ANGUILLA

# REVISED STATUTES OF ANGUILLA

## CHAPTER D10

# DEVELOPMENT BOARD 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 8/2003, in force 14 November 2003
U.K S.I. 2019 No. 852, in force 14 May 2019

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# DEVELOPMENT BOARD ACT

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# DEVELOPMENT BOARD ACT

**Interpretation**

**1.** In this Act—

"Accountant General" means the person for the time being holding the office of Accountant General to the Government of Anguilla;

"Anguillian" means a person who is regarded as an Anguillian under section 80(2) of the Constitution of Anguilla

*(U.K. S.I. 2019 No. 852, s. 13(c))*

"Board" means the Anguilla Development Board established by section 2;

"Chairman" means the Chairman of the Board;

"Deputy Chairman" means the Deputy Chairman of the Board;

"member" means member of the Board and includes the Chairman and the Deputy Chairman;

"Minister" means the Minister responsible for finance.

*(Act 8/2003, s. 75)*

**Establishment of Board**

**2.** There is established a Board for the purposes of this Act, to be known as the Anguilla Development Board, which shall be a body corporate having perpetual succession and a common seal, with power to sue and be sued, purchase, hold, manage and dispose of land and any other property, to enter into contracts as it may consider necessary or expedient and to do all such acts and things as bodies corporate may do and perform, for the purposes of performing its functions under this Act.

**Membership and constitution**

**3.** (1) The Board shall consist of not less than 5 and not more than 7 members as the Minister may from time to time determine.

(2) The members shall be appointed by the Minister from amongst persons appearing to be qualified by reason of having had experience of, and having shown capacity in matters relating to industry, trade, finance, science or administration, but a majority of the members shall be Anguillians.

*(U.K. S.I. 2019 No. 852, s. 13(c))*

(3) The Minister shall appoint a Chairman and a Deputy Chairman from among the members.

(4) A member shall hold office for such period, not exceeding 3 years, as the Minister may direct; but any member shall be eligible for re-appointment.

(5) The Minister may appoint any person appearing to have the qualifications necessary for appointment under the provisions of subsection (2) as a member to act temporarily in the place of any member in the case of the absence or inability of such member to act.

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(6) The Board may co-opt to serve on it for such length of time as it may think fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.

(7) Any member may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister.

(8) The Minister may at any time revoke the appointment of any member if he thinks it expedient so to do.

(9) The appointment and the termination of office of any person as a member whether by death, resignation, revocation, effluxion of time or otherwise, shall be published in the *Gazette*, but the failure to promulgate such appointment, resignation, revocation or termination of office shall not invalidate the same.

(10) A member shall cease to hold office—

(a) upon delivering a written resignation of his office in accordance with the provisions of subsection (7);

(b) if his appointment is revoked by the Minister under the provisions of subsection (8);

(c) if the Board declares by resolution that he has been absent from 3 consecutive meetings of the Board without the leave of the Board;

(d) if he is adjudged bankrupt or enters into a composition or arrangement with his creditors; or

(e) if there shall be entered against him a judgment of a competent court in any amount and the same shall be unsatisfied for a period of 3 months or more.

*(Act 8/2003, s. 75)*

**Functions of the Board**

**4.** (1) The functions of the Board shall be to stimulate, facilitate and undertake the development of Anguilla and the acquisition of any property or the carrying on of any business which the Minister may direct the Board to acquire or carry on shall be deemed to be part of the functions of the Board.

(2) In the performance of its functions, the Board shall have proper regard to the economic and commercial merits of any undertaking it plans to initiate, assist or expand.

(3) If the Minister instructs the Board to initiate, assist or expand any undertaking which it considers economically or otherwise unsound, the Board shall not be required to proceed with such initiation, assistance or expansion until the Minister has undertaken to reimburse to the Board any losses thereby incurred.

*(Act 8/2003, s. 75)*

**Powers of the Board**

**5.** The Board shall have power—

(a) to acquire such property or carry on such business as the Minister may direct;

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(b) to carry on any activities which appear to it to be requisite, advantageous or convenient for or in connection with the discharge of its functions;

(c) to promote the carrying on of any such activities by other bodies or persons, and for that purpose to establish, expand or promote the establishment or expansion of other bodies to carry on any such activities, either under the control or partial control of the Board or independently, and to give assistance to such bodies or to other bodies or persons, but, where the exercise by the Board of any of its powers under this section involves the Board entering into any new activity or transaction, the Board shall obtain the prior approval of the Minister;

(d) to carry on any such activities in association with other bodies or persons (including Government authorities) or as managing agents or otherwise on their behalf;

(e) to do anything and to enter into any transaction (whether or not involving expenditure, borrowing, granting of loans or investment of money in accordance with the provisions of this Act in that behalf, the acquisition of any property or rights or the disposal of any property or rights) which in the opinion of the Board is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto;

(f) to appoint such agents as the Board may consider necessary for the proper discharge of its functions as the Board may determine;

(g) with the specific authority of the Minister to act as the agent for the Government of Anguilla or any department thereof (or any statutory board approved by the Government) for any purpose whether or not directly related to its functions;

(h) to pay any fees, expenses, costs or other expenditure properly incurred or accepted by it in the discharge of its functions; and

(i) to purchase plant, equipment, stores and any other materials and acquire land and erect buildings and carry out any other works and undertakings in the discharge of its functions.

*(Act 8/2003, s. 75)*

**Borrowing powers**

**6.** (1) Subject to the provisions of subsection (2), the Board may borrow such amounts as may be required for the purpose of meeting any of its obligations or discharging any of its functions.

(2) The power of the Board to borrow shall be exercised only with the approval of the House of Assembly.

(3) The Minister may direct that advances be made to the Board from the Consolidated Fund of such amounts as may be required for carrying out its functions under this Act.

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(4) The Board shall make to the Accountant General, at such times and in such manner as the Minister may direct, payments of such amounts as may be directed in or towards repayments of amounts advanced under subsection (3) and payments of interest on the amount outstanding for the time being at such rates as the Minister may direct, and different rates of interest may be directed as regards different amounts and as for different periods.

*(Act 8/2003, s. 75)*

**Power to lend money**

**7.** (1) Subject to such conditions as it may deem fit to impose in particular cases, and subject to satisfactory security being provided in the case of loans exceeding $5,000, the Board may, out of its funds and resources, make loans in accordance with the provisions of this Act in the discharge of its functions, and in making such loans the Board may charge such rates of interest as it may deem fit.

(2) Subject to the provisions of subsection (3), every loan shall be repaid to the Board in accordance with the terms and conditions under which the loan was made.

(3) The Board may extend the time for the repayment of any loan and interest due thereon to a period not exceeding 10 years from the date upon which the loan was made or may compound, release or vary the terms of repayment or the interest due or payable thereon subject to the loan remaining satisfactorily secured and to such conditions as it may decide.

(4) The Board may accept repayment of the whole or any part of the principal of a loan and interest thereon before the time when such repayment is due upon such terms and conditions as it may think fit.

**Application of loans**

**8.** (1) Where the Board has made a loan of money under the provisions of this Act, it may—

(a) from time to time, make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purpose for which it was made and for this purpose may authorize in writing any of its officers or any other person to make such examination; and any officer or person so authorized shall be entitled to demand the production of all books, documents and other matters and things as he may consider necessary for the purpose of making such examination; and

(b) require financial statements in such detail as it may determine to be submitted by the person in receipt of the loan bi-annually or at shorter intervals at the discretion of the Board, and such person shall comply with such request.

(2) Any person who fails to submit any financial statement or to produce any book, document or other matter or thing as demanded in accordance with the provisions of subsection (1) is guilty of an offence against this Act.

(3) Where upon any examination made under the provisions of paragraph(1)(a) it appears to the Board that any sum, being the whole or any part of the loan, has not been applied to the purpose for which the loan was made, without prejudice to any other power or remedy, it may—

(a) order that any such sum be within the time mentioned in the order applied to such purpose or that such sum together with any interest due thereon be repaid to the Board at the expiration of the time mentioned; or

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(b) where such loan has been secured by mortgage or otherwise, by notice in writing addressed to the borrower recall the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice, to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised.

(4) Where any security for a loan under the provisions of this Act is realised for the purpose of the enforcement of the security, the Board may acquire the whole or part of the property concerned and may hold and manage such property.

**Offences in respect of loans**

**9.** (1) Any person who—

(a) for the purpose of obtaining a loan from the Board knowingly makes any false statement or false representation;

(b) wilfully applies any loan made to him by the Board for any purpose other than the purpose for which the loan was made; or

(c) having obtained a loan from the Board wilfully destroys or alters in a material particular any security given in relation to any such loan;

is guilty of an offence against this Act, and is liable on summary conviction to a fine of $12,500, or to imprisonment for 12 months or to both.

(2) Proceedings for offences arising out of the provisions of this Act or in connection with any loan made hereunder shall not be instituted except by or with the consent of the Attorney General.

*(Act 8/2003, s. 75)*

**Penalties**

**10.** Any person guilty of an offence against this Act for which no special penalty is provided is liable on summary conviction to a fine of $2,500.

**Minutes**

**11.** Any minute of any meeting of the Board shall, in purporting to be duly signed by the Chairman or Deputy Chairman, be receivable in evidence in all legal proceedings without further proof, and every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

**Funds and resources of the Board**

**12.** (1) The funds and resources of the Board shall consist of—

(a) such money as may be provided for the purpose in the Estimates of Revenue and Expenditure of Anguilla;

(b) money from time to time received by or falling due to the Board in respect of the repayment of any loan and the interest payable in respect of any loan;

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(c) money earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Board;

(d) money borrowed by the Board for the purpose of meeting any of its obligations or discharging its functions;

(e) such money as may be advanced under section 6(3); and

(f) other money or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions.

(2) Money standing to the credit of the Board may from time to time be invested in securities approved either generally or specifically by the Minister, and the Board may, from time to time with the like approval, sell or deal with any or all of such securities.

*(Act 8/2003, s. 75)*

**Powers of the Minister**

**13.** In the exercise of its powers and the discharge of its functions, the Board shall conform with any general or special directions given by the Minister.

*(Act 8/2003, s. 75)*

**Guarantee of borrowings by Board and repayment of sums issued to meet guarantees**

**14.** (1) The Minister may guarantee, with the prior approval of the House of Assembly in such manner and on such conditions as it may think fit, the payment of the principal and interest in respect of any authorized borrowing of the Board.

(2) Where the Minister is satisfied that there has been default in the repayment of any principal money or interest guaranteed under the provisions of this section, he shall direct the repayment of the amount in respect of which there has been such default.

(3) The Board shall make to the Accountant General, at such times and in such manner as the Minister may direct, payments of such amounts as may be directed in or towards repayment of any amounts issued in fulfilment of any guarantee given under this section, and payments of interest on the amount outstanding for the time being in respect of any amounts so issued at such rate as the Minister may direct, and different rates of interest may be directed as regards different amounts and as regards interest for different periods.

*(Act 8/2003, s. 75)*

**Procedures at meetings of the Board**

**15.** (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time on such days as the Board may determine.

(2) The Chairman, or in his absence the Deputy Chairman, may at any time call a special meeting of the Board and shall call a special meeting within 7 days on a requisition for that purpose addressed to him by any 3 members.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board.

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(4) The Chairman, or in his absence the Deputy Chairman, and 3 members shall form a quorum.

(5) The decision of the Board shall be by majority of votes and, in addition to an original vote, in any case in which the voting is equal, the Chairman or Deputy Chairman presiding at the meeting shall have a casting vote.

(6) Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman or the Deputy Chairman (as the case may be) as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the provisions of this section, the Board shall have power to regulate its own proceedings.

(8) The Board may appoint a committee of the Board to examine and report to it on any matter arising out of or connected with any of its functions under this Act.

(9) Any such committee shall consist of at least 2 members of the Board together with such other persons, whether members of the Board or not, whose assistance or advice the Board may desire.

(10) The Board may by resolution adopt or reject the report of any such committee either wholly or with such modifications, additions or adaptations as the Board may think fit.

(11) The Board may delegate to any member or Committee of the Board the power and authority to carry out on its behalf such duties as the Board may determine.

**Officers of the Board**

**16.** The Board may appoint and employ at such remuneration and on such terms and conditions as it may think fit such officers and servants as it deems necessary for the proper carrying out of the provisions of this Act.

**Terms of service**

**17.** (1) It shall be lawful for the Board, with the approval of and subject to such terms and conditions as may be imposed by the Minister, to provide for the establishment and maintenance of a Pension Scheme or a Provident Fund Scheme for the benefit of the officers and servants of the Board, and in any such scheme different provisions may be made for different classes of officers or servants.

(2) The Government may approve the transfer of an officer from the service of the Board to the service of the Government or from the service of the Government to the service of the Board, but, in every case—

(a) any pension, gratuity or other allowance which is ultimately granted shall be paid from the Consolidated Fund of the Government; and

(b) the Board shall pay from its fund to the Government such contribution as may be provided for in rules made by the Minister and any such rules may make different provisions in different classes of cases.

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(3) No act or thing done by any member or any officer or servant of the Board shall, if the act or thing be done in good faith and without negligence for the purposes of this Act, render that member, officer or employee, or any other person acting under directions, personally liable to any action, proceeding, claim or demand.

(4) The Board shall pay to each member in respect of his office such remuneration as may be determined from time to time by the Governor in Council and such remuneration shall be paid out of the Board's funds.

(5) Where persons not being members of the Board are members of a Committee appointed under section 15, or where persons are co-opted under the provisions of section 3(6), the Board may with the approval of the Governor in Council by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Board.

(6) Every member of the Board who is or is likely to be concerned in, or who participates in the profits of any contract with or work done for the Board otherwise than in his capacity as a member shall, on the matter coming before the Board immediately declare his interest therein, and shall, unless the Board otherwise agrees, retire from the meeting and shall in any case abstain from voting on the matter.

*(Act 8/2003, s. 75)*

**Execution of documents**

**18.** (1) The common seal of the Board shall be authenticated by the signature of the Chairman or such other member authorised to act in that behalf together with the signature of some other member or officer authorised by the Board to act in that behalf.

(2) All documents made by the Board, other than those required by law to be under seal, shall be executed, and all decisions of the Board shall be signified, under the hand of the Chairman or of any member, officer or servant of the Board authorised in that behalf.

**Regulations**

**19.** The Board, with the approval of the Governor in Council, may, subject to the provisions of this Act, make regulations—

(a) governing the proceedings of the Board and the manner and transaction of its business;

(b) prescribing the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Board;

(c) prescribing the circumstances in which members may receive travelling and subsistence allowances and fixing the rates of such allowances;

(d) imposing fees in such cases as may be determined by the Board;

(e) generally for the exercise of its functions under the provisions of this Act.

*(Act 8/2003, s. 75)*

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**Accounts and audits**

**20.** (1) The Board shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall annually be audited in accordance with the directions of the Chief Auditor by an auditor appointed by the Board with the approval of the Chief Auditor.

(2) The members, officers and servants of the Board shall grant to the auditor appointed to audit the accounts of the Board under the provisions of subsection (1), access to all books, documents, cash and securities, and the Board shall provide all such information as may be within their knowledge in relation to the operation of the Board.

(3) As soon as the accounts have been finally audited the Secretary shall send to the Minister a copy thereof together with a copy of any report thereon by the auditor.

(4) The Board may write off bad debts.

*(Act 8/2003, s. 75)*

**Report**

**21.** (1) The Board shall, not later than 6 months after the end of each calendar year or within such longer period as the Minister may approve, submit to the Minister a report containing an account of its transactions throughout the preceding calendar year in such detail as the Minister may direct.

(2) A copy of the report together with a copy of the annual accounts and auditor's report thereon shall be printed and laid before the House of Assembly.

*(Act 8/2003, s. 75)*

**Citation**

**22.** This Act may be cited as the Development Board Act, Revised Statutes of Anguilla, Chapter D10.

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