ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER T60

TRUST COMPANIES AND OFFSHORE BANKING ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 8/2003, in force 14 November 2003
Act 15/2005, in force 9 December 2005
Act 5/2008, in force 27 February 2008
Act 4/2013, in force 25 September 2013

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

© 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 T60

TRUST COMPANIES AND OFFSHORE BANKING ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 8/2003, in force 14 November 2003
Act 15/2005, in force 9 December 2005
Act 5/2008, in force 27 February 2008
Act 4/2013, in force 25 September 2013

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

© 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

TRUST COMPANIES AND OFFSHORE BANKING ACT

TABLE OF CONTENTS

PART 1

PRELIMINARY PROVISIONS

SECTION

1. Interpretation
2. Application

PART 2

OFFSHORE BANKING BUSINESS

3. Interpretation
4. Licence required
5. Application for licence
6. Issuance of licence
7. Restrictions on business that may be carried on by licensee
8. Maintenance of capital

PART 3

TRUST BUSINESS

9. Interpretation
10. Licence required
11. Application for licence
12. Issuance of licence
13. Class and extension of licence
14. Maintenance of capital

PART 4

MATTERS APPLICABLE TO TRUST BUSINESS AND OFFSHORE BANKING BUSINESS

15. Interpretation

Surrender of Licence and Variation of Terms of Licence

16. Surrender of licence
17. Variation of terms or conditions of licence

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

Principal Office and Authorised Agent

18. Principal office and authorised agent
19. Operation outside Anguilla

Restrictions on and Change of Names

20. Restrictions on use of certain terms
21. Change of name

Transfer of Shares and Appointment of Directors

22. Transfer of shares
23. Number and appointment of directors
24. Exemption for domestic bank

Obligations of Licensee

25. Annual fee
26. Books and records
27. Display of licence
28. Accounts
29. Directions for the reporting of information

Administration

30. Attorney General may apply to Court

Miscellaneous

31. Insurance
32. Appeals
33. Regulations
34. Offences
35. Citation

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

TRUST COMPANIES AND OFFSHORE BANKING ACT

PART 1

PRELIMINARY PROVISIONS

Interpretation

1. (1) In this Act—

"attorney-at-law" means an attorney admitted to practice before the Eastern Caribbean Supreme Court in Anguilla;

"auditor" means a person who is in good standing as a member of an association of chartered or public accountants or other similar body approved by the Commission as a reputable auditing association;

(Act 4/2013, s. 53)

"authorised agent" means an authorised agent referred to in section 18;

"bank" means a person carrying on banking business;

"banking business" means—

(a) the business of receiving funds through the acceptance of money deposits payable on demand or after a fixed period or after notice or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or in part for loans or investment for the account and the risk of the person doing such business; and

(b) any other activity prescribed by the Governor as constituting customary banking practice that a bank engaged in activities described in paragraph (a) may additionally be authorised to do;

"Commission" means the Anguilla Financial Services Commission established under section 2 of the Financial Services Commission Act;

(Act 15/2005, s. 1)

"company" means a company incorporated or continued under the Companies Act[*];

"Court" means the High Court;

"dollar" or "$" means a dollar in the currency of the United States of America;

"domestic bank" means a person holding a licence under the Banking Act[†];

[*] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.
[†] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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

"foreign company" means a foreign company registered under Division 3 of Part 4 of the Companies Act[‡];

(Act 15/2005, s. 1 and Act 4/2013, s. 53)

"international business company" means a company incorporated or continued under the International Business Companies Act[§];

"offshore banking business" means banking business carried on in or from within Anguilla in a currency other than Eastern Caribbean dollars with a non-resident of Anguilla;

"offshore banking licence" means a licence issued under section 6;

"prescribed" means prescribed by regulations made by the Governor under section 33;

"Regulatory Code" means a Regulatory Code issued under section 59 of the Financial Services Commission Act;

(Act 4/2013, s. 53)

"trust" means trust as defined in the Trusts Act;

"trust business" means carrying on the business of acting as trustee of property;

"trust company licence" means a licence issued under section 12.

(2) Subject to subsection (3), for the purposes of this Act, the following are regarded as non-residents of Anguilla—

(a) an international business company;

(b) a company or an LLC formed or continued under the Limited Liability Company Act that, at the relevant time does not engage in any revenue generating activities in Anguilla.

(3) An LLC or a company shall not be regarded as engaging in a revenue-generating activity in Anguilla in respect of—

(a) any offshore banking business conducted with it by a person holding an offshore banking licence; or

(b) any activity which the Governor may prescribe as exempt from paragraph (2)(b).

(4) For greater certainty—

(a) a company;

(b) an international business company; or

(c) an LLC formed or continued under the Limited Liability Company Act;

[‡] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.
[§] Business Companies Act, 2022 (Act 2/2022) *repealed* the International Business Companies Act, R.S.A. c. I20.

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

that carries on banking business or trust business outside Anguilla carries on banking business or trust business, as the case may be, from within Anguilla.

Application

2. (1) This Act does not apply to the Caribbean Development Bank.

(2) For greater certainty—

(a) a person, including a domestic bank, that holds an offshore banking licence—

(i) is exempt from the provisions of the Banking Act[**] in respect of offshore banking business, and

(ii) is subject to the provisions of the Banking Act[††] in respect of banking business other than offshore banking business; and

(b) a person holding an offshore banking licence or a trust company licence, other than a domestic bank, does not require a licence under the Trades, Businesses, Occupations and Professions Licensing Act in respect of its offshore banking or trust business.

PART 2

OFFSHORE BANKING BUSINESS

Interpretation

3. In this Part—

"licence" means an offshore banking licence;

"licensee" means a person holding an offshore banking licence.

Licence required

4. (1) No person, including a domestic bank, shall carry on offshore banking business unless he holds a licence that is not suspended.

(Act 4/2013, s. 53)

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment of 2 years or to both.

Application for licence

5. (1) A company or a foreign company may apply to the Commission for a licence.

[**] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.
[††] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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

(2) An application under subsection (1) must—

(a) contain such information as the Commission may direct and be in the approved form; and

(b) be accompanied by the documentation specified in the approved form or prescribed.

(Act 4/2013, s. 53)

Issuance of licence

6. If the Commission is satisfied—

(a) that an applicant is—

(i) a fit and proper person, and

(ii) is qualified,

to carry on offshore banking business;

(b) that the persons having any share or other interest, whether legal or equitable, in the applicant and its directors and officers are fit and proper persons to have an interest in or be concerned with the management of a licensee, as the case may be;

(c) that the applicant intends, if issued with a licence, to commence offshore banking business;

(d) that the applicant satisfies the requirements of this Act in respect of the application and will, upon issuance of the licence, be in compliance with this Act in respect of licensing; and

(e) that issuing the licence is not against the public interest;

it may issue a licence to the applicant subject to such terms and conditions as it thinks fit.

(Act 4/2013, s. 53)

Restrictions on business that may be carried on by licensee

7. A licensee that is not a domestic bank may not—

(a) invest in any asset that represents a claim on any person resident in Anguilla except a claim resulting from—

(i) a transaction with another licensee, or

(ii) the purchase of bonds or other securities issued by the Government, a government agency or a company in which the Government is the sole or majority beneficial owner; or

(Act 8/2003, s. 75)

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

(b) without the written approval of the Commission, carry on any offshore banking business other than that for which the licence has been issued.

(Act 4/2013, s. 53)

Maintenance of capital

8. (1) A licensee, other than a domestic bank, must ensure that its paid-up share capital is maintained in an amount not less than $250,000, or the equivalent in another currency, or such greater sum as may be ordered under subsection (2).

(2) The Commission may, order a licensee to increase its fully paid-up capital to such greater amount as it may determine having regard to the nature of the offshore banking business being, or sought to be, undertaken.

(Act 4/2013, s. 53)

(3) A company that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $25,000.

(4) Where an offence under this section is committed by a company, a director or officer of the company who knowingly authorised, permitted or acquiesced in the commission of the offence also commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment for 6 months or to both.

PART 3

TRUST BUSINESS

Interpretation

9. In this Part—

"licence" means a trust company licence;

"licensee" means a person holding a trust company licence.

Licence required

10. (1) Subject to subsection (2), no person shall carry on trust business in or from within Anguilla unless he holds a licence that is not suspended under section 16.

(2) Subsection (1) does not apply to—

(a) a domestic bank that holds an offshore banking licence that is not suspended; or

(b) an attorney-at-law in so far as he is engaged in trust business solely in the practice of law.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment of 2 years or to both.

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

Application for licence

11. (1) A company, a foreign company or, subject to section 13(2), an international business company may apply to the Commission for a licence.

(2) An application under subsection (1) must—

(a) contain such information as the Commission may direct and be in the approved form; and

(b) be accompanied by the documentation specified in the approved form or prescribed.

(Act 4/2013, s. 53)

Issuance of licence

12. If the Commission is satisfied—

(a) that an applicant is—

(i) a fit and proper person, and

(ii) is qualified,

to carry on trust business;

(b) that the persons having any share or other interest, whether legal or equitable, in the applicant and its directors and officers are fit and proper persons to have an interest in or be concerned with the management of a licensee, as the case may be;

(c) that the applicant intends, if issued with a licence, to commence carrying on trust business in or from within Anguilla;

(d) that the applicant satisfies the requirements of this Act in respect of the application and will, upon issuance of the licence, be in compliance with this Act in respect of licensing; and

(e) that issuing the licence is not against the public interest;

it may issue a licence to the applicant subject to such terms and conditions as it thinks fit.

(Act 4/2013, s. 53)

Class and extension of licence

13. (1) A licence shall be in one of the following classes—

(a) a general trust company licence;

(b) a restricted trust company licence.

(2) A general trust company licence must not be issued to an international business company.

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

(3) A restricted trust company licence is subject to the restriction that the licensee does not undertake trust business on behalf of persons other than those listed in the undertaking accompanying the application for the licence or any amendment to the list filed with the Commission.

(Act 4/2013, s. 53)

(4) An applicant for a general trust company licence may apply for the licence to extend to a wholly-owned subsidiary of the applicant.

(5) An application under subsection (4) must be made in writing to the Commission accompanied by—

(a) the name of the subsidiary;

(b) documentary proof sufficient to establish that the subsidiary is wholly owned by the applicant;

(c) a description of the type of trust business being, or to be, carried on by the subsidiary; and

(d) any other information or documentation that the Commission considers necessary.

(Act 4/2013, s. 53)

(6) The Commission may, upon granting a general trust company licence to the applicant, extend the licence to include any subsidiary referred to in subsection (4), subject to such terms and conditions as it thinks fit.

(Act 4/2013, s. 53)

Maintenance of capital

14. (1) A holder of a general trust company licence, other than a domestic bank, must ensure that its paid-up share capital is maintained in an amount not less than $250,000, or the equivalent in another currency, or such greater sum as may be ordered under subsection (3).

(2) A holder of a restricted trust company licence must ensure that its fully paid-up share capital is maintained in an amount not less than the amount prescribed by the Governor as being the minimum capital for a restricted trust company, or such greater sum as may be ordered under subsection (3).

(3) The Commission may, order a licensee to increase its fully paid-up capital to such greater amount than that required under subsection (1) or (2) as it may determine having regard to the nature of the general or restricted trust business being, or sought to be, undertaken.

(Act 4/2013, s. 53)

(4) A company that contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine of $25,000.

(5) Where an offence under this section is committed by a company, a director or officer of the company who knowingly authorised, permitted or acquiesced in the commission of the offence also commits an offence and is liable on conviction to a fine of $25,000, to a term of imprisonment for 6 months or to both.

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

PART 4

MATTERS APPLICABLE TO TRUST BUSINESS
AND OFFSHORE BANKING BUSINESS

Interpretation

15. In this Part—

"licence" means an offshore banking licence or a trust company licence;

"licensed business" means the trust business or offshore banking business, as the case may be, that the licensee is licensed to carry on;

"licensee" means a person holding an offshore banking licence or a person holding a trust company licence.

Surrender of Licence
and Variation of Terms of Licence

Surrender of licence

16. (1) A licensee that ceases to carry on the licensed business may apply to the Commission to surrender its licence.

(2) An application under subsection (1) must—

(a) contain such information as the Commission may direct and be in the approved form; and

(b) be accompanied by the documentation specified in the approved form or prescribed.

(3) If the Commission is satisfied that—

(a) the licensee has ceased to carry on the licensed business and that—

(i) in the case of a person holding an offshore banking licence, the licensee has repaid all deposits accepted by it, or

(ii) in the case of a person holding a trust company licence, the licensee has properly distributed, transferred or otherwise dealt with all trust assets that were held or administered by it; or

(b) if the licensee is being wound up, that it is solvent and is able on demand—

(i) in the case of a company holding an offshore banking licence, to repay all deposits accepted by it, or

(ii) in the case of a person holding a trust company licence, to properly distribute, transfer or otherwise deal with all trust assets that are or were held or administered by it;

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

the Commission may approve the surrender.

(4) In the case of a surrender of a licence under paragraph (3)(b), the Attorney General or the Commission may apply to the Court for an order that the licensee be wound up by the Court or subject to the supervision of the Court under the Companies Act[‡‡].

(Act 4/2013, s. 53)

Variation of terms or conditions of licence

17. The Commission may, upon giving reasonable notice to the licensee—

(a) vary or cancel any terms or conditions imposed on the issue of a licence or under the extension of a licence under section 13(4); or

(b) impose new terms or conditions.

(Act 4/2013, s. 53)

Principal Office and Authorised Agent

Principal office and authorised agent

18. (1) A licensee must have—

(a) a principal office in Anguilla; and

(b) two authorised agents who comply with subsection (2).

(2) Each authorised agent—

(a) must be an individual resident in Anguilla; and

(b) must, prior to his appointment—

(i) have consented in writing to act as an authorised agent, and

(ii) be approved in writing as an authorised agent by the Commission.

(Act 4/2013, s. 53)

(3) The licensee must appoint its first authorised agents not later than the day of the issue of its licence and shall forthwith notify the Commission that the approved appointments have been made.

(Act 4/2013, s. 53)

(4) A licensee may not change the address of its principal office or appoint an authorised agent without the prior written approval of the Commission.

(Act 4/2013, s. 53)

(5) The Commission in its discretion may in writing revoke an approval given under this section.

(Act 4/2013, s. 53)

[‡‡] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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

(6) Subject to subsection (7), a licensee that contravenes this section commits an offence and is liable on summary conviction—

(a) in respect of a breach of subsection (1), to a fine of $25,000; and

(b) in respect of a breach of subsection (3) or subsection (4), to a fine of $10,000.

(7) A licensee does not contravene subsection (1) when an authorised agent dies or resigns or has his approval revoked under subsection (5) if—

(a) the licensee forthwith submits to the Commission for approval the name of a person to replace the authorised representative; and
(Act 4/2013, s. 53)

(b) appoints an authorised agent forthwith after he is approved;

so long as the licensee has at least one authorised agent.

(8) This section does not apply to a domestic bank.

(9) The authorised agents of a licensee shall in their capacity as representatives of the licensee ensure compliance with any statutory requirements under this Act.

Operation outside Anguilla

19. (1) A licensee must not operate a branch, agency or office outside Anguilla without the prior approval of the Commission.

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment for one year or to both.
(Act 4/2013, s. 53)

Restrictions on and Change of Names

Restrictions on use of certain terms

20. (1) No person other than a licensee shall, except with the authority of the Commission or under the authority of any other written law—

(a) use, whether in the name under which he is registered or in the description or title under which he carries on business in or from within Anguilla and whether in English or in any language—

(i) the words “bank”, “savings” or “trust” or any derivative, or

(ii) any word that, in the opinion of the Governor, suggests trust business or offshore banking business; or

(b) make any representation in any document or in any other manner that is likely to suggest that he is carrying on trust business or offshore banking business.
(Act 4/2013, s. 53)

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

(2) The Commission may, by written notice, require a licensee who carries on offshore banking business or trust business under a name that is—

(a) identical to that of any other person, whether within or outside Anguilla, or which so nearly resembles that name as to be likely to deceive;

(b) likely to suggest falsely the patronage of or connection with some person whether within or outside Anguilla; or

(c) likely to suggest falsely that he has special status in relation to or derived from the Government or has the official approval of, or acts on behalf of, the Government or of any of its departments or officials;

forthwith to change the name.

(Act 4/2013, s. 53)

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment of one year or to both.

(4) A licensee who fails to change his name within 7 days of the date of receipt of a written notice under subsection (2) commits an offence and is liable on summary conviction to a fine of $10,000 and to a daily default fine of $500.

Change of name

21. A licensee shall not change its name without the prior written approval of the Commission.

(Act 4/2013, s. 53)

Transfer of Shares and Appointment of Directors

Transfer of shares

22. (1) No share or other interest, whether legal or equitable, in a licensee shall be issued, transferred or otherwise disposed of without the prior written approval of the Commission.

(2) The Commission may exempt any company from the provisions of subsection (1), subject to such terms and conditions as it thinks fit.

(Act 4/2013, s. 53)

Number and appointment of directors

23. (1) A licensee shall have not less than 2 directors.

(2) Subject to subsection (3), no appointment of a director or other senior officer of a licensee shall be made without the prior written approval of the Commission.

(3) Subsection (2) does not apply to a licensee that is exempted in writing by the Commission.

(4) An exemption under subsection (3) may be granted subject to such terms and conditions as the Inspector considers fit and may be revoked by the Commission in writing.

(Act 4/2013, s. 53)

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

Exemption for domestic bank

24. Sections 22 and 23 do not apply to a domestic bank.

Obligations of Licensee

Annual fee

25. A licensee shall pay the prescribed annual fee on or before 15 January of each year and any penalties for late payment of such fee as may be prescribed by regulation.

(Act 5/2008, s. 2)

Books and records

26. (1) A licensee shall keep within Anguilla—

(a) such books and records as accurately reflect his licensed business; and

(b) such further books and records in respect of its licensed business as the Commission may require.

(2) A licensee that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $10,000 or to imprisonment for a term of 6 months or to both.

(Act 15/2005, s. 3)

Display of licence

27. A licensee must prominently display its licence on the premises where its licensed business is carried on.

Accounts

28. (1) Every licensee shall have its accounts audited by an auditor annually or at such other periods as the Commission may require.

(2) The licensee shall forward the audited accounts to the Commission within 6 months from the end of the financial year of the licensee unless prior written approval for an extension has been granted by the Commission.

(3) Where a licensee changes its auditor, the licensee shall, when required by the Commission, authorise the former auditor to disclose the circumstances that gave rise to the change, and when so authorised, the auditor shall disclose such circumstances.

(Act 4/2013, s. 53)

Directions for the reporting of information

29. (1) The Commission may, by notice published in the *Gazette*, issue directions to licensees for the making of returns, or the furnishing of documentation, to him for regulatory purposes.

(Act 4/2013, s. 53)

(2) A notice under subsection (1) must specify the period within which returns must be made or documentation filed.

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

(3) Directions issued under subsection (1) may make different provision in relation to different persons, circumstances or cases.

(4) A licensee that fails, within the period specified, to make a return or furnish documentation to the Commission in accordance with directions issued under subsection (1) commits an offence and is liable on summary conviction to a fine of $5,000.

(Act 4/2013, s. 53)

Administration

Attorney General may apply to Court

30. Where a licensee or a person who has at any time been a licensee is being wound up voluntarily, the Attorney General may, when being requested by the Commission, apply to the Court for leave to intervene on behalf of any interested party, if he considers that the winding up is not being conducted in the best interests of its depositors, the beneficiaries of any trust, or other creditors and the Court shall make such order as it shall consider appropriate.

(Act 4/2013, s. 53)

Miscellaneous

Insurance

31. (1) The Commission may by written notice require a licensee to effect a policy of insurance with an approved insurance company and maintain it.

(Act 4/2013, s. 53)

(2) The policy of insurance shall insure against—

(a) losses arising out of claims of negligence or breach of duty by the licensee or by an employee;

(b) the dishonesty of employees or of the licensee;

(c) loss of documents; and

(d) such other risks as the Inspector may stipulate;

in such amount and of such nature as the Commission determines having due regard to the nature and type of business carried on by the licensee.

(Act 4/2013, s. 53)

(3) The licensee shall effect the policy of insurance within the time specified in the notice or any extension of the time given by the Commission.

(Act 4/2013, s. 53)

(4) The licensee shall without delay give notice to the Commission in writing if—

(a) he is unable to obtain insurance as required by the Inspector; or

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

(b) he ceases to maintain the insurance.

(Act 4/2013, s. 53)

(5) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine of $10,000, to a term of imprisonment of one year or to both.

Appeals

32. A person who is aggrieved by a decision of the Commission made under section 7, section 13(6), section 14(3) or section 17 may appeal the decision in accordance with section 60 of the Financial Services Commission Act.

(Act 4/2013, s. 53)

Regulations

33. The Governor in Council may make regulations generally for giving effect to the provisions of this Act and specifically—

(a) requiring the payment of fees under this Act and prescribing them, including—

(i) fees for filing an application,

(ii) fees for the issuance of a licence, and

(iii) annual fees;

(b) controlling the form of advertising undertaken by licensees;

(c) prescribing any thing required or permitted to be prescribed by this Act; and

(d) exempting any trust company from this Act or any provision of this Act, subject to such conditions, if any, as are imposed in respect of the exemption.

Offences

34. (1) A person who with intent to deceive, or for any purpose of this Act makes any representation that he knows to be false or does not believe to be true commits an offence and is liable on summary conviction to a fine of $25,000, to imprisonment for a term of one year or to both.

(2) Any person who contravenes any provision of this Act or regulations, for which no penalty is specifically provided 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.

(Act 4/2013, s. 53)

(3) A licensee that carries on business contrary to the terms or conditions of its licence or, in the case of the holder of a restricted trust company licence, in contravention of the restriction, commits an offence and is liable on summary conviction to a fine of $25,000.

(4) Where an offence under this Act is committed by a company, a director or officer of that company who knowingly authorised, permitted or acquiesced in the commission of the offence also commits the offence and is liable on summary conviction to—

(a) a fine of the amount specified for the offence;

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

(b) to a term of imprisonment as specified for the offence, if any; or

(c) to both a fine and imprisonment.

(Am. in L.R. 15/12/2010)

Citation

35. This Act may be cited as the Trust Companies and Offshore Banking Act, Revised Statutes of Anguilla, Chapter T60.

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