ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

BEACH CONTROL ACT
R.S.A. c. B20

Showing the Law as at 15 December 2014

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.

Regulation	Citation	Page
BEACH VENDING REGULATIONS	R.R.A. B20-1	3
Revises R.A. 9/2013, in force 28 February 2013	*(15/12/2014)*	
Consolidates: R.A. 11/2013, in force 17 July 2013	*(15/12/2014)*	
R.A. 44/2014, in force 21 November 2014	*(15/12/2014)*	

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Revised Regulations of Anguilla: B20-1

BEACH CONTROL ACT, R.S.A. c. B20

BEACH VENDING REGULATIONS

Note: These Regulations are enabled under section 8 of the Beach Control Act, R.S.A. c. B20.

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SCHEDULE 1: CONSTITUTION AND PROCEDURE OF THE BEACH VENDING CONTROL COMMITTEE

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PART 1

Interpretation

Interpretation

1. In these Regulations—

"Act" means the Beach Control Act

"beach" includes the foreshore and the adjoining land;

"beach equipment" includes chairs, umbrellas, tents and equipment for water sports;

"beach vending business" means a business which carries out one or more of the following activities—

(a) rental of beach equipment;

(b) sale of souvenirs, arts and craft and apparel;

(c) provision of fine art services;

"Committee" means Beach Vending Control Committee established under section 4;

"Curator of Beaches" means the person specified in section 2;

"directive" means a directive referred to in sections 16 and 17;

"fine art services" includes photography, painting and drawing;

"Permanent Secretary" means Permanent Secretary with responsibility for home affairs;

"permit" means a beach vending permit granted under section 7;

"permit holder" means a person to whom a beach vending permit is granted under section 7;

"restaurant" or "hotel" mean a restaurant or hotel that is situated on, or adjacent to, a beach.

PART 2

Administration

Curator of Beaches

2. The Director of Environment is the Curator of Beaches for the purposes of these Regulations.
(R.A. 44/2014, s. 2)

Functions of the Curator of Beaches

3. Under the direction and supervision of the Permanent Secretary and in accordance with any directions or guidance issued by the Committee, the Curator of Beaches shall administer and enforce these Regulations.

Beach Vending Control Committee

4. (1) The Beach Vending Control Committee is established.

(2) Schedule 1 has effect with respect to the constitution and procedures of the Committee.

Functions of the Committee

5. (1) The Committee has the following functions—

(a) considering and determining applications for permits;

(b) assigning terms and conditions to a permit;

(c) determining the duration of a permit;

(d) investigating possible breaches of terms and conditions of a permit;

(e) suspending or revoking a permit;

(f) issuing directives.

(2) In addition to the functions specified in subsection (1) and elsewhere in these Regulations, the Committee shall, as it considers appropriate, consult with and enlist the assistance of the Anguilla Tourist Board and other persons.

PART 3

Prohibition

Prohibition

6. (1) No person shall operate a beach vending business or offer beach equipment free of charge on any beach without a permit.

(R.A. 44/2014, s. 3)

(2) No permit holder shall operate a beach vending business other than in accordance with the terms and conditions of the permit.

PART 4

Beach Vending Permit

Application for permit

7. (1) A person who—

(a) wishes to operate a beach vending business; or

(b) intends to offer beach equipment free of charge,

shall make a written application for a permit to the Committee, in such form as the Committee may direct.

(R.A. 44/2014, s. 4(a))

(2) An application shall be accompanied by such information as the Committee may require including—

(a) planning permission under the Land Development Control Act; or

(b) evidence that an application for planning permission has been made.

(3) The fee set out in Schedule 2 is payable in accordance with section 9 in respect of any application for a permit.

(4) The Committee may grant, defer or deny an application made under subsection (1).

Permits for restaurants or hotels

8. (1) For the avoidance of doubt, the proprietor of a restaurant or hotel who—

(a) operates, or intends to operate, a beach vending business; or

(b) offers beach equipment free of charge,

is required to obtain a permit.

(R.A. 44/2014, s. 5)

(2) The proprietor of a restaurant or hotel who provides beach equipment free of charge is not required to pay the fee referred to in section 9.

Fees

9. (1) Subject to section 8(2), the fee set out in Schedule 2 is payable in respect of any application for a permit or variation or replacement of a permit.

(2) The fee referred to in subsection (1)—

(a) is payable to the Comptroller of Inland Revenue; and

(b) is non-refundable.

(R.A. 44/2014, s. 6)

Consideration of application

10. When considering an application for a permit, the Committee may consider any matter it considers relevant, including the following—

(a) type of beach vending business;

(b) scale of the proposed beach vending business;

(c) any facilities that may be utilised in the operation of the beach vending business including—

(i) any structure,

(ii) loading and uploading bays,

(iii) sanitary facilities;

(d) environmental and aesthetic impact on the beach;

(e) impact on neighbouring properties, including any potential noise, smoke, smell, soot, vibration, waste, dust, nuisance or danger;

(f) potential impact of increased number of persons and vehicles at the proposed site;

(g) access to, from and along the beach;

(h) any proposal to erect and display advertisements;

(i) proposed hours and days of operation;

(j) whether the applicant has the right under the laws of Anguilla to be and remain in Anguilla and to work in Anguilla operating a beach vending business or is exempted from that requirement.

Duration of permit

11. (1) A permit may be granted for such period not exceeding 3 years, as determined by the Committee.

(2) Notwithstanding the expiry date specified in a permit, if—

(a) the permit holder makes an application for a new permit in accordance with section 7 not later than 30 days before the expiry of the permit;

(b) the permit is not suspended or revoked on the day before its expiry; and

(c) no new permit has been issued and no notice of denial has been given in respect of the application,

the permit does not expire until the applicant receives a notice of denial of the application or a new permit is granted, whichever is earlier.

Replacement of permit

12. (1) Where a permit has been lost, damaged or defaced, a permit holder may apply in writing for a replacement and the Committee may issue a replacement.

(2) The fee set out in Schedule 2 is payable in accordance with section 9 in respect of any application for replacement of a permit.

Variation of permit

13. (1) A permit holder may apply in writing to vary his permit and shall set out the reasons for the variation and the Committee may vary the permit.

(2) The fee set out in Schedule 2 is payable in accordance with section 9 in respect of any application for variation of a permit.

Terms and conditions of a permit

14. (1) A permit may be granted subject to such terms and conditions as determined by the Committee, which may include the following—

(a) the maximum number of items of beach equipment which may be offered for rent or displayed when not in use by a customer;

(b) the type and description of beach equipment which may be offered for rent;

(c) the type and description of goods or services which may be offered;

(d) the days and hours of operation of the beach vending business;

(e) the location or locations in which the permit holder may operate;

(f) any other condition the Committee may determine to be appropriate.

(2) The terms and conditions of every permit shall require a permit holder to—

(a) keep the location in which he is operating clear of litter for the duration of his permit;

(b) refrain from obstructing access to, from and along the beach or any right of way;

(c) refrain from harassing any person in the operation of a beach vending business;

(d) refrain from any activity which may result in the degradation of the beach or any sand dunes;

(e) comply with any directive issued under sections 16 or 17;

(f) comply with sections 22, 23 and 24;
(R.A. 11/2013, s. 2)

(g) in the case of a permit which allows rental of beach equipment—

(i) subject to paragraph (1)(a), store beach equipment when not on display, in use by a customer and outside the hours of operation,

(ii) comply with section 15.

(3) A permit holder shall ensure that all of his agents or employees are aware of, and comply with, the terms and conditions of the permit.

(4) For the purposes of this section "harass" means to—

(a) use words, gestures and actions that annoy, alarm or abuse a person;

(b) insult, taunt or challenge a person in a manner likely to offend;

(c) use obscene or profane language to intimidate a person; or

(d) disturb or irritate a person, especially by continued or repeated acts.

(5) For greater certainty, soliciting business on a beach from a location or locations other than the location or locations specified in a permit holder's permit is a contravention of the terms and conditions of the permit.

Identification marks and appearance of equipment

15. (1) A permit holder whose permit allows the rental of beach equipment shall ensure that—

(a) subject to subsection (2), each item of beach equipment is clearly marked in a way that identifies the permit holder;

(b) all beach equipment is clean and in good repair.

(2) Before applying the identification mark referred to in subsection (1) to the beach equipment, the permit holder referred to in subsection (1) shall submit the proposed identification mark to the Committee for approval.

Right of sole use for beach vending business

16. (1) Where a proprietor of a hotel—

(a) operates, or intends to operate, a beach vending business; or

(b) offers beach equipment free of charge,

that proprietor has the sole right to operate a beach vending business or to offer beach equipment free of charge on the beach adjoining the property on which the hotel is located.

(R.A. 44/2014, s. 7)

(2) Where a permit holder infringes on the right referred to in subsection (1), the Committee may issue a directive requiring the permit holder to remove any structures, goods, equipment, advertisements or other effects that infringe on the right referred to in subsection (1).

(3) Where the permit holder fails to comply with a directive referred to in subsection (2), the Committee may cause any action specified in the directive to be carried out and may require the permit holder to pay the reasonable costs incurred in carrying out such action.

Foul weather directives

17. (1) When a storm alert is issued by the Department of Disaster Management or a weather advisory is issued by the Meteorological Services, the Committee may issue a foul weather directive.

(2) A foul weather directive may require the permit holder to do any one or more of the following—

(a) secure any structures, goods, equipment, advertisements or other effects;

(b) remove any temporary structures, goods, equipment, advertisements or other effects from the beach;

(c) take any other action the Committee may consider appropriate.

(3) Where the permit holder fails to comply with a foul weather directive, the Committee may cause any action specified in the directive to be carried out and may require the permit holder to pay the reasonable costs incurred in carrying out such action.

PART 5

Complaints, Breach, Suspension and Revocation of Permit

Complaint and investigation

18. (1) Any person who knows or suspects, or has reasonable grounds to suspect, that a permit holder or his agent or employee is in breach of any of the terms and conditions of a permit may make a complaint to the Committee by submitting the complaint to the Curator of Beaches.

(2) A complaint referred to in subsection (1) may be written or oral.

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

(a) acknowledge receipt of the complaint; and

(b) subject to subsection (3), give notice to the permit holder of receipt of such complaint.

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

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

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

(7) Within 14 days of receiving the complaint, the Committee 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 breach.

(8) The Committee 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 breach; or

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

(9) When an investigation is discontinued, the Committee 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) if a notice was sent under paragraph (3)(b) to the permit holder whose conduct was investigated.

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

Committee may initiate investigation

19. (1) The Committee may decide to undertake an investigation on its own initiative to determine whether the terms or conditions of permit have been breached.

(2) Sections 18(3)(b), (4), (5), (6), (8) and (9)(a) and (b)(ii) apply to an investigation undertaken on the Committee's own initiative with such changes as the circumstances require.

Breach of permit

20. (1) Where the Committee determines that a permit holder or the agent or employee of a permit holder has breached one or more of the terms and conditions of the latter's permit, the Committee may—

(a) on the first breach, issue that permit holder with a written warning and require the permit holder to remedy the breach within the period specified in the warning;

(b) on the second breach, suspend the permit for 3 days or for such longer period as may be required to remedy the breach; or

(c) on the third breach, suspend the permit for 7 days or for such longer period as may be required to remedy the breach.

(2) Where the permit holder, without good reason, commits a fourth breach, the Committee may revoke the permit.

(3) Notwithstanding subsection (1), where, in the opinion of the Committee, the permit holder engages in a breach of such a nature that it would be unreasonable to expect the permit holder to continue operating a beach vending business, the Committee may revoke the permit immediately.

(4) For the purposes of this section, a breach includes a continued breach where the permit holder fails to remedy the breach within the period specified by the Committee.

(5) Where a permit is revoked, the permit holder may be disqualified from operating a beach vending business on any beach for such period as the Committee considers fit not exceeding 5 years.

(6) Where the Committee is considering suspending a permit, the Committee shall give the permit holder an opportunity to put forward reasons as to why his permit should not be suspended.

Notice of intended revocation

21. (1) The Committee shall give the permit holder written notice of revocation before revocation under section 20(2) becomes effective.

(R.A. 11/2013, s. 3)

(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 permit holder will be disqualified;

(c) the day by which any written submissions referred to in subsection (3) should 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 Committee intends to—

(a) revoke a permit; or

(b) revoke a permit and disqualify the permit holder from operating a beach vending business,

the Committee shall give the permit holder an opportunity to put forward written or oral submissions as to why his permit should not be revoked or why his permit should not be revoked and he should not be disqualified.

Obligations on revocation or expiry

22. (1) The permit holder shall vacate the location in which he is operating within 48 hours after—

(a) the expiry of a permit; or

(b) the effective date of any revocation made under section 20.

(2) The Committee may extend the time period specified in subsection (1) if in its opinion the circumstances warrant.

(3) When vacating the location in which he is operating, the permit holder shall remove any structures, goods, equipment, advertisements or other effects of the permit holder at the location.

(4) Where the permit holder fails to comply with subsection (3), the Committee may cause the structures, goods, equipment, advertisements or other effects to be removed and may require the permit holder to pay the reasonable costs incurred in such removal.

(5) For the purposes of this section, location in which the permit holder is operating means the location or locations designated pursuant to section 14(1)(e).

PART 6

Miscellaneous

Identification cards

23. (1) Where a permit is granted, the permit holder and any agent or employee of the permit holder shall be issued an identification card.

(2) An identification card referred to in subsection (1) shall be in the form directed by the Committee and shall include—

(a) the name and photograph of the person wearing the badge; and

(b) the name of the permit holder.

(3) During hours of operation, the identification cards must be visibly worn at all times by the permit holder and his employees.

(4) An identification card issued under subsection (1) remains the property of the Government of Anguilla and must be returned promptly on the request of the Committee.

Production of permit

24. (1) When an enforcement officer reasonably believes that a person is operating a beach vending business, the enforcement officer may request that person to produce a permit authorising that person to operate the beach vending business.

(2) A person referred to in subsection (1) shall, without delay after a request by the enforcement officer, produce the permit.

Immunity

25. No action lies against an enforcement officer for anything done or omitted to be done in good faith by that enforcement officer while discharging his functions under these Regulations.

Offences and penalties

26. (1) Any person who contravenes sections 6(1) or (2) or 22(3) is liable on summary conviction to—

(a) imprisonment for a term of 12 months or to a fine of $50,000 or to both; and

(b) in the case of a continuing contravention, an additional fine of $2,000 for each day during which the contravention continues.

(R.A. 11/2013, s. 4(a))

(2) Any person who fails to comply with any directive issued under section 16 or 17 is liable on summary conviction to a fine of $50,000.

(3) Any person who contravenes section 23(3), is liable on summary conviction to—

(a) a fine of $1,000; and

(b) in the case of a continuing contravention, an additional fine of $250 for each day during which the contravention continues.

(R.A. 11/2013, s. 4(b))

(4) Any person who—

(a) assaults or obstructs an enforcement officer in the discharge of his functions;

(b) makes a false representation to an enforcement officer;

(c) contravenes section 24(2); or

(R.A. 11/2013, s. 4(c))

(d) refuses to furnish any information which an enforcement officer may require under these Regulations,

commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 12 months or to both.

(5) Where a company is guilty of a contravention of subsection (1) or (2), every director, manager, agent and officer of the company in Anguilla who is knowingly a party to the contravention, is liable to the penalty prescribed by subsection (1) or (2).

Citation

27. These Regulations may be cited as the Beach Vending Regulations, Revised Regulations of Anguilla, B20-1.

———————

SCHEDULE 1

(Section 4)

CONSTITUTION AND PROCEDURE OF THE BEACH VENDING CONTROL COMMITTEE

Interpretation

1. In this Schedule—

"Chairman" means the person specified in section 4;

"member" means a member of the Committee referred to in section 3.

CONSTITUTION

Application of R.S.A. c. I25

2. Except where a contrary intention appears in this Schedule and, without limiting the application of the Interpretation and General Clauses Act, the following provisions of that Act apply to this Schedule—

(a) sections 31 (construction of provisions as to exercise of powers and duties);

(b) section 37 (effect of vacancy in membership of board, defect of qualification, etc.).

Constitution of Committee

3. The Committee consists of the following members *ex officio*—

(a) the Curator of Beaches;

(b) the Director of Lands and Surveys;

(c) the Director of Planning;

(d) the Director of Environment;

(e) the Tourism Planner.

(f) Commerce Officer from the Ministry of Finance, Economic Development, Investment, Commerce and Tourism.

(R.A. 44/2014, s. 8(a))

Chairman and Deputy Chairman

4. (1) The Curator of Beaches is Chairman of the Committee.

(2) When the Chairman is absent or unable to act or when the office of Chairman is vacant, the members present and eligible to vote shall elect a member to act in the place of the Chairman.

(3) In the event of a tied vote, the Chairman has a second or casting vote.

Secretary

5. The Commerce Officer from the Ministry of Finance, Economic Development, Investment, Commerce and Tourism is Secretary of the Committee.

(R.A. 44/2014, s. 8(b))

Personal interest of member

6. A member present at a meeting who has a personal interest in a matter shall—

(a) declare his interest; and

(b) refrain from influencing or participating in any decision or vote that relates to the matter.

Quorum

7. Three members constitute a quorum at a meeting of the Committee.

Decision of the Committee

8. A decision of a majority of the members present and eligible to vote is a decision of the Committee.

GENERAL PROCEDURES

Frequency, place, day and time of Committee meetings

9. (1) The Committee shall meet as often as may be necessary to perform its functions expeditiously.

(2) A meeting of the Committee shall be held on the days and at the times that the Chairman may determine.

Decision of Chairman

10. The decision of the Chairman is final on the following matters—

(a) the agenda for a meeting;

(b) the conduct of the meeting;

(c) the procedure for handling motions.

Minutes

11. (1) Minutes of all meetings of the Committee shall be recorded and kept by the Secretary.

(2) The Chairman shall table for approval a copy of the minutes of a meeting at the next meeting of the Committee.

SCHEDULE 2

(Sections 7, 9, 12 and 13)

FEES

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Type of beach vending business	**Application for permit**	**Application for variation**	**Application for replacement**
Rental of beach equipment	$200	$100	$50
Sale of souvenirs, arts and craft and apparel	$200	$100	$50
Provision of fine art services	$500	$250	$50

(R.A. 44/2014, s. 9)