ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER S14

SELECT ANGUILLA AGENCY 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 revises and consolidates—
Act 16/2019, in force 3 June 2019 (except for s. 22)[1]
Act 22/2020, in force 12 May 2020
Act 36/2020, in force 16 December 2020

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

[1] *Section 22 comes into force on the date of expiration of the Public Service Concession contract (Act 16 of 2019).*

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER S14

SELECT ANGUILLA AGENCY 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 revises and consolidates—
Act 16/2019, in force 3 June 2019 (except for s. 22)[2]
Act 22/2020, in force 12 May 2020
Act 36/2020, in force 16 December 2020

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

[2] *Section 22 comes into force on the date of expiration of the Public Service Concession contract (Act 16 of 2019).*

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying) without the written permission of the Government of Anguilla except as permitted by the Copyright Act or under the terms of a licence from the Government of Anguilla.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SELECT ANGUILLA AGENCY ACT

TABLE OF CONTENTS

PART 1

PRELIMINARY

SECTION

1. Interpretation

PART 2

ESTABLISHMENT OF AGENCY AND CORPORATE OPERATIONS

Establishment, Objects and Powers

2. Establishment of Select Anguilla Agency
3. Objects of Agency
4. General powers of Agency

The Board and its Operation

5. The Board and its constitution
6. Disqualification and inability to act
7. Chairperson, Deputy Chairperson and interim chairperson
8. Functions of the Board
9. Resignation and removal of members
10. Revocation of appointment
11. Publication of names of members
12. Procedure for meetings
13. Liability of members
14. Disclosure of Interest
15. Remuneration of members
16. Appointment of Chief Executive Officer and other officers and employees

Officers and Employees

17. Appointment of Chief Executive Officer
18. Appointment of other officers and employees
19. Exclusive authority of Board over officers and employees
20. Secondment of public officers

Financial Provisions

21. Funds and resources of the Agency and their application
22. Expenses of the Agency
23. Borrowing powers
24. Surplus funds
25. Financial year of the Agency
26. Budget and plan of action of the Agency

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

27. Accounts and audit
28. Audit or acceptance of accounts by Chief Auditor
29. Annual accounts and report

PART 3

FINAL PROVISIONS

30. Annual report
31. Exemption from taxes
32. Minister may require returns
33. Citation

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

SELECT ANGUILLA AGENCY ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act—

"Agency" means the Select Anguilla Agency established under section 2;

"Annual financial statements" means the audited accounts prepared in accordance with section 27;

"Annual report" means the report referred to in section 30;

"Board" means the Board of the Agency established under section 5(1);

"Chairperson" means the person designated under section 7(1) as Chairperson;

"Chief Auditor" has the same meaning as assigned to it in the Financial Administration and Audit Act;

"Chief Executive Officer" means the person appointed as such under section 17(1);

"Contractor" means Anguilla Agency Consortium Ltd;

"Deputy Chairperson" means the person designated under section 7(1) as Deputy Chairperson;

"financial year" means the 12 month period ending on 31 December in each year;

"Government" means the Government of Anguilla;

"Immigration" means the Department of Immigration;

"member" means a member appointed under section 5(1);

"Minister" means the Minister with responsibility for Economic Development and Investment;

"Ministry" means the Ministry responsible for Economic Development and Investment;
(Act 36/2020, s. 2)

"Programmes" means the RBI and the RTP;

"Public Service Concession Contract" means an agreement between the Government and Anguilla Agency Consortium Ltd. to administer the Programmes under this Act;

"RBI" means a residence by investment programme, whereby qualifying applicants may be granted permanent residence in Anguilla if they meet certain requirements set forth in sections 2 and 3 of the Anguilla Economic Residence Act;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"Review Committee-RBI" means a Review Committee of the RBI established under section 9(1) of the Anguilla Economic Residence Act;

"Review Committee-RTP" means a Review Committee of the RTP established under section 9(2) of the Anguilla Economic Residence Act;

"RTP" means a residence for tax purposes programme, whereby qualifying applicants may be granted tax residence in Anguilla if they meet certain requirements set forth in section 4 of the Anguilla Economic Residence Act.

PART 2

ESTABLISHMENT OF AGENCY AND CORPORATE OPERATIONS

Establishment, Objects and Powers

Establishment of Select Anguilla Agency

2. (1) The Select Anguilla Agency is established with an exclusive right to operate and administer the Programmes under the name "Select Anguilla", in accordance with the Anguilla Economic Residence Act.

(2) The Agency is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Agency has an exclusive right to the use of its name.

(4) The common seal shall be kept in such custody as the Board directs and shall be authenticated by the Chairperson or Deputy Chairperson.

(5) Contracts and instruments made by the Board, other than those required by law to be under seal, and resolutions of the Board may be authenticated under the hand of the Chairperson or Deputy Chairperson.

Objects of Agency

3. The objects of the Agency are to engage in activities to operate and administer the Programmes, in accordance with the Anguilla Economic Residence Act.

General powers of Agency

4. In addition to the other powers conferred upon the Agency under this Act, the Agency has the power to do all things necessary for, or ancillary or incidental to, the carrying out of its objects, including the power to—

(a) process all applications for the Programmes;

(b) submit a report to the Review Committee-RBI and Review Committee-RTP on all applicants, including names of persons who do not qualify and reasons for their disqualification;

(c) recommend qualified applicants for the RBI to the Review Committee-RBI;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(d) recommend qualified applicants for the RTP to the Review Committee-RTP;

(e) advise the Review Committee-RBI, Review Committee-RTP and the Board on any matter on which the Review Committee-RBI, Review Committee-RTP or the Board may seek its advice, including advice in relation to the terms and conditions on which permanent residence under the RBI or tax residence under the RTP may be granted;

(f) undertake, sponsor or assist in research relating to the Programmes;

(g) collect fees, as set forth in the Regulations;

(h) implement and provide technical advice and guidance on the Programmes;

(i) utilise best practices in administering the Programmes; and

(j) carry out any other function specified in this Act.

The Board and Its Operation

The Board and its constitution

5. (1) The affairs of the Agency shall be managed by a Board consisting of the following members appointed by the Minister, after consultation with Executive Council—

(a) 4 persons nominated by the Government in accordance with subsection (2); and

(b) a person nominated by the Contractor.

(2) The Government shall nominate the following persons for appointment to the Board—

(a) an officer from the Ministry of Economic Development and Investment;
(Act 36/2020, s. 3)

(b) an officer from the Attorney General's Chambers;

(c) a youth representative from one of the National Youth Organisations; and

(d) any other person who meets the criteria set out in subsection (3).

(3) Persons nominated under subsections (1) and (2) shall have experience or expertise in one or more of the following areas—

(a) management;

(b) corporate governance;

(c) finance;

(d) law;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(e) accounting;

(f) investment migration.

(4) A member shall hold office for a period not exceeding 3 years and is eligible for re-appointment.

(5) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

(6) The quorum of the Board is 4 members present and eligible to vote at the meeting.

Disqualification and inability to act

6. (1) A person is disqualified from being a member of the Board if that person—

(a) has been convicted of a criminal offence;

(b) has been declared by a court to be a bankrupt;

(c) has been declared by a court or qualified medical practitioner to be mentally incapacitated;

(d) is under the age of 18 years;

(e) is a member of the House of Assembly; or

(f) is an officer or employee of the Agency.

(2) The Board is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member, other than a disqualification referred to in subsection (1).

(3) If a member is—

(a) absent from Anguilla; or

(b) unable to act;

the Minister, after consultation with Executive Council, may appoint a person who is eligible to be so appointed to act during the member's absence or inability to act.

Chairperson, Deputy Chairperson and interim chairperson

7. (1) Of the members nominated by the Government, one shall be the Chairperson of the Board and one shall be the Deputy Chairperson of the Board.

(2) If by reason of the absence or incapacity of the Chairperson or Deputy Chairperson, or a vacancy in either of those offices, the Board does not have a chairperson, the Board may designate one of the members as an interim chairperson.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Functions of the Board

8. The Board shall—

(a) oversee the operation of the Agency;

(b) review and approve the annual financial statements of the Agency;

(c) review and approve the annual report of the Agency;

(d) furnish to the Minister the annual financial statements and annual report and such other information as the Minister may require; and

(e) carry out such other functions incidental to the proper discharge of its functions under paragraphs (a) to (c).

Resignation and removal of members

9. (1) A member may at any time resign by giving written notice to the Minister, and a resignation is effective upon receipt of the notice by the Minister.

(2) The Minister, after consultation with Executive Council, may by written notice, remove a member from office if the Minister is satisfied that—

(a) the member has, without the consent of the Board, been absent from 3 or more consecutive meetings of the Board;

(b) the member is or becomes disqualified under section 6(1);

(c) the member has an interest that is likely to affect prejudicially the exercise and performance of his or her responsibilities as a member;

(d) the member is unable or unfit to carry out his or her responsibilities as a member; or

(e) it is in the public interest to do so.

(3) If a member resigns, is removed from his or her office or dies prior to the expiry of the term for which he or she has been appointed, the Minister, after consultation with Executive Council, may appoint a new member to replace him or her.

(4) An appointment of a member under subsection (3) may be for the unexpired period of the term of office of the member in whose place he or she is appointed or for a new term of not more than 3 years.

Revocation of appointment

10. The Minister, after consultation with Executive Council, may at any time revoke the appointment of a member of the Board—

(a) if that member becomes disqualified in accordance with section 6(1);

(b) if that member is guilty of neglect of duty, misconduct or malfeasance; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) for reasons of national security.

Publication of names of members

11. The names of all members of the Board as first constituted and every change in the membership of the Board shall be published in the *Gazette*.

Procedure for meetings

12. (1) The Board shall meet—

(a) no less than twice yearly with the Chief Executive Officer to review the operation of the Agency;

(b) annually to review and approve the annual financial statements and annual report;

(c) from time to time as required to review the operations of the Agency.

(2) At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question; and in case of an equality of votes, the Chairperson or the Deputy Chairperson, as the case may be, shall be entitled to a second or casting vote.

(3) A meeting of the Board may take place—

(a) in person;

(b) by video conference; or

(c) by other audio-visual means.

(4) For the purposes of this section, "video conference" or "other audio-visual means" means an audio-visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.

Liability of members

13. A member of the Board is not personally liable, in his or her capacity as a member, for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Disclosure of Interest

14. (1) A member of the Board who is in any way interested in any matter which is under consideration by the Board shall disclose to the Board the fact and nature of his or her interest.

(2) Where a member has disclosed an interest referred to in subsection (1), he shall—

(a) abstain from participating in; or

(b) be absent from;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

any deliberation or any decision of the Board relating to such matter, and such a disclosure shall be recorded in the records of the Board.

Remuneration of members

15. Members of the Board shall not be paid any remuneration, other than a stipend normally paid to directors, for acting for time spent as a member.

Appointment of Chief Executive Officer and other officers and employees

16. (1) The Contractor shall appoint a Chief Executive Officer and other officers and employees for such period and under such terms and conditions as specified in the employment contract and in the Public Service Concessions Contract.

(2) The Chief Executive Officer or any other person contracted by the contractor shall carry out the functions of the Agency until—

(a) their employment contract is terminated; or

(b) their employment contract and the Public Service Concession Contract expire.

(3) Where the employment contract of the Chief Executive Officer or other officers and employees is terminated before the expiry of the Public Service Concessions Contract, the Contractor shall appoint a person to fill the position left vacant as a result of the termination and such person shall carry out the functions of the Agency until—

(a) the expiry of the Public Service Concessions Contract; or

(b) the termination of their employment contract.

(4) When the Public Service Concessions Contract expires, the Board shall appoint the Chief Executive Officer and other officers and employees in accordance with sections 17 and 18.

(5) In this section, "employment contract" means the contract between the Contractor and—

(a) the Chief Executive Officer; or

(b) other officers and employees.

(Act 22/2020, s. 2)

Officers and Employees

Appointment of Chief Executive Officer

17. (1) The Board shall, after consultation with the Minister, appoint a Chief Executive Officer of the Agency, who shall have appropriate qualifications and at least 5 years relevant experience, and who shall be a full-time officer of the Agency and report to the Board.

(2) The remuneration and the terms and conditions of such appointment shall be approved by the Minister after consultation with Executive Council.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) The Chief Executive Officer shall not engage in any other trade, profession, occupation or business without the consent of the Board.

(4) The term of office of the Chief Executive Officer shall not exceed 5 years.

(5) A person who has served as Chief Executive Officer shall be eligible for re-appointment.

(6) Without prejudice to the generality of subsection (1), the Chief Executive Officer shall—

(a) attend meetings of the Board as requested;

(b) carry out the directives of the Board; and

(c) perform such other functions in accordance with this Act and the terms and conditions of his or her contract of employment.

(7) Under the direction of the Board, the Chief Executive Officer is responsible for—

(a) the management of the Agency; and

(b) providing technical advice and guidance to the Board on matters of policy.

(8) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent from Anguilla or unable to act, the Board may, after consultation with the Minister, appoint one of the following persons to act as Chief Executive Officer—

(a) an officer of the Agency; or

(b) a person with relevant experience or qualifications.

Appointment of other officers and employees

18. (1) Subject to subsection (5), the Board shall, appoint at such remuneration, and on such terms and conditions as it considers appropriate, such other officers and employees, in addition to the Chief Executive Officer, as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Agency.

(2) No officer or employee of the Agency appointed under subsection (1) shall engage in any other trade, profession, occupation or business without the consent of the Board.

(3) The Board may delegate to the Chief Executive Officer the power—

(a) to appoint employees or classes of employees; and

(b) to consent on behalf of the Board to any such employee engaging in any trade, profession, occupation or business.

(4) The employees appointed under subsection (2) and (3) shall be under the administrative control and supervision of the Chief Executive Officer.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(5) The Minister, after consultation with executive council, may give the Board directions of a general nature in relation to the remuneration of the officers and employees of the Agency, and the Board shall follow such directions.

Exclusive authority of Board over officers and employees

19. Except in respect of public officers who are seconded to the Agency, the Board has final authority with respect to the appointment, termination of employment, promotion and discipline of its officers or employees.

Secondment of public officers

20. (1) The Governor may approve the secondment of such public officers for service with the Agency as appear necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Agency.

(2) A public officer seconded under subsection (1) shall, in relation to payment of salary, pension, gratuity and the like, in relation to other rights and discipline, be treated as if the public officer were not so seconded.

Financial Provisions

Funds and resources of the Agency and their application

21. (1) The funds and resources of the Agency are—

(a) interest and dividends from the investment of the Agency's funds;

(b) money borrowed by the Agency under this or any other Act;

(c) money appropriated by the House of Assembly for the purposes of the Agency;

(d) charges levied by the Agency under this or any other Act; and

(e) all other money lawfully received or made available to the Agency, including any costs charged to the Contractor by the Agency.

(2) The funds and resources of the Agency shall be applied for the purposes of the Agency.

Expenses of the Agency

22. The expenses of the Agency are to be paid out of income generated by the Agency.

Borrowing powers

23. (1) The Agency may, with the approval of the Minister and by resolution of the House of Assembly, and to the extent that it considers it necessary to carry out its objects—

(a) borrow money by way of loan, advance or overdraft;

(b) obtain goods and services on credit; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(c) do both the things referred to in paragraphs (a) and (b).

(2) The Government, with the approval by resolution of the House of Assembly, may act as guarantor in respect of a loan or the payment of goods and services obtained on credit by the Agency.

Surplus funds

24. Subject to the written instructions of the Minister, after consultation with Executive Council, and to the terms and conditions of the Public Service Concession Contract, the Agency shall, in relation to any funds not immediately required for carrying out the responsibilities or exercising the powers of the Agency—

(a) invest such funds; or

(b) pay such funds into the Consolidated Fund.

Financial year of the Agency

25. The financial year of the Agency begins on the 1st day of January and ends on the 31st day of December in each year.

Budget and plan of action of the Agency

26. (1) The Agency shall, not later than the 31st of October in each year cause to be prepared, in respect of the next financial year—

(a) a budget with the estimates of its income and expenses; and

(b) a plan of action;

which shall be endorsed by the Board and submitted to the Minster for approval.

(2) Once the documents referred to in subsection (1) have been approved by the Minister, he shall lay them before the House of Assembly.

(3) The Minister may, on the request of the Agency, extend the time for submitting the documents referred to in subsection (1).

Accounts and audit

27. (1) The Agency shall—

(a) keep proper books of account of its income and other receipts and expenditures; and

(b) ensure that—

(i) all money received is promptly and properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Agency.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) The books of account kept under subsection (1) shall—

(a) be sufficient to record and explain the Agency's transactions;

(b) enable the Agency's financial position to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within 6 months after the end of each financial year, the Agency shall prepare accounts in accordance with generally accepted accounting principles containing—

(a) a statement of the assets and liabilities of the Agency at the end of the financial year;

(b) an income and cash flow statement of the Agency during the financial year;

(c) such other financial statements for the financial year as may be specified in writing by the Minister; and

(d) proper and adequate explanatory notes to the statements;

and the accounts shall be audited by an external auditor appointed by the Board, with the approval of the Chief Auditor.

(4) The external auditor shall be a qualified accountant.

(5) The Agency shall not appoint as an external auditor, and no person shall act as an external auditor of the Agency if, in the financial year in which the appointment is made, or in the preceding financial year, the person—

(a) is or was a member;

(b) has or had a direct or indirect interest in a contract with the Agency, other than the contract respecting the external audit; or

(c) is or was employed by the Agency in a capacity other than as external auditor.

Audit or acceptance of accounts by Chief Auditor

28. Without delay after the completion of the audit by the auditor appointed by the Board, the Board shall submit the audited accounts to the Chief Auditor, who shall—

(a) audit the accounts or accept the audit of the external auditor; and

(b) forward to the Board, not later than 3 months after receipt of the accounts, a report on the examination and audit of the accounts of the Agency or a report evidencing his or her acceptance of the audit of the external auditor.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Annual accounts and report

29. (1) Within 3 months after the receipt of the report of the Chief Auditor, the Board shall submit to the Minister—

(a) its audited accounts and a copy of the report of the Chief Auditor; and

(b) an annual report of its operations and activities for that financial year.

(2) The Minister shall, without delay after receipt, table the audited accounts of the Agency, the report of the Chief Auditor and its annual report before the House of Assembly, if it is sitting, and, if it is not then sitting, without delay after it next sits.

(3) As soon as reasonably practicable after the audited accounts, the report of the Chief Auditor and the annual report have been tabled before the House of Assembly, the Agency shall cause them to be published in the *Gazette*.

PART 3

FINAL PROVISIONS

Annual report

30. (1) Not later than 3 months after the end of each financial year, the Agency shall submit to the Board an annual report setting forth the work and activities of the Agency for the previous financial year.

(2) The report referred to in subsection (1) shall contain the following information—

(a) the number of applications made, granted and refused under the Programmes;

(b) the names, addresses and nationalities of successful applicants and dependants included in the Applications;

(c) the amount and other details of the investment for each applicant;

(d) names of persons who do not qualify and reasons for their disqualification;

(e) such other information as the Board considers appropriate.

Exemption from taxes

31. Notwithstanding the provisions of any other law, the Agency is not liable to pay any import duties, stamp duty, employers' contribution of Interim Stabilisation Levy or property tax.

Minster may require returns

32. The Agency shall without delay furnish the returns of information that the Minister may, by written notice to the Agency, require.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Citation

33. This Act may be cited as the Select Anguilla Agency Act, Revised Statutes of Anguilla, Chapter S14.

———————

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai