



ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER A64

ANGUILLA ECONOMIC RESIDENCE 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 revises and consolidates—

Act 15/2019, in force 3 June 2019

Act 21/2020, in force 12 May 2020

Act 35/2020, in force 16 December 2020

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ANGUILLA ECONOMIC RESIDENCE ACT**PART 1****PRELIMINARY****Interpretation**

1. In this Act—

“Agency” means the agency established under section 2 of the Select Anguilla Agency Act;

“Agent’s Licence” means an agent’s licence granted under section 14;

“Anguillian Legal Entity” means all legal entities registered with the Companies Registry that are permitted to own land and property;

“Annual Lump Sum Tax Payments” means the annual tax payments made by Applicants of the RTP to the Government;

“Applicant” means a person who applies for one or both of the Programmes;

“Application” means an application for one or both of the Programmes;

“Approved Real Estate” means a real estate project or property that is approved by the Minister following review and recommendation of the Agency;

“Attorney-General” means the Attorney-General of Anguilla;

“Authorised Agent” means a person who has paid the prescribed fee and has been granted an Agent’s Licence pursuant to section 14 and is thereby authorised to act on behalf of the Applicant in relation to an Application;

“Board” means the Board of the Agency established under section 5(1) of the Select Anguilla Agency Act ;

“Capital Development Fund” has the same meaning as given in the Fiscal Responsibility Act;

“certified copy” means a photocopy certified to be a true copy of the original by—

- (a) a notary public or other person of similar stature in the country where the document originates; or
- (b) a notary public appointed for Anguilla who possesses the requisite knowledge of the authenticity of documents originating in that country and who has been approved by the Minister of Finance for this purpose;

“Commercial Registry” means the Anguilla Commercial Registry;

“Contractor” means Anguilla Agency Consortium Ltd;

“Dependant” means—

- (a) a spouse of the Applicant;
- (b) a child of the Applicant or of his or her Spouse who is less than eighteen years of age;
- (c) a child of the Applicant or of his or her Spouse who is at least eighteen years of age and less than twenty-six years of age and who is in full time attendance at a recognised institution of higher learning and fully supported by the Applicant; or
- (d) a child of the Applicant or of his or her Spouse, of any age, who is physically or mentally challenged and fully supported by the Applicant or his or her Spouse;

“Executive Council” means the cabinet of the Government and Governor, Deputy Governor and Attorney-General;

“Government” means the Government of Anguilla;

“Immigration” means the Department of Immigration;

“Inland Revenue” means the Department of Inland Revenue;

“Investment” means the prescribed investment amount for the RBI or the RTP;

“Minister” means the Minister with responsibility for the Ministry;

“Ministry” means the Ministry responsible for Economic Development and Investment;
(Act 35/2020, s. 2(a))

“police certificate” means—

- (a) in relation to applicants under section 3(2), a statement on the status of the criminal records of the Applicant and Dependents from the national law enforcement authority of each country where the Applicant and Dependents have resided for more than 6 consecutive months in the 10 year period immediately preceding the date of the Application; or
- (b) in relation to applicants under section 3(3), a statement on the status of the criminal records of the Applicant and Dependents from the national law enforcement authority of each country where the Applicant and Dependents have resided for more than 6 consecutive months in the 5 year period immediately preceding the date of the Application;

(Act 35/2020, s. 2(b))

“prescribed” means prescribed in the Regulations;

“Programmes” means the RBI and the RTP;

“Regulations” means the Regulations made pursuant to this Act;

“RBI” means a residence by investment programme whereby qualifying applicants may be granted permanent residence in Anguilla if they meet certain requirements set forth in section 3 and other sections of this Act;

“Review Committee-RBI” means a Review Committee of the RBI established under section 9(1);

“Review Committee-RTP” means a Review Committee of the RTP established under section 9(2);

“RTP” means a residence for tax purposes programme whereby qualifying applicants may be granted tax residence in Anguilla if they meet certain requirements as set forth in section 4; and

“Spouse” means the spouse of the Applicant in a monogamous marriage or other relationship having the same or similar status to marriage, including civil union.

PART 2

PROGRAMMES

Residence by Investment

Capital Development Fund

2. Where an Applicant proposes to make a contribution to the Capital Development Fund of a prescribed amount, an Application under the RBI shall be submitted on his or her behalf through an Authorised Agent.

Real Estate Investment

3. (1) The Minister, after consultation with Executive Council, may from time to time declare Approved Real Estate for the purpose of investment under the RBI and such approval shall be published in the *Gazette*.

(2) Where an Applicant proposes to make an investment of at least the prescribed amount into Approved Real Estate and executes a binding purchase and sale agreement with a developer or owner of Approved Real Estate, conditional upon the Applicant being approved under the RBI, an Application under the RBI shall be submitted on his or her behalf through an Authorised Agent.

(3) Where an applicant made an investment into a real estate property—

- (a) between 2017 and 31 May 2019 and that real estate property is at the time of the application, valued at a minimum of US\$750,000;
- (b) between 2014 and 2016 and that real estate property at the time of the application, valued at a minimum of US\$600,000; or
- (c) before 2014 and that real estate property is at the time of the application, valued at a minimum of US\$500,000,

the applicant is eligible to submit an application for RBI through an Authorised Agent.

(4) The value of the property referred to in subsection (3) shall be verified by the Department of Lands and Surveys.

(Act 35/2020, s. 3(a))

(5) Fractional ownership of Approved Real Estate is permissible, provided that the sale, purchase and ownership are in compliance with the Fractional Ownership Act and the requirements under this Act.

(6) Sale of Approved Real Estate which is a strata lot is permissible, provided that the sale and purchase are in compliance with the Condominium Act and the requirements under this Act.

(7) Sale of Approved Real Estate by way of sale of shares is permissible provided that—

(a) the seller of such shares is an Anguillian Legal Entity, duly incorporated with a suffix “.sas” and is in good standing under the Business Companies Act; and

(b) the sale and purchase of shares are in compliance of the requirements under this Act.

(8) Purchase of Approved Real Estate by a company is permissible only through an Anguillian Legal Entity, provided that—

(a) the purchaser company is duly incorporated with a suffix “.sab” and is in good standing under the Business Companies Act; and

(b) the purchaser company has issued authorised shares to the Applicant with a value not less than the prescribed amount referred to in subsection (2) and has provided satisfactory proof of such value to the Agency.

(9) Applicants under this section shall complete the sale and purchase of Approved Real Estate on or before 60 calendar days after conditional approval of the Application by the Agency under section 11(1).

(10) Applicants shall pay all requisite stamp duties under the Stamp Act and Aliens Land Holding Regulation Act prior to final approval of the Application by the Agency.

(11) If the Approved Real Estate is vacant land (including a vacant land strata lot), construction in accordance with guidelines that may be issued from time to time by the Agency shall be completed no later than one (1) year of the final approval of the Application by the Agency.

(12) Subsections (9), (10) and (11) do not apply to persons making an application pursuant to subsection (3).

(Act 35/2020, s. 3(b))

(13) For the purpose of this section—

“Fractional ownership” has the same meaning as given in the Fractional Ownership Act ;

“vacant land” means land on which no building or other permanent structure has been erected.

*Residence for Tax Purposes***Residence for Tax Purposes**

4. (1) Where an Applicant proposes to—

- (a) pay the prescribed amount of Annual Lump Sum Tax Payments for a period of 5 years;
- (b) own and maintain Approved Real Estate in Anguilla valued at or above the prescribed amount;
- (c) establish other genuine links to Anguilla, in accordance with the guidelines published from time to time by the Agency;
- (d) be physically resident in Anguilla at least 45 days in each calendar year;
- (e) make a declaration, in writing, whereby the Applicant agrees to pay Annual Lump Sum Tax Payments for a period of 5 years; and
- (f) make a declaration, in writing, annually, that the Applicant is physically residing less than 183 days in each calendar year in any other country and the centre of vital interest is in Anguilla,

an Application under the RTP shall be submitted on his or her behalf through an Authorised Agent.

(2) The Applicant shall prepay to Inland Revenue from funds held in escrow in Anguilla with the Agency or Authorised Agent, the Annual Lump Sum Tax Payments for the first year and thereafter on 31 March of each year. The Annual Lump Sum Tax Payments for the first year may be prorated, depending on the date of final approval under the RTP.

(3) The Tax Residence Certificate issued to the Applicant under section 11(6) shall be issued on an annual basis and, subsequent to the year in which the final approval under the RTP was issued by the Agency, the Applicant shall, by application to Inland Revenue, renew the Tax Residence Certificate each year for no less than 4 taxation years in accordance with requirements issued by the Agency.

Combination option

5. Applicants may elect to apply for both the RBI under section 3 and RTP under section 4 by fulfilling all the requirements of both Programmes as set forth in this Act, provided however that the requirements under section 4(1)(b) are waived.

PART 3**APPLICATION AND PROCEDURES****Qualifications and general requirements**

6. (1) Any person who—

- (a) is at least 18 years of age; and

- (b) meets the Application requirements under section 2 or 3;

may apply to become a permanent resident of Anguilla pursuant to this Act.

- (2) Any person who—

- (a) is at least 18 years of age; and
- (b) meets the Application requirements under section 4;

may apply to become a tax resident of Anguilla pursuant to this Act.

(3) Any person who is a Dependant may apply along with the Applicant as part of the Application.

(4) An Application shall be submitted to the Agency by an Authorised Agent on behalf of the Applicant.

- (5) Applications shall—

- (a) be made in the prescribed form or on such other form provided by the Select Anguilla Agency;

(Act 21/2020, s. 2(a))

- (b) be accompanied by all requisite documentation and information set forth in the checklist issued by the Agency for the Programmes;

- (c) be accompanied by non-refundable processing fees and non-refundable due diligence fees;

- (d) be accompanied by—

- (i) a health certificate of the Applicant and Dependants in the prescribed form or on such other form provided by the Ministry of Select Anguilla Agency,

(Act 21/2020, s. 2(b))

- (ii) a police certificate with respect to the Applicant and Dependants, from the national law enforcement authority of each country or countries where the Applicant and Dependants have resided since 18 years of age for more than 6 consecutive months in the relevant period immediately preceding the date of the Application,

(Act 35/2020, s. 4)

- (iii) a banker's reference, and

- (iv) details of the Programmes under which the Applicant is applying and evidence of the proposed qualifying Investment under the RBI and/or RTP.

(6) An application form shall be completed in English and any document submitted with the Application must be—

- (a) in English; or

- (b) if the original language of the document is not in English, accompanied by an authenticated translation.

(7) For the purpose of subsection (6)(b), “authenticated translation” means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organisation or similar official institution, or if done in a country where there are no official accredited translators, a translation done by a company whose role or business is professional translation.

(8) The Applicant shall provide a sworn affidavit of support of each Dependant over 18 years of age.

(9) Each application form shall be—

- (a) completed personally by the Applicant or the Authorised Agent and signed by the Applicant and any Dependents over 18 years of age;

(b) subject to the following conditions—

- (i) Dependents who are physically or mentally challenged will not be required to sign the application form,
- (ii) both parents may be required to sign the form on behalf of a child who is below 18 years of age,
- (iii) where one parent has sole custody of a child, or another person has legal guardianship of a child, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.

(10) An application shall only be accepted and processed by the Agency, if all forms prescribed or otherwise provided by the Select Anguilla Agency are—

- (a) properly completed, dated and signed; and
- (b) accompanied by all required documents.

(Act 21/2020, s. 2(c))

(11) Every Application that is submitted shall be initially examined by the Agency and, as required, by the Review Committee-RBI and/or Review Committee-RTP.

(12) The Agency may request any further information it deems necessary to process the application.

Due diligence checks

7. The Agency may engage the services of one or more independent, professional and qualified persons or entities to conduct due diligence checks on every Applicant and Dependents.

(Act 35/2020, s. 5)

Review process

8. (1) The Agency shall, after due consideration of an Application, prepare a summary report of its findings and recommendations for approval or denial of the application, including reasons for such recommendations, to—

- (a) the Review Committee-RBI for RBI Applications; and
- (b) the Review Committee-RTP for RTP Applications.

(2) The Review Committee-RBI and the Review Committee-RTP shall review all reports prepared by the Agency under subsection (1) and may request examination of any Application or any part thereof and provide recommendations to the Agency.

(3) In relation to all applications and reports reviewed under subsection (2), the Review Committee-RBI and/or the Review Committee-RTP shall—

- (a) produce a report of its findings to be submitted to the Executive Council; and
- (b) make a recommendation to the Executive Council.

Constitution of Review Committees

9. (1) The Review Committee-RBI shall consist of the following members—

- (a) a person nominated by Immigration;
- (b) the Attorney-General or his designate; and
- (c) a person nominated by the Ministry.

(2) The Review Committee-RTP shall consist of the following members—

- (a) a person nominated by Inland Revenue;
- (b) the Attorney-General or his designate; and
- (c) a person nominated by the Ministry.

(3) The person nominated by the Ministry shall be the Chair of The Review Committee-RBI and The Review Committee-RTP.

Approval, denial or delay of Application

10. (1) The ultimate authority for making a decision on all Applications rests with the Executive Council.

(2) Upon receipt of the recommendation from the The Review Committee-RBI and The Review Committee-RTP pursuant to section 8(3), the Executive Council shall—

- (a) grant the application;
- (b) deny the application; or

(c) delay the application for cause.

(3) The Executive Council shall advise The Review Committee-RBI and The Review Committee-RTP and the Agency of its decision under subsection (2).

(4) Upon receipt of the decision of the Executive Council, the Agency shall notify the Authorised Agent in writing of the decision.

(5) An Applicant shall not be approved for permanent residence or tax residence in Anguilla who—

- (a) has provided false information on any part of the Application;
- (b) has been convicted of a criminal offence for which the maximum penalty for the same or similar offence in Anguilla is in excess of 6 months imprisonment;
- (c) is subject of a criminal investigation;
- (d) is considered to be a potential national security risk to Anguilla or to any other country;
- (e) is involved in any activity likely to cause disrepute to Anguilla; or
- (f) is, in the opinion of the Agency, a politically exposed person.

(6) Where an Application is denied under subsection (2), the Executive Council—

- (a) may, after reviewing the application, issue an Intent to Refuse/Reject and provide the Applicant an opportunity to rectify the Application by providing additional information within a specified period of time;
- (b) shall consider any additional information provided by the Applicant under paragraph (a); and
- (c) may grant the Application if the Application is rectified to the satisfaction of the Agency within the specified period in paragraph (a).

Conditional and final approval of applications

11. (1) Where an Application is approved under subsection (2), the Agency shall notify the Applicant of the conditional approval and shall require payment of any other fees, including permit fees, within 60 days of the conditional approval.

(2) If the Application is under the RBI, the Agency shall require—

- (a) for Applications under section 2, payment of the deposit required for the contribution to the Capital Development Fund, to be held in such Fund until the registration of permanent residence of the Applicant and Dependants has been completed; or
- (b) for Applications under section 3, proof of completion of the purchase and sale of Approved Real Estate in accordance with section 3(9) and payment by the Applicant of all requisite stamp duties in accordance with section 3(10).

(3) Subsection (2)(b) does not apply to persons making an application pursuant to section 3(3).

(4) If the Application is under the RTP, the Agency shall require prepayment of the Annual Lump Sum Tax Payments for the first year in accordance with section 4(2).

(Act 35/2020, s. 6)

(5) Upon fulfilment of the requirements in subsection (2), the conditional approval will become a final approval and a Permit of Permanent Residence or Permanent Residence Card will be issued by Immigration to the Applicant and Dependants to evidence permanent residence status in Anguilla.

(6) Upon fulfilment of the requirements in subsection (4), the conditional approval will become a final approval and a Tax Residence Certificate for the tax year in which the Application is made will be issued by Inland Revenue to the Applicant and Dependants to evidence tax residence status in Anguilla.

PART 4

REVOCATION OF PERMANENT RESIDENCE OR TAX RESIDENCE STATUS

Revocation of Permanent Residence status

12. The Governor may revoke a grant of permanent residence status under this Act, on the grounds that—

- (a) such registration as a permanent residence was obtained by false representation, fraud or wilful concealment or non-disclosure of material facts;
- (b) the Applicant or a Dependant has been convicted of an offence after the date of Application;
- (c) the Real Estate was resold within 5 years from the date of completion of the sale and purchase;
- (d) the Applicant referred to in section 3(3), has sold his property within 5 years of being granted permanent residence status; or
- (e) the Applicant or a Dependant has committed any other act after the date of Application, which, in the opinion of the Governor, has brought or has the potential to bring disrepute to Anguilla.

(Act 35/2020, s. 7)

Revocation of Tax Residence status

13. The Minister may revoke a grant of tax residence status under this Act, on the grounds that—

- (a) such registration as a tax resident was obtained by false representation, fraud or wilful concealment or non-disclosure of material facts;

(Act 35/2020, s. 8)

- (b) the Applicant or a Dependant has been convicted of an offence after the date of Application;
- (c) the Applicant has failed to renew his or her Tax Residence Certificate in accordance with section 4(3) ; or
- (d) the Applicant or a Dependant has committed any other act after the date of Application, which, in the opinion of the Minister, has brought or has the potential to bring disrepute to Anguilla.

PART 5

AUTHORISED AGENTS

Authorised Agents

14. (1) An Application shall only be submitted by an Authorised Agent who is the holder of an Agent's Licence issued under this Act.

(2) A licence to be an authorised agent may only be issued to a lawyer, real estate agent or a company manager who is ordinarily resident in Anguilla.

(Act 21/2020, s. 3(a))

(3) An application for an Agent's Licence shall be submitted to the Agency for approval by the Minister after consultation.

(4) An application submitted under subsection (3) shall be made on the prescribed form or on such other form provided by the Select Anguilla Agency and accompanied by—

- (a) a prescribed business licence in good standing issued under the Licensing of Businesses Act;
- (b) a company manager's licence where applicable;
- (c) the prescribed fee for the Authorised Agents, payable to the Agency; and
- (d) such evidence of the applicant's professional qualification, ability, resources, experience and integrity, as the Agency may require pursuant to published guidelines issued from time to time.

(Act 21/2020, s. 3(b) and Act 35/2020, s. 9(a))

(5) An application for an Agent's Licence shall be accompanied by $\frac{1}{4}$ of the prescribed fee referred to in subsection (4)(c) multiplied by the number of remaining calendar quarters from the day the licence is granted until the end of the year, a part of a calendar quarter being calculated as a whole quarter.

(Act 35/2020, s. 9(b))

(6) An Authorised Agent shall maintain a place of business in Anguilla and shall promptly inform the Agency of any changes in its location.

(7) The Minister, after consultation with the Agency, may revoke the Agent's Licence of any Authorised Agent if—

- (a) the ability, resources, experience or integrity of the Authorised Agent has fallen below the standard that, in the opinion of the Minister, might reasonably be expected;
- (b) the prescribed fee remains unpaid for 14 calendar days after it has become due;
- (c) the requirements of subsection (2) have not been complied with;
- (d) the requirements of subsection (5) have not been complied with;
- (e) the Authorised Agent wilfully misrepresents himself or herself as an agent to another person; or
- (f) the Authorised Agent has contravened any of the provisions of this Act.

(8) Prior to revoking any Agent's Licence under subsection (7), the Minister shall give the Authorised Agent concerned notice in writing, served at the place of business provided in subsection (6), of the Minister's intention to do so, specifying the grounds upon which the Minister proposes to make the revocation and shall require the Licensed Agent to submit to the Minister within a specified period, a written statement of objections to the making of the revocation and reasons why the subject licence should not be revoked and the Minister shall advise the Licensed Agent of the Minister's decision.

(9) For the purpose of this Act and for the avoidance of any doubt, a Licensed Agent shall act solely on behalf of an Applicant and not on behalf of the Government.

(10) The term of the Agent's Licence on initial issuance and any renewal thereof shall be one year.

(11) An Authorised Agent shall—

- (a) sign a written agreement with the Agency agreeing to adhere to the terms and conditions of the Programmes and this Act and Regulations;
- (b) prior to renewal of an Agent's Licence—
 - (i) satisfy the Agency as to the Authorised Agent's performance and suitability for continued involvement with the Programmes, and
 - (ii) demonstrate to the Agency that the Authorised Agent has paid the prescribed fee and has submitted the prescribed renewal form;
- (c) advise the Agency on a timely basis of the identity, summary background and reputation of each sub-agent, associate, partner or promoter with whom the Authorised Agent has entered into an agreement, whether written or otherwise, or engages or acts in conjunction with.

(12) Upon receipt of the information from the Licensed Agent in paragraph (10)(c), the Agency may, in its sole discretion, order the sub-agent, associate, partner or promoter to register under this section, including payment of the prescribed fee.

(13) An Authorised Agent shall submit to the Agency a prescribed form or such other form provided by the Select Anguilla Agency, signed by the Applicant, authorising the Authorised Agent to act on the Applicant's behalf.

(Act 21/2020, s. 3(c))

(14) Where an Authorised Agent is no longer authorised to act on behalf of the Applicant, the Applicant shall immediately notify the Agency and provide the Agency with the name, address and other details as required under this Act of the new Authorised Agent, who shall be licensed and subject to the provisions of this Act.

PART 6

MISCELLANEOUS

Publication of information

15. The Minister may, from time to time, by notice in the *Gazette* publish information regarding—

- (a) the names of all Authorised Agents;
- (b) any revocation of any permanent residence or tax residence in Anguilla;
- (c) any other matter that the Executive Council deems appropriate to be published under this section.

Regulations

16. (1) The Minister in Council may make such regulations as the Minister deems to be necessary and expedient for the purpose of giving effect to the provisions and carrying out the intent of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations in respect of—

- (a) requirements of the Programmes, including the Investment amount for the RBI and Annual Lump Sum Tax Payments and value of Approved Real Estate under the RTP;
- (b) qualifications, general requirements and procedures for the Programmes;
- (c) the registration of anything required to be registered under this Act;
- (d) the giving of any notice required to be given under this Act;
- (e) providing for the issuance of a Permit of Permanent Residence or Permanent Resident Card under this Act;
- (f) providing for the issuance of a Tax Residence Certificate under this Act;

- (g) the cancellation of the registration of persons whose permanent residence and/or tax residence status has been revoked;
- (h) the imposition and recovery of all fees (including processing fees, diligence fees and permit fees) relating to Application for the Programmes, the registration or grant of permanent residence and/or tax residence status, and in respect of the supplying a certified copy of any document under this Act;
- (i) the marketing and promotion of the Programmes;
- (j) prescribing forms for the making of Applications under this Act; and
- (k) anything which may be or is to be prescribed under this Act.

Citation

17. This Act may be cited as the Anguilla Economic Residence Act, Revised Statutes of Anguilla, Chapter A64.
