ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER S53

SPECIAL ECONOMIC ZONES 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 Act 11/2020, in force 31 March 2020

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SPECIAL ECONOMIC ZONES ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act, unless the context otherwise requires—

"agreement" means an agreement, including any amendment or addendum thereto, between a developer and the Government of Anguilla in respect of the establishment of a special economic zone;

"Anguillian" means a person who is regarded as an Anguillian in accordance with section 80(2) of the Anguilla Constitution, and the meaning of "non-Anguillan" shall be construed accordingly;

"assets" means any tangible, intangible, moveable or immovable property whatsoever, irrespective of its use or intended use, including property not used for commercial purposes;

"Authority" means the Special Economic Zone Authority established under section 2;

"business" includes any profession, trade, activity or calling of any kind carried on for profit or otherwise;

"Chairman" means the Chairman of the Authority appointed under section 2(2)(a);

"Chief Immigration Officer" means the person appointed as such under section 2 of the Immigration and Passport Act;

"company" means a company incorporated under the Business Companies Act, or a body corporate, however incorporated, organized or constituted, that has been registered as a foreign company under the Companies Act;

"Comptroller of Customs" has the meaning assigned to that expression under the Customs Act;

"consumables" means tangible assets that are consumed in the ordinary course of business, or in the production of goods or services excluding, in particular, capital assets;

"Deputy Chairman" means the Deputy Chairman of the Authority appointed under section 2(2)(a);

"developer" means a person declared as such by the regulations;

"development company" means the—

(a) developer;

(b) developer's subsidiaries; and

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(c) joint venture partners of the developer or the developer's subsidiaries;

or an affiliated entity of the developer;

"$" or "dollars" means United States Dollars;

"Immigration officer" means a public officer who is appointed as an immigration officer under section 2 of the Immigration and Passport Act;

"Labour Commissioner" means the Labour Commissioner appointed under section 3(2) of the Labour Department Act;

"Minister" means the Minister with portfolio responsibility for commerce and investment;

"Minister of Labour" means the Minister with responsibility for labour matters;

"Permanent Secretary" means the Permanent Secretary in the Ministry of Government responsible for commerce and investment;

"prescribed" means prescribed by Regulations;

"Regulations" means the regulations made pursuant to section 36 or under any other section under which regulations are authorised to be made;

"SEZ employment certificate" means a certificate issued to an employee of a special economic zone company, or an employee of a development company, in accordance with section 11;

"SEZ trade certificate" means a trade certificate issued under section 17;

"special economic zone business" means any type of business authorised to be carried on in a special economic zone pursuant to section 10(2)(d);

"special economic zone company" means the holder of a valid SEZ trade certificate issued under section 17;

"special economic zone" means such parcel or parcels of land, areas or locations in Anguilla, declared as such by regulation by the Executive Council in accordance with section 10(1);

"warrant" means a warrant issued by the court to enter and search premises;

(2) For the purpose of this section an entity is an affiliated entity in relation to another entity if—

(a) one of them is the subsidiary of the other;

(b) both are subsidiaries of the same entity;

(c) each of them is controlled by the same entity; or

(d) they are both affiliated (within the meaning of paragraph (a), (b) or (c)) with the same entity at the same time.

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PART 2

ESTABLISHMENT, FUNCTIONS AND POWERS OF
THE SPECIAL ECONOMIC ZONE AUTHORITY

Establishment of the Special Economic Zone Authority

2. (1) There is hereby established an authority to be known as the Special Economic Zone Authority for the purpose of exercising the functions specified in this Act.

(2) The Authority shall comprise the following members—

(a) a Chairman, Deputy Chairman and one other member appointed by the Minister after consultation with the Executive Council; and

(b) the following *ex officio* members—

(i) the Chief Immigration Officer or the designate of the Chief Immigration Officer,

(ii) the Labour Commissioner or the designate of the Labour Commissioner,

(iii) the Comptroller of Customs or the designate of the Comptroller of Customs,

(iv) the Comptroller of Inland Revenue or the designate of the Comptroller of Inland Revenue, and

(v) the Director of Economic Planning or the designate of the Director of Economic Planning.

(3) The Chairman, Deputy Chairman and the member appointed under section 2(2)(a) above shall be appointed for a term not exceeding 3 years.

(4) At least one of the persons referred to in subsection (3) shall have experience in developing and operating a special economic zone.

(5) The *ex officio* members appointed under section 2(2)(b) shall each be entitled to one vote at a meeting of the Authority.

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

(7) A notice of the appointment of a member shall be published in the *Gazette*.

(8) Subject to this section, the constitution of and procedure to be followed by the Authority shall be in accordance with Schedule 1.

Secretariat to the Authority

3. (1) The office of the Permanent Secretary shall be the Secretariat to the Authority.

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(2) The Secretariat shall—

(a) be responsible for the day to day administration of the Authority;

(b) be responsible for carrying out the functions of the Authority to the extent that such responsibility is delegated in writing to the Secretariat by the Authority;

(c) record and keep the minutes of all meetings, proceedings and decisions of the Authority; and

(d) act as the primary processing centre through which a special economic zone company can channel applications for permits and facilities that are not handled directly by the Authority.

(3) The minutes to be kept pursuant to subsection (2)(c) shall include any electronic record or transcript of votes or decisions made during a meeting which takes place by telephone conference, video conference or other similar method facilitating real time communication between the persons attending the meeting.

Functions of the Authority

4. (1) The Authority shall perform the following functions—

(a) advise the Minister on all aspects of the establishment of special economic zones;

(b) implement the policies and programmes of the Government with regard to special economic zones;

(c) identify and map areas to be designated as special economic zones;

(d) examine and process applications for the establishment of special economic zones and issue relevant approvals;

(e) examine and process applications for SEZ trade certificates;

(f) maintain current data on the performance in each special economic zone;

(g) enforce, within a special economic zone, compliance with customs procedures and other requirements for preventing the unauthorised use of a special economic zone;

(h) enforce compliance with the financial services procedures, including anti-money laundering and terrorist financing regulations, and other requirements for preventing the unauthorised use of special economic zones;

(i) suspend or revoke the SEZ trade certificate of a special economic zone company which is in contravention of the terms and conditions of the certificate, this Act, or any other law in force in Anguilla;

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(j) with respect to the partners, directors of and any person who has a beneficial interest in, partnerships or companies in the special economic zone, prescribe the manner in which—

(i) due diligence requirements are to be satisfied, and

(ii) due diligence investigations are to be conducted;

(k) specify the procedure by which applications are to be submitted to the Authority for permission to conduct special economic zone business in the special economic zone;

(l) do all such other acts as may be incidental or conducive to the attainment of the objectives of the Authority or the exercise of its functions under this Act.

(2) The Authority shall, consistent with the performance of its duties under this Act, consult with departments and agencies of the Government having duties, aims or objects related to those of the Authority.

Committees and meetings

5. (1) The Authority may appoint committees to assist the Authority in exercising its functions under section 4(1)(e) and shall appoint such persons as the Authority considers fit to be members of the committees.

(2) The Chairman may designate a member of any committee appointed under subsection (1) to act as secretary to the committee and that member shall perform the duties that the committee may determine.

(3) The Authority may, by instrument in writing, delegate to a committee appointed by the Authority under subsection (1) such functions as the Authority considers fit, other than the suspension or revocation of SEZ trade certificates.

(4) A committee to which functions are delegated under subsection (3) shall perform the functions delegated, and a decision of the committee is deemed to be a decision of the Authority.

(5) A person appointed to be a member of the Authority or a committee may participate in a meeting of the Authority or committee by—

(a) telephone;

(b) video conference; or

(c) any other method facilitating real time communication between the persons attending the board meeting or committee meeting.

(6) Where necessary, for the purposes of constituting a quorum, a person shall be deemed to be in attendance at a board meeting or committee meeting where that person participates in the manner specified in subsection (5).

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Powers of the Authority

6. (1) The Authority shall, subject to any applicable laws, have the power to facilitate—

(a) the procurement, management, reclamation and disposal of land and other property for the purposes of a special economic zone;

(b) the carrying out of development works and other building operations in, on or in respect of a special economic zone; and

(c) the preservation, maintenance, regulation, management and improvement of a special economic zone and the provision of additional facilities to it.

(2) The Authority may co-opt any person to attend any meeting of the Authority at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Authority, but a co-opted person does not have the right to vote at such meeting.

(3) The Authority may delegate to the Secretariat the Authority's function of examining and processing applications with respect to the renewal of SEZ Trade Certificates.

(4) In exercising its function under subsection (3), the Secretariat may refuse an application for renewal.

(5) No other provision of this Act by virtue of which any power is exercisable by the Authority shall be construed as limiting the effect of this section.

Duty of confidentiality

7. (1) The facts and any particulars of, or relating to—

(a) any matter under consideration by the Authority;

(b) a decision of the Authority;

shall be treated as confidential by each member of the Authority and the member shall not disclose any such fact or particulars otherwise than in the proper performance of his duties under this Act or in compliance with an order of a court.

(2) The failure by a member to comply with subsection (1) constitutes sufficient grounds for the termination of his appointment.

(3) A member who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of $5,000.

(4) Any allegation of a contravention of subsection (1) shall be fully investigated by the Royal Anguilla Police Force.

Remuneration

8. Every member of the Authority is entitled to receive such remuneration in respect of each meeting attended as determined by the Executive Council from time to time.

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Protection from liability and indemnification

9. (1) No member of the Authority shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of his functions, responsibilities, powers and duties under this Act unless it is shown that the act or omission was in bad faith.

(2) The Government shall indemnify a member of the Authority against all claims, damages, costs, charges or expenses incurred by that member in the discharge or purported discharge of his functions, responsibilities, powers and duties under this Act, except claims, damages, costs, charges or expenses caused by the bad faith of that member.

PART 3

SPECIAL ECONOMIC ZONES

Declaration of special economic zones

10. (1) The Executive Council, on the recommendation of the Authority, may by regulation—

(a) declare a parcel or parcels of land, or areas or locations in Anguilla to be the whole or part of a special economic zone; or

(b) add or remove any parcel or parcels of land, areas or locations in Anguilla to or from a special economic zone.

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

(a) specify the name of the special economic zone;

(b) specify the name of the developer of the special economic zone;

(c) define the geographical limits of the special economic zone; and

(d) specify the types of special economic zone business authorised to be carried on in the special economic zone.

(3) This section shall not prejudice the right of any person having an interest in any lands within the special economic zone.

(4) Regulations made under this section shall be by negative resolution.

Requirement for SEZ employment certificate

11. (1) A non-Anguillian shall not work in a special economic zone in Anguilla unless he has a valid SEZ employment certificate.

(2) An application for a SEZ employment certificate shall be—

(a) submitted to the Labour Department; and

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(b) made by a special economic zone company or development company in respect of a non-Anguillian to be employed by the special economic zone company or development company in accordance with regulations.

(3) A special economic zone company or development company shall, in respect of a non-Anguillian employee, pay the SEZ employment certificate application fee and the SEZ employment certificate fee as specified in Schedule 2.

(4) A person who holds a special economic zone employment certificate shall not be required to obtain a work permit under the Labour (Relations) Act.

PART 4

SPECIAL ECONOMIC ZONE DEVELOPMENT AND OPERATION

Declaration of developer and benefits

12. (1) The Executive Council, on the recommendation of the Authority, may by regulations declare a person to be a developer for the purpose of developing and operating a special economic zone under this Act.

(2) A declaration made under subsection (1) shall specify—

(a) the name of the special economic zone which the developer is authorised to develop and operate;

(b) any conditions imposed on the developer; and

(c) any benefits to be granted to a developer, other than those specified in Schedule 3.

(3) A developer and its subsidiaries shall be entitled to the benefits specified in Schedule 3, relating to the special economic zone specified in the declaration.

(4) Neither a developer nor any of its subsidiaries shall be deemed for any purposes to be a—

(a) public authority;

(b) statutory body or authority; or

(c) body or entity of Government.

(5) A declaration made by regulations under this section shall be by negative resolution.

(6) The developer shall pay a special economic zone licence fee as specified in Schedule 2.

Exclusivity period

13. (1) The Executive Council may grant a developer exclusive permission, for a specified period of time, to establish or operate a special economic zone in respect of specified types of special economic zone businesses.

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(2) The period referred to in subsection (1) shall be referred to as an "exclusivity period".

(3) The terms of the exclusivity period shall be specified in the agreement.

PART 5

SEZ TRADE CERTIFICATE

Requirement for SEZ trade certificate

14. (1) A company shall not carry on a special economic zone business within a special economic zone, and the benefits described in this Part and Schedule 4 shall not accrue, unless the company holds a valid SEZ trade certificate for that purpose under this Act.

(2) A company that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $100,000 or to imprisonment for a term of 4 years, or to both.

Application for SEZ trade certificate

15. (1) Subject to subsection (3), a company that is desirous of carrying on a special economic zone business in a special economic zone shall—

(a) submit an application to the Authority for a SEZ trade certificate in accordance with this Act; and

(b) pay to the Authority the non-refundable application fee specified in Schedule 2.

(2) An application submitted under subsection (1) shall be in the prescribed form and shall be accompanied by—

(a) evidence that the person is a company that is registered as a special economic zone company pursuant to section 30;

(b) proof of payment of the application fee; and

(c) such other information or particulars as may be prescribed or required by the Authority.

(3) Notwithstanding section 16, where an incomplete application is submitted to the Authority under subsection (1), the Authority may require an applicant to complete and re-submit the application, subject to payment of the re-submission fee as specified in Schedule 2.

(4) A person shall not—

(a) in relation to any application submitted pursuant to this section; or

(b) in relation to any information or particulars that the person is required to furnish pursuant to this section;

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make any representation or statement that the person knows is false or misleading in a material particular.

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of one year, or to both.

Request for further information

16. (1) Where an application is submitted to the Authority pursuant to section 15, the Authority may, within five working days of the receipt of an application, request additional information from the applicant for the purpose of considering the application.

(2) Where the Authority makes a request for information pursuant to subsection (1), the applicant shall submit that information within fourteen days of the request or within a further period of time granted and specified in writing by the Authority.

(3) The Authority shall not unreasonably refuse to give a further time period under subsection (2).

Grant or refusal of SEZ trade certificate

17. Where an application is submitted pursuant to section 15 the Authority shall, within seven days of the application being made or additional information being received pursuant to section 16, as the case may be—

(a) grant or refuse the SEZ trade certificate;

(b) notify the applicant of the grant or the refusal; and

(c) give the reasons in writing for a refusal, where an application is refused.

Issuance of SEZ trade certificate

18. (1) A SEZ trade certificate granted under section 17 shall—

(a) be issued in the prescribed form;

(b) be issued on payment of the SEZ trade certificate fee as specified in Schedule 2;

(c) specify the period of validity of the SEZ trade certificate;

(d) specify the special economic zone business that the special economic zone company may conduct within the special economic zone;

(e) specify the name of the special economic zone in which the special economic zone company is authorised to carry on the special economic zone business;

(f) specify the address of the premises from which the special economic zone business is to be carried on; and

(g) specify all terms and conditions, if any, in addition to those provided for in this Act, under which the SEZ trade certificate is granted.

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(2) The Authority shall, to the greatest possible extent consistent with the performance of its duties under this Act, consult with departments and agencies of the Government having duties, aims or objects related to those of the Authority.

Benefits of special economic zone company and conditions

19. (1) A special economic zone company shall be entitled to the benefits set out in Schedule 4 relating to the special economic zone specified in the SEZ trade certificate issued to that special economic zone company.

(2) A special economic zone company shall have as its principal purpose the carrying on of business mainly outside Anguilla.

(3) A special economic zone company shall not trade in Anguilla with any person, firm or corporation except for purposes that are ancillary to, or in furtherance of, its business carried on outside Anguilla, but nothing in this section shall be construed so as to prevent such a special economic zone company from effecting and concluding contracts in Anguilla and exercising in Anguilla all of its powers necessary or expedient for the carrying on of its business outside Anguilla.

Price control

20. Price controls imposed under any Act in force in Anguilla shall not apply to the sale of any article, goods or services sold or supplied by a special economic zone company from or within a special economic zone in the course of carrying on special economic zone business.

Investments and securities

21. (1) Restrictions shall not be placed on the transfer of any investment in or by a special economic zone company within a special economic zone.

(2) Notwithstanding any Act in force in Anguilla to the contrary, a non-Anguillian may own, hold, freely transfer, securitise, finance, raise security or list the legal or beneficial title of, any or all of his equity in any development company or special economic zone company.

Prohibition on transfer or assignment of SEZ trade certificate

22. A special economic zone company shall not transfer or assign a SEZ trade certificate to any other person.

Validity of SEZ trade certificate and annual fee

23. (1) Subject to the voluntary surrender of a SEZ trade certificate under section 25 or suspension or revocation of a SEZ trade certificate under section 28, a SEZ trade certificate shall be valid for the period specified in the SEZ trade certificate.

(2) A special economic zone company shall, annually on or before every 31st January of every year after the first issuance of the SEZ trade certificate, pay to the Authority the annual fee in respect of the SEZ trade certificate.

(3) A special economic zone company that fails to pay the annual fee by the date specified in subsection (2) shall pay a surcharge equivalent to 1/12 of the annual fee for every month or part of a month that the annual fee is not paid.

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(4) If the prescribed annual fee referred to in subsection (2) is not paid, the unpaid annual fee may be recovered by the Authority by action as a civil debt and the Authority may require, and the court may order, the payment of any surcharge accrued under subsection (3) in respect of the late payment of the annual fee.

Amendment to SEZ trade certificate

24. On application made by a special economic zone company in the prescribed form, and on payment of the fee to amend the trade certificate as specified in Schedule 2, the Authority may amend the applicant's SEZ trade certificate, among other things to—

(a) change or include additional addresses or premises at which the special economic zone business may be carried on;

(b) change the name of the special economic zone company; or

(c) vary any term or condition of a SEZ trade certificate.

Voluntary surrender of SEZ trade certificate

25. (1) A special economic zone company shall, within thirty days of voluntarily ceasing to carry on special economic zone business, give notice in writing to the Authority and surrender its SEZ trade certificate.

(2) Where a SEZ trade certificate is surrendered under subsection (1) the certificate is deemed to be invalid from the date the holder ceased to carry on a special economic zone business or such other date as determined by the Authority.

Complaint and investigation

26. (1) Any person who knows or suspects, or has reasonable grounds to suspect, that a special economic zone company has contravened this Act or any of the terms and conditions of a SEZ trade certificate, may make a complaint by submitting a complaint to the Authority.

(2) A complaint referred to in subsection (1) shall be written.

(3) On receipt of a complaint under this section, the Authority shall without delay—

(a) acknowledge receipt of the complaint; and

(b) subject to subsection (4), give notice to the special economic zone company of receipt of such complaint.

(4) If the complainant so requests, or if the Authority considers that it is necessary to protect the interests of the complainant or of a third party, the Authority may treat the complaint as confidential.

(5) The Authority may undertake to investigate all matters that it considers necessary to determine the facts relating to the alleged contravention.

(6) When investigating a complaint under this section the Authority may request the assistance of any other government department or person as it considers necessary.

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(7) Within 28 days of receiving the complaint, the Authority shall report to the complainant on the progress of the investigation and the action, if any, proposed to be taken in respect of the alleged contravention.

(8) The Authority may discontinue an investigation if, in its opinion—

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

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

(c) the conduct or circumstances on which the complaint is based would not constitute a contravention; or

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

(9) When an investigation is discontinued, the Authority shall—

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

(b) send a copy of the statement to—

(i) the complainant, and

(ii) the special economic zone company whose conduct was investigated, where a notice was sent under paragraph (3)(b).

(10) For the purposes of this section, "complainant" means a person who files a complaint under subsection (1).

Authority may initiate investigation

27. (1) The Authority may decide to undertake an investigation on its own initiative to determine whether this Act or the terms or conditions of a SEZ trade certificate have been contravened.

(2) Sections 26(3)(b), (4), (5), (6), (8), (9)(a) and (9)(b)(ii) apply to an investigation undertaken on the Authority's own initiative with such changes as the circumstances require.

Contravention of SEZ trade certificate or this Act

28. (1) Where the Authority determines that a special economic zone company has contravened this Act or one or more of the terms and conditions of its SEZ trade certificate, the Authority may—

(a) on the first contravention, issue that special economic zone company a written warning and require the special economic zone company to remedy the contravention within the period specified in the warning;

(b) on the second contravention, suspend the SEZ trade certificate for 3 days or for such longer period as may be required to remedy the contravention; or

(c) on the third contravention, suspend the SEZ trade certificate for 7 days or for such longer period as may be required to remedy the contravention.

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(2) Where the special economic zone company, without good reason, commits a fourth contravention, the Authority may revoke the SEZ trade certificate.

(3) Notwithstanding subsection (1), where, in the opinion of the Authority, the special economic zone company engages in a contravention of such a nature that it would be unreasonable to expect the special economic zone company to continue operating a special economic zone business, the Authority may revoke the SEZ trade certificate immediately.

(4) For the purposes of this section, a contravention includes a continued contravention where the special economic zone company fails to remedy the contravention within the period specified by the Authority.

(5) Where a SEZ trade certificate is revoked, the special economic zone company may be disqualified from operating a special economic zone business for such period, not exceeding 5 years, as the Authority considers fit.

(6) Where the Authority is considering suspending a SEZ trade certificate under this section, the Authority shall give the special economic zone company an opportunity to put forward reasons as to why its SEZ trade certificate should not be suspended.

(7) A SEZ trade certificate that is suspended is invalid for the period of the suspension.

Notice of intended revocation

29. (1) The Authority shall give the special economic zone company written notice of revocation before revocation under section 28(2) becomes effective.

(2) A notice of revocation referred to in subsection (1) shall include the following—

(a) the grounds for the intended revocation;

(b) the terms of the intended revocation, including whether the special economic zone company will be disqualified under section 28(5);

(c) the day by which any written submissions referred to in subsection (3) shall be made;

(d) the day, time and place where any oral submissions referred to in subsection (3) may be made;

(e) the day from which the intended revocation is effective.

(3) Where the Authority intends to—

(a) revoke a SEZ trade certificate; or

(b) revoke a SEZ trade certificate and disqualify the special economic zone company from operating a special economic zone business;

the Authority shall give the special economic zone company an opportunity to put forward written or oral submissions as to why its SEZ trade certificate should not be revoked, and the company should not be disqualified.

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(4) Where the Authority revokes a SEZ trade certificate immediately under section 28(3), the Authority shall give the special economic zone company an opportunity to put forward written or oral submissions as to why its SEZ trade certificate should not be revoked.

(5) A SEZ trade certificate that is revoked is invalid.

Register

30. (1) Subject to subsection (2), the Authority shall keep and maintain a register of all SEZ trade certificates and special economic zone companies, in the form determined by the Authority which may be in electronic form.

(2) The Authority shall record the following particulars in the register for each SEZ trade certificate and special economic zone company—

(a) the number, date of issue and date of expiry of the SEZ trade certificate;

(b) the name of the special economic zone company;

(c) the postal address of the special economic zone company;

(d) the address of the premises at which the special economic zone business is being carried on;

(e) the type of special economic zone business permitted to be carried on; and

(f) the terms and conditions of the SEZ trade certificate.

(3) Subject to subsection (4), the Authority shall allow—

(a) the public access to the register, and shall take necessary measures to give effect to same; and

(b) a person to inspect the register and make a copy of any part of the register on payment of the fee specified in Schedule 2.

(4) Nothing in this section shall be read as abrogating any provision of any Act in force in Anguilla that restricts access to records.

PART 6

MISCELLANEOUS

Application of the Labour (Relations) Act

31. Subject to this Act and for the avoidance of doubt, the provisions of the Labour (Relations) Act shall apply to—

(a) a developer;

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(b) a special economic zone company;

(c) a director, partner, officer or employee of a developer or a special economic zone company; and

(d) a development company.

Enforcement

32. (1) The Authority may take action in accordance with this Act for contravention of any requirements under this Act or a SEZ trade certificate by a special economic zone company.

(2) The Authority, the Chief Immigration Officer, the Labour Commissioner and any other regulatory authority in Anguilla shall, in accordance with the relevant laws in force in Anguilla, have authority to inspect any operation or facilities in a special economic zone where there is reasonable cause to believe that there has been a contravention of applicable requirements.

(3) The Authority may seek the assistance of the departments or institutions referred to below in the execution of the functions and the exercise of the powers of the Authority under this Act—

(a) Immigration Department;

(b) Customs Department;

(c) Financial Services Commission; and

(d) Labour Department.

(4) The Authority may engage with and seek the assistance from the Customs Department or the Financial Services Commission as may be necessary for the purpose of executing the functions of the Authority or enforcing the powers of the Authority under sections 4(1)(g) or (h).

Powers of immigration officer to enforce Act

33. (1) For the purposes of this Act, the Chief Immigration Officer or an immigration officer, carrying out an instruction or exercising any power pursuant to section 32, shall have the rights, powers, privileges and immunities of a constable and may enter and search any premises with a warrant issued by a Magistrate.

(2) The Chief Immigration Officer or an immigration officer, when carrying out instructions or exercising a power under this Act, shall at all times carry, and produce if requested, photo identification issued by the Department of Immigration which clearly indicates that the person producing the photo identification is the Chief Immigration Officer or an immigration officer.

Warrant to enter and search premises

34. (1) An application for a warrant shall be made by the Authority to a Magistrate in the prescribed manner.

(2) The member of the Authority who, on behalf of the Authority, provides the information on oath forming the basis upon which the application for the warrant is made shall also sign the application for the warrant.

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(3) If a Magistrate is satisfied by information on oath given by a member of the Authority that—

(a) there are reasonable grounds for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information; or

(b) any books or documents which ought to have been produced and have not been produced are to be found at any premises;

the Magistrate may grant a warrant authorising the Authority to execute the warrant to enter and search the premises specified in the information at any time within one month from the date of the warrant.

(4) Where a warrant is granted under subsection (3) the Authority may delegate the power to enter and search premises to an immigration officer to execute the warrant on behalf of the Authority.

(5) Where under this section an immigration officer has the power to enter and search any premises, the immigration officer may use force that is reasonably necessary for the purpose of exercising that power of entry and search.

(6) A person who obstructs an immigration officer in the exercise of any power conferred on the trade officer under this Act commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for one year, or to both.

Right of appeal

35. (1) An interested person who is aggrieved by a decision or action of the Authority may appeal to the High Court within 30 days of the decision or action, on the grounds that—

(a) the decision or action of the Authority as the case may be was based on an error of law or a misinterpretation of this Act or the Regulations;

(b) the Authority, where it is required by this Act or by general legal principles to observe the rules of natural justice, misdirected or misconducted itself contrary to the rules of natural justice; or

(c) the decision or action of the Authority, as the case may be, was against the weight of the evidence.

(2) Within 7 days of the filing of the appeal in the High Court, the appellant must serve written notice of the appeal on the Authority, which must be named as the Respondent in the appeal and is entitled to appear and to be heard on the merits of the appeal.

(3) A written notice of appeal, other than in respect of costs only, shall set out each matter or charge relevant to the appeal, the ground or grounds of appeal in relation to each matter or charge, and a brief statement of the matters relied on in respect of each ground of appeal.

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(4) On hearing the parties to an appeal, the High Court may—

(a) confirm, reverse or vary the decision or action appealed against and make any order which the Respondent could have made; or

(b) remit the case to the Respondent for further proceedings;

subject to any conditions which the High Court thinks fit.

(5) A decision or action that is subject to appeal under this section takes effect immediately, but the High Court may grant a stay pending the hearing of the appeal.

(6) An appeal from any decision of the High Court made pursuant to this section shall lie to the Court of Appeal.

(7) For the purposes of subsection (1), an "interested person" means a person having a right, claim, legal share, duty or liability connected with the subject matter of a decision or action of the Authority.

Regulations

36. The Executive Council may, after consultation with the Authority, make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and in particular respecting—

(a) the determination of application procedures;

(b) the determination of criteria for the grant of SEZ trade certificates;

(c) the determination of procedures for providing the benefits accruing to developers or special economic zone companies;

(d) ensuring adequate security within such special economic zones which by their nature require such provisions;

(e) prescribing the fees or any other charges payable pursuant to this Act;

(f) the determination of the form of SEZ trade certificates and SEZ employment certificates to be issued under this Act, and the procedures for amendment, suspension and revocation of SEZ trade certificates and SEZ employment certificates;

(g) requiring information from developers and special economic zone companies;

(h) declaring a person to be a developer pursuant to section 12; and

(i) establishing licensing committees.

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Citation

37. This Act may be cited as the Special Economic Zones Act, Revised Statutes of Anguilla, Chapter S53.

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SCHEDULE 1

(Section 2)

CONSTITUTION AND PROCEDURE OF AUTHORITY

1. A member of the Authority appointed under section 2(2) shall, subject to this Schedule, hold office for a period not exceeding three years or until the Executive Council makes a re-appointment within 6 months but such member shall be eligible for re-appointment.

2. The Executive Council may appoint any person to act temporarily in the place of the Chairman or a member of the Authority in the case of the absence or inability to act of the Chairman or of such member as the case may be.

3. The Chairman or any member may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument by the Minister.

4. The Minister, after consultation with the Executive Council may, at any time, revoke the appointment of any member, including the Chairman.

5. The Authority shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Chairman may determine.

6. If the Chairman is absent from a meeting the Deputy Chairman shall preside and if both the Chairman and the Deputy Chairman are absent the members present at the meeting shall elect one of their members to preside as Chairman at the meeting.

7. The quorum for meetings of the Authority shall be five members participating and voting in the meeting.

8. The decisions of the Authority shall be by a majority of votes of members present and voting and, in addition to an original vote, the Chairman shall have a second or casting vote in any case in which the voting is equal.

9. Minutes in proper form of each meeting shall be kept by the Secretariat and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting.

10. Subject to this Schedule, the Authority shall have power to regulate its own proceedings.

11. The validity of any proceedings of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

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SCHEDULE 2

(Sections 11, 12, 15(1)(b) and (3), 18, 24 and 30)

FEES

The following fees shall be payable under this Act—

(a)	SEZ Employment certificate application fee	$40
(b)	SEZ Employment certificate fee	$500 per anum
(c)	SEZ Trade certificate application fee	$50
(d)	Resubmission fee for SEZ Trade certificate	$25
(e)	SEZ Trade certificate	$150 per annum
(f)	Fee to amend the SEZ Trade certificate	$30
(g)	Fee for a copy of the register	$30
(h)	Special Economic Zone Licence Fee – paid by the developer annually, and calculated on the basis of $500 per special economic zone company.	

SCHEDULE 3

(Section 12)

BENEFITS, EXEMPTIONS AND CONCESSIONS ACCRUING TO THE DEVELOPER OF A SPECIAL ECONOMIC ZONE

From the date of commencement of this Act—

1. A developer and its subsidiaries in respect of a special economic zone shall be exempt from—

   (a) the Trades, Businesses, Occupations and Professions Licensing Act; and

   (b) the Securities Act;

and any regulations made under the aforementioned Acts.

2. The developer and its subsidiaries in respect of a special economic zone shall also be entitled to the following benefits, exemptions and concessions—

   (a) Stamp duty under the Stamp Act and stamp duty under the Alien Land Holding Regulation Act, with respect to freehold or leasehold property to be held by the developer and its subsidiaries, shall be levied at rates that are no greater than the rates customarily offered to hotel projects in Anguilla.

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(b) The Government shall expedite the processing of alien land holding licence applications submitted by the developer and its subsidiaries. For the developer, the Government agrees that it will require due diligence information only on directors, beneficiaries and individual shareholders holding more than ten percent of the shares of the developer.

(c) Construction materials imported by the developer or its subsidiaries for use in the special economic zone will be exempted from customs duties under the Customs Act, interim goods tax under the Interim Goods Tax Act and excise tax under the Excise Tax Act, where applicable, for a specified period. The Customs Administrative Fee under the Customs Administrative Cost Recovery Act will apply.

(d) The Government will grant exemptions from customs duties under the Customs Act, interim goods tax under the Interim Goods Tax Act and excise tax under the Excise Tax Act, where applicable, on construction materials imported by the developer for periodic refurbishment of the special economic zone premises. Five such periodic refurbishments over the course of the first twenty years of the operation of a special economic zone shall be permitted.

(e) Fixed assets, (which will include items such as computers, routers, furniture and copiers) imported by the developer or its subsidiaries for use in the special economic zone will be exempted from customs duties under the Customs Act, interim goods tax under the Interim Goods Tax Act and excise tax under the Excise Tax Act, where applicable. The Customs Administrative Fee under the Customs Administrative Cost Recovery Act will apply. The exempted under this paragraph shall only apply to fixed assets specified in the agreement.

(f) The Government agrees that the benefits, concessions and exemptions granted in this Schedule shall be honoured and shall continue for the full duration of an Exclusivity Period.

(g) Subject to any applicable laws, the Government shall facilitate and favourably consider—

(i) planning applications for all parcels of land, areas or locations in the special economic zone and for all buildings and other works thereon or with respect thereto requested by the development company, and

(ii) applications for SEZ employment certificates with respect to partners, directors, officers of the developer, its subsidiaries and its affiliates.

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SCHEDULE 4

(Section 19)

BENEFITS, CONCESSIONS, EXEMPTIONS AND OBLIGATIONS RELATING TO SPECIAL ECONOMIC ZONE COMPANIES LOCATED WITHIN A SPECIAL ECONOMIC ZONE

1. A special economic zone company shall be entitled to the following benefits, exemptions and concessions—

(a) Stamp duty under the Stamp Act and stamp duty under the Alien Land Holding Regulation Act, with respect to leasehold property to be held by special economic zone company or development company, shall be levied at rates that are no greater than the rates customarily offered to hotel projects in Anguilla.

(b) The Government shall expedite the processing of alien land holding licence applications submitted by the special economic zone company. The Government agrees that it will require due diligence information on partners, directors of and any person who has a beneficial interest in, partnerships or companies in the special economic zone.

(c) Fixed assets, (which will include items such as computers, routers, furniture and copiers) imported by a special economic zone company for use in the special economic zone will be exempted from customs duties under the Customs Act, interim goods tax under the Interim Goods Tax Act and excise tax under the Excise Tax Act, where applicable. The Customs Administrative Fee under the Customs Administrative Cost Recovery Act will apply. The fixed assets exempted under this paragraph shall be specified in the agreement.

2. A special economic zone company located in a special economic zone shall be exempt from—

(a) the Licensing of Businesses Act; and

(b) the Securities Act;

and any regulations made under the aforementioned Acts.

3. With respect to SEZ Employment Certificates—

(a) A SEZ Employment Certificate, which shall be granted for a period of up to five years, shall entitle the holder to reside in Anguilla to work for a special economic zone company or development company. Upon application as prescribed by Regulations, a SEZ Employment Certificate may be renewed for one or more additional two year periods, subject to the applicable labour laws.

(b) Where applicable, the spouse of the holder of a SEZ Employment Certificate shall be permitted to reside in Anguilla, save that such right will be revoked upon the death of the holder, upon the dissolution of the marriage and expiry or revocation of the SEZ Employment Certificate.

(c) Where applicable the dependent children of the holder of a SEZ Employment Certificate shall be permitted to reside in Anguilla, save that such right will be—

(i) revoked upon the death of the holder, or

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(ii) cease upon the completion of a dependent child's full time tertiary education or when a dependent child reaches the age of twenty-four years, whichever happens earlier, unless the Minister of Labour is satisfied that there are special circumstances, and

(iii) revoked upon expiry or revocation of the SEZ Employment Certificate.

(d) The holder of a SEZ Employment Certificate shall at all times have in place a health insurance policy covering the holder and where applicable his spouse and dependent children residing in Anguilla.

4. A special economic zone company shall not by virtue of this Act be exempted from liability or obligation to pay—

(a) incorporation, registration, filing or annual fees under the Companies Act;

(b) stamp duty levied by or on behalf of the Government under—

(i) the Stamp Act in respect of a lease, or agreement for a lease, of immovable property or any interest therein, and

(ii) the Aliens Land Holding Regulation Act;

(c) customs duties on individual consumables or fixed assets, other than fixed assets imported for use exclusively in the special economic zone, and which remain in the special economic zone;

(d) SEZ employment certificate fees; and

(e) SEZ trade certificate fees.

5. A special economic zone company or development company shall be entitled to employ any person it chooses who either has been issued with a valid SEZ employment certificate or is otherwise entitled to work in Anguilla without a work permit, on such terms and conditions as may be agreed between the special economic zone company or development company and that person.

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