ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER B43

BIODIVERSITY AND HERITAGE CONSERVATION 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 10/2009, in force 1 August 2010 (except Part 5)
Act 8/2021, in force 12 March 2021

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BIODIVERSITY AND HERITAGE CONSERVATION ACT

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BIODIVERSITY AND HERITAGE CONSERVATION ACT

PART 1
PRELIMINARY

Interpretation

1. In this Act—

"Anguilla" means—

(a) the islands of Anguilla, Scrub Island, Anguillita, Sandy Island, Prickly Pear, Dog Island, Sombrero and other islands and rocks forming part of Anguilla;

(b) the interior waters of Anguilla and the seabed beneath the interior waters and the subsoil beneath the seabed;

(c) the territorial sea and the seabed beneath the territorial sea and subsoil beneath the seabed; and

(d) the airspace above the islands and rocks referred to in paragraph (a), the interior waters and the territorial sea;

"applicable conventions" means the conventions and amendments and protocols to conventions referred to in section 2(2)(a) to (e);

"aquatic species" means a wildlife species that lives, or spends all or substantially all of its life, in a body of water, the interior waters or the territorial sea but does not include any wildlife species of bird;

"biodiversity" means the variability among living organisms from all sources, including, without limitation, terrestrial and aquatic ecosystems and the ecological complexes of which they form a part and includes the diversity within and between species and of ecosystems;

"body of water" means either of the following, whether it contains or conveys water continuously or intermittently—

(a) a salt pond or other natural body of water;

(b) a reservoir or other similar artificial surface feature made by humans;

that is surrounded by land and includes a ditch that drains into the sea;

"building" includes part of a building but does not include any building owned by or held in trust for a religious body and used as a place of religious worship;

"category", in relation to a protected area, means a category of protected area referred to in section 12;

"conservation easement" means a conservation easement granted under section 21;

"controlled buffer zone" means an area designated as such under section 15(2)(e);

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"COSEWS" means the Committee on the Status of Endangered and other Wildlife Species referred to in section 27;

"critical habitat" means the habitat that is necessary for the survival or recovery of a wildlife species;

"derivative" includes—

(a) any processed part of an animal or plant, including medicine, cosmetics, comestibles or textiles;

(b) body fluids, including blood; and

(c) genetic material;

"ecosystem" means a dynamic complex of wildlife and micro-organism communities and their non-living environment interacting as a functional unit;

"endangered species" means a wildlife species that is facing imminent extinction or extirpation or has been extirpated;

"enforcement officer" means a person appointed as an enforcement officer under section 65;

"environment" means the components of the earth and includes—

(a) air, land and water;

(b) all layers of the atmosphere;

(c) all organic and inorganic matter and living organisms; and

(d) the interacting natural systems that include components referred to in paragraphs (a) to (c);

"environmental restriction agreement" means an agreement made under section 22;

"extirpated", in relation to a species, means a wildlife species that no longer exists in the wild in Anguilla, but exists in the wild elsewhere in the world;

"function" means a duty or power;

"genetic material" means—

(a) in the case of an animal—

(i) an egg, sperm, spawn, larvae, spat, tissue culture or embryo, or

(ii) any other part or product of an animal from which another animal can be reproduced, but does not include synthetically derived DNA; and

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(b) in the case of a plant, alga or fungus—

(i) a seed, spore, pollen or tissue culture, or

(ii) any other part or product of a plant, alga or fungus from which another plant, alga or fungus can be produced but does not include synthetically derived DNA;

"Government" means the Government of Anguilla;

"government agency" has the same meaning as it has in the Financial Administration and Audit Act;

"habitat" means—

(a) in respect of aquatic species, an area or site used for spawning grounds and nursery, rearing, food supply, migration and any other area or site on which an aquatic species depends directly or indirectly in order to carry out its life processes or an area or site where an aquatic species formerly occurred and has the potential to be reintroduced; and

(b) in respect of terrestrial species, an area or site where a terrestrial species naturally occurs or which it depends on directly or indirectly in order to carry out its life processes or an area or site where a terrestrial species formerly occurred and has the potential to be reintroduced;

"habitation", in relation to a wildlife species of animal, means a dwelling place, such as a den, nest or other similar place that is occupied or habitually occupied by one or more members of the wildlife species during all or part of their life cycle, including laying eggs, breeding, rearing, staging and feeding;

"harvest", in relation to a wildlife species of plant, alga or fungus, means pick, collect, cut, uproot or destroy;

"heritage object" means a heritage resource of a moveable nature including a specimen, artefact, document, work of art or other similar thing;

"heritage resource" means a work of nature or of humans that is of value for its palaeontological, archaeological, prehistoric, historic, cultural, natural, scientific or aesthetic interest including, but not limited to, a palaeontological, archaeological, prehistoric, historic or natural site, structure or object and, for greater certainty, includes the site of a historic wreck, petroglyphs, coin, pottery or pottery shards and human remains believed to be more than 200 years old;

"heritage site" means a site that includes or consists of a heritage resource of an immovable nature or that cannot be disassociated from its context without destroying some or all of its value as a heritage resource and includes a palaeontological, archaeological, prehistoric, historic or natural site and any monument, building or structure that forms part of the site, but does not include a building that is listed;

"interior waters", in relation to Anguilla, means the waters between the baselines from which the territorial sea is measured and the mean low water mark;

"land" means land as defined in the Registered Land Act and includes an interest in land;

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"List" means the list of wildlife species set out in Schedule 1 and "listed", in relation to that List, means listed on the List;

"list", in relation to a building, means the list in a regulation made under section 48 and "listed", in relation to a building, means listed in that regulation;

"migratory species" means a wildlife species of animal whose members cyclically and predictably cross one or more national jurisdictional boundaries and whose range includes Anguilla;

"Minister of Environment" means the minister responsible for environment;

"Minister of Fisheries and Marine Resources" means the minister responsible for fisheries and marine resources;

"non-profit corporation" means a corporation incorporated as a non-profit corporation under the Companies Act[*];

"person" includes any corporation, partnership and club, society, association or other body of one or more persons and the heirs, executors, administrators or other legal representatives of a person;

"precautionary principle" means the rule by which pre-emptive conservation measures may be taken to avoid or minimize a threat to a population of a wildlife species even when there is a lack of full scientific certainty as to the threat;

"private land" means land owned by a person, other than the Government or a government agency;

"protected area" means an area established as such under section 15;

"Public Registry" means the public registry established under section 9;

"recovery action plan" means a plan referred to in section 34;

"register", as a noun or a verb, has the same meaning as it has as a noun or a verb in the Registered Land Act;

"registered owner", in relation to land, except in Part 4, means the proprietor registered as owner of an estate in fee simple in the land;

"species" includes a subspecies, variety or geographically distinct population of animal, plant, alga or fungus, other than a bacterium or virus;

"status", in relation to a wildlife species, means the conservation status of the species comprising the sum of the influences acting on the species that may affect its long-term distribution and abundance;

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

"structure" includes part of a structure;

[*] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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"sustainable", in relation to management or use, means the introduction and application of methods and processes for the utilization of biodiversity to prevent its long term decline, thereby maintaining its potential to meet current and future human needs and aspirations;

"synthetically derived DNA" means a DNA sample synthetically derived that does not contain any part of the original template;

"take", in relation to a wildlife species of animal, means fish, hunt, catch or capture or attempt to catch or capture, stalk, lie in wait for, harass, intentionally injure or kill or attempt to do so;

"terrestrial species" means all wildlife species, other than aquatic species, and includes all wildlife species of birds;

"territorial sea", in relation to Anguilla, means the territorial sea established under the Anguilla (Territorial Sea) Order in Council 2007 No. 2916, being that part of the sea adjacent to Anguilla that is situated within 12 nautical miles measured from the baselines established under that Order, together with the seabed of the territorial sea and its subsurface;

"threatened species" means a wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction;

"traffic" means—

(a) sell, buy, barter or trade, or offer to do so; or

(b) solicit, advertise, display or expose for sale, barter or trade or with a view to effecting a sale, barter or trade;

"vehicle" means a device in, on or by means of which a person or thing may be transported or drawn on a road;

"vessel" includes any ship, boat, lighter, or other floating craft used for transport by water;

"vulnerable species" means a wildlife species that may become a threatened or endangered species unless measures are taken to prevent or restrict its exploitation;

"wetlands" means an area of marsh, lagoon or swamp or a body of water of ecological, limnological or hydrological significance, including marine areas the depth of which at low tide does not exceed 6 metres and includes contiguous coastal land;

"wildlife species" means a species, subspecies, variety or geographically distinct population of animal, plant, alga or fungus, other than a bacterium or virus, that is wild by nature and—

(a) is or was native to Anguilla;

(b) is or was not native to Anguilla and—

(i) has extended its range into Anguilla without human intervention,

(ii) has been present in Anguilla for at least 50 years, and

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(iii) has not been declared an alien invasive species under subsection (8); or

(c) is a migratory species whose range extends to Anguilla.

(2) For the purposes of the definition of "wildlife species" in subsection (1), a species, subspecies, variety or geographically distinct population of animal, plant, alga or fungus, in the absence of evidence to the contrary, is presumed to have been present in Anguilla for at least 50 years.

(3) In this Act—

(a) the Minister of Fisheries and Marine Resources is the competent minister with respect to—

(i) aquatic species and their habitats and the ecosystems of which they form a part in relation to Part 2 (administration), Part 4 (conservation easements and environmental restriction agreements), Part 5 (protection of listed wildlife species) and Part 8 (enforcement), and

(ii) Category I (nature reserves), Category II (national parks), Category III (national monuments), Category IV (habitat-wildlife species management areas), Category V (protected landscapes or seascapes) and Category VI (managed biological resource) protected areas and controlled buffer zones that are established and maintained to protect or primarily to protect aquatic species, their habitats and the ecosystems of which they form a part;

(b) the Minister of Environment is the competent minister with respect to—

(i) terrestrial species and their habitats and the ecosystems of which they form a part in relation to Part 2 (Administration), Part 4 (Conservation Easements and Environmental Restriction Agreements), Part 5 (Protection of Listed Wildlife Species), Part 6 (Regulation of Terrestrial Species that are not Listed) and Part 8 (Enforcement),

(ii) Category I (Nature Reserves), Category II (National Parks), Category III (National Monuments), Category IV (Habitat-wildlife Species Management Areas), Category V (Protected Landscapes or Seascapes) and Category VI (Managed Biological Resource) protected areas and controlled buffer zones that are established and maintained to protect or primarily to protect terrestrial species, their habitats and the ecosystems of which they form a part,

(iii) all Category VII (Heritage Sites), protected areas, whether the protected area consists wholly or partly of, or is in, a body of water or is in the interior waters or territorial sea or is on or under land, and

(iv) Part 7 (Additional Protections for Heritage Resources).

(4) When a power to delegate, designate, appoint or authorise a person to do an act or thing is given under this Act, the delegation, designation, appointment or authorisation may be by the person's name, title or office, and when a delegation, designation, appointment or authorisation is by title or office, the delegation, designation, appointment or authorisation applies to every person while he or she holds that office or title.

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(5) A delegation, designation, appointment or authorisation may be revoked.

(6) A reference to this Act shall be interpreted to include the regulations, unless a contrary intention appears in this Act or the regulations.

(7) A regulation may provide that—

(a) a contravention of any of its provisions is an offence; and

(b) the defence of due diligence is available in respect of an offence of strict liability.

(8) For the purposes of the definition of "wildlife species", a competent minister may, in respect of wildlife species within his or her competence, by regulation, declare that, a species, subspecies, variety or geographically distinct population of animal, plant, alga or fungus that is not or was not native to Anguilla and has extended its range into Anguilla without human intervention is an alien invasive species.

Purpose of Act

2. (1) The purpose of this Act is—

(a) to support and promote the conservation of wildlife species, their habitats and the ecosystems of which they form a part, in Anguilla, the Caribbean and the world;

(b) to prevent wildlife species from being extirpated or becoming extinct and to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity;

(c) to prevent vulnerable species from becoming endangered or threatened;

(d) to support and promote the conservation of heritage sites and listed buildings in Anguilla; and

(e) to protect heritage objects in Anguilla and to prevent heritage objects or types of heritage objects from being exported.

(2) In fulfilling the purposes referred to in subsection (1), the intention of this Act is to give effect in Anguilla to all or part of—

(a) the Convention on Wetlands of International Importance especially as Wildfowl Habitat 1971 and amendments and protocols to the Convention that are extended to Anguilla;

(b) the World Heritage Convention 1972 and amendments and protocols to the Convention that are extended to Anguilla;

(c) the Convention on the Conservation of Migratory Species of Wild Animals 1979 and amendments and protocols to the Convention that are extended to Anguilla;

(d) the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region 1983, the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine

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Environment of the Wider Caribbean Region 1990 and the amendments and protocols to the Convention that are extended to Anguilla; and

(e) the Convention on the Conservation of Biological Diversity 1992 and amendments and protocols to the Convention that are extended to Anguilla.

Act binding on Crown

3. This Act binds the Crown.

PART 2

ADMINISTRATION

General responsibilities of competent ministers

4. (1) Subject to this Act, each competent minister in respect of his or her areas of competency under this Act is responsible for the administration and enforcement of this Act and, more particularly, each competent minister—

(a) shall facilitate Anguilla's compliance with the applicable conventions and shall have particular regard for his or her obligations under the applicable conventions specified in the regulations;

(b) shall establish and implement the policies, programmes, services and administrative procedures and co-operate with other ministries and departments of Government and with government agencies on matters pertaining to this Act;

(c) shall compile, study and assess information related to conservation of the environment for the purpose of better performing his or her functions under this or any other Act dealing with conservation under his or her administration with a view to sharing that information with each other and with other ministries and departments of Government, government agencies, the Anguilla National Trust or other non-governmental organisations and the public;

(d) shall carry out and may participate in and support research projects related to matters pertaining to conservation of the environment and shall keep the research projects under review;

(e) shall, together or in co-operation with other ministries and departments of Government, government agencies, the Anguilla National Trust or other non-governmental organisations, develop, publish and distribute educational materials with respect to conservation of the environment and shall coordinate, develop and deliver educational programmes and services to assist Anguillians to better understand the conservation of the environment and become responsibly involved in the protection and wise use of the environment;

(f) may, together or in co-operation with other ministries and departments of Government and government agencies, the Anguilla National Trust or other non-governmental organisations and as provided in this or any other Act under his or her administration, develop programmes and other measures to achieve conservation of the environment;

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(g) shall generally do any acts he or she considers necessary to promote the conservation of the environment for the benefit of the people of Anguilla and future generations; and

(h) shall, in performing his or her functions under this Act—

(i) act on the basis of the best available information, including scientific knowledge and traditional knowledge, and

(ii) apply the precautionary principle.

(2) Each competent minister may delegate any of his or her functions, other than the power to make regulations or to appoint persons, to the Director of Environment or Director of Fisheries and Marine Resources, as the case may be.

(3) The Director of Environment or the Director of Fisheries and Marine Resources may delegate any of his or her functions to any public officer who reports to him or her.

Delegation of Directors' functions outside department

5. (1) Subject to subsection (2), the Director of Environment or the Director of Fisheries and Marine Resources, as the case may be, may in writing delegate his or her functions to—

(a) a public officer outside his or her Department;

(b) a government agency or an employee of a government agency; or

(c) the Anguilla National Trust or an employee of the Anguilla National Trust.

(2) Before making a delegation under subsection (1), the Director of Environment or the Director of Fisheries and Marine Resources, as the case may be, shall obtain—

(a) in the case of a delegation to a public officer, the written consent of the Governor and the minister of the ministry for the department in which the public officer is employed;

(b) in the case of a delegation to a government agency or an employee of a government agency, the written consent of the board or other management body of the government agency;

(c) in the case of a delegation to the Anguilla National Trust or an employee of the Anguilla National Trust, the consent in writing of the Board of the Anguilla National Trust.

Transfer of administration

6. (1) Subject to subsection (2), each competent minister may, by written agreement or by regulation, with the consent of the other minister or the government agency or entity, transfer the administration of a provision of this Act to—

(a) another minister of Government;

(b) a government agency;

(c) the Anguilla National Trust; or

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(d) any other entity;

with the consent of the other minister, the government agency, the Board of the Anguilla National Trust or management body of the other entity, as the case may be.

(2) Subsection (1) does not permit the transfer of the power to make regulations.

(3) An agreement or regulation referred to in subsection (1) may—

(a) specify the terms and conditions subject to which the transfer is made;

(b) provide for funding the costs associated with the transfer of administration;

(c) authorise the collection of, and require accounting for, specified fees and charges and require the remittance thereof to the Accountant General or, notwithstanding the Financial Administration and Audit Act but with the consent of, and subject to any conditions imposed by, the Minister of Finance, authorise the retention by a government agency, the Anguilla National Trust or other entity of specified fees and charges;

(d) provide for the maintenance of records and periodic reports; and

(e) provide for any other matters relating to the transfer of administration.

(4) When an agreement or regulation referred to in subsection (1) involves the stewardship of one or more wildlife species, their habitat and the ecological systems of which they form a part, the agreement or regulation may provide for the taking of conservation measures and any other measures consistent with the purposes of this Act, and may include, without limitation, measures with respect to—

(a) monitoring the status of the species;

(b) developing and implementing education and public awareness programmes;

(c) developing and implementing recovery action plans and management plans;

(d) protecting the species' habitat, including its critical habitat; or

(e) undertaking research projects in support of recovery efforts for the species.

(5) When the administration of a provision of this Act has been transferred under subsection (1) and, in the opinion of the competent minister the other minister, the government agency, the Anguilla National Trust or other entity is not properly administering the provision, the competent minister after giving written notice to the other minister, the government agency, the Anguilla National Trust or the other entity, as the case may be, may cancel the agreement or revoke the regulation that effected the transfer of administration.

General power to make agreement

7. A competent minister, may, on behalf of the Government, enter into an agreement relating to any matter pertaining to conservation of the environment with any of the following—

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(a) with the approval of the Governor, the government of another jurisdiction or an agency of that government;

(b) a government agency;

(c) the Anguilla National Trust;

(d) any person.

Financial incentives

8. The Governor in Council may, by regulation, establish programmes and other measures using financial incentives to encourage persons to conserve or protect the environment.

Public Registry

9. (1) The competent ministers shall establish and maintain a Public Registry for the purpose of facilitating access to documents under this Act.

(2) The Governor in Council, on the advice of the competent ministers, may make regulations respecting the Public Registry and access to it.

Regulations

10. The Governor in Council, on the advice of the competent ministers, may make regulations specifying the obligations in respect of applicable conventions for the purposes of section 4(1)(a).

PART 3

PROTECTED AREAS AND CONTROLLED BUFFER ZONES

Interpretation

11. In this Part, "Advisory Committee" means the Advisory Committee for Protected Areas established in section 14(1).

Categories of protected areas

12. The following are the categories of protected areas for the purposes of this Act—

(a) Category I: nature reserves, which are established and managed mainly for scientific purposes for the conservation of biodiversity and which are of national or international significance for the conservation of wildlife species of animals and of wildlife species of plants, their habitats and the ecosystems of which they form a part;

(b) Category II: national parks, which are established and managed mainly for the conservation of biodiversity through ecosystem protection and for recreation;

(c) Category III: national monuments, which are established and managed mainly for the conservation of specific natural features;

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(d) Category IV: habitat-wildlife species management areas, which are established and managed mainly for conservation of habitats and wildlife species through management intervention;

(e) Category V: protected landscapes or seascapes, which are established and managed mainly for landscape or seascape conservation and for recreation;

(f) Category VI: managed biological resource protected areas, which are established and managed mainly for the sustainable use of natural ecosystems;

(g) Category VII: heritage sites.

Management and use of protected areas

13. Protected areas shall be managed and used in a sustainable manner.

Advisory Committee for Protected Areas

14. (1) The Advisory Committee for Protected Areas is established.

(2) Schedule 2 has effect with respect to the constitution and procedures of the Advisory Committee.

(3) In addition to performing its functions under section 17, the Advisory Committee shall, in relation to a regulation proposed to be made under section 15—

(a) consider a report referred to in section 17(7)(d);

(b) give any advice it considers appropriate to the Governor in Council with respect to the proposed regulation.

(4) The Advisory Committee shall, in performing its functions under this Act—

(a) act on the basis of the best available information, including scientific knowledge and traditional knowledge; and

(b) apply the precautionary principle.

(5) The Governor in Council may, by regulation, amend, revoke or replace Schedule 2.

Establishing, disestablishing or altering and regulating protected areas and controlled buffer zones

15. (1) Subject to sections 16 and 17, the Governor in Council, after considering the advice of the Advisory Committee, may make regulations under this section.

(2) A regulation referred to in subsection (1) may—

(a) establish and name a protected area;

(b) prescribe the category of a protected area;

(c) alter the area of a protected area;

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(d) disestablish a protected area;

(e) establish a controlled buffer zone;

(f) alter the area of a controlled buffer zone; or

(g) disestablish a controlled buffer zone.

(3) Regulations may be made for the better administration and governance of protected areas or a category or categories of protected areas or in relation to controlled buffer zones or any type or types of controlled buffer zones, including regulations—

(a) providing for management and administration of protected areas and controlled buffer zones;

(b) prohibiting or regulating entry to protected areas;

(c) requiring that the boundary of a protected area and any controlled buffer zone be fenced or marked by posting of signs, placing buoys, assigning global positioning satellite tags or other similar means appropriate to its location;

(d) requiring that regulations or information respecting a protected area or a controlled buffer zone be conspicuously displayed or otherwise posted or made available to persons proposing to enter the protected area or controlled buffer zone;

(e) prohibiting or regulating activities, including, without limitation, the following—

(i) the operation of vehicles, including establishing speed limits, governing parking and stopping and the operation and mooring or anchoring of vessels,

(ii) recreational activities, including cycling, skateboarding, playing games, swimming, scuba diving, snorkelling and waterskiing,

(iii) lighting or maintaining an open fire,

(iv) filming, including filming underwater, or using a film, or the name of a film, for advertising or for any other commercial purpose,

(v) acting as an interpretive guide,

(vi) acting as a guide for marine based recreational activities, including scuba diving and snorkelling,

(vii) operating a scuba diving business,

(viii) operating a snorkelling business,

(ix) operating a concession;

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(f) fixing fees or providing for the determination of fees, and requiring their payment for entering, using a service, such as parking, or for engaging in an activity, including activities for which a licence, permit or authorisation is required;

(g) requiring a licence, permit or authorisation to engage in an activity, including any activity referred to in paragraph (e), and providing for all aspects of the application for, refusal of, issuance of, and suspension or cancellation of, a licence, permit or authorisation, including—

(i) imposing conditions,

(ii) fixing a term,

(iii) prohibiting or regulating transfer, and

(iv) the production of, and property in, the licence, permit or authorisation;

(h) providing for the appeal of a refusal, suspension or cancellation of a licence, permit or approval or any class thereof or of the suspension of the right to obtain a licence, permit or approval, or the imposition of a moratorium on the issue or use of a licence, permit or approval;

(i) prescribing forms for any of the purposes of regulations under this section or providing that any form may be as required, or as approved by, a specified person;

(j) making special provision for locally owned businesses or vehicles or for persons belonging to or resident in Anguilla for the purposes of any provisions of the regulations;

(k) establishing exemptions from a regulation or a provision of a regulation;

(l) permitting and regulating the right to pass or repass over private property for the purpose of gaining access to a protected area or any category of protected area or controlled buffer zone.

(4) A protected area may consist of land, interior waters or the territorial sea, or any combination thereof.

(5) A regulation made under subsection (3) may provide that it applies to part only of a protected area or controlled buffer zone.

(6) A regulation made under this section is not invalid by reason of an irregularity in anything done under section 17 if it is shown that section 17 was materially complied with.

Establishing or enlarging protected areas or controlled buffer zones on privately owned land

16. Subject to section 19, no area of private land shall be established—

(a) as a protected area or used to enlarge a protected area; or

(b) as a controlled buffer zone or used to enlarge a controlled buffer zone;

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without the written consent of the registered owner.

Notice, consultations and report respecting establishing, disestablishing and altering protected areas

17. (1) No regulation shall be made under section 15 unless this section is complied with.

(2) The Advisory Committee shall—

(a) appoint a public officer to conduct consultations with members of the public with respect to a regulation proposed to be made under section 15;

(b) cause a copy of the proposed regulation to be filed in the Public Registry without delay after the appointment of the public officer; and

(c) cause a public notice of the consultation to be published.

(3) Public consultations shall consist of at least one public meeting.

(4) Public notice of a consultation under subsection (2) shall, at least 30 days prior to the public meeting, or first public meeting, if there is more than one, be published in—

(a) the *Gazette*; and

(b) at least one issue of a newspaper of general circulation in Anguilla.

(5) The public notice shall—

(a) state whether the proposed regulation involves—

(i) the establishment, disestablishment or alteration of the area of a protected area or controlled buffer zone,

(ii) governing the operation of a protected area or controlled buffer zone or proposed protected area or controlled buffer zone, or

(iii) both (a) and (b);

(b) if the proposed regulation involves the establishment of a protected area, state the area and category of the proposed protected area;

(c) if the proposed regulation involves the disestablishment of a protected area, state the area, category and name, if any, of the protected area proposed to be disestablished;

(d) if the proposed regulation involves the alteration of the area of a protected area, state the area, category and name, if any, of the protected area affected and describe the nature of the alteration;

(e) if the proposed regulation involves the establishment of a controlled buffer zone, state the area of the proposed controlled buffer zone and area, category and name, if any, of the protected area or proposed protected area to which the controlled buffer zone relates;

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(f) if the proposed regulation involves the disestablishment of a controlled buffer zone, state the area of the controlled buffer zone proposed to be disestablished and the area, category and name, if any, of the protected areas to which it relates;

(g) if the proposed regulation involves the alteration of the area of a controlled buffer zone, state the area of the controlled buffer zone and area, category and name, if any, of the protected area to which it relates and describe the nature of the alteration;

(h) give sufficient information in ordinary language to reasonably determine where the protected area or controlled buffer zone or proposed protected area or controlled buffer zone is located;

(i) include a copy of the proposed regulation or a statement that the proposed regulation may be inspected during normal business hours at the Public Registry and specifying its location;

(j) give particulars of the day, time and place of the public meeting, or first public meeting if there is more than one, referred to in subsection (3) and the particulars of any other public meetings, if they are known;

(k) give the name and address of the person to whom written representations relating to the proposed regulation may be made; and

(l) contain any other information that the Advisory Committee considers appropriate.

(6) The public officer appointed under paragraph (2)(a) shall furnish copies or permit members of the public to make a copy of the proposed regulation.

(7) The public officer appointed under paragraph (2)(a) shall—

(a) hold the meetings or meetings referred to in the notice;

(b) hold additional meetings if the public officer considers it necessary and give such notice of the meetings as the public officer considers appropriate;

(c) consider any written or oral representations with respect to the regulation proposed to be made under section 15;

(d) prepare a report on the consultations;

(e) give the report to the Advisory Committee; and

(f) file a copy in the Public Registry.

(8) The report on the consultations referred to in paragraph (7)(d) shall—

(a) include a copy of the notice and a copy of the proposed regulation if it is not included in the notice;

(b) set out particulars of what meeting or meetings took place and where they were held;

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(c) give particulars of the approximate number of members of the public who attended the consultations and a summary of the oral and written representations made to the public officer; and

(d) include the public officer's assessment of the support for or opposition to the proposed regulation or any provision thereof.

(9) Subsection (1) does not apply to an amendment that, in the opinion of the Advisory Committee, is minor and not likely to be controversial.

Acquisition of land for protected area or controlled buffer zone by agreement

18. When the Governor in Council considers that it is necessary to acquire private land to establish or to enlarge a protected area or controlled buffer zone, the Governor in Council shall cause negotiations with the registered owner of the land to be conducted for the purpose of acquiring the land unless it is not reasonably practicable, in the opinion of the Governor in Council, to do so.

Acquisition of land for protected area and controlled buffer zone by compulsory purchase

19. (1) This section does not apply to the acquisition of land on which is located—

(a) a dwelling house occupied by the registered owner of the land; or

(b) a church used for religious observances.

(2) Private land to establish or enlarge a protected area or controlled buffer zone may be acquired in accordance with the Land Acquisition Act.

PART 4

CONSERVATION EASEMENTS AND ENVIRONMENTAL RESTRICTION AGREEMENTS

Interpretation

20. In this Part—

"grantee", in relation to a conservation easement, means the qualified organization that is the recipient of the conservation easement, and includes any successor, assignee, receiver, receiver-manager, liquidator or trustee of the grantee;

"grantor", in relation to a conservation easement, means the person who grants the conservation easement, and includes any successor, assignee, executor, administrator, receiver, receiver-manager, liquidator or trustee of the grantor;

"qualified organization" means—

(a) the Government;

(b) a government agency;

(c) the Anguilla National Trust; or

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(d) a non-profit corporation whose objects expressly permit the acquisition and holding of land for purposes that are substantially the same as any of the purposes listed in section 21(1);

"registered owner", in relation to land, means the proprietor registered as owner of—

(a) an estate in fee simple in the land; or

(b) a lease of land.

Conservation easements

21. (1) A registered owner of land may by agreement grant to a qualified organization a conservation easement in respect of all or part of the land for one or more of the following purposes—

(a) the protection, conservation and enhancement of the environment including the protection, conservation and enhancement of biodiversity;

(b) the protection, conservation and enhancement of natural scenic or aesthetic values;

(c) providing for the use of the land as any one or more of the following—

(i) a nature reserve, which is established and managed mainly for scientific purposes for the conservation of biodiversity and which is of national or international significance for the conservation of wildlife species of animals and of wildlife species of plants, their habitats and the ecosystems of which they form a part,

(ii) a national park, which is established and managed mainly for the conservation of biodiversity through ecosystem protection and for recreation,

(iii) a national monument, which is established and managed mainly for the conservation of specific natural features,

(iv) a habitat-wildlife species management area which is established and managed mainly for conservation through management intervention,

(v) a protected landscape or seascape, which is established and managed mainly for landscape or seascape conservation and for recreation,

(vi) a managed biological resource protected area, which is established and managed mainly for the sustainable use of natural ecosystems,

(vii) a heritage site.

(2) The conservation easement shall specify—

(a) the period for which the conservation easement is granted and any conditions, limitations or restrictions intended to affect its enjoyment; and

(b) the land burdened by the conservation easement and, if required by the Registrar, the particular part thereof so burdened and shall, if required by the Registrar, include a plan sufficient in the Registrar's estimation to define the conservation easement.

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(3) A conservation easement granted by the proprietor of a lease shall be capable of existing only during the subsistence of the lease.

(4) A conservation easement constitutes an interest in land in the grantee.

(5) A conservation easement may be enforced by—

(a) the grantee;

(b) a qualified organization, other than the grantee, that the grantee has designated in writing as having the power to enforce the conservation easement; or

(c) both the grantee and the qualified organization.

(6) A grantee may not designate more than one qualified organization under paragraph (5)(b) at the same time.

(7) A grantee may assign a conservation easement only to another qualified organization.

(8) A grantee who assigns a conservation easement shall without delay notify the grantor of that fact in writing.

(9) A conservation easement may be modified or terminated—

(a) by agreement between the grantor and the grantee; or

(b) by order of the Governor, whether or not the Governor is a grantor or grantee, if the Governor considers that it is in the public interest to modify or terminate the agreement.

(10) A conservation easement does not lapse by reason only of—

(a) non-enforcement or abandonment of it;

(b) use of the land that is the subject of the conservation easement for a purpose that is inconsistent with the purpose of the conservation easement; or

(c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the conservation easement.

Environmental restriction agreements

22. (1) In order to protect, conserve or enhance the environment, the competent minister on behalf of the Government may enter into an environmental restriction agreement with the registered owner of land to restrict the purposes for which the land may be used.

(2) An environmental restriction agreement referred to in subsection (1) may include restrictions in relation to or for any or all of the purposes referred to in section in 21(1)(a), (b) or (c), including restrictions for the purpose of establishing a controlled buffer zone.

(3) An environmental restriction agreement constitutes an interest in land in the Government.

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Registration of conservation easement or environmental restriction agreement

23. (1) A conservation easement or an environmental restriction agreement may be registered under the Registered Land Act.

(2) A person intending to register an agreement that establishes a conservation easement shall give prior written notice to the competent minister of his or her intention to register together with a copy of the conservation easement.

(3) If a conservation easement is assigned under section 21(7), the grantee or assignee may register a copy of the document effecting the assignment.

(4) If a conservation easement is modified or terminated, the grantor or grantee, or the Governor in the case of a modification or termination of a conservation easement under section 21(9)(b), may register a copy of the document effecting the modification or termination.

(5) If an environmental restriction agreement is modified or terminated, any party to the agreement to modify it may register a copy of the document effecting the modification or termination.

(6) The registration of a conservation easement that has expired may, on application under section 101 of the Registered Land Act, be cancelled.

(7) The registration of an environmental restriction agreement that has expired may, on application under section 102 of the Registered Land Act, be cancelled.

Effect of registration

24. A conservation easement or an environmental restriction agreement that is registered in accordance with section 23 runs with the land and may be enforced whether it is positive or negative in nature and notwithstanding that the person wishing to enforce it does not have an interest in any land that would be accommodated or benefited by the conservation easement or environmental restriction agreement.

Exemption from stamp duty

25. No stamp duty is payable in respect of—

(a) an agreement to grant a conservation easement;

(b) an environmental restriction agreement;

(c) an agreement or document to effect an assignment, modification or termination of a conservation easement or an environmental restriction agreement; or

(d) the registration of any of the documents referred to in section 23.

Regulations

26. (1) The Governor in Council, on the advice of the competent ministers, may make regulations for the better administration of this Part and, subject to the conservation easement agreement or the environmental restriction agreement, may regulate or prohibit conduct on land that is the subject of conservation easements or environmental restriction agreements generally, or that is the subject of a specific conservation easement or environmental restriction agreement.

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(2) A regulation under subsection (1) may apply to any or all or to part only of the area of land that is burdened by a conservation easement or an environmental restriction agreement.

PART 5

PROTECTION OF LISTED WILDLIFE SPECIES

Division 1

Committee on the Status of Endangered and other Wildlife Species and Amendment of List

Committee on the Status of Endangered and other Wildlife Species

27. (1) The Scientific Authority appointed under section 9 of the Trade in Endangered Species Act shall act as the Committee on the Status of Endangered and other Wildlife Species.

(2) COSEWS may establish subcommittees to advise it or to perform any of its functions.

Functions of COSEWS

28. (1) The functions of COSEWS are to—

(a) establish criteria for assessing the status of wildlife species as being in need of protection;

(b) determine when a particular wildlife species is to be assessed, with priority given to those more likely to become extinct or to become extirpated;

(c) assess the status of each wildlife species that COSEWS considers may be in need of protection and, as part of the assessment, indicate whether the wildlife species is a migratory species, identify existing and potential threats to the species and—

(i) classify the wildlife species as endangered, threatened or vulnerable and indicate whether it is an extirpated species or whether it is extirpated in part of Anguilla only,

(ii) indicate that COSEWS does not have sufficient information to classify the wildlife species, or

(iii) indicate that the wildlife species is not in need of protection;

(d) periodically conduct a new assessment of the status of wildlife species that are or may be in need of protection and, if appropriate, reclassify or declassify them;

(e) periodically review criteria for assessing the status of wildlife species and for classifying them and reassessing their status;

(f) provide advice to a competent minister in relation to his or her functions; and

(g) perform any other functions assigned by the competent minister, after that minister has consulted with the other competent minister.

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(2) An assessment by COSEWS referred to in subsection (1) shall contain its reasons for making the assessment.

(3) When COSEWS completes an assessment referred to in subsection (1), it shall give a copy of the assessment to the competent minister and file a copy in the Public Registry.

(4) COSEWS shall annually prepare a consolidated list of every wildlife species it has assessed since the coming into force of this section and a copy of the list shall be filed in the Public Registry.

(5) COSEWS shall review the classification of each wildlife species at least once every 10 years, or at any time it has reason to believe that the status of the wildlife species has changed significantly.

(6) COSEWS shall, in performing its functions under this Act—

(a) act on the basis of the best available information, including scientific knowledge and traditional knowledge; and

(b) apply the precautionary principle.

Statement of intended response

29. (1) Within 180 days after receiving a copy of an assessment under section 28(3), the competent minister shall prepare a statement of intended response, which shall—

(a) set out how he or she intends to respond to the assessment and his or her reasons therefor and, to the extent possible, provide a time line for action; and

(b) specify what action, if any, is proposed to be taken under the applicable convention in relation to the assessment of the status of a wildlife species, including particulars of any amendment to be proposed to, or of any reservation with respect to a wildlife species named on, the Appendix or Annex to the applicable convention.

(2) Without delay after the statement of intended response is prepared, a copy of the statement of intended response shall be filed in the Public Registry.

(3) The competent minister shall give a copy of the statement of intended response to the Governor in Council for his information.

Amendment of List

30. The Governor in Council, on the recommendation of the competent minister, may by regulation amend the List by adding a wildlife species to the List, by reclassifying a listed wildlife species or by removing a listed wildlife species from the List.

Division 2

Offences Respecting Listed Wildlife Species

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Prohibition on taking or harvesting listed wildlife species

31. Subject to the regulations, no person shall wilfully take or harvest a member of a listed wildlife species or any part or genetic material of a listed wildlife species.

Prohibition on possession of listed wildlife species

32. Subject to the regulations, no person shall knowingly possess a member of a listed wildlife species or any part or derivative of a listed wildlife species.

Prohibition on trafficking in listed wildlife species

33. Subject to the regulations, no person shall knowingly traffic in a listed wildlife species or any part or derivative of a listed wildlife species.

Division 3

Measures to Protect Endangered and Threatened Species

Recovery action plan

34. (1) If a wildlife species is listed as an endangered or threatened species, the competent minister shall cause a proposed recovery action plan to be prepared for each endangered or threatened species in accordance with this section.

(2) The competent minister—

(a) shall, within 1 year after the coming into force of this section, establish the priority in which recovery action plans are to be prepared for wildlife species listed as endangered or threatened species with priority being given to wildlife species likely to become extinct or to become extirpated; and

(b) may revise the priority periodically.

(3) In accordance with the priority established under subsection (2), the competent minister shall without delay cause proposed recovery action plans to be prepared.

(4) The competent minister may—

(a) seek the advice of COSEWS in the preparation of a proposed recovery action plan; or

(b) assign the preparation of a recovery action plan to COSEWS in accordance with section 28(1)(g).

(5) A recovery action plan shall address the threats to the survival of the wildlife species that is listed as an endangered or threatened species, including any loss of habitat, and shall include—

(a) a description of the species and its needs;

(b) an indication of the location and area of the species' critical habitat, to the extent possible, based on the best available information and examples of activities that are likely to result in its destruction;

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(c) a statement of the measures that are proposed to be taken to protect the species' critical habitat, including any agreement under section 7, conservation easement or environmental restriction agreement or the establishment of any protected area;

(d) a statement of the measures that are to be taken to implement the recovery action plan, including those that address the threats to the species and those that help to achieve the population and distribution objectives, as well as an indication as to when the measures are to take place;

(e) the methods to be used to monitor the recovery of the species and its long-term viability;

(f) any other matter prescribed by regulation; and

(g) any other matter that the competent minister considers appropriate.

(6) To the extent reasonably possible, the proposed recovery action plan shall be prepared in consultation with persons, including the registered owner and any person in possession or occupation of the land and any other person whom the competent minister considers to be directly affected by, or interested in, the recovery action plan.

(7) The competent minister shall file a copy of the proposed recovery action plan in the Public Registry.

(8) Within 60 days after the proposed recovery action plan is filed in the Public Registry, or after any extension thereof permitted by the competent minister, any person may file written comments in relation to the proposed recovery action plan with the competent minister.

(9) Within 30 days after the expiry of the period referred to in subsection (8), or of any extension thereof, the competent minister shall—

(a) consider any comments received;

(b) make any changes to the proposed recovery action plan that the competent minister considers appropriate;

(c) finalize the recovery action plan; and

(d) file a copy of the recovery action plan in the Public Registry.

(10) The competent minister may cause a recovery plan to be amended or replaced, and when he or she does so, subsections (2) to (9) apply with appropriate changes.

Implementation of recovery action plan

35. The competent minister shall implement each recovery action plan filed in the Public Registry under section 34(9)(d).

Designation and regulation of critical habitats

36. Subject to section 37, the competent minister may by regulation—

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(a) designate as a critical habitat of a wildlife species listed as an endangered or threatened species an area that is identified as a critical habitat of that species in a recovery action plan referred to in section 34(9)(d);

(b) require the location or boundary of the critical area to be marked by posting signs, placing buoys, assigning global positioning tags or other means appropriate, in the competent minister's opinion, to its location;

(c) provide for any other matters in relation to an area designated as critical habitat.

Consent to designation of critical habitat on privately owned land

37. (1) Subject to subsection (2), no area of private land shall be designated as a critical habitat of a wildlife species listed as an endangered or threatened species without the written consent of the registered owner.

(2) No consent is required to designate a critical habitat on an area of land covered by a conservation easement or an environmental restriction agreement whose purpose is compatible with the designation of the critical habitat, but the designation ceases when the conservation easement or environmental restriction agreement expires or terminates.

Prohibition of damage to or destruction of critical habitat

38. Subject to the regulations, no person shall knowingly disturb, damage or destroy a designated critical habitat of a wildlife species listed as an endangered or threatened species.

Disturbance, etc. of habitation of wildlife species of animal listed as endangered or threatened

39. Subject to the regulations, no person shall knowingly disturb, damage or destroy the habitation of a member of a wildlife species of animal listed as an endangered or threatened species.

Disturbance, etc. of site where wildlife species of plant listed as endangered or threatened lives

40. Subject to the regulations, no person shall knowingly disturb, damage or destroy the site where a member of a wildlife species of plant, alga or fungus listed as an endangered or threatened species lives or where genetic material of the plant, alga or fungus is present.

Division 4

Measures to Protect Vulnerable Species

Management plan for vulnerable species

41. (1) If a wildlife species is listed as a vulnerable species, the competent minister shall cause a proposed management plan to be prepared for the species and its habitat in accordance with this section.

(2) The competent minister may—

(a) seek the advice of COSEWS in the preparation of a proposed management plan; or

(b) assign preparation of a management plan to COSEWS in accordance with section 28(1)(g).

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(3) The proposed management plan shall include measures for the conservation of the vulnerable species that the competent minister considers appropriate and it may apply with respect to more than one vulnerable species.

(4) The competent minister may adopt a multi-species or an ecosystem approach when preparing the proposed management plan if he or she considers it appropriate to do so.

(5) Subject to subsection (6), the competent minister shall file a proposed management plan in the Public Registry within 3 years after the wildlife species is listed as a vulnerable species.

(6) With respect to a wildlife species that is listed as a vulnerable species on 1 August 2010, the competent minister shall file a proposed management plan in the Public Registry within 5 years after that day.

(7) Within 60 days after a proposed management plan is filed in the Public Registry, or after any extension thereof permitted by the competent minister, any person may file written comments in relation to the proposed management plan with the competent minister.

(8) Within 30 days after the expiry of the period referred to in subsection (7), or of any extension thereof, the competent minister shall—

(a) consider any comments received;

(b) make any changes to the proposed management plan that he or she considers appropriate;

(c) finalize the management plan; and

(d) file a copy of the management plan in the Public Registry.

(9) The competent minister may cause a management plan to be amended or replaced, and when he or she does so, subsections (2) to (8) apply with appropriate changes.

Implementation of management plan

42. The competent minister shall implement each management plan filed in the Public Registry under section 41(8)(d).

Division 5

Emergency Measures to Protect Listed Wildlife Species

Emergency orders

43. (1) The Governor in Council may, on the recommendation of the competent minister, make an emergency order to provide for the protection of a listed wildlife species.

(2) The competent minister shall make a recommendation for an emergency order if he or she is of the opinion that a listed wildlife species faces an imminent threat to its survival or recovery.

(3) Before making a recommendation referred to in subsection (2), the competent minister shall consult the other competent minister.

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(4) The emergency order may—

(a) declare a critical habitat in the area to which the emergency order relates; and

(b) include provisions requiring the doing of things that protect the listed wildlife species and its critical habitat and establishing offences that prohibit activities that may adversely affect the species and its critical habitat.

(5) An emergency order is a regulation.

Division 6

Annual Report on Listed Wildlife Species

Annual Report on the state of the listed wildlife species in Anguilla

44. (1) Subject to subsection (2), the competent ministers shall report annually on the state of listed wildlife species in Anguilla commencing on the third anniversary of the coming into force of this section.

(2) The first report shall be made in respect of the 3 year period commencing on the coming into force of this section.

(3) The competent ministers' reports shall be tabled in the House of Assembly and the competent minister shall cause his or her report to be published without delay in the *Gazette.*

Division 7

Regulations

Regulations

45. The Governor in Council, on the advice of the competent ministers, may make regulations—

(a) providing for exceptions to, exemptions from, or defences to the offences set out in, sections 31, 32, 33, 38, 39 and 40;

(b) prescribing matters for the purpose of section 34(5)(f); and

(c) supplemental to the provisions of this Part for the purpose of protecting listed wildlife species or any class of listed species.

PART 6

REGULATION OF TERRESTRIAL SPECIES THAT ARE NOT LISTED

Regulations

46. (1) The competent minister may make regulations with respect to terrestrial species, other than those that are listed wildlife species, including regulations—

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(a) respecting taking or harvesting of terrestrial species or their genetic material;

(b) respecting possession of, transportation of, or trafficking in terrestrial species or their derivatives;

(c) establishing licences or permits or classes of licences or permits authorising the taking or harvesting of terrestrial species or a class of terrestrial species or their genetic material;

(d) respecting all aspects of licences and permits or classes of licences or permits, including applications, the imposition of terms or conditions, the number to be issued and, if the number of licences or permits is limited, how the licences and permits will be allocated, the eligibility and qualifications of applicants, nullifying licences issued to ineligible persons, the expiry of licences, the cancellation and suspension of licences, the use, carrying, production of and property in licences;

(e) fixing fees for licences or permits or classes of licences or permits;

(f) prohibiting the taking of terrestrial species at any time of day, in a specified manner or when impaired by drugs or alcohol;

(g) regulating firearms and other weapons or devices used in hunting and their use;

(h) respecting records to be kept and returns to be made in relation to terrestrial species;

(i) respecting the delivery of prescribed terrestrial species or their parts or derivatives in prescribed circumstances for testing or inspection for diseases, parasites or for factors that may present an ecological threat or genetic risk to other animals or plants, including terrestrial species owned or in the custody of private persons;

(j) providing for the protection of terrestrial species, their habitat and their habitations and the restoration of habitat that has been altered, and enabling the competent minister to order persons responsible for the alteration to restore the habitat and to charge them with the cost of such restoration if they have failed to effect the restoration;

(k) establishing exceptions, exemptions and defences to contraventions.

(2) Regulations under subsection (1) may be made to apply generally or to a class of persons, to a class of licence or permit, to a terrestrial species or kinds or numbers of terrestrial species, to particular parts, derivatives or progeny of terrestrial species or to terrestrial species of a particular sex, age, growth, size or other characteristic, or to periods of time or areas of Anguilla.

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PART 7

ADDITIONAL PROTECTIONS FOR HERITAGE RESOURCES

Division 1

Interpretation

Interpretation

47. In this Part, "lessee", in relation to land, means a person in lawful possession under a lease, whether or not registered under the Registered Land Act, and includes a person who continues to occupy the land with the consent of the lessor.

Division 2

Listing of Buildings

Listing of buildings

48. (1) The competent minister may, by regulation, list any building that, in the competent minister's opinion, is of special architectural, cultural or historic significance.

(2) A regulation made under subsection (1)—

(a) shall include—

(i) the legal description of the land on which the building is located,

(ii) information reasonably sufficient to identify the building, and

(iii) a statement as to whether the whole building or a part thereof is listed and, if a part is listed, particulars of the part; and

(b) may specify the types of maintenance that may be performed without an authorization under section 49(1).

(3) Before listing a building, the competent minister shall—

(a) give at least 30 days written notice to the registered owner and any lessee of the building—

(i) stating that the competent minister intends to list the building,

(ii) setting out the information referred to in paragraph (2)(a), and

(iii) stating that the registered owner or any lessee may file written comments in relation to the listing of the building with the competent minister not later than 30 days after the notice is given; and

(b) consider any comments filed with the competent minister within the time referred to in subparagraph (a)(iii).

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Alterations of listed building prohibited

49. (1) No registered owner, lessee or occupant of a building shall alter, or permit the alteration of, a building or any part of a building that is listed unless the alteration is—

(a) of a type authorised in respect of the building or part of the building by regulation under section 48; or

(b) authorized in writing by the competent minister.

(2) An authorisation by the competent minister referred to in paragraph (1)(b) may be subject to conditions.

(3) The competent minister may amend, vary or replace an authorisation referred to in paragraph (1)(b) and, if the competent minister does so, the amendment, variance or replacement is effective when a copy of it is given to the registered owner, lessee or occupant of the listed building.

Maintenance of listed building by registered owner or lessee

50. (1) The registered owner or lessee of a listed building shall maintain the listed building in a good state of repair.

(2) When the competent minister is satisfied that it is necessary, he or she may make an order directed to the registered owner or lessee of a listed building that the registered owner or lessee perform the maintenance, in the manner and not later than the date, specified in the order.

(3) The competent minister may, by written notice to the registered owner or lessee to whom the order was directed, extend the time specified in the order, whether or not it has expired.

(4) An order under subsection (2) and a notice of extension under subsection (3) shall be given to the registered owner or lessee in accordance with section 86(2).

(5) The registered owner or lessee to whom an order under subsection (2) has been given who, without reasonable excuse, the proof of which lies upon the person, fails or neglects to maintain the listed building, in the manner and within the time specified in the order or any extension thereof under subsection (3), is guilty of an offence.

(6) Subsections (1) and (2) do not apply to a lessee except to the extent that the lessee is obliged to repair the listed property by the lease or other agreement or by law.

Competent minister's power when order not complied with

51. (1) If the registered owner or lessee to whom an order under section 50(2) has been given fails to comply with the order within 30 days or any extension thereof under section 50(3), the competent minister may cause to be taken whatever action the competent minister considers necessary to carry out the order.

(2) The costs incurred by the competent minister under subsection (1) are recoverable as a civil debt due to Government.

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Use of assistants

52. An enforcement officer, in taking the action the competent minister considers necessary under section 51, may be accompanied by any person or, subject to section 53(3), may authorise any person to enter any place that the enforcement officer directs, to carry out the action the competent minister considers necessary.

Right of entry to take necessary action

53. (1) The powers in this section are in addition to a power to enter under Part 8.

(2) Subject to subsection (5), the enforcement officer and any person accompanying the enforcement officer or authorised to enter a place under section 52 may enter any place for the purpose of taking the action the competent minister considers necessary under section 51.

(3) A person authorised by an enforcement officer under section 52 may enter any place without being accompanied by the enforcement officer for the purpose of taking the action the competent minister considers necessary under section 51 if—

(a) the registered owner or person in possession or occupation of the place consents;

(b) the enforcement officer has given the registered owner prior written notice of the entry; or

(c) the person produces written authorisation to enter from an enforcement officer without delay after a request to do so by the registered owner or any person in possession or occupation of the place.

(4) When the Magistrate is satisfied on evidence under oath that a person has been prevented from entering a place or has been denied access to a place that person is authorized to enter under this section, the Magistrate may issue an order authorizing that person to enter the place for the purpose of taking the action the competent minister considers necessary under section 51.

(5) A person who enters a place under the authority of this section shall—

(a) do so at a reasonable time unless authorised otherwise in an order; and

(b) give reasonable prior notice of intention to enter the place to the person in possession or occupation of the place or, if there is no person in possession or occupation, to the registered owner if it is practicable in the circumstances to do so.

Priority of costs

54. For the purposes of section 28(e) of the Registered Land Act, costs incurred by the competent minister under section 51 constitute a charge in favour of the Government on the land on which the listed building is located and the charge is enforceable in the same way as a mortgage or other security on land and ranks above any other claim, right or charge against the land, notwithstanding any other law of Anguilla.

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Maintenance and restoration agreement

55. (1) The competent minister may enter into an agreement with the registered owner or lessee of a listed building respecting the maintenance or restoration or both of a listed building and such other matters as the parties consider appropriate.

(2) The agreement shall, among other things, specify—

(a) who will perform the maintenance or restoration or both; and

(b) how the costs will be shared.

Division 3

Stop Work Orders and Excavation, Discovery and Export of Heritage Resources

Excavation licence

56. (1) Subject to subsection (2), no person shall excavate in Anguilla for the purpose of seeking or collecting heritage resources unless the person—

(a) is the holder of a valid licence issued under this section; and

(b) does so in accordance with the conditions to which the licence is subject.

(2) The competent minister may in writing exempt any person from the requirements of subsection (1) on such conditions as the competent minister considers appropriate.

(3) The competent minister may, on application in the form approved by the competent minister and on payment of the fee prescribed by regulation, issue a licence authorising the person named in the licence to excavate in Anguilla for the purpose of seeking or collecting heritage resources described in the licence.

(4) A licence to excavate is subject to the following conditions—

(a) the licence holder shall, within a time that may be specified on the licence, furnish to the competent minister a progress report on the work, including the discovery of any heritage resource, in any detail that the competent minister may require;

(b) the licence holder shall, after completion of the excavation, restore the site to its normal condition insofar as it is reasonably possible to do so, unless the competent minister otherwise authorises;

(c) on completion of the activities authorised by the licence, the licence holder shall furnish a final report to the competent minister in relation to the excavation containing the information prescribed by regulation or required by the competent minister;

(d) any condition prescribed by regulation;

(e) any other condition that the competent minister may consider appropriate.

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(5) A licence is valid for the period specified in the licence but may be sooner cancelled by the competent minister if he or she is of the opinion that the holder of the licence is not complying with the conditions to which the licence is subject.

(6) A licence does not entitle the licence holder to enter on the land that is the subject of the licence unless—

(a) the licence holder has the permission of the owner or person in possession or occupation of the land; or

(b) if the land is owned by the Government, the licence holder observes any conditions in the licence or imposed by the Governor respecting entry onto the land.

Notice of discovery of heritage resource

57. A person who discovers a heritage resource in the course of making an excavation, other than under a licence referred to in section 56(1), shall without delay give written notice to the competent minister of the discovery.

Export of heritage object

58. No person shall knowingly export out of Anguilla a heritage object that is designated or that meets criteria established by regulation, except in accordance with the terms and conditions of a licence granted for that purpose by the competent minister.

Damage to heritage resource

59. No person shall wilfully or recklessly deface, alter, mark or damage a heritage resource unless the person—

(a) is the holder of a valid licence under section 56 and the defacement, alteration, marking or damage does not contravene the conditions of the licence; or

(b) has the written authorization of the competent minister to do so and does so in accordance with any conditions of the authorization.

Temporary stop orders and appeal from order

60. (1) When the competent minister is of the opinion that a person is engaged in an activity that the competent minister considers likely to result in damage to or destruction of a heritage resource, the competent minister may issue a temporary stop order directed to the person requiring that person to cease the activity or the portion of the activity that the competent minister specifies in the temporary stop order for a period not exceeding 15 days after the order is given.

(2) The Governor in Council may, on the recommendation of the competent minister, order suspension of the activity or any part of the activity for a further specified period in order to allow salvage, recording or excavation of the heritage resource and investigation of alternatives to its damage or destruction.

(3) An order under subsection (1) or (2) is effective when it is given to the person engaged in the activity in accordance with section 86(2).

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(4) A person may, within 7 days after being given notice of an order under subsection (1) or (2), appeal to the High Court, which may confirm, vary or rescind the order appealed from.

(5) An appeal under subsection (4) does not suspend the operation of an order made under subsection (1) or (2) unless the High Court so orders.

(6) A person to whom an order made under subsection (1) or (2) is directed and to whom the order has been given shall comply with the order as given or as varied by the High Court, as the case may be, except when it is suspended or rescinded by the High Court.

Division 4

Acquisition of Heritage Objects

Acquisition of heritage object

61. When the competent minister considers that it is necessary to acquire a heritage object, the competent minister shall cause negotiations to be conducted with the owner of the heritage object.

Compulsory acquisition of heritage object

62. (1) When, in the opinion of the Governor in Council, on the advice of the competent minister, it is not reasonably practicable to acquire the heritage object by negotiation, the Governor in Council may compulsorily acquire the heritage object.

(2) The Land Acquisition Act applies, with such modifications as are appropriate in the circumstances, in respect of the compulsory acquisition of a heritage object, as it applies in respect of the compulsory acquisition of land.

Division 5

Regulations

Regulations

63. The Governor in Council may make regulations for the better carrying into effect of this Part, including regulations—

(a) prescribing any thing that may be prescribed in this Part;

(b) designating heritage objects or establishing criteria, such as age, type of object, composition or other similar characteristic, for the purposes of section 58;

(c) respecting licences to export a heritage object for the purposes of section 58.

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PART 8

ENFORCEMENT MEASURES

Powers of police officers

64. (1) Nothing in this Part limits the powers of a police officer to enforce this Act under this or any law.

(2) A police officer has all the powers of an enforcement officer.

Enforcement officers

65. (1) Subject to subsection (2), a competent minister may in writing designate any of the following as enforcement officers for the purposes of this Act—

(a) a public officer or class of public officers in his or her Department;

(b) a public officer or class of public officers outside his or her Department;

(c) a government agency or an employee or class of employees of a government agency;

(d) the Anguilla National Trust or an employee or class of employees of the Anguilla National Trust;

(e) any other person or class of persons whom the competent minister considers appropriate.

(2) Before making a designation under paragraph (1)(b), (c) or (d), a competent minister shall obtain—

(a) in the case of designation of a public officer or class of public officers referred to in paragraph (1)(b), the written consent of the Governor and the minister of the ministry for the department in which the public officer is employed;

(b) in the case of designation of a government agency or employee or class of employees of a government agency, the written consent of the board or other management body of the government agency;

(c) in the case of designation of the Anguilla National Trust or an employee or class of employees of the Anguilla National Trust, the written consent of the Council of the National Trust.

(3) An enforcement officer shall be provided with an identification card as an enforcement officer in a form approved by the competent minister and, on entering any place in the performance of his or her functions under this Act, the enforcement officer must, if so requested, show the certificate to the person in possession or occupation of the place.

(4) The Director of Environment and the Director of Fisheries and Marine Resources are *ex officio* enforcement officers for the purposes of this Act.

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(5) For the purposes of this Act, an enforcement officer has all the powers of a police officer, but the competent minister may in writing specify limits on those powers when designating any person or class of persons to act as enforcement officers.

(6) The identification card remains the property of the Government.

(7) A person to whom an identification card is issued shall return it to the competent minister without delay upon request.

(8) For the purpose of investigations and other law enforcement activities under this Act, an enforcement officer who is performing his or her functions under this Act, or a person acting under the direction and control of that enforcement officer, does not commit an offence against this Act.

Production of licence, permit or authorisation

66. (1) When an enforcement officer reasonably believes that a person is engaged in or may have engaged in an activity for which a licence, permit or authorisation is required, the enforcement officer may request that person to produce the licence, permit or authorisation authorizing the person to engage in that activity.

(2) A person who is engaged in or has engaged in an activity for which a licence, permit or authorisation is required shall, without delay after a request by the enforcement officer, produce the licence, permit or authorisation.

Right of entry and inspection

67. (1) For the purpose of ensuring compliance with any provision of this Act, an enforcement officer may, subject to subsection (3), at any reasonable time enter and inspect any place in which the enforcement officer believes, on reasonable grounds, there is any thing to which the provision applies or any document relating to its administration, and the enforcement officer may—

(a) open or cause to be opened any container that the enforcement officer believes, on reasonable grounds, contains that thing or document;

(b) inspect the thing and take samples free of charge;

(c) require any person to produce the document for inspection or copying, in whole or in part; and

(d) seize and detain any thing by means of or in relation to which the enforcement officer believes, on reasonable grounds, the provision has been contravened or that the enforcement officer believes, on reasonable grounds, will provide evidence of a contravention.

(2) For the purposes of carrying out an inspection, an enforcement officer may stop a vehicle, aircraft or vessel or direct that it be moved to a place where the inspection can be carried out.

(3) An enforcement officer may not enter a dwelling place except with the consent of the registered owner or person in possession or occupation of the dwelling place or under the authority of a warrant.

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(4) On an *ex parte* application, the Magistrate may issue a warrant, subject to any conditions specified in it, authorizing an enforcement officer to enter a dwelling place, if the Magistrate is satisfied by information on oath that—

(a) the conditions for entry described in subsection (1) exist in relation to the dwelling place;

(b) entry to the dwelling place is necessary for the purposes of the administration of this Act; and

(c) entry to the dwelling place has been refused or there are reasonable grounds for believing that entry will be refused.

(5) On an *ex parte* application, the Magistrate may issue a warrant, subject to any conditions specified in it, authorizing an enforcement officer to enter a place other than a dwelling place, if the Magistrate is satisfied by information on oath that—

(a) the conditions for entry described in subsection (1) exist in relation to that place;

(b) entry to that place is necessary for the purposes of the administration of this Act;

(c) entry to that place has been refused, the enforcement officer is not able to enter without the use of force or the place was abandoned; and

(d) subject to subsection (6), all reasonable attempts were made to notify the registered owner or person in possession or occupation of that place.

(6) The Magistrate may waive the requirement to give notice referred to in subsection (5) if the Magistrate is satisfied that attempts to give the notice would be unsuccessful because the registered owner or person in possession or occupation of that place is absent from Anguilla or that it is not in the public interest to give the notice.

(7) In executing a warrant issued under subsection (4) or (5), an enforcement officer may not use force unless the use of force has been specifically authorized in the warrant.

(8) In carrying out an inspection of a place under this section, an enforcement officer may—

(a) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system;

(b) reproduce any record or cause it to be reproduced from the data in the form of a printout or other intelligible output;

(c) take a printout or other output for examination or copying; and

(d) use or cause to be used free of charge any copying equipment at the place to make copies of the record.

(9) A person in possession or occupation of a place being inspected under this section shall permit the enforcement officer to do anything referred to in subsection (8).

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Failure to stop or remove vehicle, aircraft or vessel for inspection

68. (1) An operator of a vehicle, pilot of an aircraft or master of a vessel shall stop the vehicle, aircraft or vessel when requested to do so by an enforcement officer who is readily identifiable as an enforcement officer.

(2) An operator of a vehicle, pilot of an aircraft or master of a vessel shall move the vehicle, aircraft or vessel to a place for inspection when requested to do so by an enforcement officer who is readily identifiable as an enforcement officer.

Assistance by occupants to enforcement officers

69. A person in possession or occupation of a place entered by an enforcement officer under section 67 or of a vehicle, aircraft or vessel stopped by an inspector under section 68, and every person found in the place or in the vehicle, aircraft or vessel shall—

(a) give the enforcement officer all reasonable assistance that the enforcement officer may reasonably require to enable the enforcement officer to perform his or her functions under this Act; and

(b) provide the enforcement officer with any information in relation to the administration of this Act that the enforcement officer may reasonably require.

Obstruction of enforcement officer or authorised person, etc.

70. When an enforcement officer is performing his or her functions under this Act, no person shall—

(a) knowingly make any false or misleading statement, orally or in writing, to the enforcement officer; or

(b) otherwise obstruct or hinder the enforcement officer or any person—

(i) accompanying the enforcement officer for the purpose of taking the action the competent minister considers necessary under section 51,

(ii) authorised under section 53(3), or

(iii) authorised under an order issued under 53(4),

if the entry by the enforcement officer is in accordance with section 53(5).

Custody and disposition of things seized

71. (1) If an enforcement officer seizes a thing under this Act, he or she shall, as soon as practicable—

(a) if the enforcement officer is satisfied—

(i) that there is no dispute as to who is the lawful owner or the person lawfully entitled to possession of the thing seized, and

(ii) that the continued detention of the thing seized is not required for the purposes of any investigation or a preliminary inquiry, trial or other proceeding,

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return the thing seized, on being issued a receipt therefor, to the lawful owner or the person lawfully entitled to its possession; or

(b) if the enforcement officer is not satisfied as described in subparagraphs (a)(i) and (ii)—

(i) bring the thing seized before the Magistrate, or

(ii) report to the Magistrate that he or she has seized the thing and is detaining it or causing it to be detained,

to be dealt with by the Magistrate in accordance with subsection (2).

(2) When anything that has been seized is brought before the Magistrate or a report is made to the Magistrate, the Magistrate shall—

(a) if the lawful owner or person who is lawfully entitled to possession of the thing seized is known, order it to be returned to that owner or person, unless the prosecutor or enforcement officer satisfies the Magistrate that the detention of the thing seized is required for the purposes of any investigation or a preliminary inquiry, trial or other proceeding; or

(b) if the prosecutor or enforcement officer satisfies the Magistrate that the thing seized should be detained for a reason set out in paragraph (a), detain the thing seized or order that it be detained, taking reasonable care to ensure that it is preserved until the latest of the following events—

(i) the conclusion of any investigation,

(ii) it is required to be produced for the purposes of a preliminary inquiry, trial or other proceeding,

(iii) the investigation, preliminary inquiry, trial or other proceeding is discontinued,

(iv) the preliminary inquiry, trial or other proceeding is concluded, or

(v) the thing is forfeited or abandoned.

(3) If the lawful ownership of or entitlement to the seized thing cannot be ascertained within 30 days after its seizure, the Magistrate may order that the thing or any proceeds of its disposition are forfeited to the Crown.

(4) The lawful owner of a seized thing may abandon it to the Crown.

(5) If the seized thing is perishable, the enforcement officer may dispose of it in accordance with the direction of the competent minister, and any proceeds of its disposition must be paid to the lawful owner or person lawfully entitled to possession of the thing, unless proceedings under this Act are commenced within 90 days after its seizure, in which case the proceeds must be retained by the enforcement officer pending the outcome of the proceedings.

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(6) An enforcement officer who seizes a member of a listed wildlife species may, at the time of the seizure, return the member to the wild if the enforcement officer believes the member to be alive and in a condition that it can be safely returned to the wild.

Disposition of forfeited or abandoned things

72. (1) Any thing that has been forfeited or abandoned under this Act is to be dealt with and disposed of as the competent minister may direct.

(2) When a member of a listed wildlife species that is alive is forfeited or abandoned, the competent minister may direct how the member is to be disposed of, including—

(a) maintenance in captivity;

(b) return to the wild;

(c) sale; or

(d) euthanasia.

Liability for costs

73. The lawful owner and any person lawfully entitled to possession of any thing seized, forfeited or abandoned under this Act and who has been convicted of an offence under this Act in relation to that thing, are jointly and severally liable for all the costs of inspection, seizure, abandonment, forfeiture or disposition incurred by the Crown in excess of any proceeds of disposition of the thing that has been forfeited to the Crown.

Application for investigation

74. (1) Any 2 persons ordinarily resident in Anguilla who are not less than 18 years of age and who are of the opinion that an offence has been committed under this Act may apply to the competent minister to have an investigation of the alleged offence conducted.

(2) The application shall be accompanied with a sworn affidavit—

(a) stating the names and addresses of the applicants;

(b) stating the nature of the alleged offence and the name of each person alleged to be involved in its commission, if known; and

(c) containing a concise statement of the evidence supporting the allegations of the applicants.

Investigation on receipt of application

75. (1) On receipt of an application under section 74, the competent minister shall acknowledge receipt of the application and cause to be investigated all matters that he or she considers necessary to investigate in order to determine the facts relating to the alleged offence.

(2) Within 90 days after receiving the application, the competent minister shall report to the applicants on the progress of the investigation and the action, if any, proposed to be taken in respect of the alleged offence.

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(3) The competent minister may discontinue an investigation if, in his or her opinion—

(a) the application is frivolous or vexatious or is not made in good faith;

(b) the subject-matter of the application is trivial;

(c) there is no substantial issue of fact in dispute and the conduct or circumstances on which the application is based would not constitute an offence; or

(d) the alleged offence does not require further investigation.

(4) When an investigation is discontinued, the competent minister shall—

(a) prepare a written statement setting out the reasons for discontinuing the investigation; and

(b) send a copy of the statement to the applicants and to any person whose conduct was investigated.

PART 9

OFFENCES AND PENALTIES

Offences and penalties

76. (1) A person who contravenes section 31, 32, 33, 38, 39 or 40 is guilty of an offence punishable on summary conviction and is liable—

(a) in the case of a corporation, other than a non-profit corporation, to a fine of $50,000;

(b) in the case of a non-profit corporation, to a fine of $10,000; and

(c) in the case of any other person, to a fine of $25,000 or to imprisonment for a term of one year or to both.

(2) A person who contravenes a provision of an emergency order under section 43, section 49(1), 50(5), 56, 57, 58, 59, 60(5), 66(2), 68, 69 or 70 is guilty of an offence punishable on summary conviction and is liable—

(a) in the case of a corporation, other than a non-profit corporation, to a fine of $20,000;

(b) in the case of a non-profit corporation, to a fine of $5,000; and

(c) in the case of any other person, to a fine of $10,000 or to imprisonment for a term of one year, or to both.

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(3) A person who contravenes a provision of a regulation under section 15(3), 26(1), 36(c), 45(c) or 46(1) or 63 that establishes an offence is guilty of an offence punishable on summary conviction and is liable—

(a) in the case of a corporation, other than a non-profit corporation, to a fine of $5,000;

(b) in the case of a non-profit corporation, to a fine of $1,000; and

(c) in the case of any other person, to a fine of $2,000.

(4) A person who commits or continues an offence under subsection (1), (2) or (3) on more than one day is liable to be convicted for a separate offence for each concurrent day on which the offence is committed or continued.

(5) If a person is convicted of an offence under subsection (1), (2) or (3) a subsequent time, other than a conviction referred to in subsection (4), the amount of the fine for the subsequent offence may, notwithstanding subsection (1), (2) or (3) be double the amount set out in the subsection under which the person is convicted.

(6) If a person is convicted of an offence and the Magistrate is satisfied that a monetary benefit accrued to the person as a result of the commission of the offence, the Magistrate may order the person to pay an additional fine in an amount equal to the Magistrate's estimation of the amount of the monetary benefit, which additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act.

Liability of officers, directors and agents

77. If a corporation commits an offence, any officer, director or agent of the corporation who directed, authorized, assented to, or acquiesced or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Vicarious liability

78. (1) In any prosecution for an offence, the accused may be convicted of the offence if it is established that it was committed by an employee or agent of the accused acting in the course of his or her employment or agency, whether or not the employee or agent has been prosecuted for the offence.

(2) No person shall be convicted of an offence under subsection (1) if that person establishes on a balance of probabilities that he or she took all reasonable steps to prevent the commission of the offence by the employee or agent.

Forfeiture on conviction

79. (1) If a person is convicted of an offence, the Magistrate may, in addition to any punishment imposed, order that any seized thing by means of or in relation to which the offence was committed, or any proceeds of its disposition, be forfeited to the Crown.

(2) If the Magistrate does not order forfeiture, the seized thing, or any proceeds of its disposition, must be returned to its lawful owner or the person lawfully entitled to it.

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Retention of seized thing or proceeds

80. If a fine is imposed on a person convicted of an offence, any seized thing, or any proceeds of its disposition, may be retained until the fine is paid or the thing may be sold in satisfaction of the fine and the proceeds applied, in whole or in part, to payment of the fine.

Orders of the Magistrate

81. If a person is convicted of an offence, the Magistrate may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects—

(a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the Magistrate, result in the continuation or repetition of the offence;

(b) directing the person to take any action that the Magistrate considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence;

(c) directing the person to publish, in any manner that the Magistrate considers appropriate, the facts relating to the commission of the offence;

(d) on application to the Magistrate by the competent minister within 3 years after the conviction, directing the person to submit to the competent minister any information about the activities of the person that the Magistrate considers appropriate;

(e) directing the person to pay the Government for all or any of the cost of remedial or preventive action taken, or to be taken, by or on behalf of the competent minister as a result of the commission of the offence;

(f) directing the person to pay, in the manner prescribed by the Magistrate, an amount for the purpose of conducting research into the protection of the wildlife species in respect of which the offence was committed;

(g) directing the person to pay, in the manner prescribed by the Magistrate, an amount to an educational institution for scholarships for students enrolled in environmental studies;

(h) directing the person to post a bond or pay into the Magistrate's Court an amount that the Magistrate considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;

(i) requiring the person to comply with any other conditions that the Magistrate considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

Limitation period

82. (1) A prosecution for an offence under this Act punishable on summary conviction may not be commenced more than 2 years after the later of—

(a) the day on which the offence was committed; or

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(b) the day on which evidence of the offence first came to the attention of the Director of Environment or the Director of Fisheries and Marine Resources.

(2) A document appearing to have been issued by the Director of Environment or the Director of Fisheries and Marine Resources certifying the day on which the subject-matter of any proceedings became known to him or her, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matters asserted in it.

Administrative penalties

83. (1) In this section, "required period" means within 21 days after the date the notice referred to in subsection (2) is given.

(2) If an enforcement officer is of the opinion that a person has contravened a provision of this Act that is prescribed in a regulation made under paragraph (9)(a), the enforcement officer may give a notice in the prescribed form and manner to that person giving him or her an opportunity to pay to the Government, within the required period, an administrative penalty in the amount prescribed under paragraph (9)(b) in respect of the contravention.

(3) A copy of the notice shall be given to the Comptroller of Inland Revenue without delay after the notice is given to the person.

(4) Payment of the administrative penalty shall be made at the Inland Revenue Department.

(5) No person who is given a notice of a contravention under subsection (2) shall be charged with the contravention until after the expiration of the required period.

(6) A person who pays an administrative penalty in respect of a contravention within the required period shall not be charged under this Act with an offence in respect of the contravention.

(7) A notice of administrative penalty may not be issued after the expiry of the limitation period referred to in section 82.

(8) A certificate signed by the Comptroller of Inland Revenue or a person authorised by him or her as to the payment or non-payment of the administrative penalty is admissible in evidence without proof of the signature of the Comptroller of Inland Revenue or person authorised by him or her and, in the absence of evidence to the contrary, is proof of the facts stated in the certificate.

(9) The Governor in Council, on the advice of the competent ministers, may make regulations prescribing for the purposes of subsection (2)—

(a) any of the offences referred to in section 76(3);

(b) the amount of the administrative penalties in respect of each offence referred to in paragraph (a);

(c) forms and manner of service.

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PART 10

MISCELLANEOUS

Notation of regulations in Land Registry and register under Registered Land Act

84. (1) Without delay after the gazetting of—

(a) a regulation under section 15 that establishes, disestablishes, alters or regulates a protected area or controlled buffer zone that is located on land that is registered or that amends or repeals a regulation under that section that relates to land that is registered;

(b) a regulation under section 36 that designates a critical habitat that is located on land that is registered or that amends or repeals a regulation under that section that relates to land that is registered; or

(c) an emergency order under section 43 that declares a critical habitat that is located on land that is registered or that amends or repeals a regulation under that section that relates to land that is registered;

the Director of Environment or the Director of Fisheries and Marine Resources shall file a certified copy of the regulation in the Land Registry established under the Registered Land Act and the Registrar of Lands shall note in the encumbrances section of the register on the land affected by the regulation that such a regulation has been made.

(2) Without delay after making a note under subsection (1), the Registrar of Lands shall cause written notice that a note under this section has been made in the register in respect of land described in the notice—

(a) to be given to the Director of Environment or the Director of Fisheries and Marine Resources by the interdepartmental mail system of the Government; and

(b) to be given, in the manner provided in section 151 of the Registered Land Act, to the registered owner of the land to which the regulation relates and any other person who has an interest in the land as shown in the proprietorship section or encumbrances section of the register.

(3) Notwithstanding any other Act, a note under this section does not lapse and shall not be cancelled except on the receipt by the Registrar of Lands of a notice in writing from the Director of Environment or the Director of Fisheries and Marine Resources requesting the cancellation.

Immunity

85. (1) No action for damages may be commenced against—

(a) a person who is an employee or agent of, or is under contract to, the Government;

(b) a person who is designated as an enforcement officer or person accompanying or authorised by an enforcement officer under section 52;

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(c) a government agency to which, or an employee of a government agency to whom, a function has been delegated under section 5(1)(b) or a person who is an agent of, or is under contract to, a government agency;

(d) a government agency, the Anguilla National Trust or other entity or—

(i) a person who is a director or officer of, or

(ii) an employee or agent of, or a person who is under contract to,

a government agency, the Anguilla National Trust or other entity, if there has been a transfer of administration under section 6;

(e) a member of the Advisory Committee for Protected Areas established under section 14;

for anything done or not done by that person in good faith while performing that person's functions under this Act.

(2) Subsection (1) does not, by reason of section 4(1) and (4) of the Crown Proceedings Act, relieve the Crown of liability in respect of a tort committed by any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

Giving notices and orders

86. (1) This section does not apply to provisions of this Act that specify the manner in which notice is to be given.

(2) A written notice directed to a minister or public officer by a person, other than another minister, is deemed to be sufficiently given if it is—

(a) personally given to the minister;

(b) given to an adult person in charge of the minister's office or place of business; or

(c) given in the manner prescribed for the purpose of this subsection by regulation under section 87.

(3) A written notice or order directed to an individual, other than a minister, is deemed to be sufficiently given if it is—

(a) personally given to the individual or a person who holds a power of attorney from the individual under which the attorney is authorised to accept service of a notice;

(b) given to an adult person at the individual's residence or in charge of his or her place of business;

(c) sent by prepaid registered mail addressed to the individual at his or her last known address known to the person giving the notice and the individual has acknowledged receipt in writing; or

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(d) given in the manner prescribed for the purpose of this subsection by regulation under section 87.

(4) A written notice or order directed to a corporation or association is deemed to be sufficiently given if it is—

(a) personally given to a director or officer of the corporation or association;

(b) given to an adult person in charge of the office or place of business of the corporation or association;

(c) in the case of a corporation registered under the Companies Act[†], the International Business Companies Act[‡] or the Limited Liability Company Act, given to the agent for service or the registered agent of the corporation;

(d) given to a person who holds a power of attorney for the corporation or association under which the attorney is authorised to accept service of a notice; or

(e) given in the manner prescribed for the purpose of this subsection by regulation under section 87.

(5) A written notice or order directed to a partnership is deemed to be sufficiently given if it is—

(a) personally given to a partner;

(b) given to an adult person in charge of the office or place of business of the partnership;

(c) given to a person—

(i) who holds a power of attorney from the partnership, or

(ii) who holds a power of attorney for a member of a partnership,

under which the attorney is authorised to accept service of a notice or order on behalf of the partnership;

(d) if a partner is a corporation or association, given in accordance with subsection (4); or

(e) given in the manner prescribed for the purpose of this subsection by regulation under section 87.

Regulations regarding notice

87. The competent ministers acting together may make regulations prescribing the manner of giving notice for the purposes of section 86(2)(c), (3)(d), (4)(e) and (5)(e).

[†] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

[‡] Business Companies Act, 2022 (Act 2/2022) *repealed* the International Business Companies Act, R.S.A. c. I20.

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Citation

88. This Act may be cited as the Biodiversity and Heritage Conservation Act, Revised Statutes of Anguilla, Chapter B43.

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SCHEDULE 1

(Section 1)

ENDANGERED, THREATENED AND VULNERABLE WILDLIFE SPECIES

FAUNA

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Phylum	**Class**	**Order**	**Family**	**Genus/Species**	**Common Name**	**Species Status**
CHORDATA	MAMMALIA (Mammals)	CETACEA	BALAENOPTERIDAE	All species	Whales, including Bunch, Hump Whale, Humpback Whale, Hunchbacked Whale	Endangered
			PHYSETERIDAE	All species	Whales, including Cachalot, Cachelot, Pot Whale, Sperm Whale, Spermacet Whale	Endangered
		CHIROPTERA	PHYLLOSTOMIDAE	Brachyphylla cavernarum (Gray 1834)	Antillean Fruit-eating Bat; Cane Bat	Threatened
	AVES (Birds)	ANSERIFORMES	ANATIDAE	Anas acuta (Linnaeus 1758)	Common Pintail; Northern Pintail; Pintail	Vulnerable
				Anas crecca (Linnaeus 1758)	Common Teal; Green-winged Teal (USA); Teal	Vulnerable
				Dendrocygna bicolor (Vieillot 1816) (Dendrocygna fulva (Gmelin)	Fulvous Whistling-Duck; Fulvous Tree-Duck	Vulnerable
		CHARADRIIFORMES	LARIDAE	Sterna antillarum (Sterna [albifrons] antillarum) (Lesson 1847)	Least Tern; Kill-'em Polly; Sea Swallow; Peterman; Egg Bird	Threatened

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				Sterna dougallii (Montagu 1813)	Roseate Tern	Threatened
				Sterna dougallii dougallii (Montagu 1813)	Roseate Tern; Davie	Threatened
		CICONIIFORMES	ARDEIDAE	Bubulcus ibis (Linnaeus 1758)	Buff-backed Heron; Cattle Egret	Vulnerable
				Casmerodius albus (Egretta alba) (Linnaeus 1758)	Great Egret; Great White Egret	Vulnerable
		COLUMBIFORMES	COLUMBIDAE	Columba livia (Gmelin 1789)	Common Pigeon; Feral Pigeon; Rock Dove; Rock Pigeon	Vulnerable
		FALCONIFORMES	ACCIPITRIDAE	Circus cyaneus (Linnaeus 1766)	Hen Harrier; Marsh Hawk; Northern Harrier	Threatened
			FALCONIDAE	Falco columbarius (Linnaeus 1758)	Merlin; Pigeon Hawk	Threatened
				Falco peregrinus (includes Falco kreyenborgi) (Tunstall 1771)	Duck Hawk; Peregrine; Peregrine Falcon	Endangered
				Falco sparverius Linnaeus 1758	American Kestrel	Threatened
			PANDIONIDAE	Pandion haliaetus (Linnaeus 1758)	Osprey; Fish Hawk	Threatened
			PELECANIDAE	Pelecanus occidentalis (Linnaeus 1766)	Brown Pelican	Threatened
			SULIDAE	Sula dactylatra (Lesson 1831)	Masked Booby; White Booby; Blue-faced Booby	Threatened
				Sula leucogaster (Boddaert 1783)	Brown Booby; White-bellied Booby	Threatened
	REPTILIA (Reptiles)	SAURIA	IGUANIDAE	Iguana delicatissima (Laurenti 1768)	Lesser Antillean Iguana; West Indian Iguana	Critically Endangered

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				Little Scrub Ground Lizard		Critically Endangered
		TEIIDAE	Pholiosoelis corax (Censky & Paulson, 1992)			
		TEIIDAE	Pholidoscelis corvinus (Cope, 1861)	Sombrero Ground Lizard, Sombrero Ameiva		Critically Endangered
		SCINCIDAE	Spondylurus powelli (Hedges and Conn, 2012)	Anguilla Bank Skink		Endangered
		COLUBRIDAE	Alsophis rijgersmaei (Cope, 1869)	Anguilla Bank Racer		Endangered
	TESTUDINATA/ TESTUDINES	CHELONIIDAE	Chelonia mydas (Linnaeus 1758)	Green Turtle		Endangered
			Caretta caretta (Linnaeus 1758)	Loggerhead Turtle		Endangered
			Eretmochelys imbricata (Linnaeus 1766)	Hawksbill Turtle		Endangered
			Lepidochelys kempii (Garman 1880)	Atlantic Ridley; Gulf Ridley; Kemp's Ridley; Mexican Ridley		Endangered
		DERMOCHELYIDAE	Dermochelys coriacea (Vandelli 1761)	Leatherback; Leatherback Turtle; Leathery Turtle; Luth; Luth Turtle; Trunkback Turtle		Endangered
		TESTUDINIDAE	Geochelone carbonaria (Spix 1824)	Red-footed Tortoise; Wood Tortoise		Threatened
	AMPHIBIA (Amphibians)	ANURA	LEPTODACTYLIDAE	Eleutherodactylus johnstonei (Barbour 1914)	Piping Frog, Whistling Frog	Threatened

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PISCES	ACTINOPTERYGII (Bony Fishes)	SYNGNATHIFORMES	SYNGNATHIDAE	Hippocampus erectus (Perry 1810)	Black Seahorse; Brown Seahorse; Horsefish (Cuba); Lined Seahorse; Northern Seahorse (United States of America); Spotted Seahorse (United States of America); Yellow Seahorse	Threatened
	ELASMOBRANCHII (Sharks and Rays)	ORECTOLOBIFORMES	RHINCODONTIDAE	Rhincodon typus (Smith 1828)	Whale Shark	Threatened
		LAMNIFORMES	LAMNIDAE	Carcharodon carcharias (Linnaeus 1758)	Great White Shark; Man-eater Shark (UK); Mango-taniwha (NZ); Mango-ururoa (NZ); White Pointer (UK); White Shark (USA); White-death (Australia)	Threatened
CNIDARIA	ANTHOZOA (Corals & Sea Anemones)	ANTIPATHARIA	All families	All species	Black Coral	Endangered
		SCLERACTINIA	All families	All species	Hard Coral; Stony Coral, (including Elkhorn Coral, Lesser Speckled Cup Coral, Tuft Coral, Lesser Horn Coral, Red Cave Coral, Orange Cup Coral, Orange Tube Coral, Striate Finger Coral, Yellow Pencil Coral, Hump coral, African Pillow Coral	Endangered
	HYDROZOA (Hydroids and Hydromedusae)	MILLEPORINA	MILLEPORIDAE	All species	Fire Coral; Stinging Coral	Endangered
		STYLASTERINA	STYLASTERIDAE	All species	Rose Lace Coral	Endangered

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FLORA

Phylum	Class	Sub-Class	Order	Family	Genus/Species	Common Name	Species Status
MAGNOLIOPHYTA (Angiosperms)	MAGNOLIOPSIDA (DICOTYLEDONAE) (Dicots)	ROSIDAE	SAPINDALES	ZYGOPHYLLACEAE	Guaiacum officinale (Guajacum officinale) (L.)	Guaiac Tree; Lignum-vitae	Endangered
		ASTERIDAE	GENTIANALES	RUBIACEAE	Rondeletia anguillensis	Anguilla Bush	Critically Endangered

(Act 8/2021, s. 2)

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SCHEDULE 2

(Section 14)

CONSTITUTION AND PROCEDURE OF THE ADVISORY COMMITTEE FOR PROTECTED AREAS

CONSTITUTION

Definitions

1. In this Schedule—

"alternate" means an alternate designated under section 6;

"appointed member" means a member referred to in section 3(1)(b) and includes any person appointed temporarily in place of an appointed member under section 32 of the Interpretation and General Clauses Act or section 3(3) of this Schedule;

"*ex officio* member" means a member referred to section 3(1)(a);

"member" means a member of the Committee referred to in section 3.

Application of Interpretation and General Clauses Act

2. Except where a contrary intention appears in this Schedule, the Interpretation and General Clauses Act applies to this Schedule, in particular the following provisions—

(a) section 31 (Construction of provisions as to exercise of powers and duties);

(b) section 32 (Power to appoint includes power to remove, etc.);

(c) section 37 (Effect of vacancy in membership of board, defect of qualification, etc.).

Constitution of Committee

3. (1) The Committee consists of—

(a) the Permanent Secretaries to—

(i) the Minister responsible for environment,

(ii) the Minister responsible for fisheries and marine resources, and

(iii) the Minister responsible for the Anguilla Tourist Board,

as *ex officio* members; and

(b) two persons, one of whom is appointed by the Minister of Environment and one of whom is appointed by the Minister of Fisheries and Marine Resources for a term not exceeding 2 years.

(2) A person who is a public officer, a minor or a member of the House of Assembly may not be appointed under paragraph (1)(b).

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(3) In addition of his or her powers in respect of temporary appointments under section 32 of the Interpretation and General Clauses Act, the competent minister may temporarily appoint a person who is qualified to be an appointed member to act in place of an appointed member who has a financial interest in a matter.

(4) A person who is permanent secretary for 2 or more of the ministries referred to in paragraph (1)(a) is to be considered a single member of the Committee.

Remuneration and expenses of appointed member

4. (1) An appointed member shall be paid such remuneration for performing his or her functions as a member as may be determined by the competent minister.

(2) The competent minister may reimburse the reasonable expenses of an appointed member incurred in performing his or her functions as a member.

Resignation of appointed member

5. An appointed member may resign by giving written notice to the competent minister and a resignation is effective on receipt of the notice by the competent minister or the date specified in the notice, whichever is the later.

Designation of alternate members by *ex officio* members

6. (1) An *ex officio* member may in writing designate an alternate, who shall be a public officer who has attained the age of 18 years who is in a reporting relationship to the *ex officio* member.

(2) Subject to this Schedule, an alternate has the powers, duties and rights of the *ex officio* member who designated him or her.

(3) No member may be the alternate of another member.

(4) No person may be the alternate of more than one member.

(5) An alternate may not designate an alternate.

(6) An alternate may not act in place of the chairperson or deputy chairperson or as interim chairperson.

Financial interest of member or alternate

7. A member or alternate present at a meeting who has a financial interest in a matter shall—

(a) declare his or her interest; and

(b) refrain from influencing, participating in any decision or vote that relates to the matter.

Chairperson, deputy chairperson and interim chairperson

8. (1) The Permanent Secretary of the ministry responsible for the environment is chairperson of the Committee.

(2) The competent ministers shall designate an *ex officio* member to be deputy chairperson to act when the chairperson is absent or unable to act or when the office of chairperson is absent.

(3) When the chairperson and the deputy chairperson are absent or unable to act or when the office of chairperson or deputy chairperson is vacant, the members and alternates present may designate an *ex officio* member as interim chairperson to preside at the meeting.

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(4) In the event of a tie vote, the chairperson, deputy chairperson or interim chairperson has a second or casting vote.

Quorum

9. A majority of the members or their alternates present and able to vote is a quorum of the Committee if at least one *ex officio member* is present at the meeting.

Decision of the Committee

10. A decision of a majority of the members and alternates present and able to vote is a decision of the Committee.

PROCEDURES

Frequency, place, day and time of Committee meetings

11. (1) The Committee shall meet as often as may be necessary to perform its functions expeditiously.

(2) A meeting of the Committee shall be held on the days and at the times that the chairperson may determine.

Notice of Committee meeting

12. (1) The chairperson shall cause written notice of the place, day, time and agenda of each Committee meeting to be given to each member, and to each alternate known to the chairperson to be attending the meeting, not less than 72 hours before the time the meeting is to be held, unless the member or alternate waives notice of the meeting in writing.

(2) Notice shall be given to a member or alternate by—

(a) handing a copy to the member or alternate;

(b) leaving a copy with an adult at the office, residence or place of work of the member or alternate;

(c) emailing or faxing a copy to the member or alternate at the member or alternate's email address or fax number; or

(d) any other means approved by resolution of Committee.

Waiver of notice

13. (1) A member or alternate may in writing waive notice of a meeting.

(2) A waiver of notice of a meeting shall be given to the chairperson or secretary.

Decision of chairperson

14. The decision of the chairperson is final on the following matters—

(a) the agenda for a meeting;

(b) the conduct of the meeting;

(c) the procedure for handling motions.

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Minutes

15. (1) The Committee shall appoint a member to act as secretary.

(2) The secretary shall keep accurate minutes of each Committee meeting, including particulars of—

(a) the notice of the meeting given to each member or alternate and any waiver of notice by a member or alternate;

(b) the members or alternates in attendance;

(c) each resolution moved, the number of members or alternates present and voting for and against it or abstaining from voting on it and whether the resolution was passed or defeated; and

(d) any declaration of financial interest in any matter by a member or alternate.

(3) The secretary shall table for approval a copy of the minutes of a meeting at the next meeting of Committee.

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