

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER B20

BEACH CONTROL ACT

Showing the Law as at 15 December 2014

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 1/2013, in force 28 February 2013

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BEACH CONTROL ACT

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BEACH CONTROL ACT

Interpretation

1. In this Act—

"adjoining land" or "land adjoining" means lands adjoining the foreshore of Anguilla and extending not more than 50 yards beyond the landward limit of the foreshore;

"commercial enterprise" includes—

(a) the business of carrying on an hotel or a proprietary club; and

(b) the erection, construction or maintenance of any dock, wharf, pier, jetty or other form of encroachment;

"Committee" has the same meaning as given in the Beach Vending Regulations;
(Act 1/2013, s. 2)

"fishing" includes purposes incident to fishing;

"floor of the sea" means the soil and subsoil of the sea off the coast of Anguilla between low water mark and so far out to sea as is deemed by international law to be within the territorial sovereignty of the Crown;

"Minister" means the member of Executive Council charged for the time being with the administration of Crown lands;

"permit" has the same meaning as given in the Beach Vending Regulations;
(Act 1/2013, s. 2)

"public" includes any class of the public.

Foreshore and floor of the sea declared to be vested in the Crown

2. Subject to the provisions of section 9, all rights in and over the foreshore of Anguilla and the floor of the sea are hereby declared to be vested in the Crown.

Prohibition of use of the foreshore and the floor of the sea without a licence

3. (1) From and after 30th September, 1961, no person shall encroach on or use, or permit any encroachment on or use of, the foreshore, or the floor of the sea, for any public purpose or for or in connection with any trade, business, or commercial enterprise, except as provided by section 9, without a licence granted under this Act.

(2) Any person who contravenes the provisions of subsection (1) is liable on summary conviction before the Magistrate to imprisonment for a term of 12 months, or to a fine for each day during which the contravention continues of $2,000 for each such day and in default of payment of any such fine is liable to imprisonment for a term of 3 months or to both such imprisonment or fine.

(3) Where a company is guilty of a contravention of the provisions of subsection (1), every director, manager, agent and officer of the company in Anguilla who is knowingly a party to the contravention, is liable to the penalty prescribed by subsection (2).

Minister to grant licences for use of foreshore and floor of the sea; publication of grant or refusal

4. (1) The Minister may, on application made in such manner as may be prescribed under section 8, grant licences for the use of the foreshore, or the floor of the sea, for any public purpose, or for or in connection with any trade, business, or commercial enterprise to any person, upon such conditions and in such form as he may think fit.

(2) Every application under subsection (1) shall be published in the *Gazette* and members of the public shall be afforded an opportunity of making representations to the Minister in respect thereof.

(3) Where an application is made for a licence under subsection (1), the Minister shall consider what the public interests in regard to fishing, bathing or recreation or in regard to any future development of the land adjoining that part of the foreshore in respect of which the application is made, require to be protected, and he may provide for the protection of such interests by and in the terms of the licence or otherwise in accordance with the provisions of this Act.

(4) Subject to such regulations as may be made under section 8, any person aggrieved by a—

(a) decision of the Minister as to whether such licence should be granted or refused; or

(b) a determination by the Committee as to—

(i) whether a permit should be granted, refused or revoked,

(ii) any terms and conditions referred to in section 12(1) of the Beach Vending Regulations;

may appeal that decision to the Governor in Council.

(Act 1/2013, s. 3)

(5) Every grant or refusal of a licence by the Minister or the Governor in Council shall be published in the *Gazette*.

(6) The decision of the Governor in Council as to whether such licence should be granted or refused shall be final and shall not be questioned in any legal proceeding.

Governor in Council to determine and make provision for the needs of the public in relation to beaches

5. The Governor in Council shall from time to time determine the needs and requirements of the public in relation to the use of any land adjoining the foreshore and the use of the foreshore itself for or in connection with bathing or any other form of lawful recreation or for the purpose of fishing as a trade or otherwise or for any other purpose in the interest of the economic development of Anguilla and of the beaches thereof, and shall have the power to acquire in the name of the Crown for the use of the public any portion of land adjoining the foreshore or any right or interest of any nature or description in or over such land, and such power of acquisition shall be exercised in accordance with the provisions of section 7.

Power to acquire land for indefinite period

6. (1) Subject to the provisions of this section, the Governor in Council may, if he thinks fit, by agreement with the person entitled to dispose of any adjoining land, or compulsorily in accordance with the provisions of section 7, acquire in the name of the Crown such land or any right or interest in such land for the use or benefit of the public on a year to year basis for an indefinite period.

(2) The consideration or compensation payable in respect of the acquisition of any land or any right or interest in land under subsection (1) shall be an annual rent charge payable yearly in advance.

(3) When any right in or over land is acquired by the Governor in Council on a year to year basis for an indefinite period—

(a) the Governor in Council may terminate such right on one year's notice in writing to the owner of the land subject to the right; and

(b) the owner of the land subject to the right or his nominee may at any time apply to the Governor in Council for a licence to use that part of the foreshore and floor of the sea which such land adjoins, and the Governor in Council shall consider the application and may grant or refuse such licence; and upon the grant of any such licence the rights of the Crown or of any person exercising any rights under the Crown in or over such land, shall cease and determine save to the extent that such rights may be expressly reserved in and by the terms of the licence.

Procedure for compulsory acquisition of land

7. Where under section 5 or 6 power is conferred on the Governor in Council to acquire compulsorily any land or any right or interest in or over land the power shall be exercisable for the acquisition of any particular land or any particular right or interest in land in accordance with the

procedure for the compulsory acquisition of land under the Land Acquisition Act, with such modifications as may be necessary or proper to adapt that Act to the requirements of this Act.

Regulations

8. The Governor in Council may make regulations generally for the proper carrying out of the purposes and provisions of this Act and in particular but without prejudice to the generality of the foregoing may make regulations—

(a) with respect to the form and manner of application for licences to be granted under this Act, the fees to be paid in respect of such licences, and the grant or refusal of such licences;

(b) providing for the registration of all persons licensed under section 4 and for the manner and method of registration and the particulars to be registered;

(c) for securing the observance of sanitary and clean conditions and practices at and in respect of parts of the foreshore and adjoining lands and parts of the sea to which members of the public habitually resort;

(d) providing for the prevention of danger, obstruction or annoyance to members of the public using any part of the foreshore or adjoining land;

(e) for the preservation of order and good conduct among members of the public using the foreshore or adjoining land;

(f) for controlling the erection or placing on any beach or adjoining land to which the public habitually resort of bath-houses or huts, booths, tents, sheds, stands and stalls (whether fixed or moveable); and

(g) with respect to the form and manner of making appeals under section 4(4) and any fees to be paid in respect thereof.

(h) prescribing offences against the regulations and prescribing imprisonment for a term of 12 months, or to a fine of $50,000 or to both in respect of any one offence and in the case of a continuing contravention, $10,000 for each day on which the contravention continues after conviction.

(Act 1/2013, s. 4)

Saving

9. Nothing in this Act contained shall be deemed to affect—

(a) any land used for agriculture;

(b) any rights enjoyed by fishermen engaged in fishing as a trade, where such rights existed immediately before 30th September, 1961, in or over any beach or adjoining land;

(c) the enjoyment by such fishermen of the use of any part of the foreshore adjoining any beach or land in or over which any rights have been enjoyed by them up to 30th September, 1961; or

(d) such land or rights as the Governor in Council may by regulation declare to be exempt from the provisions of this Act.

Citation

10. This Act may be cited as the Beach Control Act, Revised Statutes of Anguilla, Chapter B20.