



ANGUILLA

A BILL FOR

FESTIVALS DEVELOPMENT COMMISSION ACT, 2025

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A BILL FOR
FESTIVALS DEVELOPMENT COMMISSION ACT, 2025

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I Assent

Julia Crouch, OBE
Governor

Date

ANGUILLA

NO. /2025

A BILL FOR

FESTIVALS DEVELOPMENT COMMISSION ACT, 2025

[Gazette Date: , 2025] [Commencement: Assent under section 32]

An Act to provide for the establishment of a body corporate to develop, promote, manage and regulate festivals and to provide for connected and incidental matters.

ENACTED by the Legislature of Anguilla

PART 1

INTERPRETATION, OBJECTS AND FUNCTIONS

Interpretation

1. (1) In this Act—

“Board” means the governing body of the Commission;

“Commission” means the Festivals Development Commission;

“corporate vehicle” means public company, trust, foundation or trust company;

“festival” means a national celebratory event that has been licensed as such in accordance with section 5;

“Fund” means Festivals Commission Fund;

“Minister” means the Minister assigned the portfolio for culture;

“Ministry” means the Ministry responsible for culture;

“regulate” in relation to festivals includes to organise, commission, fund, support, market, advertise or act as project manager; and

“Permanent Secretary” means the Permanent Secretary in the Ministry assigned the portfolio of culture.

(2) The Ministry shall establish guidelines to determine when a national celebratory event is regarded as a festival and the Ministry shall publish a list of any national celebratory events that it considers to be a festival.

Establishment of the Commission

2. (1) The Commission is established.

(2) The Commission—

- (a) is a body corporate;
- (b) has perpetual succession and a common seal;
- (c) can sue and be sued in its corporate name; and
- (d) is a Government agency and is responsible to the Ministry for the performance of its functions under this Act.

Objects of the Commission

3. The objects of the Commission are to—

- (a) endeavour to make festivals national, cultural and commercial enterprises which are economically viable;
- (b) promote and market festival and cultural events locally, regionally and internationally;
- (c) provide the necessary advisory, consultative, managerial and support services for the efficient and effective presentation of festivals;
- (d) educate and foster the historical, social and cultural heritage associated with festivals;
- (e) develop and establish arrangements for the preservation and display of festival products created each year;
- (f) stimulate the development of local talents in collaboration with the Department of Youth and Culture through training, competitions, exhibitions, pageants, parades and other festival activities as the Commission may, from time to time, determine;
- (g) support the work of other bodies engaged in the implementation of cultural development programmes; and

- (h) operate in a corporate environment that promotes modern principles of sound corporate governance.

Functions of the Commission

4. (1) The Commission is empowered to perform the functions necessary to fulfil its objects and in particular the Commission shall—

- (a) develop, publish and keep under review the rules, regulations and procedures for the conduct of festivals;
- (b) regulate, manage and evaluate festivals;
- (c) identify and promote festival related industries and activities as determined by the Board;
- (d) develop and implement a yearly marketing strategy for festivals with a view to optimising the revenue-earning potential of these festivals and their contribution to the national economy;
- (e) licence, regulate and support festivals;
- (f) raise funds, accept grants and secure sponsorship for the development and conduct of festivals;
- (g) engage in commercial activities to finance the operations of the Commission including the manufacture and sale of festival products;
- (h) open, maintain or close an account with any bank in Anguilla that holds a licence under the Banking Act;
- (i) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) on the premises of the Commission;
- (j) regulate and control admission to any venue for any event or activity conducted or promoted by the Commission;
- (k) grant advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Commission;
- (l) grant or dispose of rights to televise, broadcast or record any event or activity conducted or promoted by the Commission;
- (m) restrict, control and charge fees for the use of official insignia;
- (n) participate (whether as a member or otherwise) in, host or otherwise be involved in the activities of national or international organisations or associations involved in the developing and promoting of festival activities;

- (o) hold, acquire, deal with or dispose of intellectual property (including patents and copyright) and guide artistes and cultural practitioners on the protection of intellectual property;
 - (p) make reasonable contributions to charitable or philanthropic causes by way of sponsorship or otherwise; and
 - (q) encourage bilateral exchanges with foreign organisations or associations with the prime purpose of promoting festivals.
- (2) The marketing strategy referred to in subsection (1)(d) shall consider the—
- (a) establishment of closer promotion links between the tourism industry and the industries associated with festivals;
 - (b) contribution by the private sector to the funding of specific aspects of a festival;
 - (c) possibility of marketing of festival products and activities in domestic and export markets; and
 - (d) unexplored potential of festivals.

(3) The Commission may charge a fee for any licence, facility, service, activity, event or the grant of any right specified in subsection (1).

Licensing of festivals

5. (1) A person or entity desirous of hosting a festival and who would like to receive assistance from the Commission may apply to the Commission for a licence to do so.

(2) The grant of a licence by the Commission to host a festival allows the Commission to assist the licensee in accordance with the guidelines published by the Board.

(3) A person or entity desirous of hosting a festival without obtaining a licence to do so shall not be eligible for assistance by the Commission and shall conform to any scheduling requirements issued by the Commission.

(4) A person or body who holds an un-licensed festival in breach of the scheduling requirements of the Commission commits an offence and is liable on summary conviction to a fine not exceeding \$7,000.

Public function during Anguilla Summer Festival

6. (1) It is unlawful to advertise, promote, represent or hold any festival or public function for paid entertainment mentioned in the Schedule during the period designated as the Anguilla Summer Festival without the prior written approval of the Commission.

(2) A person or body who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$7,000.

(3) The Minister may amend the Schedule by regulations.

PART 2
ADMINISTRATION

Appointment of the Board

7. (1) The Commission shall be managed by a Board of 7 Commissioners appointed by the Minister, of whom—

- (a) 3 are *ex officio* members selected in the following manner—
 - (i) a representative of the Department of Youth and Culture,
 - (ii) a representative of the Ministry of Finance, and
 - (iii) a representative of the Anguilla Tourist Board;
- (b) one is the National Youth Ambassador or another suitably qualified, unaffiliated youth representative;
- (c) one person with a background in corporate governance, business administration, financial management or human resource development;
- (d) one person with a background in festivals management, events planning, public relations, marketing or communications; and
- (e) one person representing either the Boat Racing Association or the public interests.

(2) The Minister shall designate a Commissioner to be the Chairperson and a Commissioner to be the Deputy Chairperson but an *ex officio* Commissioner is barred from holding any of these positions.

(3) A notice of the appointment of a member shall be published without delay in the *Gazette*.

(4) Where a member is—

- (a) absent from Anguilla; or
- (b) unable to act;

the Minister may appoint another eligible person to act during the member's absence or inability to act.

(5) A Commissioner shall be appointed for a term not exceeding 2 years and shall be eligible for re-appointment.

(6) The Board is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member other than a disqualification referred to in subsection (7).

(7) A person is disqualified from being appointed and from remaining a member of the Board if the person—

- (a) is under the age of 18 years;
- (b) is a member of the House of Assembly;
- (c) is an officer or employee of the Commission;
- (d) is an undischarged bankrupt;
- (e) is of unsound mind; or
- (f) has been convicted of a sexual offence or an offence involving dishonesty whether in or out of Anguilla.

Duties and powers of the Board

8. (1) The Board is responsible for fulfilling the objects and functions of this Act and in this regard shall oversee and be responsible for the management of the operations of the Commission.

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

Committees of the Board

9. (1) The Board may appoint one or more committees to—

- (a) inquire into and advise it on matters within the scope of its functions; and
- (b) exercise the powers and perform the duties of the Board in accordance with its delegation or referral.

(2) The delegation or referral of a power or duty to a committee does not relieve the Board of responsibility for the execution or performance of the power or duty or for the actions of the committee.

(3) A Commissioner shall be appointed to each committee of the Board.

Special Committee of the Board

10. (1) The Board shall establish a special committee entitled the Historical and Cultural Committee which shall be responsible for—

- (a) ensuring that the historical and cultural knowledge and impact of the colonization process, slavery, emancipation and creolization are developed and infused throughout the Anguilla Summer Festival and any pre and post related events;
- (b) ensuring that descendants of enslaved Africans are educated about the strength, endurance, resolve and aspirations of a people who survived chattel slavery;

- (c) ensuring that the legacy of enslaved Africans are remembered, honoured and cherished;
 - (d) educating with a view to redressing the negative sociological impact of imperialism and chattel slavery on Africans who are descended from enslaved Africans; and
 - (e) educating persons on the richness of African and Anguillian culture pre-slavery and post-slavery.
- (2) The Historical and Cultural Committee shall comprise of—
- (a) a scholar of Caribbean history or African studies;
 - (b) a representative of the Anguilla National Trust;
 - (c) a Commissioner;
 - (d) 2 persons nominated by the University of the West Indies; and
 - (e) 2 other persons appointed by the Board.
- (3) A member of the Committee does not have to be an Anguillian or reside in Anguilla.
- (4) The Board shall appoint an employee of the Commission as secretary to the Committee.

Co-opting of persons

11. (1) The Board may co-opt a person to assist it or a committee of the Board with any matter where it is satisfied that the person's experience or qualifications are likely to strengthen its competence.

(2) No funds shall be transferred to the person co-opted under subsection (1) unless the full terms of reference (and any amendments) have been forwarded to the Permanent Secretary.

Governance of the Board

12. (1) The Board shall be collectively responsible for the corporate governance, financial stewardship and general oversight of the Commission.

- (2) In keeping with subsection (1), the Board shall—
- (a) ensure that the system of internal control is appropriate for the financial, personnel and corporate needs of the Commission and conforms to internationally recognised standards;
 - (b) develop specific and measureable objectives and performance targets for the Commission;
 - (c) submit to the general financial oversight by the Permanent Secretary in the Ministry responsible for Finance to ensure that the Board is accountable for implementing sound financial management;

- (d) advise the Minister on matters of general policy relating to the management of the Commission; and
- (e) prepare and publish a code of conduct for Commissioners, a statement of corporate intent, business plans and quarterly or annual reports.

(3) In performing its functions in accordance with subsections (1) and (2), the Board shall not interfere with the day-to-day management of the Commission or exercise control that is inconsistent with the proper separation of governance and executive responsibilities.

Statement of corporate intent

13. (1) Each Board of the Commission shall provide a statement of corporate intent to the Minister and the Permanent Secretary in the Ministry responsible for Finance within 3 months of its appointment.

(2) A statement of corporate intent shall have a medium term scope with a focus on the forthcoming financial year and shall include—

- (a) the objectives of the Board consistent with the Government's objectives for the development of festivals and more generally Anguillan culture;
- (b) a description of its core business and the nature and scope of the activities to be undertaken;
- (c) the ratio of consolidated owners' funds to total assets, and definitions of those terms;
- (d) the accounting policies;
- (e) the expected medium term performance in relation to its objectives;
- (f) the kind of information and feedback expected to be provided to the Minister by the Board during its tenure;
- (g) any activity for which the Board seeks compensation from the Government (whether or not the Government has agreed to provide compensation); and
- (h) any other matter agreed to by the Minister and the Permanent Secretary in the ministry responsible for finance.

(3) The Permanent Secretary shall publish the statement of corporate intent on the website of the Government.

Resignation and removal of Commissioner

14. (1) A Commissioner may resign by giving a letter of resignation to the Minister.

(2) The Minister may remove a Commissioner if he considers that it is in the public's interest to do so and reasons for the removal shall be provided to the Commissioner at the time of removal.

Role of the Ministry in relation to the Commission

15. The role of the Ministry in relation to the Commission is to—

- (a) provide guidance on ministerial policies and objectives and provide overall administrative support;
- (b) agree with the Chief Executive Officer and the Chairperson of the Board on a framework for target setting, output delivery and strategic performance management;
- (c) ensure that the relevant delegations and authorities necessary for effective delivery of services and continuous improvements have been made;
- (d) co-ordinate relevant mandatory induction and professional development training;
- (e) develop and foster a working partnership with the Chief Executive Officer, the Chairperson of the Board and the Ministry;
- (f) facilitate at least 2 yearly, formal meetings with the Minister;
- (g) assist the Board develop its statement of corporate intent and business plan; and
- (h) provide strategic performance monitoring but this does not include interference with the day-to-day management of the Commission.

Policy directions

16. (1) The Permanent Secretary shall publish any policy directions on the website of the Government as soon as they are made and forward a copy to the Permanent Secretary in the ministry responsible for finance.

(2) Any policy direction shall not—

- (a) interfere with a statutorily independent function;
- (b) require the performance or non-performance of a particular act, or the bringing about of a particular result in respect of a particular person or persons;
- (c) relate to the hiring, dismissal, promotion, pay or other employment arrangements for any employee;
- (d) relate to the awarding of a procurement contract;
- (e) interfere with the use of any Board discretionary powers to confer a benefit to a third party; and
- (f) unduly increase the cost of doing business unless there is written approval to do so from the Executive Council.

Appointment and role of Chief Executive Officer

17. (1) After consultation with the Minister, the Board shall appoint a Chief Executive Officer of the Commission who shall be responsible for the management of the Commission on behalf of the Board.

(2) Notwithstanding subsection (1) the Board shall not be subject to the direction or control of any person or authority in deciding whom it shall appoint as a Chief Executive Officer.

(3) Whenever the office of Chief Executive Officer is vacant or the Chief Executive Officer is absent from Anguilla or is unable to act, the Board may appoint an employee of the Commission to act on his or her behalf.

Appointment of employees

18. (1) In keeping with the business plan approved by the Ministry, the Board shall appoint employees as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Commission.

(2) Except for public officers who are seconded to the Commission, the Board is vested with the authority in respect of the appointment, termination, promotion or discipline of its employees.

Secondment of public officers

19. (1) The Deputy Governor may approve the secondment of public officers for service with the Commission as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers.

(2) A seconded public officer shall be subject to the laws governing the public service in relation to pension, gratuity and discipline and in relation to salary and other benefits.

(3) A seconded public officer shall receive remuneration and be granted conditions of work that are no less favourable than that which was enjoyed immediately before the secondment from the public service.

Transfer of public officers etc.

20. (1) A public officer may be transferred to the Commission but any transfer shall be permanent and shall be on terms and conditions of service that are not less favourable than the terms and conditions of service that were enjoyed by the public officer immediately before the transfer.

(2) The rights of a person referred to in subsection (1) to a pension, allowance or gratuity for which he or she would have been eligible had he or she remained in the public service are preserved, and his or her service with the Commission shall be pensionable under the Pensions Act as if the person had not been so transferred.

(3) A public officer transferred to the Commission shall, from the date of the transfer, cease to be a public officer.

PART 3
FINANCIAL PROVISIONS

Business plan

21. (1) The Commission must prepare a business plan in keeping with the business plan of the Ministry and shall submit the business plan to the Ministry for approval.

(2) The business plan shall contain—

- (a) strategic priorities for the medium-term that are compatible with the priorities of the Ministry;
- (b) a description of how the Commission is responding to the changing environment;
- (c) the specification of services to be delivered in the coming financial year with details of—
 - (i) the outputs to be provided,
 - (ii) the strategic priorities and outcomes that the outputs will contribute to,
 - (iii) measurable indicators of performance where feasible, and
 - (iv) the budget allocated to the outputs;
- (d) payments on behalf of the Commission including grants, benefits and subsidies to be paid;
- (e) significant capital developments;
- (f) a description of its plans to develop the capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (g) a summary budget including forecast financial statements;
- (h) financial and other assumptions;
- (i) a statement of fiscal risks;
- (j) any other matter that the Permanent Secretary in the Ministry responsible for Finance requires that is in keeping with the financial administration practice of the Government; and
- (k) any other matter required by the Minister.

(3) The Minister shall table the business plan in the House of Assembly as soon as it is made and shall publish a copy on the website of the Government.

Financial resources

22. The financial resources of the Commission consist of—

- (a) money appropriated by the House of Assembly for the purposes of the Commission;
- (b) any money and property paid or provided to the Commission by way of grants, fees, subsidies, donations, gifts, charges, rent, interest and other income derived from the investment of the Commission's funds;
- (c) any money derived from the disposal of or dealing with real or personal property;
- (d) money borrowed in accordance with the approved business plan; and
- (e) all other moneys lawfully received by or made available to the Commission.

Duty to keep accounts

23. The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and must do all things necessary to ensure that—

- (a) all moneys received are properly brought to account;
- (b) all payments out of its moneys are correctly made and properly authorised; and
- (c) adequate control is maintained over its property and over the incurring of liabilities by the Commission.

Maintenance of proper accounting records

24. (1) The Chief Executive Officer shall keep proper accounting records including: accounts, books, deeds, contracts, vouchers and receipts, for—

- (a) all sums of money received and expended by the Commission and the matters for which the receipt and expenditure takes place;
- (b) all sales and purchases of goods and services and other related transactions for the Commission; and
- (c) the assets and liabilities of the Commission.

(2) The accounting records shall explain all monetary transactions by the Commission and shall—

- (a) contain sufficient details to enable a transaction to be understood;
- (b) disclose with reasonable accuracy the financial position of the Commission at any time; and
- (c) be in a format that allows financial statements to be prepared and audited.

(3) Within 3 months after the end of each financial year, the Commission shall prepare accounts containing—

- (a) a statement of the assets and liabilities of the Commission at the end of the financial year;
- (b) a statement of the revenue and expenditure of the Commission during the financial year;
- (c) such other financial statements for the financial year as may be specified by the Governor in Council; and
- (d) proper and adequate explanatory notes to the financial statements.

(4) The financial statements shall be audited by an auditor appointed by the Executive Council but that auditor must first be approved by the Chief Auditor.

Period for which accounting records shall be maintained

25. The period for which accounting records under section 24 shall be maintained is 8 years beginning on the date—

- (a) on which all activities taking place in the course of the transaction in question were completed; or
- (b) of the ending of the business relationship for whose formation the record was compiled.

Establishment of Fund

26. (1) The Fund is established.

(2) The Fund shall comprise—

- (a) moneys appropriated by the House of Assembly;
- (b) revenue earned from services rendered;
- (c) gate receipts, sales, donations, grants and royalties;
- (d) loans raised by the Commission;
- (e) all sums from time to time falling due to the Commission for operations; and
- (f) funds provided from sources approved by the Permanent Secretary.

(3) The Minister in the ministry responsible for finance may give directions as to the amounts in which and times at which moneys referred to in subsections (2)(a) and (f) are to be paid to the Commission.

(4) Moneys appropriated under subsection (2)(a) may be disbursed only after the business plan of the Commission is approved and tabled in the House of Assembly.

Use of the Fund

27. The money comprising the Fund shall be applied in defraying the following charges—
- (a) the salaries, fees, remunerations, gratuities, severance pay and other benefits of the officers, agents, servants and technical and other advisers of the Commission;
 - (b) principal and interest on any loan raised by the Commission;
 - (c) sums as may be considered appropriate to be set aside in respect of depreciation on the property of the Commission; and
 - (d) any other expenditure or obligation authorised by the Commission and properly chargeable to revenue.

PART 4**PENALTIES AND GENERAL PROVISIONS****Penalties**

28. (1) Any person employed by the Commission or any Commissioner who—
- (a) fails to either produce financial information in the manner directed or fails to provide a written statement to the Permanent Secretary in the Ministry responsible for Finance or the Permanent Secretary, the Chief Auditor or any auditor;
 - (b) fails to appear before the Chief Auditor;
 - (c) fails to comply with any aspect of the Public Procurement and Contract Administration Act;
 - (d) obtains any sum of money from the Commission by means of false representation;
 - (e) produces a document that he or she knows, or ought to know, is false or misleading in a material particular;
 - (f) uses abusive, threatening or insulting language to any person carrying out their official role in relation to this Act; or
 - (g) wilfully destroys any document whether electronically or in paper format with the intention of concealing information, impeding an investigation or frustrating any audit;

commits an offence and shall be liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of one month or to both.

(2) Notwithstanding subsection (1), any person who through any act or omission made in good faith commits an offence contrary to subsection (1) shall not be liable for the offence.

Exemption from duties and taxes

29. The Commission is not liable to pay any import duty, stamp duty, income tax, municipal tax, rate or any other duty or tax whatsoever.

Regulations

30. (1) The Minister may make Regulations for giving effect to any of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations—

- (a) prescribing matters required or permitted to be prescribed by this Act;
- (b) providing for matters as may be—
 - (i) contemplated by or necessary for giving full effect to this Act and for its administration, or
 - (ii) incidental to or consequential upon any provision of this Act;
- (c) providing for the admission to festivals or events held by the Commission and for the exclusion or expulsion of members of the public to or from premises of the Commission or a part of those premises;
- (d) guiding the licensing of festivals;
- (e) providing for the operations and procedures of the Board and its committees;
- (f) prohibiting or regulating any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted on premises of the Commission, and
 - (ii) protecting property under the care or control of the Commission;
- (g) prohibiting or regulating the driving or parking of vehicles on premises of the Commission; and
- (h) providing for the management (including disposal) by, and vesting in, the Commission of unclaimed property and prizes.

Consequential amendment

31. The Public Procurement and Contract Administration Act is amended in section 2(b) by inserting the following—

“viii(a) Festivals Development Commission Act”.

Commencement

32. This Act comes into force on a day the Minister appoints by Notice in the *Gazette*.

Citation

33. This Act may be cited as the Festivals Development Commission Act, 2025.

SCHEDULE

(Section 6(1) and (3))

PAID ENTERTAINMENT DURING ANGUILLA SUMMER FESTIVAL

1. Beauty pageants;
2. Musical and dancing shows or presentations but not including the provision of music for dancing by the general public; and
3. Cinematographic exhibitions.

Tara Carter
Speaker

Passed by the House of Assembly this day of . 2025.

Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(The objects and reasons do not form part of the Bill)

The objects and reasons of the Bill for the Festivals Development Commission Act is to strengthen the cultural and creative industries by enhancing the governance and delivery of national festivals.

This Bill seeks to provide for the establishment of a body corporate to develop, promote, manage, regulate festivals and related incidental matters. The Bill is divided into four parts.

Part 1 of the Bill (**Clauses 1-6**) provides for preliminary matters. This includes the establishment of the Commission, gives the objects of the Commission, outlines the functions of the Commission, makes provision for the granting of licence for festivals, speaks to events held without permission during the Anguilla Summer Festival.

Part 2 of the Bill (**Clause 7-20**) stipulates the administration of the Commission. It provides for the appointment of the Board, its duties and governance the co-opting of persons to assist the Board and the statement of corporate intent. The resignation and removal of a commissioner and the role of the Ministry. It provides for the appointment of the Chief Executive Officer and other employees, the secondment of public officers and the transfer of public officers and other related matters.

Part 3 of the Bill (**Clause 21-27**) speaks to the financial provisions including the submission of a business plan, the financial resources, duty to keep accounts, the maintenance of proper accounting records, the period for which accounting records shall be maintained and the establishment and use of the Fund.

Part 4 of the Bill (**Clause 28-33**) provides for general provisions including the penalties for offences committed under the Act, exemption from duties and taxes, the power to make Regulations, consequential amendments to the Public Procurement and Contract Administration Act, the commencement and citation of the Bill.

The **Schedule** lists the events that are deemed to be paid entertainment during the Anguilla Summer Festival.