ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER U5

UNDESIRABLE PERSONS EXPULSION ACT

Showing the Law as at 15 December 2010

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 7/2010, in force 1 November 2010

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UNDESIRABLE PERSONS EXPULSION ACT

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UNDESIRABLE PERSONS EXPULSION ACT

PART 1

EXPULSION ORDERS

Power to make expulsion orders against convicted persons

1. The Governor may, if he thinks fit, make an expulsion order requiring any person not born in Anguilla to leave Anguilla within a time fixed by the order, and thereafter to remain out of Anguilla, if it is certified to him by any Court in Anguilla—

(a) where such person is an alien, that such person has been convicted by or before that Court of any offence for which the Court has power to impose imprisonment without the option of a fine; and

(b) where such person is a British subject, that such person has been convicted by or before that Court of sedition (including seditious libel) or riot, whether as a principal or as an accessory;

and, in either case, that the Court recommend that an expulsion order should be made in his case, either in addition to or in lieu of his sentence.

Power to make expulsion order for peace and good order of Anguilla

2. The Governor may, if he thinks fit, make an expulsion order in the case of any person not born in Anguilla if it appears to the Governor in Council that it is expedient for the peace and good order of Anguilla that an expulsion order should be made in the case of such person, but—

(a) this section shall not apply to a British subject who is domiciled in Anguilla, or who throughout the preceding 12 months has been resident in Anguilla; and

(b) before the question of the expediency of an expulsion order being made in the case of such person is considered by the Governor in Council, he shall be given an opportunity of urging any reasons why such an order should not be made against him before the Governor or before some person appointed by the Governor for the purpose, and, where a person is so appointed, he shall communicate the substance of such reasons, if any, to the Governor.

Contravention of expulsion order

3. (1) If any person against whom an expulsion order has been made is at any time after the service of such order upon him found in Anguilla in contravention of the order, he is guilty of an offence under this Act.

(2) Where a person has been convicted of an offence under subsection (1), the Governor may, if he thinks fit, order such person to comply with the expulsion order within such extended time as the Governor may fix, and, if such person fails to comply with such expulsion order within the time so extended, or if he is found within Anguilla after the expiration of the time so extended, he is guilty of a further offence under this Act.

(3) The Governor may, if he thinks fit, order that any person who has been convicted of an offence under subsection (1) or (2) shall within 6 weeks after the expiration of his sentence be deported from Anguilla in such manner as the Governor may direct and in the meantime be detained in custody. Should such person not be deported from Anguilla within 6 weeks after the expiration of his sentence, he shall be liberated from custody and the Governor's order shall cease to be valid. Any person who, after having been conveyed out of Anguilla under this subsection, returns to Anguilla is guilty of an offence under this Act.

Power to make an expulsion order authorising arrest and deportation

4. (1) It shall be lawful for the Governor, if he thinks fit, in any expulsion order, instead of requiring the person against whom it is made to leave Anguilla within a fixed time, to order that the person be arrested and deported from Anguilla in such manner as the Governor may by such expulsion order, or subsequently, direct.

(2) Any person arrested under an expulsion order shall, pending his deportation from Anguilla, be detained in custody in such manner and place as the Governor shall direct, and, if not deported from Anguilla within 6 weeks after his arrest, shall, on the expiration of that period, be released from custody, and the expulsion order shall cease to be valid.

(3) No person in custody under an expulsion order shall be admitted to bail except with the consent of the Governor.

(4) An expulsion order whereby the arrest of any person is ordered shall be deemed to authorise any police officer to arrest such person in any part of Anguilla and to detain him in custody.

Power to revoke expulsion order

5. It shall be lawful for the Governor to revoke an expulsion order, either absolutely or subject to such conditions as he may think fit.

PART 2

APPEALS

Right of appeal

6. (1) Subject to the provisions of this Act, any person against whom an expulsion order has been made may appeal against such order to the High Court and the appeal shall be brought to the Judge who shall, after the expiration of 15 days from the day on which such expulsion order was served upon such person, first hold a sitting of the High Court for the purpose of hearing the appeal, but such appeal shall be made on all or any of the grounds mentioned in section 7, but not on any other grounds.

(2) The decision of the Judge shall be final, and there shall be no right of appeal therefrom.

Grounds of appeal

7. The grounds upon which an appeal against an expulsion order may be made are—

(a) that the expulsion order could only be legally made against an alien and that the applicant is not an alien; or

(b) in any case where the expulsion order was made under section 2 against a person who is a British subject, that such person was domiciled in Anguilla or had been resident therein throughout the 3 months preceding the expulsion order.

Notice of appeal

8. (1) The appellant shall, within 7 days after the service of the expulsion order upon him, transmit to the Governor, and serve upon the Registrar a written notice of his intention to appeal; the notice shall specify the grounds of his appeal, and shall be signed by the appellant or by his solicitor, but any Judge may, either before or after the expiration of the period of 7 days, if he considers that the interests of justice so require, extend the period to 14 days.

(2) For the purposes of section 6 and of subsection (1), an expulsion order ordering the arrest of the appellant shall be deemed to have been served upon him at the time when he was arrested.

(3) In the notice of appeal it shall be sufficient to refer to the appeal as being to the Judge of the High Court who shall after the expiration of the period mentioned in section 6 first hold a sitting of the High Court for the purpose of hearing the appeal.

Extent to which giving of notice of appeal suspends order

9. After notice of intention to appeal has been duly given, no steps to enforce the expulsion order (except the arrest and the detention of the appellant when the order orders his arrest) shall be taken unless and until the appeal is dismissed, and the 6 weeks mentioned in section 4(2) shall not be deemed to begin to run until such appeal has been disposed of.

Person in custody to be given facilities for appealing

10. Every person detained in custody under an expulsion order shall, if he so desires, be given facilities for giving notice of his intention to appeal, and communicating, with reference to his appeal, with his friends and legal advisors.

Onus of proof

11. In any appeal against an expulsion order the appellant—

(a) shall, if the power to make the expulsion order depended upon the appellant being an alien, be presumed to be an alien; and

(b) shall, if a British subject against whom the expulsion order was made under section 2, be presumed neither to have been domiciled in Anguilla nor to have been resident therein throughout the 3 months preceding the expulsion order;

unless the contrary is proved.

Power of Judge on dismissal of appeal

12. If the appeal is dismissed, the time (if any) within which the appellant is, by the expulsion order, required to leave Anguilla, may be extended by the Judge for such period not exceeding 4 weeks from the dismissal of the appeal as he may think proper.

Appellant to be released on allowance of appeal

13. If the appeal is allowed, the expulsion order shall be deemed to be revoked, and the appellant, if in custody, shall, unless his detention is lawful under some other power or authority, be released forthwith.

Power to order payment of allowances to witnesses

14. The Judge hearing the appeal may order allowances, not exceeding those for the time being in force for witnesses in criminal proceedings in the High Court, to be paid to all persons examined or detained as witnesses for the respondent, and may, if he thinks fit, order similar allowances to be paid to any persons examined or detained as witnesses for the appellant.

PART 3

MISCELLANEOUS

Punishment of offences

15. Any person who is guilty of an offence under this Act is liable on summary conviction to be imprisoned for a period of 6 months.

In prosecutions expulsion orders to be deemed valid

16. In any prosecution for an offence under this Act, the production of an expulsion order shall be conclusive evidence that the same was valid and was lawfully made.

Power to allow expenses of conforming with expulsion order

17. Where an expulsion order is made against any person, the Governor may, if he thinks fit, direct the payment from the Consolidated Fund of the whole or any part of the expenses of or incidental to the departure from Anguilla and maintenance until departure of such person and his dependants (if any).

(Act 7/2010, s. 26)

Revocation of expulsion order or allowance of appeal not to have retrospective effect

18. The revocation of an expulsion order by the Governor, or the allowance of an appeal against an expulsion order, shall not affect the validity of anything already done thereunder or in respect thereof, and shall not affect any liability to conviction or punishment previously incurred under the provisions of this Act.

Actions for things done under this Act

19. No action shall be brought by any person against whom an expulsion order has been made with reference to anything done or omitted in the execution or purported execution of that order or of the provisions of this Act, on the ground that he was not a person against whom an expulsion order could be legally made.

Citation

20. This Act may be cited as the Undesirable Persons Expulsion Act, Revised Statutes of Anguilla, Chapter U5.

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