

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P10

PASSENGERS ACT

Showing the Law as at 15 December 2000

Published by Authority

Printed in
The Attorney General's Chambers
ANGUILLA

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PASSENGERS ACT

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SCHEDULE: Form of List of Passengers

PASSENGERS ACT

Interpretation

1. In this Act—

"Comptroller of Customs" means the Comptroller of Customs of Anguilla and includes the chief officer of customs at any port of entry in Anguilla;

"master" includes every person having or taking command or charge of any ship;

"Minister" means the Minister responsible for communications;

"passenger" means any person carried in a ship, except—

(a) a person on board the ship on the business of the ship;

(b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; and

(c) a child under 1 year of age;

"regulations" means regulations made under section 25;

"ship" includes every description of vessel used in navigation not propelled by oars.

Application

2. This Act shall not apply to ships of Her Majesty's Navy.

No ship to carry passengers unless licensed

3. (1) No ship shall carry any passenger unless such ship has been licensed under the regulations and shall only carry such numbers of passengers not exceeding 6 passengers per registered ton as may be prescribed by the regulations and in conformity with the provisions of such regulations.

(2) Any person who carries or permits to be carried passengers in excess of the limits or in contravention of the limits laid down by subsection (1) or the regulations or on any ship the load line of which is partially or wholly submerged in the water is guilty of an offence and is liable on summary conviction to a fine of $5,000 and to imprisonment for 12 months.

Boat Licensing Advisory Board

4. (1) The Minister may appoint such persons being not less than 3 in number and not more than 7 in number as he shall think fit to constitute a Boat Licensing Advisory Board (hereinafter and in the regulations called the "Board") and shall designate one of the persons appointed as Chairman thereof.

(2) Appointments made by the Minister to the Board shall be for such periods not exceeding 3 years as he shall determine but shall be revocable at any time without reason being assigned thereto.

(3) The functions of the Board shall be to advise the Comptroller of Customs as to the fixing of the limits on the numbers of passengers that may be carried on any particular boat licensed under the regulations, the positioning of load lines upon boats and upon such other matters as the Minister may from time to time require it to advise.

(4) Subject to any regulations made in that respect, the Board shall determine its own procedures.

Provision of life-saving appliances and lifeboats

5. Every ship taking passengers from Anguilla shall, before leaving Anguilla, be provided with such life-saving appliances, lifeboat accommodation and other apparatus as may be specified by regulations, but the provisions of the regulations shall not apply to a ship registered outside Anguilla which shall come to Anguilla with passengers in transit for any other place and does not take passengers other than the in transit passengers from Anguilla.

Master of ship to lodge list of passengers with the Comptroller of Customs, etc.

6. (1) The master of every ship taking passengers from Anguilla shall, before obtaining clearance of such ship, fill up, sign and lodge with the Comptroller of Customs a list of passengers and declaration in the form given in the Schedule and the Comptroller of Customs shall endorse on the clearance of such ship the number of passengers as stated in such list, but a steamship may depart from any port within Anguilla without the master thereof first signing and lodging such list of passengers or obtaining such clearance as aforesaid and the agent of such steamship taking passengers shall within 24 hours of the departure thereof do all such things as are directed to be done by this section.

(2) If any master or any agent of a steamship shall wilfully and knowingly make or lodge or cause to be made or lodged any list of passengers or declaration which is false in any particular, he is liable to a penalty of $9,600.

Inspection of ship before sailing

7. The Comptroller of Customs may at any time before the departure of any ship carrying passengers cause such ship to be inspected by a customs officer.

Penalty for arriving in Anguilla carrying more passengers than prescribed number

8. (1) If any ship carrying passengers shall arrive within the territorial waters of Anguilla having on board a greater number of passengers than the number limited by this Act or the regulations, the master of such ship is liable to a penalty of $9,600 and such ship shall be forfeited to the Crown and may be seized at any time within 2 years by the Comptroller of Customs or a police officer and shall be dealt with as provided by this section.

(2) A ship forfeited under subsection (1) shall be delivered to the Comptroller of Customs, who shall secure it and, after condemnation of it as provided in this section, shall cause the ship to be sold at public auction to the highest bidder or shall otherwise dispose of the ship in such manner as the Governor may direct.

(3) A ship seized as being liable to forfeiture is deemed to be condemned unless its owner, within 14 days from the date of the seizure, gives notice in writing to the Comptroller of Customs that he claims the ship.

(4) Where it is alleged that a ship is not liable to forfeiture, the burden of proof of that fact is on the claimant to the ship and not on the person making the seizure.

(5) The Magistrate, with the consent of the Comptroller of Customs, may order the delivery of the ship to the claimant on the security of a bond by 2 sufficient sureties to be approved by the Comptroller of Customs to be liable for double the value of the ship in the event of its condemnation.

(6) When a bond becomes forfeited by failure to perform any condition in it, the sum recoverable under it shall be recovered in the manner provided in the Magistrate's Code of Procedure Act for enforcing payment of sums due under forfeited recognizances conditioned on the doing of some thing to be done before the Magistrate.

(7) Where a claim is made, the Comptroller of Customs shall cause a complaint to be preferred for the adjudication of the forfeiture before the Magistrate and in his default the claimant may cause a complaint to be preferred for the adjudication of the forfeiture before the Magistrate, and—

(a) where it is made to appear to the satisfaction of the Magistrate that the ship is not liable to forfeiture, the Magistrate shall adjudge the ship to be restored; and

(b) where the Magistrate is not satisfied or where the claimant fails to prove that the ship was not liable to forfeiture, the Magistrate shall confirm the seizure and thereupon the ship shall be sold as provided in subsection (2).

(8) No claim to a ship as being forfeited shall be admitted unless—

(a) the claim is made by the owner or in the real name of the owner of the ship;

(b) the claim describes his place of residence and occupation; and

(c) the claimant swears an oath at trial before the Magistrate that the claimant is the owner to the best of his knowledge and belief;

and, on failure to make the proof of ownership described in paragraph (c), the ship shall be condemned as if no claim had been made.

Statement in writing by officer of a port sufficient evidence

9. An officer of a port to which a ship has gone from Anguilla may sign a statement in writing as to the number of persons which that ship brought to that port from Anguilla and may transmit such statement to the Superintendent of Ports; any such statement which purports to be signed by such officer shall be accepted in all courts of law in Anguilla as *prima facie* evidence respectively of the number of persons on board such ship within the territorial waters of Anguilla or of the number of persons on board such ship when such ship cleared and proceeded to sea from Anguilla.

Penalty and forfeiture for carrying more than the prescribed number of passengers, etc.

10. (1) If any ship carrying passengers shall clear or proceed to sea having on board a greater number of passengers than the number limited by this Act or by the regulations, or not being provided with the life-saving appliances and lifeboat accommodation prescribed by the regulations, the master of such ship is liable to a penalty of $9,600, and such ship shall be forfeited to the Crown and may be

seized at any time within 2 years by the Comptroller of Customs or a police officer and shall be dealt with as provided by this section.

(2) Sections 8(2) to (8) apply *mutatis mutandis* to subsection (1).

No open boat to take passengers without permission

11. No open boat or other unregistered vessel shall take passengers to any place beyond Anguilla without the permission of the Comptroller of Customs, and such permission shall not be granted unless in the opinion of the Comptroller of Customs the number of passengers proposed to be taken is such as can be carried with safety. Any open boat or unregistered vessel so taking passengers without the permission of the Comptroller of Customs shall be forfeited to the Crown and may be seized by any officer of customs if found within 2 years from the commission of the offence in any port or place in Anguilla, and shall thereupon be dealt with as if such boat or vessel had been seized as forfeited under the laws relating to the customs.

Penalty in case of requirements not being complied with

12. If, in case of any ship, any of the requirements of this Act or of the regulations shall not be duly complied with, the master and the owner and the charterer, as the case may be, of such ship shall be jointly and severally liable to a penalty of $9,600, but nothing in this section shall increase or diminish any liability of any master under section 10.

Penalties to be recovered summarily

13. (1) All penalties incurred under this Act or under the regulations may be recovered summarily under the provisions of the Magistrate's Code of Procedure Act.

(2) The Governor may if he shall think fit remit the whole or any part of any penalty or forfeiture incurred under the provisions of this Act or regulations.

Certificate of Comptroller of Customs or other officers to be deemed sufficient evidence

14. A certificate under the hand of the Comptroller of Customs, port officer, or any landing officer, revenue officer or other officer having official cognizance of the arrival of vessels at any port or place as to any ship from Anguilla arriving at any such port or place and landing passengers there, showing the name of the ship, the name of the master thereof, the number of passengers (distinguishing such as are under 12 years of age) on board on her arrival and the time of her arrival verified under the hand of the Governor or under the public seal of Anguilla or place where such ship arrived, shall without proof of the signature or official character of the Governor, or of the seal aforesaid, be deemed sufficient evidence in all courts or elsewhere of such of the particulars as may be stated in such certificate, but it shall be competent to any person concerned to disprove the genuineness of any alleged handwriting or signature of the Governor or any seal in, or attached to, any such certificate.

Notice of provisional detention to be served on owner

15. The Comptroller of Customs, if he has reason to believe, on complaint or otherwise, that any British ship registered in any country or territory in the Eastern Caribbean forming part of the British Commonwealth, and being in a port of Anguilla, is unsafe within the meaning of section 459 of the Merchant Shipping Act, 1894 (UK) shall forthwith serve a notice of provisional detention on the owner, or on the master in the case of the owner not being resident in Anguilla.

Notice to contain grounds of detention

16. Every such notice of provisional detention shall contain particulars of alleged unseaworthiness and grounds of detention.

Detention of ship for survey

17. If the owner, or, in his absence, the master, shall within 48 hours be unable to satisfy the Comptroller of Customs of the safety of the ship, she shall then be detained for survey.

Survey of ship

18. The survey on any ship detained under section 17 shall be performed by 2 surveyors, 1 of whom shall be appointed by the Comptroller of Customs and 1 by the owner or master thereof, with power to them to appoint a third in case of disagreement.

On report of surveyors, ship may be detained subject to appeal

19. The Comptroller of Customs, on receiving the report, shall, if he thinks fit, detain such ship for alteration until seaworthy, subject to an appeal by the owner or master thereof within 1 week to the Magistrate.

Notice of appeal to be lodged

20. A notice of appeal shall state the grounds thereof, and, with all documents or affidavits, if any, in support thereof, must be filed in the Magistrate's Court, and copies thereof served on the Comptroller of Customs in the usual way, when the Magistrate shall fix a day for hearing the same.

Powers of Magistrate on appeal

21. Upon the hearing of any appeal, the Magistrate shall have power to receive such evidence, besides the documents, as he may think proper, and to give such necessary and consequential directions and to pronounce such judgment and make such order as to costs as he may think fit.

Appeal to Court of Appeal

22. An appeal from the Magistrate shall lie to the Court of Appeal within 14 days of the hearing before the Magistrate, such notice of appeal, whether on behalf of the Comptroller of Customs or the owner or master of the ship, to be as provided in section 21.

Costs and compensation

23. If it should appear that there was not sufficient reasonable and probable cause, by reason of the condition of the ship, or the act or default of the owner, or otherwise, for the provisional detention of the ship as an unsafe ship, the Government shall be liable to pay to the owner of the ship his costs of, and incidental to, the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of such detention and survey.

Recovery of costs

24. If a ship is detained after survey as hereinbefore provided, or if it should appear that a ship provisionally detained was at the time of such detention an unsafe ship within the meaning of the Merchant Shipping Act, the owner of the ship shall be liable to pay to the Comptroller of Customs all costs of, and incidental to, such detention, or to detention and survey, and such costs shall, without

prejudice to any other remedy, be recoverable in an action of debt in a summary way in any court having jurisdiction to try the same.

Regulations

25. The Minister may make regulations for the better carrying out of the provisions of this Act, and without derogating from the generality of the foregoing provisions, may make regulations—

(a) limiting the total number of passengers that may be carried in any ship either generally or in relation to any particular voyage and in relation to coastwise traffic in Anguilla or between Anguilla and any place outside Anguilla;

(b) regulating the amount and type of cargo that may be carried in any passenger ship where such cargo is being carried coastwise in Anguilla or between Anguilla and any place outside Anguilla;

(c) specifying the minimum or maximum number of crew to be employed in any passenger ship whether engaged in travelling coastwise in Anguilla or between Anguilla and any place outside Anguilla;

(d) providing for the survey of ships and determining the fixing of load lines upon ships;

(e) authorising the Comptroller of Customs to issue licences and prescribe limits on the number of passengers that may be carried on any ship and prescribing fees for the issue of such licences;

(f) prescribing all matters which may in any way relate to the safe transit of passengers or cargo in any ship whether coastwise in Anguilla or between Anguilla and any place outside Anguilla;

(g) prescribing penalties for any breach of the regulations for which a penalty is not prescribed by this Act.

Citation

26. This Act may be cited as the Passengers Act, Revised Statutes of Anguilla, Chapter P10.

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SCHEDULE

(Section 6(1))

FORM OF LIST OF PASSENGERS

Name of Ship	Name of Master			Whither Bound	Registered tons
Name of Passenger	Sex	Age	Native of	Occupation	Destination

I hereby declare that the above List is complete and that the above particulars are to the best of my knowledge, information and belief true and correct in every particular.

Dated this .....…... day of .....…....., 20..... .

Master

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