; and

(b) four other persons who by reason of their knowledge of or experience in nautical matters, are, in the opinion of the Authority, fit and proper persons to be members of the Committee.

(2) The appointment of a member of the Pilotage Committee shall be for any period not exceeding 3 years but such member shall be eligible for re-appointment on completion of every such period.

(3) Three members of the Pilotage Committee constitute a quorum at any meeting of the Committee.

(4) The chairperson of the Pilotage Committee shall preside at all meetings. However, if the chairperson is absent from a meeting or any part of it, such member as the members of the Pilotage Committee present shall choose, shall preside in his or her place.

(5) The chairperson or member presiding at any meeting of the Pilotage Committee shall have a vote and, in the case of an equality of votes, a second or casting vote.

(6) Members of the Pilotage Committee who are not employees of the Government or of the Authority may be paid, out of the funds of the Authority, such fees and allowances as the Authority may determine.

Rules

57. Subject to the provisions of this Act, the Authority may, make, vary or revoke rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Examination for licence

58. (1) The Pilotage Committee shall examine candidates for employment by the Authority as pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness, to act as an Authority Pilot may, on behalf of the Authority, issue to him or her a licence to act as such, and such licence may contain such conditions as the Pilotage Committee may consider fit.

(2) Every Authority Pilot shall whenever the Pilotage Committee considers that, owing to changed conditions or for any other sufficient reason, the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself or herself for further examination, and

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

shall in every such case first deposit with the Pilotage Committee his or her licence issued by the said Committee on behalf of the Authority to be returned or cancelled by the said Committee on behalf of the Authority as the result of such examination determines.

(3) The Authority shall not continue to employ as an Authority Pilot any pilot whose licence to act as such is cancelled as the result of any examination carried out or held under the provisions of subsection (2).

(4) Any licence issued under the provisions of this section shall cease to be valid upon the termination of any Authority Pilot's employment with the Authority.

Enquiries by Pilotage Committee

59. (1) The Pilotage Committee may, and when directed by the Authority shall, hold an inquiry into the conduct of an Authority Pilot where it appears that he or she commits misconduct affecting his or her capability or has failed in or neglected his or her duty or has otherwise become incompetent to act as an Authority Pilot.

(2) For the purposes of such inquiry, the Pilotage Committee may summon any person in Anguilla to attend any meeting of the said Committee to give evidence on oath or produce any document or other thing in his or her possession and to examine him or her as a witness or require him or her to produce any document or other thing in his or her possession relative to the matters which are the subject matter of such inquiry.

(3) Any person who—

(a) being summoned to attend any such inquiry, fails to do so;

(b) offers any act of disrespect or any insult or threat to the Pilotage Committee or any member during an inquiry; or

(c) being required by the Pilotage Committee to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so;

commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Submission of Pilotage Committee's findings and recommendations to Authority

60. (1) Where the Pilotage Committee, after due inquiry in accordance with the provisions of this Part, and after hearing any statement that may be offered in defence, finds that an Authority Pilot has committed misconduct affecting his or her capability or has failed in or neglected his or her duty or has otherwise become incompetent to act as an Authority Pilot, it shall submit to the Authority a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

(2) The Authority may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of such Authority Pilot, or impose such other punishment as the Authority may think fit.

(3) Any Authority Pilot who is aggrieved by the decision of the Authority made under the provisions of subsection (2) may, within 14 days from the date of such decision, appeal to the Minister whose decision shall be final.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Liability of the owner and person in charge

61. The owner and the person in charge of a ship, navigating in circumstances in which pilotage is compulsory shall be answerable jointly and severally for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as it would if pilotage were not compulsory.

Pilotage Committee and Authority not liable for loss or damage occasioned by pilots

62. (1) The issue of a licence to an Authority Pilot by the Pilotage Committee on behalf of the Authority under section 58 shall not impose any liability on the Pilotage Committee for any loss or damage occasioned by any act, omission or default of such Authority Pilot.

(2) Any Authority Pilot whilst engaged in any pilotage act shall, although he or she may be employed at a salary by the Authority, be considered to be the servant only of the person in charge and owner of the ship under pilotage and neither the Authority nor the Authority Pilot is liable for any loss or damage occasioned by any act, omission or default of such Authority Pilot.

PART 8

GENERAL RULES AND SPECIAL EMERGENCY PROVISIONS

Supply of information

63. The person in charge of any ship or aircraft arriving in or departing from a port shall produce to the Authority such documents and supply such information in relation to the ship or aircraft, and the persons and goods carried on it, as the Authority may reasonably require.

Power of Chief Executive Officer

64. (1) Notwithstanding the provisions of any regulations made under section 86 the Chief Executive Officer may—

(a) direct where any ship or aircraft shall be berthed, moored, anchored or parked and the method of anchoring of ships and parking of aircraft within a port and the approaches to a port;

(b) direct the removal of any ship or aircraft from any berth, station, anchorage or position to another berth, station, anchorage or position, and the time within which such removal is to be effected, within a port and the approaches to a port; and

(c) regulate the moving of ships and aircraft within a port and the approaches to a port.

(2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1), the Authority may, without prejudice to any proceedings being instituted against any person, cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such direction and may hire and employ such persons as it considers proper and necessary for such purpose.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Disorderly conduct

65. (1) A person shall not use indecent language or commit any disorderly, obscene or indecent act or cause any nuisance at a port.

(2) Any person who contravenes subsection (1) of this section commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Gambling

66. (1) A person shall not engage in any form of gambling or operate or cause to be operated any gambling device anywhere at a port.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Sanitation

67. (1) A person shall not—

(a) dispose of garbage, papers, refuse or other material at any port except in the receptacles provided for that purpose;

(b) use a sanitary convenience otherwise than in a clean and sanitary manner.

(2) Any person who contravenes subsection (1) of this section commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Preservation of property

68. (1) A person shall not at a port—

(a) destroy, damage, deface or disturb in any way any building, sign, equipment, structure or other public property at a port;

(b) obstruct any person acting in the execution of his or her duty in relation to any port;

(c) remain at a port or on any part thereof after having been required by the Chief Executive Officer or a police officer to depart therefrom;

(d) load or attempt to load any aircraft or ship without the authority of the person in charge;

(e) smoke in or otherwise bring any naked light into—

(i) any place where any such act is prohibited by notice,

(ii) any place within 50 feet of an aircraft or a store of liquid fuel or explosives;

(f) fill or discharge from any container (including any part of a vehicle) liquid fuel elsewhere than in a place approved for that purpose;

(g) light any fire elsewhere than in a place provided for that purpose;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(h) use radio transmitting or receiving equipment that is intended for transmission or reception on the frequencies allocated for use at the port;

(i) throw, leave or drop anything capable of causing injury or damage to any person or property.

(2) A person shall not, without the permission in writing of the Chief Executive Officer in addition to any other permission (if any) that may be lawfully required—

(a) erect, alter, move, paint, distemper any building, sign, maps or other structures forming part of or provided for in connection with a port;

(b) lay any cable, wire or pipe or dig any part of a port.

(3) A person shall not—

(a) climb a wall, fence, barrier, railing or post of any port;

(b) walk on any flowering bed planted area or anything growing thereon or any lawn on which walking is prohibited by notice; or

(c) remove, disturb, pull or damage any tree or plant growing at a port.

(4) Any person who contravenes this section commits an offence and is liable on summary conviction in respect of subsections (1) and (2) to a fine or imprisonment or to both in accordance with section 105.

Firearms explosives and inflammable material

69. (1) Subject to subsection (2) a person other than a customs or immigration officer, or a police officer on official duty shall not carry any firearms, explosives or inflammable materials at a port without the written permission of the Chief Executive Officer.

(2) Where a police officer desires to carry explosives or inflammable materials at a port, he or she shall first inform the Chief Executive Officer who shall make such arrangements for the carriage of such explosives or inflammable materials as he or she may consider proper.

(3) All persons other than the exempted classes mentioned in this section shall surrender all firearms, explosives and inflammable materials in their possession to the Chief Executive Officer or a police officer at a port.

(4) Any person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Power in respect to wrecks

70. (1) The Chief Executive Officer may—

(a) remove any wreck in or other obstruction to a port or its approaches, or any timber, raft or other thing floating or lying in a port, which endangers, or obstructs, or is likely to endanger or obstruct, the free navigation of the port or the use of any facility therein;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) in the case of urgent necessity take any action in a port which in his or her opinion may be necessary to prevent any danger to life or limb or damage to goods or premises;

(c) enter upon any ship or aircraft or into any building in a port, if it is necessary for him or her to do so, in the performance of any duty under this Act or any regulation or if he or she has reasonable grounds for believing that an offence against this Act or any regulation has been, or is about to be committed.

(2) Subsection (1) shall not apply to accidents to aircraft in a port.

(3) The owner of any wreck or other thing removed by the Chief Executive Officer under the provisions of subsection (1)(a), without prejudice to any other action which may be taken against him or her, is liable to pay the reasonable expenses of such removal; such wreck or other thing shall be detained by the Chief Executive Officer until such expenses and customs duties, dues or charges payable in respect thereof are paid.

(4) Where any wreck or thing is removed under the provisions of subsection (1)(a) and the expenses of removal have not been paid within 7 days of such removal, the Chief Executive Officer may cause such wreck or thing to be sold by public auction and shall out of the proceeds of sale retain the amount necessary to meet the expenses of such removal, detention and sale and any customs duties, dues or charges payable and shall retain the balance, if any, for the person appearing to him or her to be entitled.

Fire on board ship or aircraft

71. (1) In the event of fire breaking out on board any ship or aircraft in a port, the Chief Executive Officer may proceed on board such ship or aircraft with such assistance and persons as to him or her seem fit, and may give such orders as to him or her seem necessary for scuttling such ship or destroying such aircraft, or for removing such ship or aircraft or any other ship or aircraft, to such place as to him or her seems proper to prevent in either case danger to other ships or aircraft and for the taking of any other measures that appear to him or her expedient for the protection of life and property.

(2) If such orders are not carried out by the person in charge of such ship or aircraft the Chief Executive Officer may himself or herself proceed to carry them into effect.

(3) Any expenses incurred in the exercise of the powers conferred by subsection (1) and (2) shall be recoverable from the person in charge or the owner of the ship or aircraft concerned as a civil debt.

Fire at premises of lessee or occupier at a port

72. (1) The lessee or occupier of any premises at a port where a fire has occurred shall, within 24 hours of its occurrence, submit to the Chief Executive Officer a report in writing, stating the circumstances of the fire.

(2) Any lessee or occupier as aforesaid who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Accidents in ports

73. (1) Where any accident occurs in any port, then if that accident—

(a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to person or property;

(b) involves any collision between ships or aircraft;

(c) is of such other kind as the Governor in Council may specify, the Authority shall, as soon as practicable, give notice of the occurrence of the accident to the Governor and Minister.

(2) Without prejudice to the right of the Governor to appoint the investigator in charge of an air accident occurring in Anguilla pursuant to the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2019, the Authority may undertake such enquiry into any accident which occurs in any port as it may think fit and shall order an enquiry into any such accident when so required by the Governor in Council.

(3) The Authority shall present a report on any accident inquired into, setting out, *inter alia*, the probable cause of such accident and the steps if any, which have been taken or it has directed shall be taken with a view to avoiding a repetition thereof.

(4) The Authority shall make to the Governor and Minister a return, in such form and at such intervals as the Governor in Council may direct, of all accidents, occurring in any port, whether or not such accident is attended with injury to any person.

(5) The provisions of the Air Navigation (Overseas Territories) Order 2007, No. 3468—

(a) at article 56;

(b) at articles 139 to 140;

(c) at Schedule 10, Part 3, article 4(3); and

(d) at Schedule 10, Part 3, article 17;

as stated in Schedule 3 of this Act shall be enforced to the extent that said provisions are applicable in Anguilla.

Liability for demurrage or other charges

74. The Authority is not liable for any demurrage or other charge which may occur or be due on any ship or aircraft, howsoever such charge may have been caused.

Power to kill animals found trespassing

75. Notwithstanding any law in force to the contrary, it is lawful for any police officer or any other person authorised in writing on that behalf by the Chief Executive Officer to destroy by shooting any animal found trespassing on any port.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Delegation of Authority

76. (1) All acts, orders or directions under this Part or regulations under it authorised to be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority authorised in writing on that behalf by the Authority or the Chief Executive Officer.

(2) Any person authorised to do any such act may call to his or her aid such assistance as is necessary.

Non-liability of Authority

77. The Authority is not liable for any act, omission or default of the Chief Executive Officer committed in bad faith.

PART 9

MOTOR VEHICLES AT THE PORTS

Traffic signs

78. (1) The Chief Executive Officer may place, erect or display or may cause to be placed, erected or displayed at a port such traffic signs as he or she may consider necessary for the proper control and regulation of vehicular traffic at a port.

(2) All traffic signs placed, erected or displayed at a port shall be considered for the purposes of this section to have been placed, erected or displayed in accordance with subsection (1).

(3) Any person who operates or causes to be operated a motor vehicle contrary to any direction of a sign placed, erected or displayed at a port commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Permits

79. (1) A driver of a public service vehicle shall not at a port ply for hire or attempt to ply for hire from that port unless he or she is the holder of a permit granted by the Chief Executive Officer.

(2) The Chief Executive Officer may upon application made on the proper form grant a permit to the driver of a public service vehicle for the purposes of this Act.

(3) The Chief Executive Officer may refuse for good cause to grant a permit to any applicant.

(4) The Chief Executive Officer may cancel any permit granted by him or her under this provision if the holder is found guilty of any offence under the Act.

(5) Cancellation of a permit may be effected by notice to the holder and on such cancellation the holder shall surrender his or her permit to the Chief Executive Officer. The permit of a driver of a public service vehicle shall not be valid during any period in which the holder is not the holder of a driving licence under the Motor Vehicles and Road Traffic Act.

(6) Notwithstanding anything contained in this Act the Chief Executive Officer may at any time suspend for a period not exceeding 6 months or cancel any permit granted by him or her if it appears to him or her, after giving the holder an opportunity of being heard, that the holder has

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

committed any offence under the Act. Any person whose permit has been suspended or cancelled shall have a right of appeal to the Minister who, after consultation with the Executive Council, shall make such order as he or she sees fit.

(7) When a permit has been suspended or cancelled under this Act it shall be in the discretion of the Chief Executive Officer to refuse to grant any further permit under this Act to that person during a period of 6 months commencing from the date of suspension or cancellation.

(8) A driver who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Passenger vehicles

80. (1) A person shall not operate any taxi, omnibus or other vehicle for the purpose of carrying passengers within a port otherwise than in accordance with any order or directions of the Chief Executive Officer.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Public service vehicles

81. (1) Drivers of public service vehicles shall on arrival at a port park their vehicles in the parking area provided for that class of vehicle, or if so directed by the Chief Executive Officer or a police officer they shall park such vehicles in accordance with any directions given.

(2) Drivers of public service vehicles shall remain with their vehicles in the place where such vehicles are parked or in the area designated for them when passengers are passing through immigration and customs.

(3) Drivers of public service vehicles shall not pick up or set down passengers or passengers' baggage except at such place and in such manner as the Chief Executive Officer or a police officer may direct.

(4) Drivers of public service vehicles shall, when picking up or setting down passengers comply with any direction given to them by the Chief Executive Officer, or a police officer.

(5) A driver of a motor vehicle other than a public service vehicle or a driver of a public service vehicle not plying for hire shall on arrival at an airport park his or her vehicle in an area provided for private motor vehicles or public service vehicles not for hire or as directed by the Chief Executive Officer or a police officer.

Motor vehicles generally

82. A driver of a motor vehicle who—

(a) without the permission of the Chief Executive Officer or a police officer leaves his or her vehicle at a port longer than is reasonably necessary for the transaction of the business for the purpose of which it was brought there;

(b) picks up or sets down passengers or passengers' baggage elsewhere than at such places as the Chief Executive Officer or a police officer may direct;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) drives a motor lorry or a vehicle into the port except for the purpose of delivering passengers' baggage or other goods to the port or of collecting the same therefrom;

(d) when picking up or setting down passengers or passengers' baggage, fails to comply with any directions given to him or her by the Chief Executive Officer or a police officer;

(e) drives or places his or her vehicle carelessly or dangerously or without due consideration for other persons using the port;

(f) fails or refuses to stop when required so to do by the Chief Executive Officer or a police officer;

(g) fails to comply with any traffic direction given by the Chief Executive Officer or a police officer;

(h) fails or refuses to move his or her vehicle from any parking area when required by the Chief Executive Officer or a police officer so to do;

(i) without the permission of the Chief Executive Officer or a police officer takes a vehicle into a place other than a place provided for passengers or accommodation of that vehicle;

commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Intoxication while operating a vehicle

83. (1) A person shall not, while under the influence of liquor or narcotic drugs, operate a vehicle of any kind at a port.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Omnibuses

84. (1) A carrier by motor omnibus for hire shall not load or unload passengers in a port at any place other than that designated by the Chief Executive Officer.

(2) Any person who fails to comply with the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

PART 10

RETURNS OF INFORMATION AND REGULATIONS

Minister may require returns

85. The Authority shall without delay furnish the returns of information that the Minister may, by written notice to the Authority, require.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Regulations

86. (1) The Governor in Council may make regulations for the better carrying out of this Act, including regulations—

(a) prescribing anything that under this Act may be prescribed;

(b) exempting persons or operations, or classes of persons or operations, for the purposes of this Act;

(c) prohibiting and regulating the resale of services supplied to a customer by the Authority;

(d) respecting the giving of notices for which no provision is made under this Act;

(e) respecting the giving of notices, other than notices of request, under any or all the provisions of this Act;

(f) providing that penalties be imposed in accordance with section 105 for a contravention of a provision of the regulations.

(2) The Governor in Council may by regulation—

(a) amend, add to or repeal and replace Schedule 1;

(b) provide for transitional matters when Schedule 1 is amended, added to or repealed and replaced.

(3) The Governor in Council, on the recommendation of the Authority, may make regulations generally with respect to the maintenance, supervision, control and management of the ports and the approaches, and the services performed and the communication navigation and other facilities provided by the Authority and for the maintenance of order on any premises or in any ship, aircraft or vehicle in a port and the approaches and for the carrying out of the provisions of this Act. Regulations made under this section may contain provisions with respect to—

(a) the proper control and management of the foreshores of any port and the entrances thereof, the prevention and removal of obstructions therein and the regulation of any work, service or facility performed or provided there at;

(b) the control of all persons and vehicles on such premises, the maintenance of order thereon and the admission or exclusion of persons therefrom and the charges, if any, to be made for such admission;

(c) regulating, controlling and prohibiting the doing or omission of any thing or class of thing within the boundaries of any port or any specified part or parts of any port either at all times and on all occasions or at any time or times or on any occasion or occasions;

(d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing polluting or likely to cause pollution of the waters of any port;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(e) the regulation of traffic and navigation of ships and aircraft within the limits and approaches to any port and all matters relating to the protection of life and property;

(f) the regulation of the mode and place of mooring, anchoring and berthing of ships and the parking of aircraft and the removal of ships and aircraft from a mooring, anchorage, berth or position to another mooring, anchorage, berth or position and the time within which the removal shall be effected;

(g) the protection of ships and aircraft and their cargoes and the removal, destruction, sale or abandonment of stranded ships, aircraft and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway or runway of any port, the payment of expenses including salvage incurred in connection therewith and the levy and recovery of a charge for the right of a hulk or wreck or wreckage to lie in any port;

(h) the examination, licensing, duties and obligations, and the conduct and discipline of Authority Pilots and the charges to be paid for pilotage;

(i) the regulating of the times, places, order and mode of loading, unloading, warehousing, storing and the depositing of goods;

(j) the fixing of dues and charges payable in respect of any ship or aircraft, with different dues or charges being applicable in respect of different ships or aircraft or classes of ships or aircraft, the exemption or the remission thereof or part thereof;

(k) the fixing of the dues and charges payable in connection with the loading, unloading, carrying or warehousing of goods and for any service or facility performed or provided by the Authority including the exemption, refunding or remission of any such charges;

(l) the fixing of the dues and charges payable in respect of any other service or facility performed or provided by the Authority;

(m) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other persons concerned in or engaged in or performing any service or work in connection with the ports.

(4) The Governor in Council, on the recommendation of the Authority, may make regulations generally for the conveyance, loading, unloading and storage of dangerous goods within the limits of the ports, and without prejudice to the generality of the foregoing, may make regulations with respect to—

(a) the classification of goods as dangerous goods;

(b) the regulation of the navigation and place of berthing of ships and parking of aircraft carrying dangerous goods;

(c) the regulation and control of loading and unloading dangerous goods;

(d) the prohibition or subjection to conditions and restrictions of the conveyance of any kind of dangerous goods with any other kind of goods;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(e) the prohibition of the loading or unloading of dangerous goods at places where such loading or unloading appears dangerous to the public;

(f) the fixing of places and times at which dangerous goods are to be loaded and the quantity to be loaded or unloaded at any one time;

(g) the regulation of the mode and the precautions to be observed in conveying or keeping dangerous goods and in the loading or unloading of the same;

(h) the protection, whether by means similar to those abovementioned or not, of persons and property from danger generally.

(5) Subject to the provisions of any enactment relating to merchant shipping, or air navigation, the Governor in Council, on the recommendation of the Authority, may make regulations with respect to—

(a) the taking of measures for the prevention of ships or aircraft from leaving any port if overloaded, improperly loaded, found insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety; or if otherwise not seaworthy or airworthy, as the case may be;

(b) the examination, certification and licensing of masters, mates and engineers of ships and of pilots of aircraft, and the licence fees payable in respect thereof;

(c) the inspection, licensing, registration or certification of ships and aircraft the charges to be paid therefor and the number of passengers to be carried therein.

(6) Regulations made under this section in relation to the use of roadways in any port, shall take effect although such roadways may be roads which are subject to the Vehicles and Road Traffic Act, and regulations thereunder.

(7) Notwithstanding any other law, the regulations may provide that any breach or contravention of any such regulations shall be punishable on summary conviction by a fine or imprisonment or to both in accordance with section 105.

(8) All regulations made under this Act shall be subject to negative resolution of the House of Assembly within 6 weeks.

PART 11

OFFENCES

Damaging property likely to endanger life

87. Any person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon, ground light or other property of the Authority in such manner as to endanger, or as might endanger, the life of any person, commits an offence and is liable on conviction to a fine or imprisonment or to both in accordance with section 105.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Endangering safety of other persons

88. Any person, whether on duty or lawfully employed or not, who on any premises of the Authority or upon any ship, aircraft or vehicle in a port, endangers the safety of any other person by—

(a) contravening any of the provisions of this Act or of any regulations;

(b) contravening any lawful order, direction or rule given to such person, or made in respect of his or her service;

(c) being under the influence of alcohol or drugs; or

(d) any rash or negligent act;

commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Failure to comply with directions under section 64

89. Any person who, without lawful excuse refuses or neglects to obey any direction given under section 64 or under any regulation made under Part 8 commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Failure to employ Authority Pilot

90. If any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the control of an Authority Pilot, the person in charge of it commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Failure to comply with section 63

91. Any person in charge of a ship or an aircraft who fails to comply with section 63 or gives any information which is false in any material particular, commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Offence where authorised officer refused entry

92. Any person in charge of a ship or an aircraft who without lawful excuse refuses to allow an officer authorised by the Chief Executive Officer to enter his or her ship or aircraft in contravention of section 70(1)(c) commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

False returns

93. Any person who, in any return, claim or other document required or authorised to be made under this Act or any regulations, makes, either knowingly or recklessly, any statement which is false in any material particular commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Evasion of dues and charges

94. A person, who by any means whatsoever eludes or evades or attempts to elude or evade any dues or charges leviable under this Act or the regulations, commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Demanding improper amount

95. Any person who, with intent to defraud, demands or receives from any person delivering goods for carriage or warehousing by the Authority, or from any other person making use of the facilities provided by the Authority, any greater or lesser amount than he or she should demand or receive on summary conviction is liable to a fine or imprisonment or to both in accordance with section 105.

Miscellaneous offences

96. Any person who—

(a) being on any premises of the Authority or on any ship, aircraft or vehicle in a port—

(i) refuses when called upon by an officer authorised by the Chief Executive Officer or police officer, to give his or her name and address or gives a false name or address for the purpose of avoiding prosecution,

(ii) without lawful excuse the proof of which lies on him or her, discharges any firearm or does anything which may cause injury to any person on such premises, or upon such ship, aircraft or vehicle,

(iii) without lawful excuse contravenes any direction given by any officer authorised by the Chief Executive Officer;

(b) defaces the writing on any board or notice authorised to be maintained upon any premises of the Authority or upon any ship, aircraft or vehicle in a port;

(c) damages or interferes with any property of, or goods in the custody of, the Authority;

(d) wilfully obstructs or impedes any other person in the discharge of his or her duties arising out of his or her employment with the Authority; or

(e) gives or offers to any other person any inducement in cash or otherwise for the purpose of avoiding payment of any sum due to the Authority;

commits an offence and is liable on summary conviction to a fine or imprisonment or to both in accordance with section 105.

Removal of animals and things

97. Any vehicle, animal or thing found in an area in contravention of this Act or the regulations, may be removed from the area to which the Act or regulation applies by a police officer or by any other person authorised in that behalf in writing by the Chief Executive Officer; and upon conviction for any such contravention before a Magistrate, the owner or person in charge of any such vehicle, animal or thing may in addition to any other penalty be ordered by the Magistrate to pay the cost of such removal.

Chief Executive Officer's *fiat*

98. Subject to the consent of the Attorney General, proceedings for offences arising out of the provisions of this Act shall be instituted in writing by the Chief Executive Officer or by any officer duly authorised by him or her in writing.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Proof

99. In any proceedings for any offence, the averment that such offence was committed within the limits of a port is sufficient without proof of such limits, unless the contrary is proved.

Powers of arrest

100. (1) Any person who commits any offence mentioned in section 87, 88 or 96 may be arrested without warrant by any officer authorised by the Chief Executive Officer or a police officer.

(2) Any person who commits any offence against this Act or regulations other than an offence mentioned in subsection (1) may be arrested by any officer authorised by the Chief Executive Officer or a police officer if—

(a) there is reason to believe that such person will abscond;

(b) he or she refuses on demand to give his or her name or address; or

(c) there is reason to believe that the name or address given by him or her is incorrect.

(3) Where there is reason to believe that a person referred to in subsection (2) will not abscond, he or she shall, if his or her true name and address are ascertained, be released on his or her executing a bond for his or her appearance before a Magistrate when required.

Place of trial

101. (1) Any person charged with any offence against this Act other than an offence mentioned in section 87 or 93, may be proceeded against, tried and punished in any place in which he or she may be in custody for that offence as if the offence had been committed in such place; and the offence shall for the purposes incidental to, or consequent upon, the prosecution, trial or punishment thereof, be considered to be committed in that place.

(2) This section does not preclude the prosecution, trial and punishment of a person referred to in subsection (1) in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

Chief Executive Officer may confer power on officers

102. The Chief Executive Officer may, by notice in writing authorise any officer of the Authority to maintain order upon any premises used by the Authority or on any ship, aircraft or vehicle in a port and any officer so authorised shall, in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

Obstruction of person authorised by Authority

103. No person shall intentionally or recklessly obstruct, molest, hinder or interfere with a person authorised by the Authority, or with any person who is reasonably required by that authorised person to assist him or her, in the carrying out of a responsibility or the exercise of a power under this Act or the regulations.

Offences by directors, officers or agents of the Authority

104. Where an offence committed by the Authority under this Act is proved to have been committed with the authorisation, consent, connivance, acquiescence or participation of any director, officer or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

agent of the Authority, that person as well as the Authority shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Offences and penalties

105. (1) Any person who commits an offence under this Act or the regulations is liable on the conviction for that offence—

(a) on indictment, to a fine not exceeding $200,000 or to imprisonment for a term of not more than 5 years, or to both; or

(b) on summary conviction to a fine not exceeding $50,000 or to imprisonment for a term of not more than 2 years, or to both.

(2) Any person who commits an offence under this Act or the regulations is liable on the second or any subsequent conviction for that offence—

(a) on indictment, to a fine not exceeding $400,000 or to imprisonment for a term of not more than 5 years, or to both; or

(b) on summary conviction to a fine not exceeding $100,000 or to imprisonment for a term of not more than 2 years, or to both.

(3) The offences and penalties provisions at sections 125 to 134 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 as set out in Schedule 4 shall be enforced to the extent that they are applicable in Anguilla, with such modifications as the circumstances require.

(Am. in L.R. 15/12/2010)

Notice

106. (1) A notice may be given to the Minister—

(a) personally;

(b) by registered mail addressed to the Minister's office;

(c) by leaving it during normal business hours with a person in charge of the Minister's office; or

(d) as prescribed.

(2) A notice, other than a notice under Part 6, may be given to the Authority—

(a) by giving it personally to the Chief Executive Officer;

(b) by sending it by registered mail to the Chief Executive Officer's office;

(c) by leaving it during normal business hours with a person in charge of the Chief Executive Officer's office; or

(d) as prescribed.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) A notice to the Authority under Part 6 may be given—

(a) by sending it by registered mail to the Authority's business office;

(b) by leaving it during normal business hours with a person designated to receive notices in the Authority's business office or, if no such person is designated, with the person in charge of the Authority's business office; or

(c) as prescribed.

(4) A notice to the Commissioner of Police, other than in the case of an emergency, may be given—

(a) personally;

(b) by sending it by registered mail to the Commissioner of Police;

(c) by leaving it during normal business hours with a person in charge of the office of the Commissioner of Police;

(d) by facsimile transmission to the office of the Commissioner of Police; or

(e) as prescribed.

(5) A notice under Part 3 may be given to an owner of land, as defined in that Part, or to his or her executor or administrator—

(a) personally, if the owner of land or his or her executor or administrator is an individual;

(b) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is an individual, by giving the notice personally to one of the partners who is an individual;

(c) if the owner of land or his or her executor or administrator is an Authority, by giving the notice personally to a director or officer of the Authority;

(d) if the owner of land or his or her executor or administrator is a partnership, any one of the partners of which is an authority, by giving the notice personally to a director or officer of the Authority that is a partner;

(e) by registered mail addressed to the last known address of the owner or his or her executor or administrator; or

(f) as prescribed.

(6) A notice may be given to a customer by the Authority—

(a) by sending it by ordinary mail to the customer at his or her last known address;

(b) by leaving it with an adult in charge of the premises of the customer; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) as prescribed.

(7) A notice under paragraph (6)(a) is deemed to have been received by the customer in the ordinary course of mail.

(8) This section does not apply when a provision of this Act or the regulations provides that a notice may be given in another manner or that such notice shall be given as is reasonably practicable in the circumstances.

Appeals

107. (1) Appeals regarding summary conviction may be made from the Magistrate to the Court of Appeal, in accordance with the provisions of the Magistrate's Code of Procedure Act, as follows—

(a) where the Magistrate refuses to make a conviction, the complainant may appeal to the Court of Appeal against the decision; and

(b) where the Magistrate makes a conviction, the party against whom the conviction is made may appeal to the Court of Appeal against the decision.

(2) There shall be a right of appeal to the Court of Appeal from any judgment or order of the Magistrate in any civil proceedings where the sum claimed and the costs, if any, exceed $25 and in a matter relating to salvage or the title to wreck where the sum in dispute exceeds $500.

PART 12

LEGAL PROVISIONS

Notice of claims

108. Notwithstanding anything contained in any enactment—

(a) a person is not entitled to compensation or damages for non-delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment, accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary is given to the Chief Executive Officer within 6 months of the date upon which such goods were accepted by the Authority;

(b) a person is not entitled to compensation or damages for any goods missing from a packed or unpacked consignment or for misdelivery or detention of, or damage or delay to any goods accepted by the Authority for carriage or warehousing unless—

(i) the Chief Executive Officer is notified of such fact in writing within 7 days of the date upon which such goods were delivered to the consignee or person entitled to take delivery of them, and

(ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Chief Executive Officer within one month of such date.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Limitation

109. Where, on or after 26 October 2009, any legal proceeding is commenced against the Authority for any act done under, or in execution or intended execution of this Act, or regulations or any public duty or authority imposed or conferred by this Act or any regulations, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect notwithstanding anything contained in any enactment, that is to say—

(a) the legal proceeding shall not be commenced until at least one month after written notice containing the particulars of the claim, and of the intention to commence legal proceeding, has been served upon the Chief Executive Officer by the plaintiff or his or her agent;

(b) the legal proceeding shall not lie or be instituted unless it is commenced within 12 months next after the act, neglect or default or damage complained of, or in the case of a continuing injury or damage within 6 months next after the cessation.

Restriction on execution against property of the Authority

110. Notwithstanding anything to the contrary in this Act or the regulations or in any other enactment or in regulations made under it, where any judgment or order of any Court or any award of an arbitration tribunal has been obtained against the Authority for or in respect of anything done or omitted to be done under the provisions of this Act, and any regulation, on any contract or otherwise for or in respect of the Authority or its purposes—

(a) execution or attachment or process in the nature thereof shall not be issued against the Authority, but such amounts as may by the judgment or order, be awarded against the Authority shall be paid by the Authority from its funds to the person entitled; and

(b) property of the Authority shall not be seized or taken by any person having by law power to attach or distrain property.

Overpayment or underpayment of dues and charges

111. (1) Where the amount paid in respect of any dues or charges is found to be incorrect, then if such amount is—

(a) overpaid, the person who overpaid any such amount is entitled to a refund of the amount so overpaid;

(b) underpaid, the amount of such underpayment may be collected from the person who made such payment.

(2) Notwithstanding subsection (1) or anything contained in any enactment an overpayment or underpayment shall not be refunded, or collected, as the case may be, unless notice in writing is given within 6 months after the goods were accepted or the services rendered, as the case may be, by the Authority, containing such particulars as may reasonably be given—

(a) by the person claiming such overpayment, to the Chief Executive Officer; or

(b) by the Chief Executive Officer, to the person against whom the underpayment is claimed.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) Where an underpayment is caused by information or description subsequently found to be incorrect, the period of 6 months referred to in subsection (2) shall commence from the date of the discovery by the Chief Executive Officer of the correct information or description.

PART 13

CITATION AND TRANSITIONAL PROVISIONS

Citation

112. This Act may be cited as the Anguilla Air and Sea Ports Authority Act, Revised Statutes of Anguilla, Chapter A57.

Transitional regulations

113. Notwithstanding sections 114 and 115, the Governor in Council may make regulations providing for any transitional matters not dealt with or not sufficiently dealt with by this Act.

(Am. in L.R. 15/12/2010)

Transitional rates, terms and conditions of service and charges

114. (1) Notwithstanding anything in this Act but, subject to subsections (2) and (4) and any regulations made under section 113, the Authority may, on or after 26 October 2009—

(a) continue to charge the rates for service and other charges imposed by the Government;

(b) continue to charge interest provided under the Financial Administration and Audit Act; and

(c) provide service on the terms and conditions of service;

as those charges and terms or terms and conditions stood immediately before 26 October 2009.

(2) The following provisions apply to the charges and terms and conditions referred to in subsection (1)—

(a) until fixed by the Minister, the charges referred to in subsection (1)(a) are deemed to have been fixed in accordance with sections 38 and 52(1);

(b) until approved by the Minister, the charges referred to in subsection (1)(b) are deemed to have been approved for the purposes of section 41; and

(c) until approved by the Minister, the terms and conditions referred to in subsection (1)(c) are deemed to have been approved in accordance with section 52(1).

(3) The Authority is the successor of all the rights and responsibilities that the Government had in relation to its customers immediately before 26 October 2009, including the rights and responsibilities in relation to estimated costs of services appropriate for ports and other similar matters

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

as if those rights and responsibilities had been those of the Authority, and those rights and responsibilities shall be exercised as nearly as possible in accordance with this Act.

(4) The Authority shall, to the satisfaction of the Minister of Finance, do an accounting of the money owing to and by the Government under subsection (3) in respect of the existing ports on 26 October 2009 and shall deal with any revenue or deficit revealed thereby in the business plan.

(5) A contract or arrangement between the Government and a person for the supply of services at a special rate and on special terms and conditions that is in existence immediately before 26 October 2009 is binding on the Authority according to its terms and is deemed to be a special agreement and to have had the prior consent of the Minister.

Transitional lease of land, vesting of personal property and assignment of contracts

115. (1) On 26 October 2009—

(a) the Government shall enter into a lease with the Authority of the land occupied by the existing ports;

(b) the personal property of the Government associated with the operations of the existing ports vests in the Authority; and

(c) the contracts for the supply of goods and services in relation to the existing ports are assigned to the Authority and shall be enforceable as fully and effectually as if the Authority had been a party to the contract instead of the Government.

(2) The Authority and the Minister shall, as soon as possible after 26 October 2009, prepare an inventory of personal property and contracts referred to in subsections (1)(b) and (c) respectively and, when it is signed, it is conclusive evidence of the effect of those subsections.

———————

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SCHEDULE 1

(Section 86(2))

LIMITS OF PORTS

PART 1

Clayton J. Lloyd International Airport

The limits of the Clayton J. Lloyd International Airport Lands are defined on the attached drawing Survey Reference LS04 – 15 and are the lands leased by the Government of Anguilla to the Authority.

R.A. 33/2016, s. 2(a)

PART 2

Seaport of Road Bay

The limits of the seaport at Road Bay are defined as the lands shown on the attached drawing number LS51–09 that are leased by the Government of Anguilla to the Authority and the area of sea in Road Bay proceeding seawards 1000 metres on a bearing 270 degrees from the extremities of the beach in Road Bay as delineated on attached plan reference LS03-12.

PART 3

Seaport of Blowing Point

The limits of the seaport of Blowing Point are defined on the attached drawing Plan Reference LS20 – 13 and are the lands leased by the Government of Anguilla to the Authority and the area of sea in Blowing Point Bay between Blowing Point and Sandy Point proceeding seawards from the sea to the reef.

(R.A. 33/2016, s. 2(b))

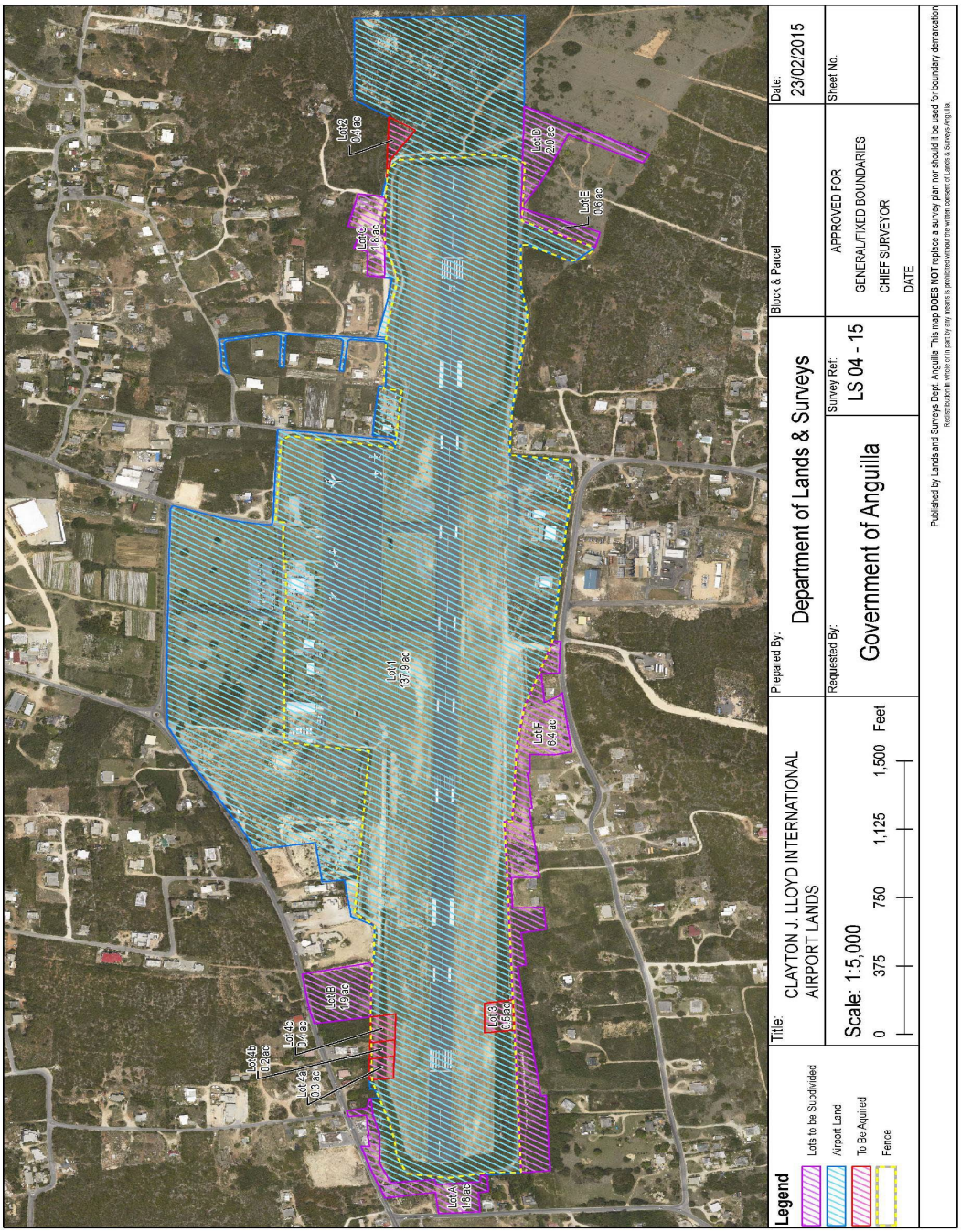
PART 4

Seaport of Corito Bay

The limits of the seaport at Corito Bay are defined as the lands shown on the attached drawing number LS49–09 and the area of sea off Corito Bay proceeding seawards 2000 metres on a bearing 135 degrees from the eastern extremity of the bay and on a bearing 215 degrees from the western extremity of the bay as delineated on attached plan reference LS02-12.

(Act 4/2012, s. 5)

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



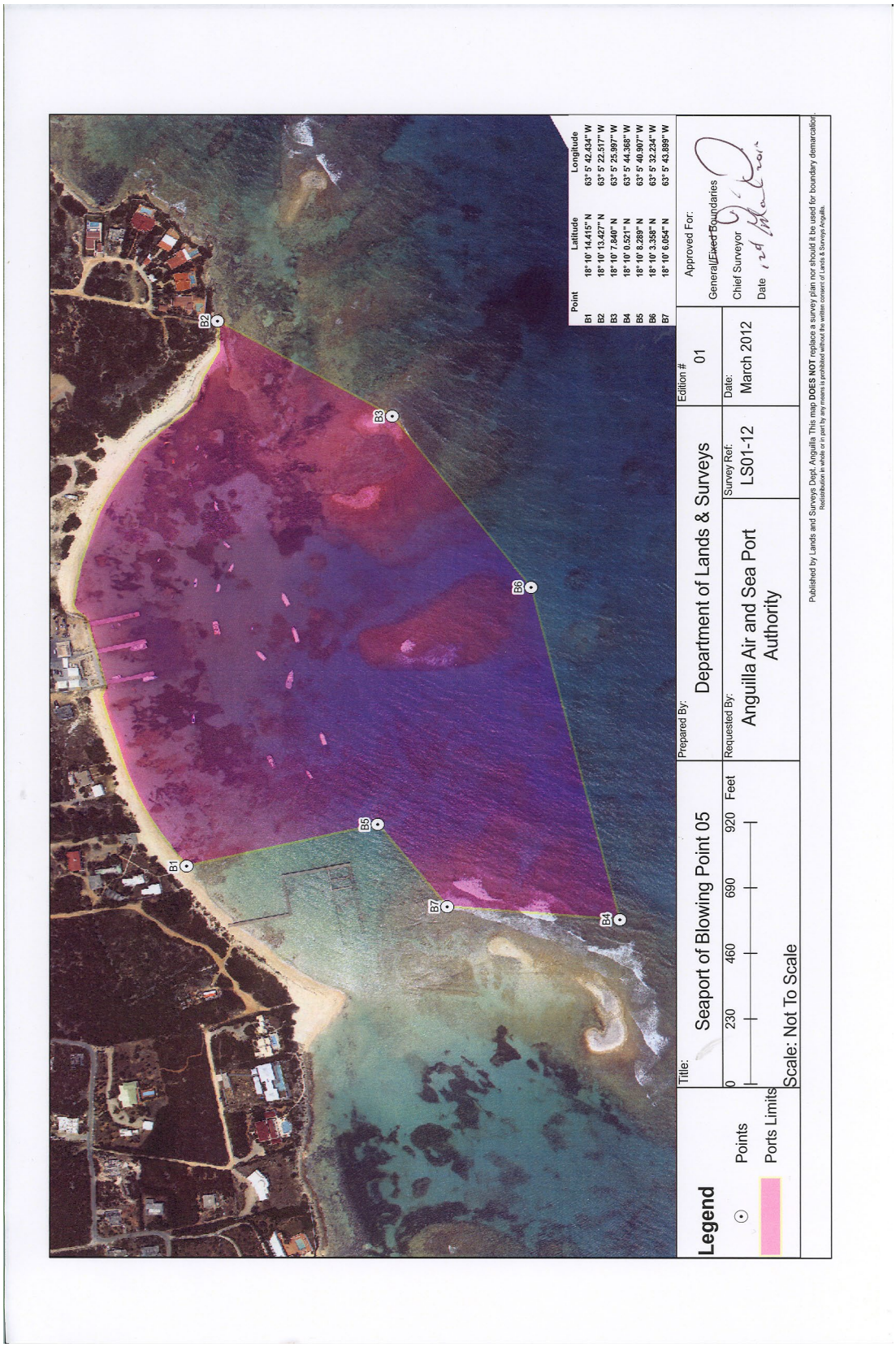
(R.A. 33/2016, s. 2(c) & 3)

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

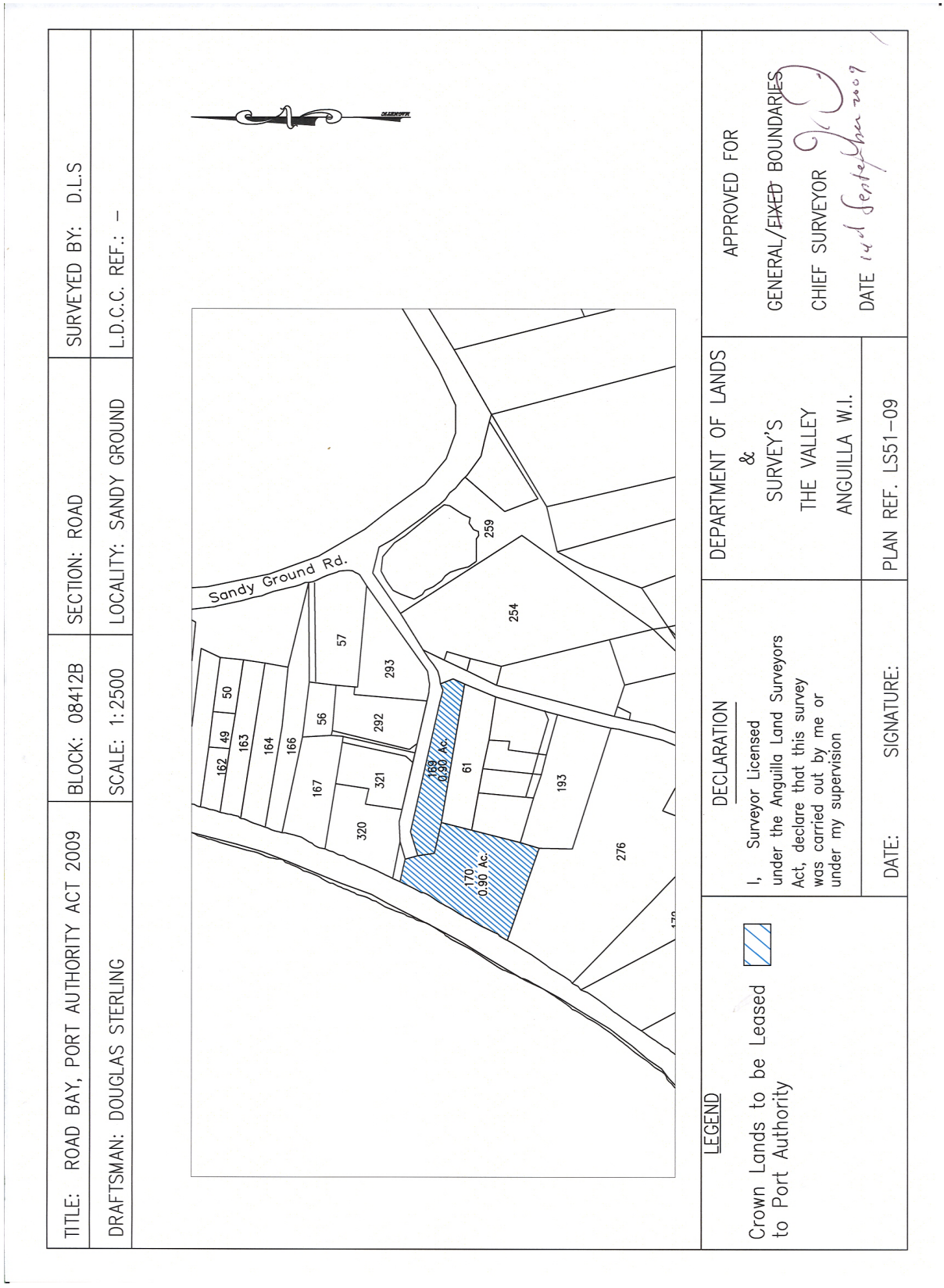


(R.A. 33/2016, s. 2(d) & 4)

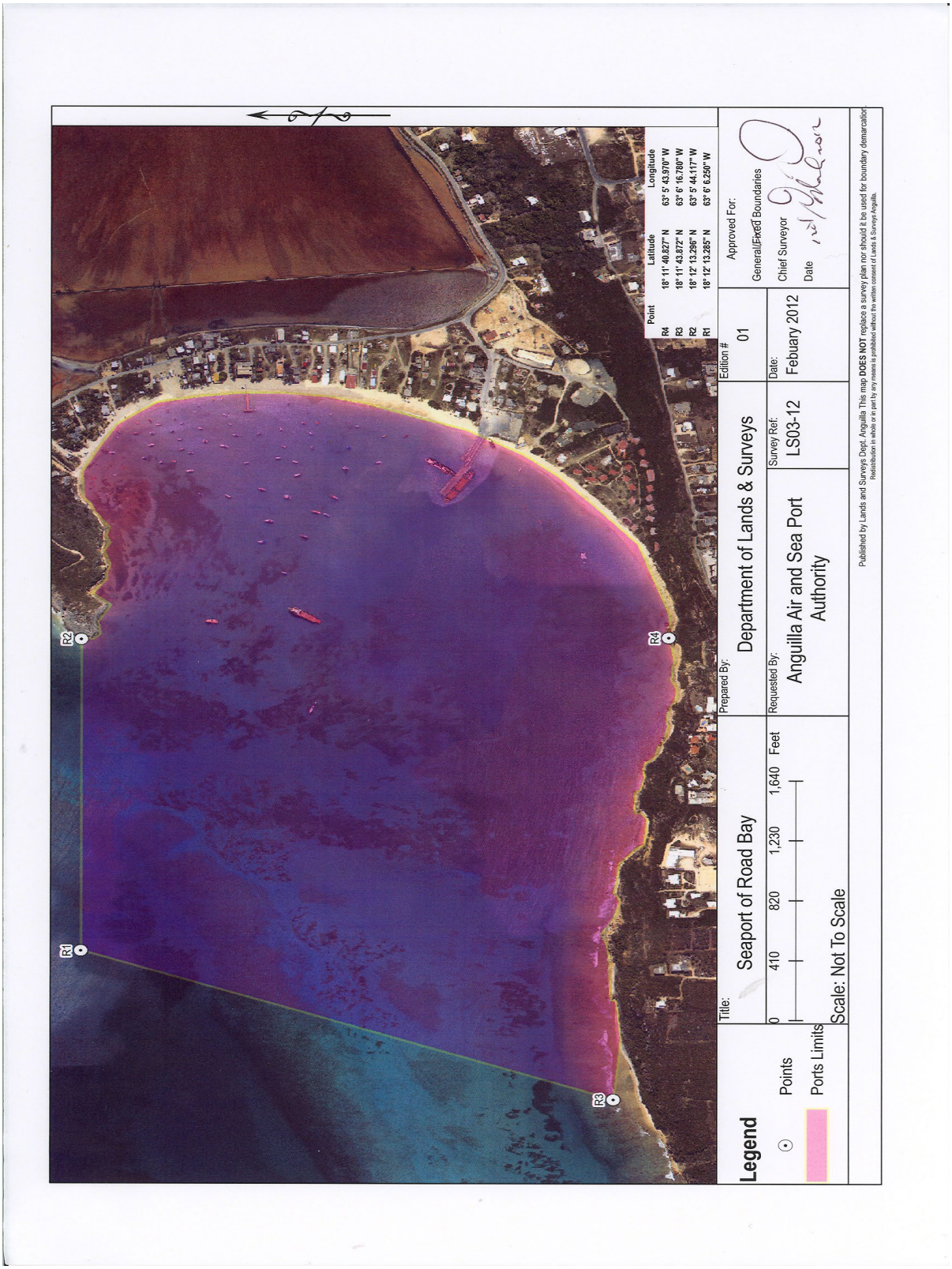
© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



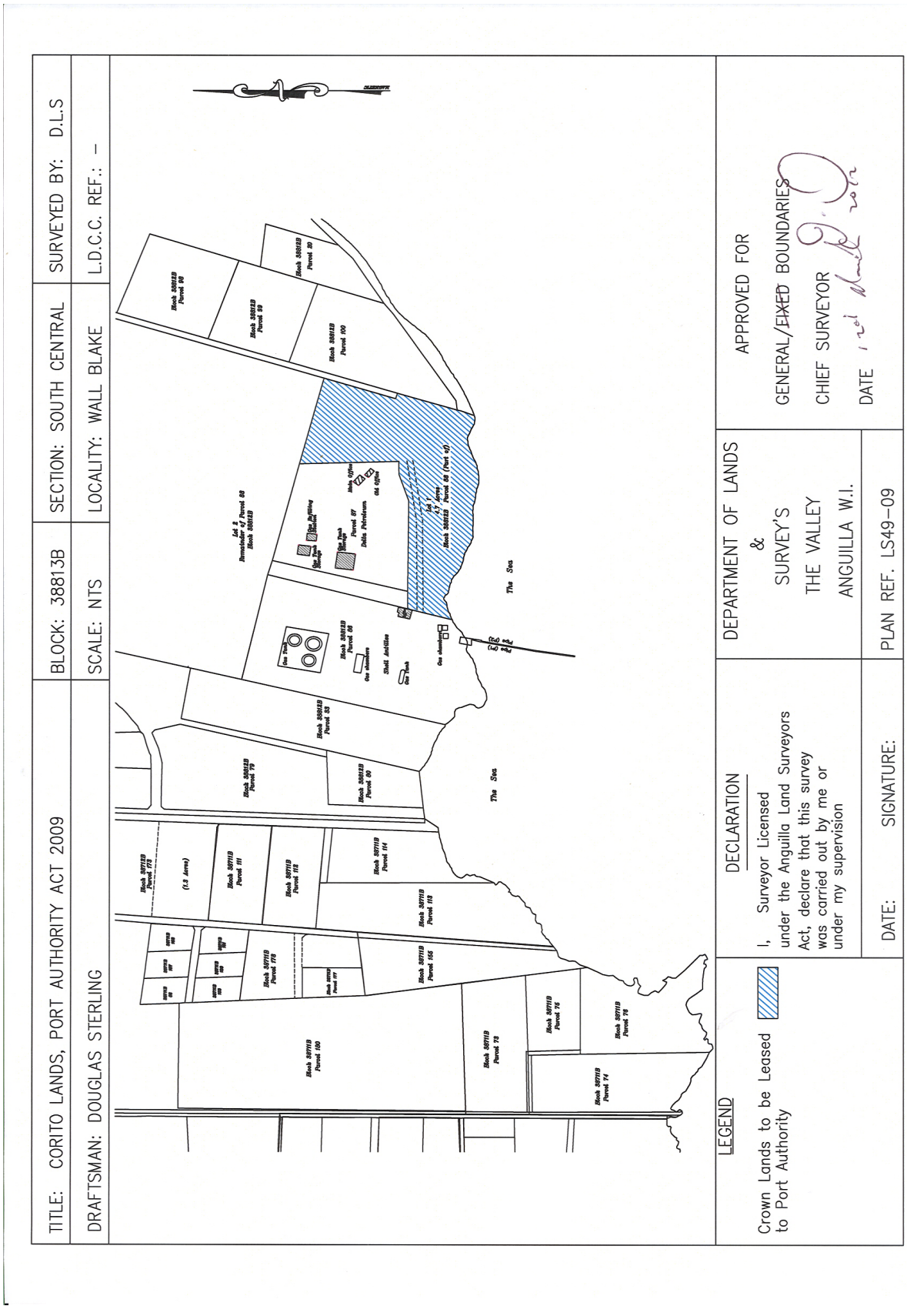
© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



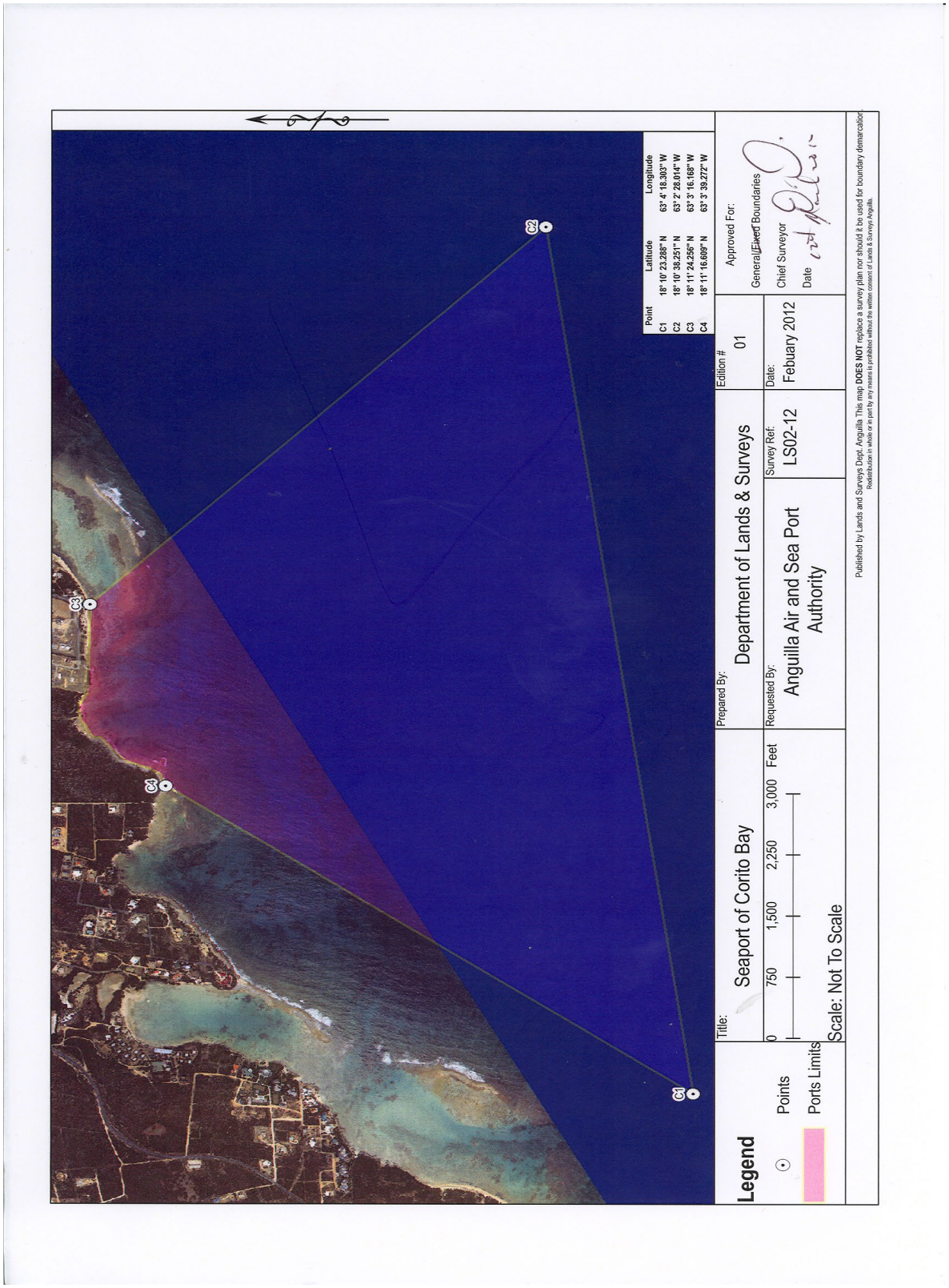
© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai



© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SCHEDULE 2

(Section 8)

PROCEDURES OF THE BOARD

Frequency, place, day and time of meetings

1. (1) The Board shall meet as often as may be necessary to carry out its responsibilities and exercise its powers expeditiously and shall in any event meet not less than 6 times in any calendar year.

(2) Meetings of the Board shall be held at such place in Anguilla on such days and at such times as the Chairperson may determine.

Notice of meetings

2. (1) Notice of the place, day, time and agenda of each meeting of the Board shall be given to each member and the Chief Executive Officer in writing not less than 72 hours before the time the meeting is to be held, unless the member waives notice of the meeting in writing.

(2) Notice shall be given to a person mentioned in subsection (1) by—

(a) handing a copy to such person;

(b) mailing a copy to such person by prepaid post at the mailing address of such person last shown on the records of the Authority;

(c) emailing or faxing to such person at the email address or fax number last shown on the records of the Authority; or

(d) any other means approved by the Board.

(3) A copy of a notice given by mail is deemed to have been received by the person to whom it is addressed 3 days after it is mailed.

(4) If a meeting is adjourned for less than 14 days, it is not necessary to give notice of the place, day and time to which the meeting is adjourned if the place, day and time are announced at the earlier meeting.

Waiver of notice

3. A member may in writing waive notice of a meeting of the Board.

Requisitioning meeting

4. (1) Any 3 members may, by written requisition signed by each requisitioning member and given to the Chairperson, require him or her to call a meeting of the Board for the purposes stated in the requisition.

(2) The Chairperson shall, without delay but in any event not later than 7 days after being given the requisition, give notice of a meeting of the Board for the purposes stated in the requisition, to be held not later than 14 days after being given the requisition.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Chairperson to preside

5. (1) The Chairperson is the presiding officer at meetings of the Board.

(2) In the event of a tie vote on a matter, the Chairperson has a second or casting vote.

(3) The decision of the Chairperson is final on the following matters—

(a) subject to section 4 of this Schedule, the agenda for a meeting;

(b) the conduct of the meeting on questions of order and relevance;

(c) the procedure for handling motions.

Quorum

6. A quorum of the Board shall be a majority of the number of members appointed at any particular time.

Voting

7. (1) Voting at a meeting of the Board shall be by show of hands except when a ballot is demanded by a member.

(2) All matters before a meeting of the Board shall be decided by a simple majority of the members present and eligible to vote.

Participation by telephone or other form of communication

8. A member may, if all members present consent, participate in a meeting of the Board by means of a telephone or other form of communication that permits all persons participating in the meeting to hear each other.

Resolution *in lieu* of meeting

9. (1) When a resolution in writing is signed by all members entitled to vote on the resolution at a meeting, the resolution is as valid as if it were passed at a meeting of the Board.

(2) A copy of each resolution referred to in subsection (1) shall be kept in the Authority's minute book.

Disclosure of pecuniary interest

10. A member who has a direct or indirect pecuniary interest in any matter that comes before a meeting of the Board shall—

(a) declare the nature of his or her interest in the matter;

(b) withdraw from the meeting while the matter is under consideration; and

(c) refrain from influencing or voting on the matter.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Minutes of Board meetings

11. (1) The Board shall appoint an employee of the Authority as secretary to the Board, who shall keep accurate and complete minutes of each meeting of the Board, including particulars of—

(a) the notice of the meeting given to each member and the Chief Executive Officer and any waiver of notice by a member;

(b) the members in attendance and members not in attendance and whether the member's absence was consented to by the Board for the purpose of section 7(2)(a) of the Act;

(c) any non-members in attendance;

(d) each resolution moved, the number of members present and voting for and against it or abstaining from voting on it, whether the resolution was passed or defeated and whether the vote was by show of hands or by ballot;

(e) when a member participates in a meeting by telephone or other means of communication under section 8 of this Schedule, the name of the member and particulars of the telephone or other means of communication; and

(f) the nature of any declaration by a member of a direct or indirect pecuniary interest in any matter under section 10 of this Schedule and particulars of his or her withdrawal and return to the meeting.

(2) A copy of the minutes shall be tabled at the next meeting of the Board for approval.

(3) The minutes shall be filed in the minute book of the Authority.

_____

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SCHEDULE 3

(Section 73(5))

RECORDERS AND REPORTING OF ACCIDENTS RELATING TO AIRCRAFT

Use of flight recording systems and preservation of records

1. (1) On any flight on which a flight data recorder, a cockpit voice recorder or a combined cockpit voice recorder/flight data recorder is required in accordance with article 15 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to be carried in an airplane, it shall be operated continuously from the time the first engine is started for the purpose of making a flight until the time the last engine is shut down after landing.

(2) On any flight on which a cockpit voice recorder, a flight data recorder or a combined cockpit voice recorder/flight data recorder is required under article 15 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to be carried in a helicopter, it shall be operated continuously from the time the rotors first turn for the purpose of making a flight until the rotors are next stopped.

(3) In the event of an incident or accident the pilot-in-command and the operator of the aircraft shall ensure that flight recorders are de-activated and shall, subject to article 120 of the Air Navigation (Overseas Territories) Order 2007 No. 3468, preserve the flight recorder and records in accordance with such requirements as may be prescribed or as directed by the Governor.

(4) The operator of the aircraft shall ensure that operational checks and evaluations of recordings from the flight data recorder and cockpit voice recorder systems are conducted in accordance with requirements made under articles 7 and 10 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 to ensure the continued serviceability of the recorders.

Mandatory reporting

2. (1) The objective of this Schedule is to contribute to the improvement of air safety by ensuring that the relevant information on safety is reported, collected, stored, protected and disseminated.

(2) The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.

(3) Every person listed below shall report to the Governor any event which constitutes an occurrence for the purposes of subsection (4) and which comes to his attention in the exercise of his functions—

(a) the operator and the pilot-in-command of an aircraft which has a certificate of airworthiness or permit to fly issued by the Governor;

(b) the operator and the pilot-in-command of an aircraft operated under an air operator's certificate granted by the Governor;

(c) a person who carries on in the Territory the business of manufacturing, repairing or overhauling an aircraft referred to in paragraph (a) or (b), or any equipment or part thereof;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(d) a person who carries on the business of maintaining or modifying an aircraft that has a certificate of airworthiness or permit to fly issued by the Governor and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;

(e) a person who carries on the business of maintaining or modifying an aircraft, operated under an air operator's certificate granted by the Governor, and a person who carries on the business of maintaining or modifying any equipment or part of such an aircraft;

(f) a person who signs an airworthiness report or a certificate of release to service in respect of such an aircraft, part or equipment;

(g) a person who performs a function for which he requires an air traffic controller's licence or to be authorised as a flight information service officer;

(h) an aerodrome certificate holder, operator or manager of a certificated or licensed aerodrome;

(i) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight checking or inspection of air navigation facilities which are utilised by a person who provides an air traffic control service under an approval issued by the Governor;

(j) a person who performs a function in respect of the ground-handling of aircraft, including fuelling, servicing, load sheet preparation, de-icing and towing.

(4) In this Schedule "reportable occurrence" means—

(a) any incident relating to such an aircraft or any defect in or malfunctioning of such an aircraft or any part or equipment of such an aircraft, being an incident, malfunctioning or defect endangering, or which if not corrected would endanger, the aircraft, its occupants or any other person; and

(b) any defect in or malfunctioning of any facility on the ground used or intended to be used for purposes of or in connection with the operation of such an aircraft, being a defect or malfunctioning endangering, or which if not corrected would endanger, such an aircraft or its occupants.

(5) Any accident or serious incident notified to the Governor in pursuance of regulations made under section 75 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 shall not constitute a reportable occurrence for purposes of this Schedule.

(6) Reports of occurrences shall be made within such time, by such means and containing such information as may be specified by the Governor and shall be presented in such form as the Governor may in any particular case approve.

(7) Nothing in this Schedule shall require a person to report any occurrence which he has reason to believe has been or will be reported by another person to the Governor in accordance with this Schedule.

(8) A person shall not make any report under this Schedule if he knows or has reason to believe that the report is false in any particular.

(9) Without prejudice to article 56 and subject to article 120 and paragraph 10 of the Air Navigation (Overseas Territories) Order 2007 No. 3468, the operator of an aircraft shall, if he has reason to believe that a report has been or will be made in pursuance of

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

this article, reserve any data from a flight data recorder or a combined cockpit voice recorder/flight data recorder relevant to the reportable occurrence for 14 days from the date on which a report of that occurrence is made to the Governor or for such longer period as the Governor may in a particular case direct.

(10) The record referred to in subsection 9 may be erased if the aircraft is outside the Territory and it is not reasonably practicable to preserve the record until the aircraft reaches the Territory.

Mandatory reporting of bird-strikes

3. (1) The pilot-in-command shall make a report to the Governor of any bird-strike occurrence which occurs whilst the aircraft is in flight within the Territory.

(2) The report shall be made within such time, by such means and shall contain such information as may be specified by the Governor and it shall be presented in such form as the Governor may in a particular case approve.

(3) Nothing in this Schedule shall require a person to report any occurrence which he has reported under article 139 of the Air Navigation (Overseas Territories) Order 2007 No. 3468 or which he has reason to believe has been or will be reported by another person to the Governor in accordance with that article.

(4) A person shall not make any report under this article if he knows or has reason to believe that the report is false in any particular.

Mandatory reporting of accidents involving dangerous goods

4. (1) The operator of an aircraft which is involved—

(a) in an aircraft accident whilst carrying any dangerous goods as cargo on the aircraft; or

(b) a serious incident in which, in the reasonable opinion of the operator, dangerous goodscarried as cargo on the aircraft may be involved;

shall notify the Governor and a police officer for the area where the accident or serious incident occurred of any dangerous goods carried as cargo on the aircraft.

(2) For the purposes of this section "serious incident" means an incident involving circumstances indicating that an accident nearly occurred.

Occurrence reporting

5. (1) A Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage, wherever it occurs, is reported to the Governor.

(2) A non-Territory operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or mis-declared dangerous goods in cargo or passenger's baggage which occurred in the Territory is reported to the Governor.

(3) A report required under paragraph (1) or (2) shall contain such of the following information as is appropriate to the occurrence—

(a) date of the occurrence;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) location of the occurrence, flight number and flight date;

(c) description of the goods and the reference number of the air waybill, pouch, baggage tag and ticket;

(d) proper shipping name (including the technical name, if applicable);

(e) UN/ID number;

(f) class or division in accordance with the Technical Instructions and any subsidiary risk(s);

(g) type of packaging and the packaging specification marking;

(h) quantity of dangerous goods;

(i) name and address of the shipper or passenger;

(j) suspected cause of the occurrence;

(k) action taken;

(l) any other reporting action taken;

(m) name, title, address and contact number of the reporter;

(n) any other relevant details.

(4) Subject to subsection (5) a report containing as much of the information referred to above as is in the possession of the Territory or non-Territory operator shall be despatched in writing, or in such other form as the Governor may approve, and by the quickest available means to the Governor within 72 hours of the occurrence coming to the knowledge of the person making the report.

(5) If at that time any of the said information is not in the possession of the person making the report, he shall despatch the information to the Governor in writing, or in such other form as the Governor may approve, and by the quickest available means within 72 hours of the information coming into his possession.

(6) Nothing in this regulation shall require a person to report any occurrence which he has reported under article 139 of the Air Navigation (Overseas Territories) Order No. 3468 or which he has reason to believe has been or will be reported by another person to the Governor in accordance with that article.

_____

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SCHEDULE 4

(Section 105(3))

OFFENCES AND PENALTIES RELATING TO AIRCRAFT

PART 1

SECTIONS 125 TO 134 OF THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2007

Endangering safety of aircraft

125. A person shall not recklessly or negligently act in a manner likely to endanger an aircraft, or any person therein.

Endangering Safety of any Person or Property

126. A person shall not recklessly or negligently cause or permit an aircraft to endanger any person or property.

Drunkenness in aircraft

127. (1) A person shall not enter any aircraft when drunk, or be drunk in any aircraft.

(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly so to act or so as to create a risk to that person or any other person.

Smoking in aircraft

128. (1) Notices indicating when smoking is prohibited shall be exhibited in every aircraft registered in the Territory so as to be visible from each passenger seat.

(2) A person shall not smoke in any compartment of an aircraft registered in the Territory at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the pilot-in-command of the aircraft.

Authority of Pilot-in-Command and members of the crew of an aircraft

129. (1) Every person in an aircraft must obey all lawful commands which the pilot-in-command or a member of the crew of that aircraft may give for the purpose of securing the safety of the aircraft and of the persons or property carried on board, or the safety, efficiency or regularity of air navigation.

(2) No person may operate on any aircraft any mobile or cell phone, computer or other electronic device that is designed to transmit or capable of transmitting electromagnetic energy otherwise than in accordance with the permission of the pilot-in-command of that aircraft.

(3) Paragraph (2) of this article does not apply to—

(a) hearing aids; or

(b) heart pacemakers; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) portable voice recorders; or

(d) electric shavers; or

(e) electronic watches; and

(f) any other portable electronic device if the operator or pilot-in-command of the aircraft has determined that the said portable electronic device to be used will not cause interference with any aircraft system or equipment of the aircraft on which it is used.

Acting in a Disruptive Manner

130. No person shall while in an aircraft—

(a) use any threatening, abusive or insulting words towards a member of the crew of the aircraft;

(b) behave in a threatening, abusive, insulting or disorderly manner towards a member of the crew of the aircraft; or

(c) intentionally interfere with the performance by a member of the crew of the aircraft of his duties.

Obstruction of Persons

131. A person shall not intentionally obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Schedule.

Enforcement of Directions

132. Any person who without reasonable excuse fails to comply with any direction given to him under any provision of this Schedule or any regulations made thereunder shall be deemed for the purposes of this Schedule to have contravened that provision.

Stowaways

133. A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the pilot-in-command or of any other person entitled to give consent to his being carried in the aircraft.

Penalties

134. (1) If any provision of this Order or of any regulations made or instructions given thereunder is contravened in relation to an aircraft, the operator of that aircraft and the pilot-in-command and, in the case of a contravention of article 135, the charterer of that aircraft, shall (without prejudice to the liability of any other person for that contravention) be deemed for the purposes of the following provisions of this Schedule to have contravened that provision unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent the contravention.

(2) If it is proved that an act or omission of any person which would otherwise have been a contravention by that person of a provision of this Order or of any regulations made hereunder was due to any cause not avoidable by the exercise of reasonable care by that person the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) Where a person is charged with contravening a provision of this Order or of any regulations made thereunder by reason of his having been a member of the flight crew of an aircraft on

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

a flight for the purpose of commercial air transport or aerial work the flight shall be treated (without prejudice to the liability of any other person under this Schedule) as not having been for that purpose if he proves that he neither knew nor suspected that the flight was for that purpose.

(4) If any person contravenes any provision of this Order or of any regulations made thereunder not being a provision referred to in paragraphs (5) or (6), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1000.

(5) If any person contravenes any provision specified in Part A of Schedule 7 to this Order he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2500.

(6) If any person contravenes any provision specified in Part B of Schedule 7 to this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5000 and on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

PART 2

SCHEDULE 7 TO THE AIR NAVIGATIO NAVIGATION (OVERSEAS TERRITORIES) ORDER 2007

Part A of Schedule (Provisions Referred to in Article 134(5))

Article of order	*Subject matter*
3	Aircraft flying unregistered
5	Aircraft flying with false or incorrect markings
10(1)(a)	Flight without appropriate maintenance
11	Failure to keep a technical log or other log books
12	Flight without a certificate of release to service issued under the Order
13(7) and (8)	Exercise of privileges of aircraft maintenance engineer's licence whilst unfit
15	Flight without required equipment
16	Flight without required radio equipment
17	Minimum equipment requirements
18	Requirement to weigh aircraft and keep weight schedule
20	Crew requirements
21	Requirement for appropriate licence
23(1), (3) and(4)	Requirement for appropriate certificate of test or experience
24	Requirement for appropriate certificate of test
25(1)	Flight without valid medical certificate
25(5)	Flight in unfit condition
26(1)	Prohibition of flight after failure of test
29	Instruction in flying without appropriate licence and rating

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Article of order	*Subject matter*
32(3)	Operator's obligation to obtain flight time records of flight crew
33(2)	Flight crew member's obligation to inform operator of flight times
34	Flight time limitations
37	Breach of the Rules of the Air
38	Flight in contravention of restriction of flying regulations
39	Flight by balloons, kites, airships, gliders and parascending parachutes
40	Flight by small aircraft
42	Aerodrome operating minima – non-commercial air transport aircraft
43	Requirement for pilot to remain at controls
45	Pre-flight action by pilot-in-command of aircraft
46	Requirement for passenger briefing
49	Requirements for radio station in aircraft to be licensed and for operation of same
50	Requirement for minimum navigation performance equipment
51	Requirement for height keeping performance equipment – aircraft registered in the Territory
52	Requirement for height keeping performance equipment – aircraft registered elsewhere than in the Territory
53	Requirement for area navigation equipment – aircraft registered in the Territory
54	Requirement for area navigation equipment – aircraft registered elsewhere than in the Territory
55	Requirement for an airborne collision avoidance system
56	Use of flight recording systems and presentation of records
60	Carriage of persons in or on any part of an aircraft not designed for that purpose
61 and 62	Requirement for exits and break-in markings
63	Flying displays
66	Operations manual requirement
67	Police operations manual requirement
68	Training programme requirement
70	Operator's responsibilities in connection with crew
71	Requirements for loading aircraft
72 and 73	Operational restrictions on airplanes and helicopters
74	Prohibition on commercial air transport flights at night or in Instrument Meteorological Conditions by single-engined airplanes
75	Aerodrome operating minima – commercial air transport aircraft registered in the Territory
76	Aerodrome operating minima – commercial air transport aircraft registered elsewhere than in the Territory
77	Carriage of passengers – additional duties of pilot-in-command
78	Requirement for aerial work certificate
79	Towing of gliders
80	Towing, picking up and raising of persons and articles by aircraft
81	Dropping of articles and animals from aircraft
82	Dropping of persons
84	Requirement for approval
87	Duty of person in charge to satisfy himself as to competence of controllers
89	Provision of air traffic services
90	Use of radio call signs at aerodromes
91	Requirement for licensing of air traffic controllers
98	Requirement for licensing of flight information service officers

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Article of order	*Subject matter*
100	Requirement for aerodrome information service manual
101	Use of aeronautical telecommunications service
102	Requirement to keep aeronautical telecommunications service records
103	Requirement for certificated aerodrome
105(5)	Contravention of conditions of aerodrome certificate
110	Use of aeronautical lights
112(1)	Prohibition of dangerous lights
112(2)	Failure to extinguish or screen dangerous lights
114(1) and (3)	Management of aviation fuel at aerodromes
128	Prohibition of smoking in aircraft
129	Requirement to obey lawful commands of aircraft pilot-in-command
130 (a) and (b)	Acting in a disruptive manner
131	Obstruction of persons performing duties under the Order
133	Prohibition of stowaways
139(3), (6) and (9)	Requirement to report occurrences

Part B of Schedule (Provisions Referred to in Article 134(6))

Article of order	*Subject matter*
7	Flight without a certificate of airworthiness
32(1)	Operator's obligation to regulate flight times of flight crew
32(2)	Operator's obligation not to allow flight by crew in dangerous state of fatigue
33(1)	Crew's obligation not to fly in dangerous state of fatigue
35	Protection of air crew from cosmic radiation
36	Keeping and production of records of exposure to cosmic radiation
41	Operation of aircraft
57	Prohibition of carriage of weapons and munitions of war
58	Prohibition of carriage of dangerous goods
64	Flight for the purpose of commercial air transport without an air operator's certificate
65	Flight in the service of a police authority without a police air operator's certificate
86	Provision of an air traffic control service without an approval
96	Prohibition of drunkenness etc. of controllers
97	Controller's obligation not to act in a dangerous state of fatigue
114(4)	Use of aviation fuel which is unfit for use in aircraft
124 (except(3))	Use of false or unauthorised documents and records
125	Endangering safety of aircraft
126	Endangering safety of persons or property
127	Prohibition of drunkenness in aircraft
130(c)	Acting in disruptive manner and intentional interference
135	Restriction of flights for valuable consideration by aircraft registered elsewhere than in the Territory
137	Restriction of flights for aerial photography, aerial survey and aerial work by aircraft registered elsewhere than in the Territory
138	Operators' or pilot-in-commands' obligations in respect of flights over any foreign country
139(8)	Making false reports
141	Flight in contravention of direction not to fly

(Am. in L.R. 15/12/2010)

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai