ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER I5

IMMIGRATION AND PASSPORT 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 6/2010, in force 1 November 2010
Act 2/2017, in force 03 March 2016
Act 34/2020, in force 16 December 2020
U.K. S.I. 2019 No. 852, in force 14 May, 2019

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IMMIGRATION AND PASSPORT ACT

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IMMIGRATION AND PASSPORT ACT

Interpretation

1. (1) In this Act—

"alien" means any person who is not an Anguillian;
(U.K. S.I. 2019 No. 852, s. 13(c))

"dependant", in relation to another person, means—

(a) the wife of such person, if she is not living apart from him under a decree of a competent court or a deed of separation;

(b) the child or step-child (including an illegitimate child) under the age of 18 years, of such person; or

(c) an adopted child under the age of 18 years, having been adopted by such person in a manner recognised by law;

"immigrant" means any person who enters Anguilla from a place outside Anguilla, whether for the first time or at any subsequent time;

"master" means the person having command or charge of a vessel;

"Minister" means the Minister charged with the responsibility for immigration policy;

"passport" means a passport issued or renewed by or on behalf of the Government of the country of which the person to whom it relates is a subject or citizen or some other recognised travel document satisfactorily establishing the national status and identity of the person to whom it relates, which passport or document is still in force and has attached to it a photograph of the person to whom it relates;

"port of entry" means any port or port of entry declared as such by regulations made under section 37;

"vessel" means any ship or other floating craft and includes any description of aircraft.

(2) For the purposes of this Act—

(a) a person enters Anguilla if he arrives by sea or air with the intention of disembarking in Anguilla or if he disembarks in Anguilla; and

(b) a person is deemed to be an Anguillian if he is so regarded under section 80(2) of the Constitution of Anguilla.
(U.K. S.I. 2019 No. 852, s. 13(c))

Appointment and powers of immigration officers

2. (1) A Chief Immigration Officer shall be appointed by the Governor and shall, in addition to the powers conferred on him by this Act, have the powers conferred by this Act on an immigration officer.

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(2) The Governor may appoint such immigration officers as he shall think fit for the purpose of carrying out the provisions of this Act.

(3) An immigration officer shall have all the powers of a police officer and may board and search any vessel arriving in Anguilla for the purpose of performing his duties under this Act.

Power for Governor to prohibit entry of aliens

3. (1) Notwithstanding anything contained in this or in any other Act, the Governor may, in his absolute discretion by order prohibit the entry into Anguilla of any alien or class of aliens.

(2) An order under subsection (1) is a regulation.

Enumeration of prohibited immigrants

4. The following persons, not being Anguillians, are prohibited immigrants—

(a) any person who is likely, if he entered Anguilla, to become a public charge by reason of infirmity of body or mind or who is not in possession of sufficient means to support himself and such of his dependants as he shall bring with him;

(b) any idiot or epileptic or any person who is mentally deficient or is deaf and dumb or deaf and blind or dumb and blind, unless in any such case a person accompanying him or some other person gives security to the satisfaction of the Chief Immigration Officer for his permanent support in Anguilla or for his removal therefrom whenever required;

(c) any person certified by a medical officer to be suffering from a contagious or infectious disease which makes his entry into Anguilla dangerous to the community;

(d) any person who, not having received a free pardon, has been in any country convicted of an offence for which a sentence of imprisonment has been passed and for this reason appears to be an undesirable immigrant;

(e) any prostitute or any person who may be living on or receiving or may have lived on or received the proceeds of prostitution;

(f) any alien or class of aliens prohibited from entry under the provisions of section 3;

(g) the dependants of a prohibited immigrant.

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

Who are not prohibited immigrants

5. The following persons or classes of persons shall not be prohibited immigrants—

(a) Anguillians;

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

(b) members of Her Majesty's regular naval, military or air forces;

(c) persons in the service of the Government of Anguilla;

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(d) diplomatic representatives duly accredited to Anguilla or to the United Kingdom by or under the authority of Her Majesty;

(e) representatives of the United Nations Organization or any specialised agency thereof or of any similar international organisation of which the United Kingdom is a member;

(f) representatives of any regional organisation of which Anguilla is a member;

(g) the dependants of any person to whom paragraph (b), (c), (d), (e), or (f) applies;

(h) the holder of a permit of permanent residence granted under section 25;

(i) any other person or class of persons to whom this section may be applied by regulation of the Governor.

No prohibited immigrant to enter

6. Except as otherwise specifically provided by this Act, no prohibited immigrant shall enter Anguilla; and the Chief Immigration Officer shall exercise his powers under section 10 in relation to any prohibited immigrant who may have entered Anguilla in contravention of any of the provisions of this Act.

Decisions may be postponed

7. (1) The Chief Immigration Officer may postpone a decision as to whether a person is or is not a prohibited immigrant for such period as may be necessary for making inquiries.

(2) An immigration officer may grant permission for an immigrant to disembark without prejudice to the question whether he is or is not a prohibited immigrant.

Mistaken decision that a person is not a prohibited immigrant

8. A mistaken decision, for whatever reason, by the Chief Immigration Officer that a person is not a prohibited immigrant shall not affect the liability of such immigrant to be dealt with as a prohibited immigrant.

Permits for prohibited immigrants

9. (1) Notwithstanding anything to the contrary contained in this Act, the Governor or by his direction the Chief Immigration Officer may grant a permit for a prohibited immigrant (other than an immigrant to whom section 12(4) applies) to enter and remain in Anguilla either unconditionally or subject to such conditions, whether prescribed or not, as the Governor may think expedient.

(2) An immigration officer may grant a permit for a prohibited immigrant to remain in Anguilla for temporary purposes in accordance with the provisions of this Act.

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Orders for prohibited immigrants to leave

10. Where the Chief Immigration Officer decides that a person is a prohibited immigrant, the Chief Immigration Officer may in his discretion—

(a) within 15 days after the arrival of such person in Anguilla order him to leave Anguilla within a specified period, and, if the Chief Immigration Officer sees fit, by a specified vessel; or

(b) cause him to be arrested and brought before the Magistrate for an order for his removal.

Removal orders

11. (1) If any person is held to be a prohibited immigrant, the Magistrate may, subject to the provisions of this Act and the terms of any permit granted under this Act, on the application of an immigration officer or any person authorised in writing by the Chief Immigration Officer for the purpose of making such application, order the immigrant to be removed from Anguilla and in the meantime to be detained in custody.

(2) Any immigrant ordered by the Magistrate to be removed may be placed on board a suitable vessel by any police officer or immigration officer and may lawfully be detained in custody on board such vessel so long as the vessel is within the territorial waters of Anguilla.

(3) Where an immigrant who is ordered to be removed is serving a sentence of imprisonment, the Governor may direct whether the whole or part of the sentence shall be served before removal and, in default of such direction, the immigrant shall be removed after completion of the sentence.

General prohibition from entry without specific permission

12. (1) Without prejudice to any of the provisions of this Act, it is hereby declared that it is an offence for any person, other than a person to whom section 5 applies, to land in, or having landed to remain or reside in Anguilla without in each case specific permission, with or without the imposition of conditions, given by an immigration officer.

(2) A person, other than a person to whom section 5 applies, who is not a prohibited immigrant, may be granted permission to land and to remain or reside in Anguilla for a period of up to 6 months, subject to extension from time to time for further periods not exceeding a total of 6 months, on application to the Chief Immigration Officer.

(3) Any permission granted under subsection (2) may at any time be revoked by the Minister or the Chief Immigration Officer acting on the direction of the Minister.

(4) Any person or class of persons, other than those to whom section 5 applies, whose entry into Anguilla is deemed by order of the Governor to be undesirable shall be prohibited from entry into Anguilla, and, if at any time after the making of such an order, such a person is found in Anguilla he shall be deemed to be a prohibited immigrant and may be dealt with as such.

Duty of immigrant on entering

13. (1) No person shall enter Anguilla by sea or by air, except at a port of entry.

(2) A person entering Anguilla by sea shall not disembark without the consent of an immigration officer, and the master of the vessel shall not allow any person to disembark without such

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consent and may use all reasonable and proper means, including the use of force, if necessary, to secure the detention of any such person on board the vessel until such consent may be given.

(3) A person entering Anguilla by air shall forthwith present himself to an immigration officer.

(4) Every person entering Anguilla shall, if required by an immigration officer—

(a) make and sign the prescribed declaration; and

(b) submit to be examined by a medical officer.

(5) Any person, other than a person to whom section 5 applies, who contravenes or fails or refuses to comply with any of the provisions of this section shall be deemed to be a prohibited immigrant and may be dealt with as such.

Passports

14. (1) Every person, other than an Anguillian, landing in Anguilla from a place beyond Anguilla shall be in possession of a passport, that is to say—

(a) in the case of a British subject or a British protected person, he shall have in his possession a British passport; and

(b) in the case of a person of any other nationality, he shall have in his possession a passport issued by or on behalf of the Government of the country of which he is a subject or citizen;

and shall produce the passport to the immigration officer on demand.

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

(2) The Governor may by regulation exempt any person or class of persons, either permanently or for a limited period, from all or any of the provisions of this section.

Master of vessel to furnish list of passengers

15. (1) The master of a vessel arriving from any place outside Anguilla or departing from Anguilla shall furnish an immigration officer with a list in duplicate, signed by himself as master or his agent, of the names of all passengers and such other information as may be prescribed, and every such passenger shall supply whatever information shall be necessary for the purpose of the list.

(2) A master who shall neglect or refuse to furnish such list or knowingly furnish a list false in any particular is guilty of an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 6 months.

(3) A passenger intending to enter Anguilla who shall knowingly and wilfully give any false information in respect of such list in respect of any particulars required for such list or otherwise for the purposes of this Act is guilty of an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 6 months.

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Master may prevent landing

16. The master of a vessel may use all reasonable and proper means, including force if necessary, to prevent any person landing in Anguilla contrary to the provisions of this Act.

Master to be held harmless

17. The master of a vessel may, on the desertion of any seaman or the landing of any stowaway or prohibited immigrant, apply to the Magistrate for a warrant to arrest and convey back on board ship such seaman, stowaway or prohibited immigrant, and the Magistrate shall grant such application unless there are special reasons for not doing so, and such master shall be held harmless of all pains and penalties in respect of same.

Liability to repatriate prohibited immigrants

18. (1) Any person to whom leave to disembark has been refused and who has not given notice of appeal as hereinafter provided shall be removed from Anguilla by the master of the vessel in which he arrived and by the same vessel, or, with the consent of an immigration officer, by the owner or agent of that vessel, by any other vessel to the country to which he belongs or from which he embarked.

(2) If an immigrant in respect of whom notice has been given to the master, agent or owner of a vessel as required by section 32(1) is ordered to be removed from or to leave Anguilla within 60 days of his arrival in Anguilla, the master of the vessel in which the immigrant arrived or the master of any other vessel belonging to the same owner shall on production of the order receive the immigrant and any of his dependants who may have arrived with him in the same vessel, and afford them a passage to the country to which they belong or from which they embarked.

(3) If the immigrant and his dependants are unable to pay the cost of the passage required to be provided under subsections (1) and (2), the master shall provide the immigrant and his dependants with passages free of cost to the public funds of Anguilla without prejudice to his right to recover such cost from the immigrant and his dependants.

Liability for expenses of prohibited immigrants

19. The master, owners and agents of any vessel from which any person lands in Anguilla contrary to the provisions of this Act shall be jointly and severally liable for all expenses incurred by the Government of Anguilla in detaining and maintaining such person pending removal, and such expenses shall be recoverable as a debt due to the Crown from the master, owners and agents.

Recovery of expenses

20. (1) If the Magistrate is satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment or removal of an immigrant or his dependants, he may issue a warrant for the levy of the amount by distress and sale of any moveable property of the immigrant.

(2) A warrant issued under this section may be executed in the same manner as a warrant for the levy of the amount of a fine under the Magistrate's Code of Procedure Act.

(3) The partial recovery of expenses under this section shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant under this section be a condition precedent to the liability of a surety.

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Temporary permits for sick persons

21. (1) An immigration officer may, with the consent of a medical officer, grant a permit for an immigrant suffering from a contagious or infectious disease to remain in Anguilla for the purposes of treatment, subject to such conditions as the medical officer may deem necessary for the protection of the community.

(2) The grant of a permit under this section shall not prejudice a subsequent decision that the immigrant is a prohibited immigrant on another ground and any consequential action which may be taken under this Act.

(3) On the conclusion of his treatment or at such earlier time as may be specified in the permit or communicated to him by an immigration officer, the immigrant shall present himself in person to an immigration officer for examination.

Temporary permits pending appeal

22. (1) Whenever—

(a) a prohibited immigrant has delivered a notice of appeal;

(b) a prohibited immigrant is ordered to leave Anguilla;

(c) security is required to be given in respect of an immigrant; or

(d) the Chief Immigration Officer postpones deciding whether a person is or is not a prohibited immigrant;

the Chief Immigration Officer may grant a permit for the immigrant to remain in Anguilla for so long as he may consider necessary.

(2) Instead of granting a permit under subsection (1), or on revocation or expiration of a permit, the Chief Immigration Officer may cause the immigrant to be arrested and brought before the Magistrate who may either order a permit to be granted, restored or renewed and the immigrant to be released, or order the immigrant to be detained in custody until the matter is disposed of or until an opportunity occurs for him to leave Anguilla, as the case may require.

Visitors

23. (1) Where a person desires to remain in Anguilla as a visitor for a period not exceeding 6 months, an immigration officer may, without deciding whether that person is or is not a prohibited immigrant, grant him a permit to remain in Anguilla for such period not exceeding 6 months as may be specified in the permit.

(2) If the permit is granted for a period of 6 months or less, it may be extended from time to time by the Chief Immigration Officer up to a maximum of 12 months from the date of entry on payment of the fee provided in the regulations made under this Act.

(3) On the expiration of his permit, a visitor shall leave Anguilla.

(4) If a visitor fails to leave Anguilla on or before the expiration of his permit, he shall be deemed to be a prohibited immigrant and may be dealt with as such.

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(5) For the purposes of this section, the expression "visitor" shall not include a person who enters Anguilla for the purposes of employment and is in possession of a valid work permit.

Digital Nomads

24. (1) A person—

(a) other than a person to whom section 5 applies;

(b) who is not a prohibited immigrant pursuant to section 4; and

(c) who is employed in a country other than Anguilla;

may apply for permission to land, reside and work remotely in Anguilla for a period of up to 12 months.

(2) Where a person referred to in subsection (1) is granted permission to land, reside and work remotely in Anguilla for a period of up to 12 months, an immigration officer shall apply a stamp to his passport that indicates his permission to remain in Anguilla for such period not exceeding 12 months.

(3) A person to whom permission is granted under this section shall only be permitted to—

(a) work remotely for a non-Anguillian Company; or

(b) work as a self-employed person.

(4) No self-employed person to whom permission is granted under this section shall offer any goods or services to persons in Anguilla.

(5) Where a person contravenes subsections (3) and (4), permission granted under this section to reside and work remotely from Anguilla may be revoked.

(6) A person to whom permission is granted under this section shall leave Anguilla on or before the expiration of the 12 month period or may apply to extend the period of stay for a further 12 months.

(7) Where a person fails to leave Anguilla on or before the expiration of the 12 month period as specified in subsection (6), he is deemed to be a prohibited immigrant and may be dealt with as such.

(Act 34/2020, s. 1)

Permanent residence

25. (1) Notwithstanding anything contained in this or any other Act, but subject to subsection (2), the Governor may grant to a non-Anguillian a permit of permanent residence subject to such conditions as he may think fit.

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

(2) No permit of permanent residence shall be granted unless a certificate of good standing issued pursuant to the regulations under the Inland Revenue Department Act in relation to the applicant for the permit that has not expired or been cancelled has been presented to the Governor.

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(3) Where a permit of permanent residence is granted to any person under this section, the Governor may on the application of such person endorse the permit to include any dependant or dependants of the permit holder.

(Act 6/2010, s. 41)

Revocation of permanent residence permits

26. (1) The Governor may by order revoke any permanent residence permit, or any endorsement thereon, on the ground that any person to whom it relates—

(a) has, subsequent to the grant of the permit or endorsement thereon, been absent from Anguilla for a continuous period of more than 3 years;

(b) has, in any country, been imprisoned for a criminal offence;

(c) has so conducted himself that, in the opinion of the Governor, it is not in the public interest that he should continue to enjoy the privileges conferred by the permit; or

(d) being the wife of the person to whom the permit was granted, has ceased to be married to the permit holder by reason of dissolution or annulment of the marriage or is living apart from him under a decree of a competent court or under a deed of separation.

(2) No order shall be made by the Governor in the exercise of his powers under this section unless the person against whom the order is proposed has first been served with a notice in writing of the ground or grounds on which it is proposed to make the order and has been afforded an opportunity to be heard in respect thereof.

(3) No appeal shall lie against an order made by the Governor under this section other than an appeal as to identity only of the person affected by the order.

Revocation and variation of permits

27. (1) Any permit granted under the provisions of this Act may at any time be revoked or varied by the Governor.

(2) Where a permit is so revoked, the immigrant may be arrested and brought before the Magistrate to be dealt with according to law.

Certificate of identity

28. The Chief Immigration Officer may in his discretion issue a certificate of identity to any person who is Anguillian and who desires to proceed thereout with the intention of returning.

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

Permits and certificates

29. (1) A person to whom a permit or certificate under this Act has been granted shall produce it on demand to any immigration officer or police officer or within 24 hours at a police station, and shall not lend, transfer or assign it to any other person.

(2) No person shall borrow or make use of a permit or certificate which has been granted under this Act to any other person.

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(3) Any person having in his possession a permit or certificate purporting to have been granted under this Act shall answer all questions put to him by an immigration officer or police officer for the purpose of establishing his identity, and shall if so required by an immigration officer or police officer submit to his fingerprints being taken for that purpose.

(4) Any person who—

(a) refuses or without reasonable excuse fails to produce a permit or certificate granted to him on demand or within 24 hours at a police station as required by subsection (1);

(b) borrows or makes use of a permit or certificate which has been granted to any other person;

(c) lends, transfers or assigns a permit or certificate granted to him to any other person; or

(d) refuses to answer any question put to him in accordance with subsection (3);

is guilty of an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 6 months.

Photographs and fingerprints

30. A person deemed to be a prohibited immigrant, or a person who has applied for a permit or a certificate under the provisions of this Act or to whom such a certificate has been granted, shall, if so required by an immigration officer, submit to his photograph and fingerprints being taken for the purposes of identification.

Place of detention

31. A person detained under this Act but not serving a sentence of imprisonment may be so detained either in the prison or in any other place appointed by regulation of the Minister for that purpose, but, if detained in the prison he shall be treated as a person awaiting trial.

Appeals

32. (1) Whenever leave to enter Anguilla is withheld by an immigration officer or whenever any person is detained, restricted or arrested as a prohibited immigrant, notice of that fact and the grounds of refusal, detention, restriction or arrest shall be given to such person in the prescribed form, and, if such notice is given within 7 days of the arrival of any immigrant, the immigration officer giving such notice shall also give notice to the master, agent or owner of the vessel by which the immigrant arrived of the same matters in respect of the immigrant and that a notice has been given to the immigrant in respect of those matters.

(2) Except as provided in this section, every immigrant to whom a notice has been given under this section may appeal to the Magistrate by giving notice of appeal to the Magistrate and to the Chief Immigration Officer within 7 days of the decision appealed against.

(3) An appeal shall lie from any decision of the Magistrate to the Court of Appeal.

(4) No court fees shall be charged for the hearing of any appeal under this section.

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(5) Pending the hearing of an appeal to the Magistrate, no warrant shall be issued or enforced for the removal as a prohibited immigrant of the person so appealing, but, should the Magistrate hold that the immigrant appealing is a prohibited immigrant and should no appeal to the Court of Appeal from such decision be noted within 14 days of the date of such decision, the Magistrate shall issue a warrant for the removal of the prohibited immigrant; and in like manner, should the Court of Appeal hold on appeal that the appellant is a prohibited immigrant, the Magistrate shall issue a warrant for the removal of the prohibited immigrant.

(6) No appeal shall lie against the decision of the Governor in regard to any of the persons mentioned in section 4(f) and section 12(4) unless such appeal is directed to the identity only of the person affected by the decision.

Offences

33. (1) Any prohibited immigrant who knowingly and wilfully lands or suffers himself to be landed and any person who knowingly lands or permits to land or procures to be landed or aids or assists in landing any prohibited immigrant contrary to the provisions of this Act is guilty of an offence.

(2) Any person who—

(a) lands or wilfully assists any person to land in Anguilla contrary to the provisions of this Act;

(b) for the purposes of entering Anguilla, or of remaining therein, in contravention of any of the provisions of this Act, or of assisting any other person so to enter or so to remain, fabricates or falsifies any permit, passport, visa, certificate or other document, or utters, uses or attempts to use any permit, passport, visa, certificate or other document which has not been issued by lawful authority or which, though issued by lawful authority he is not entitled to use, or any fabricated or falsified permit, passport, visa, certificate or other document, knowing it to have been fabricated or falsified;

(c) fails to comply with or contravenes the conditions under which any permit, passport, visa, certificate or other document has been issued to him under this Act; or

(d) obstructs, hinders or opposes any immigration officer or police officer in the execution of his duty under this Act;

is guilty of an offence.

Penalty

34. Any person guilty of an offence against this Act for which no express penalty is provided is liable on summary conviction to a fine of $25,000 or to imprisonment for a term of 6 months.

No limitation

35. In any case of an offence contrary to the provisions of section 13(1), (2) or (3), proceedings may be brought at any time notwithstanding anything to the contrary contained in the Magistrate's Code of Procedure Act.

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Fee exemption

36. (1) The categories of persons referred to in subsection (2) are exempt from the payment of fees in respect of—

(a) a permit granted under section 23;

(b) a permit of permanent residence granted under section 25; and

(c) permission given under section 12.

(2) The categories of persons referred to in subsection (1) are non-Anguillian—

(a) children born in Anguilla;

(b) grandchildren who have at least one grandparent who was born in Anguilla and who qualified as a belonger under the 1976 belonger provisions; and

(c) grandchildren who have at least one grandparent who was born in Anguilla and who qualified as a belonger under the 1982 belonger provisions.

(3) In this section—

"1976 belonger provisions" refers to section 18(5) of the Anguilla (Constitution) Order 1976 (S.I. 1976 No. 50); and

"1982 belonger provisions" refers to section 18(5) of the Anguilla (Constitution) Order 1982 (S.I. 1982 No. 334).

(Act 2/2017, s. 1 and 2 and *U.K. S.I. 2019 No. 852, s. 13(c))*

Power to make regulations

37. The Governor may make regulations prescribing—

(a) the powers and duties of immigration officers;

(b) the ports of entry;

(c) the contagious or infectious diseases, the affliction with which will render a person a prohibited immigrant;

(d) the fees to be paid for the issue and renewal of passports;

(Act 2/2017, s. 2)

(e) the permits and certificates which may be issued under this Act, the conditions on which such permits or certificates shall be issued, the circumstances under which they may be cancelled or varied and fees which may be charged in respect of same;

(f) the forms of warrants, permits, certificates or other documents to be issued or used or of the declarations to be made or of the books to be kept for the purposes of this Act and the particulars to be inserted in any such document, declaration or book;

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(g) the forms of application for permits of permanent residence, the records to be kept of permits of permanent residence, and the fees to be paid relating to same;

(h) generally for the carrying out of any of the objects and purposes of this Act; and

(i) penalties for the breach of any regulation made under this Act.

Citation

38. This Act may be cited as the Immigration and Passport Act, Revised Statutes of Anguilla, Chapter I5.

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