



Anguilla

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GUIDE TO DOING BUSINESS: ANGUILLA

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**Please note that references to statutory enactments are,
unless otherwise stated, references to Acts or Regulations
of the Revised Statutes of Anguilla 2008.**

1. ANGUILLA AT A GLANCE

1.1 Geography

Anguilla is a British Overseas Territory located 150 miles east of Puerto Rico and 6 miles north of the French/Dutch island of Saint Martin/Sint Maarten, with which it has a half-hourly ferry service. The islands of St. Barths, St. Kitts, Nevis, St. Eustatius, Saba and the Virgin Islands are nearby. Anguilla is the most northerly of the Leeward Islands and falls within the Eastern Time zone (GMT -4 hours). The airport is located at Latitude: 18° 12' 17.399N (18.204833°) Longitude: 63° 3' 18.299W (-63.055083°) at an elevation of 94 feet (29 metres).

The island is sixteen miles long and an average of about two miles wide with an area of 35 square miles. It is composed of limestone and coral and is generally flat (highest point 213 feet or 65.5 metres). Anguilla's climate, like the rest of the Eastern Caribbean, is tropical and mostly sunny all year round, cooled by the North East Tradewinds and with a mean monthly temperature of 80° Fahrenheit (27° Celsius). However the island does suffer from the infrequent risk of hurricanes during the period from July to November each year. Mean annual rainfall is approximately 40 inches (1,016mm).

1.2 Currency

The Official Currency is the Eastern Caribbean Dollar, which is a strong and stable currency that has been pegged to the United States Dollar at EC\$2.70 to US\$1 since 1976. United States currency is also used freely.

1.3 Language and Culture

The Official Language is English, though Spanish is spoken by the descendants of Anguillians who were born in the Dominican Republic.

There are no cultural or religious influences or prohibitions which have a negative impact on the conduct of business on the island, although gambling (other than on the National Lottery) is a proscribed business.

The principal religious denomination is the Anglican Church, although many other denominations are strongly represented.

1.4 Infrastructure

Because of its relatively flat topography, Anguilla has a good road network with about 60 miles or 95km of paved roads. There is no rail system or public transportation. The population of Anguilla was 11,430 according to the 2001 census (a new census was taken in 2011 but the result is not yet available) and there are over 7000 motor vehicles; itself a testament to the standard of living enjoyed by Anguillians. Visitors may rent a variety of vehicles from reputable local and international car rental companies. There are two main seaports, one for cargo from the US, Puerto Rico and elsewhere and one for passengers and light cargo between Anguilla and St. Martin/St. Maarten. There is a single airport, which is served by local airlines such as Liat and Cape Air. Interconnection to international flights is also available through St. Maarten, Antigua and San Juan, Puerto Rico. As an up-market tourist destination, heavy use is also made of the airport by private jets.

Water is supplied by the government and private companies. The government operates a desalination plant, which provides piped water to residents, while private companies provide bulk water delivery services to residents and businesses.

1.5 Communications

The telecommunications sector was liberalized some eight years ago, and this has introduced competition and stimulated the introduction of new technology. Lime (Cable & Wireless) remains the sole provider of fixed line telecommunications services, but there are now three providers, including Lime, of internet services and three providers of cellular services. There is a single provider of cable television services, which is also one of the three broadband internet suppliers. Although the Government sold a substantial proportion of its stake in the electricity company earlier in the decade, together with the shareholding of the Social Security Board (whose board it appoints) it does, for all practical purposes, still command a controlling interest in the company, the remaining shares being held by the two indigenous banks (13%) and by members of the general public (21%).

2. GENERAL CONSIDERATIONS

2.1 Investment Policies

As a vibrant financial services jurisdiction, both the public and private sectors contribute to the growth of Anguilla's economy by actively courting and promoting new avenues for investment. While the brief of The Financial Services Commission is regulatory, it collaborates with the Government and the private sector to promote Anguilla overseas.

Anguilla's zero-tax environment is an especially attractive component of its appeal and, coupled with its reputation as a well-regulated jurisdiction, marks it out as a quality offshore jurisdiction.

The jurisdiction has modern mutual funds and insurance legislation, both designed to enable Anguilla to compete strongly with other jurisdictions established in those fields.

2.2 Anguilla's Economy

Anguilla's economy is primarily based on tourism, followed by the financial services sector. The modest agricultural production is almost entirely used for domestic consumption. It can therefore be said that the primary natural resources of Anguilla's 35 square miles are its climate, beaches, marine life and diving sites. Their exceptional qualities draw Anguilla's tourists, who form the backbone of its buoyant economy. Fishing and boat building (a longstanding tradition of excellence in Anguilla) also contribute.

There is an avowed policy of favouring up-market tourism, while discouraging the mass-market tourism industry. The convenient location of Anguilla, its vibrant culture and friendly people have together enabled Anguilla to realise this aim, with a number of world class hotels and restaurants that is disproportionate to the island's size and population.

Anguilla has historically enjoyed a very low inflation rate, but this came to an end in the middle of the last decade when the boom in Anguilla's economy had drastic effects on the country's rate of inflation which was recorded as 8.4% in 2006 and which has remained high ever since. Partly to blame was the universal increase in oil prices in 2006 which led to increased costs for fuels and other imports. However, increased spending

and burgeoning construction were contributory factors. The subsequent global economic crisis has contributed to the economy's difficulties, resulting in some failed development projects and a need for an enforced austerity programme to restore a balanced budget. At the time of writing the tourism industry is demonstrating considerable resilience, however, and there appears to be room for optimism for the future provided appropriate measures are followed.

2.3 Financial Services Industry

Anguilla began to develop a financial services industry following the 1993 Mokoro Report, which concluded that Anguilla's offshore financial services were a natural concomitant to the tourism industry. The British and Anguillian Governments embarked on a progressive programme to launch Anguilla as an upmarket, well-regulated and exclusive financial services centre. The result of this was an extensive legislative reform programme, culminating in the 1994 enactment of legislation designed to encourage the development of a well regulated offshore financial services industry. The significant growth in government revenues earned from the financial services sector over the last few years is a testament to the success of the policies to date. There are ambitious plans for the future and, within the past few years, Anguilla has made significant strides in its efforts to position itself as a major player in the international financial services arena.

2.4 Diplomatic Relations

Because the United Kingdom retains responsibility for Anguilla's foreign affairs, there are no embassies established in Anguilla nor does Anguilla maintain any overseas. Anguilla does, however, have membership (Associate Membership in most cases) in regional associations such as the Caribbean Community (CARICOM), the Organisation of Eastern Caribbean States (OECS), the Eastern Caribbean Central Bank (ECCB), the Caribbean Development Bank (CDB), the Eastern Caribbean Securities Regulatory Commission (ECSRC) and the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). In addition to these organizations, by virtue of the Diplomatic Privileges (Extension) Act Anguilla has extended diplomatic privileges and immunities to several international organizations. These organisations are declared to be accorded diplomatic privileges by Order of the Governor in Council and these privileges extend to representatives, officers and members of staff of the organisations concerned.

3. GOVERNMENT AND POLITICS

3.1 Constitutional Position

Anguilla is one of Britain's Overseas Territories in the Caribbean. Although essentially self-governing, the Governor, appointed by the British sovereign, is Head of State and is responsible for foreign affairs, defence, internal security and international financial services. The legal system is based on English common law. Being a dependency, the country has no armed forces.

3.2 Form of Government

Under the present constitution, introduced in 1976 and amended in 1982 and 1990, a Westminster style government exists, consisting of the Governor, an Executive Council and a House of Assembly or Legislative Council. The Governor acts as chairman of the Executive Council. The Executive Council comprises the Chief Minister, the three other ministers, the Deputy Governor and the Attorney General and is responsible for day-to-day government. The legislative Assembly is presided over by a Speaker of the House and comprises the Chief Minister, the three other ministers, the leader of the Opposition and two more elected members, making a total of seven elected members. In addition, there are two members nominated by the Governor and two ex-officio members: the Deputy Governor and the Attorney General.

Voting for the seven elected members of the House of Assembly is by secret ballot, with international observers overseeing the whole process. All Anguillian citizens and "belongers" aged 18 and upwards are eligible (required) to register and vote in these elections. Voter turnout is normally about 75%. Like most parliamentary democracies, the results are determined by the "first past the post" system. The most recent election took place in February 2010.

3.3 Organisation of Government

The principal issue facing Anguilla's government is that of overseeing reasonable and orderly development of the island's economy, while safeguarding the natural resources upon which that economy is dependent.

The affairs of the Government are run by departments, each headed by a Minister and a Department Permanent Secretary, who is the chief

executive/administrative officer for the department concerned. Legal matters are handled by the office of the Attorney General.

3.4 Government Stability

Since the political upheavals of the late 1960s and early 1970s, when Anguillians rebelled against Anguilla's continued membership of its federation with St. Kitts and Nevis, the political climate remained stable for many years. Following a change of government in the February 2010 election, however, and the strains imposed by the financial stresses in the economy, the political landscape has become somewhat less predictable. The present Government is an amalgam of the former main opposition party and one elected member from a new party, who has crossed the floor to increase the majority in the House held by the governing party.

3.5 The Constitution

Unlike its mother country, Anguilla has a written Constitution, comprised in the Schedule to The Anguilla Constitution Order 1982 (UK Statutory Instrument 1982 Number 334, amended in 1990). The significance of this is that whereas in the United Kingdom Parliament is supreme, and is guided by established conventions, in Anguilla the Constitution is the supreme law of the land and the Government must conduct its affairs in accordance with the Constitution. In fact, in cases where Government is deemed to have acted ultra vires the Constitution, it can be required to annul such actions. This constitutional supremacy reinforces the doctrine of separation of powers. The enactment of laws is the domain of the Legislative Council. Bills are introduced into the House of Assembly, which is a unicameral legislature, for debate. Enactment is achieved after three successive readings in the House of Assembly and upon assent by the Governor. Additionally, certain laws passed in the United Kingdom are extended to apply to Anguilla.

3.6 Judicial System

The judicial system in Anguilla is part of the Eastern Caribbean Supreme Court, also comprising the territories of Antigua & Barbuda, the British Virgin Islands, Grenada, the Commonwealth of Dominica, Montserrat, the Federation of Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines. In Anguilla there is a High Court of Justice with a resident High Court Judge, whose jurisdiction is original and unlimited. This judge presides over both civil and criminal matters. There is also a Magistrate's Court, whose jurisdiction is statutory.

The basis of the legal system is English common law, together with relevant local statutes. A new version of the Civil Procedure Rules was introduced in 2000 (and subject to periodic amendment and improvement since), the aim of which is to accelerate the progress of litigious matters, with simplified procedures as a natural corollary of that aim. The new rules also make provision for alternative methods of dispute resolution, such as arbitration and mediation. These two types of alternative dispute resolution are frequently employed in the resolution of disputes under international contracts. Foreign judgments may be enforced through the Reciprocal Enforcement of Judgments Act. As the name suggests, this Act operates on the basis of reciprocity. Alternatively, parties may choose to make their contracts enforceable by the laws of another jurisdiction.

Appeals from both the High Court and the Magistrate's Court lie to the Eastern Caribbean Court of Appeal, while further appeals are to the Judicial Committee of the Privy Council in the UK. It is now thought that in appropriate cases further appeal could lie to the European Court. The Supreme Court and the Magistrate's Court are all located in the capital of Anguilla, The Valley. A three Judge panel of the Eastern Caribbean Court of Appeal sits in Anguilla during rotations within the territories comprising the Eastern Caribbean Supreme Court.

By virtue of what is now the Common Law (Declaration of Application) Act, originally enacted in 1705, Anguilla adopted the English Common Law, subject to any modifications thereof, enacted either locally or by extension of English enactments.

Anguilla's current laws were the subject of a revision and consolidation resulting in the Revised Statutes and Regulations of Anguilla 2000. The Courts also rely heavily on the jurisprudence of the Commonwealth as a whole, including the wider Caribbean, although strictly speaking only the jurisprudence of the Eastern Caribbean Supreme Court and of the Privy Council is binding on them.

3.7 Conservation

Like the majority of countries in the world, Anguilla is concerned about the impact of development upon the environment. Evidence of this can be seen in the Physical Planning Bill 2001. This Bill, which has not been formally enacted but which the Department of Physical Planning nevertheless publishes as its benchmark, creates a physical Planning Board and establishes offences relating to the destruction of land and the environment. The offences relate to the destruction of plant (defined as

any "terrestrial or marine flora") and the making of land unsightly through the use of it as a dump for refuse, derelict vehicles, waste etc. It confers on the Board powers, in appropriate cases, to issue orders such as plant preservation orders or amenity orders and to designate areas as Environmental Protection Areas.

4. INTELLECTUAL PROPERTY

The trademark and intellectual property laws of Anguilla comply with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

4.1 Copyright

Copyright in Anguilla is governed (as regards infringements) by the Anguilla Copyright Act, and (as regards general copyright law) by the UK Copyright Act 1956 as extended to Anguilla.

Protection is afforded to the owners and authors of all literary and artistic works of an original nature. This includes dramatic and choreographic works and even extends to sermons. The duration of copyright in Anguilla is the usual 50-year period after the death of the author or, in the case of joint authorship, after the death of the last surviving author. This period may vary in the case of works of applied art, collective work or work published anonymously.

The economic rights of the copyright owner are assignable in whole or in part and such assignment must be made in writing. Moral rights under the Act are not transmissible by the owner except by testamentary disposition or by operation of law upon the death of the owner/author. The owner/author may however waive those rights provided that such waiver is in writing and specifies the nature and extent of the waiver.

Criminal liability will arise in instances of infringement. In such cases a person found guilty may be fined and or imprisoned for infringement of a right protected under the Act. Civil remedies - most commonly injunctive relief, damages, seizure and destruction - are available to a wronged party.

The law is very stringent in the prosecution of infringement and the usual privilege against self-incrimination and spousal incrimination is negated under the Act.

4.2 Trademarks

Trademarks are registered in Anguilla under the Anguilla Trade Marks Act. In recognition of the exclusive right conferred on a holder of a licenced mark, the legislation is strict in its protection and there are civil and criminal penalties for infringement.

- (a) A trademark may not be registered under the Trade Marks Act if it is:
 - (i) identical to a trademark already on the register with respect to the same goods or description of goods;
 - (ii) deceptive or calculated to deceive;
 - (iii) of a scandalous design;
 - (iv) descriptive of the goods to which it relates.
- (b) A trademark may consist of any of the following:
 - (i) name of an individual or firm printed, impressed or woven in some particular or distinctive manner;
 - (ii) a written signature, or a copy of a written signature, of the individual or firm applying for registration thereof;
 - (iii) a distinctive device, mark, brand, heading, label or ticket;
 - (iv) an invented word or invented words;
 - (v) a word or words having no reference to the character or quality of the goods, and not being a geographical name.
- (c) Under the Trademarks Regulations, the Registrar applies the International Classification of Goods and Services as set out in the Nice Agreement which, in its latest updates, classifies Classes 1-34 for goods and Classes 35-45 for services.
- (d) The Act also provides for reciprocal treatment for community trademarks in the Official Journal pursuant to Rule 101 of the EC Commission Regulations.

- (e) Applicants who may have previously registered in other countries will be allowed recognition and given priority for those applications which fulfil the criteria set out in the international treaty, the Paris Convention.
- (f) Registration is valid for fourteen years and is renewable for further consecutive periods of fourteen years upon payment of the relevant fee. The Act also makes provision for the invalidation and removal of marks from the register on the grounds of non-use, and for changes in ownership and the correction of errors.
- (g) The Act makes provision for registration in Anguilla of trademarks that have already been registered in the United Kingdom.

In order to effect such registration, there must be submitted:

- (i) a certified extract of the United Kingdom trade mark register showing the registration of the mark therein;
- (ii) a notarised Power of Attorney or Authorisation of Agent.

If satisfied as to the validity of the application, the Registrar will issue a certificate of registration and the applicant will then have all the rights and privileges in the use of the trademark as would be conferred on him by United Kingdom law.

The registration is valid for the remainder of the mark's original registration period in the United Kingdom. Renewals are dependant on the renewal of the mark in the United Kingdom, and payment of a renewal fee in Anguilla.

An advantage of registration under the United Kingdom Act is that an applicant may dispense with some of the formal requirements such as advertising which are required under the domestic Act.

4.3 Patents

The registration of patents in Anguilla is governed by the Patents Act.

- (a) As in the case of Trademarks, the registration in Anguilla of a UK patent confers on the holder the like privileges and rights, subject to the like conditions, as if the patent had been granted in the UK with an extension to Anguilla. For the avoidance of doubt, the Act further determines what are "patentable inventions", and there are

civil penalties for their unauthorised exploitation. Provision is made for the exploitation by the government or an authorized third party where the public interest so requires, or where the manner of exploitation by the owner or his licensee is deemed to be anti-competitive.

- (b) Like the Trademarks Act, upon registration in Anguilla patent applications have priority in accordance with the Paris Convention.
- (c) A UK or European patent grantee may also re-register within 3 years of having obtained a UK grant by virtue of registration under the UK Patents Act 1977 and by virtue of the Convention on the Grant of European Patents (The European Patent Convention).
- (d) The Registrar must be given written notice of any change in ownership, which in turn will be published.
- (e) In legal proceedings involving companies, the company itself, together with the directors, manager, secretary or similar officers consenting to an offence under the Act will be prosecuted.

4.4 Geographical Indications

Under the Geographical Indications Act Anguilla provides protection to producers, manufacturers and traders dealing in products that derive a distinctive characteristic specific to its place of origin. Geographical indications which are contrary to public morality, have fallen into disuse or have no protection in their originating countries will not be afforded protection under the Act.

4.5 International Treaties in Intellectual Property Area

No international treaties have been entered into in the area of intellectual property. However some treaties entered into by the United Kingdom are extended to Anguilla.

4.6 Encryption / Digital Signatures

There is a general provision for digital signatures in the Electronic Transactions Act. However, for the specific purposes of the ACORN Companies Registry system, provision is made in section 4 of The Companies Registry Act for the filing of documents in the Companies Registry in electronic form and in section 6 for the electronic authentication of documents (digital signatures).

4.7 Privacy/Data Protection

What should be on the website?

The answer to this question will depend upon the business in which the website operator is engaged. There may well be circumstances in which a statement would be desirable to the effect that any person using the website will be deemed, for the purposes of the law, to have authorised the website operator to divulge certain information, of a type to be specified, to certain parties of a type to be specified, in the fulfilment of the website's business operations.

4.8 Evidence

How does the jurisdiction treat electronic evidence?

Under the Electronic Transactions Act it is provided that in proceedings in a court, tribunal or arbitration, whether of a legal, judicial, quasijudicial or administrative nature, the admissibility of an electronic record or an electronic signature in evidence shall not be denied solely on the grounds that it is an electronic record or an electronic signature.

There are also the Companies Registry provisions mentioned in paragraph 4.6 above.

Further, in any circumstances not covered by the substantive law on the treatment of electronic evidence, Anguilla would receive the corresponding law of England. Section 9 of The Eastern Caribbean Supreme Court (Anguilla) Act provides for "reception" of law in such circumstances, stating, in effect, that in the absence of relevant Anguilla legislation, the jurisdiction of the Anguilla court "...shall be exercised as nearly as may be in conformity with the law and practice administered for the time being in the High Court of Justice in England". This has been construed as an "open reception" provision for receiving the relevant law of England as enacted from time to time provided, of course, that Anguilla has not already legislated on the matter.

4.9 Hackers

Is there any computer misuse legislation?

Computer programs are protected under the Copyright Act.

Under sections 301 to 310 of The Criminal Code 2000, it is an offence for a

person, without lawful excuse, to destroy or damage property of another or to be reckless as to whether any such property would be destroyed or damaged. Although "property" in this context means property of a tangible nature, it has been held that where software has been damaged in such a way as to render its dependent hardware inoperable, such damage constitutes damage both to the software and to the hardware. While this consequence will not always be the result, it may well apply in many circumstances.

5. INVESTMENT INCENTIVES

5.1 Export Incentives

In Anguilla, there is no permanent direct taxation, although an Interim Stabilisation Levy has recently been introduced, which is effectively income tax charged at a rate of 3% of gross earnings. Even indirect taxation is very limited, which is why the territory is commonly regarded as a zero-tax jurisdiction. In terms of taxation on exports, the Export Duty Act imposes a duty on a very limited range of goods: livestock, lobsters and raw materials such as salt, sand and stone. The list is subject to amendment by the House of Assembly. There are no other applicable export taxes. There is therefore no scope for tax incentives for exports.

The Eastern Caribbean Central Bank (ECCB) (of which Anguilla is a member) operates an Export Credit Guarantee Scheme which provides pre-shipment insurance to assist exporters in procuring finance more easily from commercial banks and to promote exports from the ECCB region.

The ECCB has also undertaken the establishment of the Eastern Caribbean Enterprise Fund (ECEP) as a part of its commitment to foster the development of the private sector and money and capital markets in the Eastern Caribbean Currency Union (ECCU). The ECEP was incorporated in St Kitts and Nevis in October 2009 and is being positioned to be a mechanism for attracting investment capital and channeling resources to promote the development of private sector enterprises in the region. It is intended to complement existing financial services in the ECCU and to foster the creation and growth of productive sectors in the economies of the region through the injection of equity and debt financing and the provision of export insurance coverage and business advisory and consulting services.

5.2 Investment Incentives

Concessions are granted to inward investors by the Hotels Aid Act, which exempts all custom duties and pier dues (usually between 10%-30%) on all building materials and other articles of hotel equipment imported by properties with more than 10 rooms. These concessions are available for the construction of new hotels as well as the expansion of those already constructed. The Minister of Finance has authority to approve applications for this concession.

There are no hard and fast rules requiring local participation in inward investments. The majority of inward investments, however, are approved without any requirement of local participation.

6. FINANCIAL FACILITIES AND SUPERVISION

6.1 Supervision

Financial and banking facilities fall under the Eastern Caribbean Central Bank Agreement Act and the Banking Act.

The financial system is comprised of the commercial banks, insurance companies, development finance institutions and finance companies.

The ECCB is charged with regulating banking business on behalf of and in collaboration with the Government. The Banking Act gives responsibility for the financial system to the ECCB. The Minister of Finance has ultimate authority under the Act but is required to act in consultation with and on the recommendation of the ECCB, but in respect of the examination of banks and other financial institutions the ECCB has complete authority.

The banks operating in Anguilla are strict in their adherence to know-your-customer rules in opening and maintaining bank accounts.

There is no established stock market in Anguilla. However all securities dealing is regulated by the Eastern Caribbean Securities Regulatory Commission.

6.2 Existing Facilities

In Anguilla there are four commercial banks. Caribbean Commercial Bank

and the National Bank of Anguilla are indigenous banks. Scotiabank Anguilla is a locally incorporated branch of The Bank of Nova Scotia; while CIBC FirstCaribbean International Bank Ltd is part of the Canadian Imperial Bank of Commerce group.

There is also a mortgage company, a development bank, and several insurance and finance companies in Anguilla.

7. EXCHANGE CONTROLS

There are no foreign exchange control restrictions.

As in other jurisdictions, there are now certain disclosures and declarations to be made when transferring large sums of money into or out of the jurisdiction, but these are directed not towards exchange control but towards the combating of money laundering and fraud.

8. IMPORT/EXPORT REGULATIONS AND INCENTIVES

8.1 Treaties - European Union

As a British Overseas Territory, Anguilla does not generally enter into treaties or become a member of international organizations in its own right, with certain exceptions noted below.

However, as a British Overseas Territory, Anguilla is entitled to preferential treatment under the Lome Convention and has benefited from the European Development Fund:

- (a) Since 1976, major projects funded under the 4th, 5th and 6th EDFs have concentrated on the upgrading of infrastructure, including power supply and the water supply, storage and distribution system. Further finance has been allocated to a road development and maintenance programme, intended to improve access to commercial and tourism sites, including some funds used to repair damage to the road network in the wake of Hurricane Lenny in 1999.
- (b) In addition to its Indicative Programme allocations, the island has benefited, through the regional resources of the EDF, from the activities of several regional organisations, including the University of the West Indies (UWI), the Caribbean Tourism Organisation (CTO), the Caribbean Agricultural Research and Development Institute (CARDI) and the Caribbean Food Cooperation (CFC).

- (c) Under the 9th EDF, a further substantial allocation has been agreed, from which social, environmental and financial aspects are to be accorded increased emphasis in the programming.
- (d) In 2010 Anguilla benefitted to the tune of \$US4.3 million from the Caribbean Catastrophic Risk Insurance Fund (CCRIF), following the damage inflicted by Hurricane Earl.

8.2 Regional Projects

Regional projects relevant to Anguilla include: the Caribbean Export Development Agency (CEDA) which provides technical assistance and training for export manufacturers in the OECS countries including Anguilla; the ASYCUDA project, designed to improve customs collection; and the Caribbean Regional Tourism Development Programmes which aim to assist ACP States and OCTs to achieve sustainable growth in their tourism operations.

8.3 CARIBCAN

CARIBCAN was promulgated by Canada in 1986 to give duty free access to the Canadian market for most commodities originating in Commonwealth Caribbean countries, including Anguilla. On November 30, 2011 the WTO extended the CARIBCAN waiver until December 31, 2013.

8.4 Caribbean Community -CARICOM

As an associate member of CARICOM, Anguilla stands to benefit from treaties and trade initiatives proposed by the community. Anguilla will be part of the CARICOM Single Market and Economy, which is intended to remove all of the barriers to trade, with free movement of regional services, goods and capital, and people.

8.5 Organisation of Eastern Caribbean States - OECS

Anguilla is an associate member of the OECS. It has not fully embraced the economic union project adopted by the majority of OECS members in 2002. Since the development of this project remains fluid, no attempt will be made to describe its current status, details of which can be readily obtained from the Internet.

8.6 US Caribbean Basin Initiative - CBI

The CBI is a package of trade preferences designed to expand two-way trade and create incentives for the countries of the Caribbean Basin to continue improving their economies. Anguilla has not requested beneficiary status.

8.7 Import Duties

Import duties are one of the Government's principal sources of revenue and a major factor in the cost of living and of investing in Anguilla. The rate structure is complex but broadly speaking the principal rates vary between 15% and 25%.

The principal legislation is The Customs Act, which is supplemented by The Customs Administrative Costs Recovery Act. The former provides for the imposition of duties. The latter imposes a levy of 5% of the value of certain goods relieved from duty.

9. STRUCTURES FOR DOING BUSINESS, INCLUDING OFFSHORE STRUCTURES

9.1 Background

Anguilla has emerged as a leading offshore financial service center mainly due to its legal framework which was revised in 2000 and is constantly reviewed to take into account the developing needs of the financial marketplace and the advantages and disadvantages of competing legislation in offshore jurisdictions such as the British Virgin Islands, Bermuda and the Cayman Islands.

After careful consideration of all the similar British Commonwealth systems, Anguillian lawmakers have developed an excellent framework for the creation of corporate structures.

An Anguilla company can be incorporated within 24 hours after receipt of funds and completed forms, using the Anguilla Commercial Online Registration Network (**ACORN**). The delivery time for the documents varies, depending on their final destination. FedEx will deliver to the US in one working day. The UK takes two working days and Australia up to

four working days.

The Anguilla Financial Services Commission oversees the financial services sector. The Financial Services Commission's aim is to enhance the safety, stability and integrity of Anguilla's financial system and contribute to Anguilla being a premier financial center, through appropriate regulation and legislation, judicious licensing, comprehensive monitoring and good governance. The Financial Services Commission works in collaboration with the Anguilla Financial Services Association, which is the private sector association responsible for shaping the jurisdiction's financial services industry, and Anguilla Finance, a body formed to market the industry internationally.

9.2 The Anguilla Companies Act Company or **Anguilla Business Company** ("ABC") organized pursuant to the Companies Act (Revised Statutes of Anguilla, Chapter 65).

(a) An ABC is permitted to transact business both internationally and within Anguilla. Anguilla is a broadly tax-free jurisdiction and therefore enjoys an advantage over its competitors in many other offshore jurisdictions, where freedom from local taxation is generally dependent on using an International Business Company. An ABC is therefore no less tax efficient than an IBC and can be used instead of an IBC, although it has slightly stricter reporting requirements.

(b) The ABC is exempt from many filing and reporting requirements of a public company and may also be designed to function with a trust created under the Trusts Act. It has the flexibility to be adapted as a special purpose company for a wide variety of applications and, like an IBC, can be migrated in or out of Anguilla.

9.3 The **International Business Company** ("IBC"), organised pursuant to the International Business Companies Act (Revised Statutes of Anguilla, Chapter I20).

(a) An IBC is precluded from conducting business with persons resident on Anguilla, conducting banking or trust business, conducting insurance or reinsurance business, or conducting the business of providing company management services. An IBC may, within Anguilla, maintain bank accounts, retain professional advisors carrying on business within Anguilla, maintain corporate records, hold meetings and lease office space, without jeopardising

its offshore status.

- (b) IBCs are exempt from all taxes.
- (c) A IBC's name must end with a word, phrase or abbreviation thereof which indicates Limited Liability. There are still many company names available.
- (d) An Anguilla IBC is very flexible in terms of capitalization, shareholders, directors and shares of the company:
 - (i) There is no minimum Authorized Share Capital requirement;
 - (ii) The maximum Share Capital has no limitation and does not affect the Registration Fee or the Annual Fees;
 - (iii) One shareholder and one director is allowed and the same person can be the shareholder and director;
 - (iv) A director does not have to be a shareholder and directors and shareholders may be natural persons or corporate entities;
 - (v) Shareholders and directors may be of any nationality and residents of any country;
 - (vi) There is no requirement to hold an Annual General Meeting and, if one is held, it may be held anywhere in the world and by any means including by telephone or other electronic means;
 - (vii) There is no requirement to file any accounts or financial statements, or to appoint an auditor;
 - (viii) Shares can be issued with or without par value and may be issued in registered or bearer form;
 - (ix) Nominee shareholders and directors are allowed and there is no requirement for a secretary;
 - (x) When a meeting of shareholders or directors is held, a proxy may represent a shareholder or director and speak or vote on his behalf;

- (xi) Annual Fees are to be paid on the birthday of the company and every twelve (12) months thereafter.
- (e) An IBC must maintain a registered office in Anguilla and must appoint a licensed Anguillian company as the registered agent. Copies of the Articles of Incorporation, General by-laws, Certificate of Incorporation and Register of shareholders and directors must be kept at the Registered Office. The information on the Beneficial Owners is kept at the Registered Office but is not available to the public.

9.4 **The Limited Liability Company ("LLC")** organised pursuant to the Limited Liability Company Act (Revised Statutes of Anguilla, Chapter L65).

- (a) The LLC is based on a concept first enacted in Wyoming in 1977 and the subject of subsequent favorable IRS revenue rulings it has now been legislatively established in many states of the USA. LLCs are generally subject to the same restrictions and requirements as IBCs, though they have limited duration.
- (b) This form of unincorporated association has some of the features of a company, including capacity to sue and be sued, separate legal identity, ability to own and transfer property and limited liability of its members. It also has some of the features of a partnership. Unlike the position in some other jurisdictions, the establishment of an Anguillian LLC can create an economic interest transferable separately from the corresponding membership interest. A "member" of a properly constructed LLC is not a "shareholder" for the purposes of United States taxation and the entity may be treated as transparent. For this reason, the LLC is used primarily by United States residents or citizens. Members who make a "contribution" to the company have limited ownership and are entitled to a final dividend on dissolution, although interim distributions are permissible.
- (c) The debts, obligations and liabilities of an LLC are solely those of the LLC. They do not attach to the manager or members of the LLC. If a member of an LLC is sued and a judgment to pay money is issued against the member, the judgment creditor cannot reach the assets of the LLC.
- (d) The LLC can be used for a wide variety of purposes. The LLC Act

gives very wide scope to the LLC Agreement, which forms the principal constitutional document of the LLC but which is not required to be filed. In order for an LLC to be most effective, its LLC Agreement must be properly drafted to ensure that the characteristics of membership are correctly defined.

- (e) An LLC doing no business in Anguilla is exempt from all forms of taxation in Anguilla, whether on assets, income, dividends or distributions.
- (f) An LLC must have a registered office and registered agent in Anguilla, which must hold a licence as a company manager, trust company or offshore bank.
- (g) A person may be designated as manager of an LLC by the members. If no manager is designated, the management of the LLC can be exercised proportionately to the percentage share of the profits of the members.
- (h) The LLC can be of limited duration or have a perpetual lifespan. An LLC may be dissolved by the Court on specific grounds which include its carrying on business without any members. A dissolved LLC may be struck from the register but it may also be restored upon the payment of the requisite fees. An Anguilla LLC can continue (i.e. it can convert its corporate form) as either an IBC or an ABC. A foreign LLC can also continue into Anguilla. An LLC may depart from Anguilla and continue under the laws of a foreign jurisdiction.

9.5 **The Limited Partnership ("LP")** organized pursuant to the Limited Partnership Act (Revised Statutes of Anguilla, Chapter L70).

- (a) To identify its structure, a Limited Partnership's name must end with the words "Limited Partnership" or the initials "LP". Otherwise, Limited Partnerships are generally subject to the same restrictions and requirements as IBCs. An LP is often used as an investment vehicle.
- (b) It may be incorporated for any lawful purpose to conduct a certain business activity in Anguilla or abroad. The LP provides an attractive investment vehicle, particularly for the raising of venture capital, permitting the limited partners to be insulated from liability.

- (c) Anguilla law provides that partners may be individuals, corporations or other partnerships. The only restriction on the identity of partners is that the partnership must have at least one or more general partner(s) who is/are jointly and severally liable for all the partnership's debts, and at least one limited partner who is/are liable only up to the capital invested in the partnership. At least one of the general partners must be an Anguillan resident or company. A person may be a general and a limited partner at the same time.
- (d) The organization, activities and management of an LP is regulated by a Limited Partnership Agreement.
- (e) An LP must maintain a registered office in Anguilla and must appoint a licensed Anguillian company as the registered agent.

9.6 **The Protected Cell Company ("PCC")** organised pursuant to the Protected Cell Companies Act, 2004 (Revised Statutes of Anguilla, Chapter P107) (the "PCC Act").

- (a) A PCC is a company incorporated under the Companies Act but which holds assets in segregated "cells" under the PCC Act. Each of the cells legally exist and function separately from the others. Any asset which is linked to a particular protected cell account is held as a separate fund which does not form part of the general assets of the protected cell company, and is held exclusively for the benefit of the account owner of the protected cell account and any counterparty to a transaction linked to that protected cell account. Assets in such account are only available to meet liabilities to the owners and creditors of that protected cell account. The Act provides that any asset which attaches to a particular account shall not be available or used to meet liabilities to, and shall for all purposes be protected from, the general shareholders and from creditors of the company who are not creditors with claims linked to the particular protected cell account identified in the governing instrument.
- (b) The PCC was originally intended for the insurance and mutual fund industries to facilitate "rent-a-captive" operations and "umbrella funds". Because the debts and liabilities of one cell cannot be discharged from any other without express permission of cell "owners", this is a useful tool for asset protection purposes and for insurance and fund business, as it enables a more proactive and more speculative approach to be considered for at least a part of the

funds concerned, while at the same time protecting other funds from creditors. All prospective Protected Cell Companies are required to apply for licensing specifically as a PCC prior to incorporation, and each "cell" is also required to be specifically approved along with the cell "owner".

- (c) The PCC Act caters for flexible use, by providing that any company which is incorporated under the Anguilla Companies Act, if it is engaged in insurance business, or, if it is not so engaged, with the approval of the Financial Services Commission, can, by filing the prescribed notice and application, be registered as a PCC.
- (d) A PCC operates in two parts, with a core and an unlimited number of cells. Each cell is required to appoint a protected cell account representative, whose duties are similar to those of a registered agent for other companies incorporated in Anguilla.

9.7 Foreign Companies doing business in Anguilla under the Anguilla Companies Act

- (a) Branches of foreign registered companies doing business in Anguilla must register as a foreign company under the Companies Act. The documentation requirements for registration are notarized copies of the constitutional documents of the Company.
- (b) A foreign company doing business in Anguilla must maintain a registered office in Anguilla and must appoint a licensed Anguillian company as the registered agent. The registered agent must be furnished with certain information which is held confidentially, such as the names, addresses and country of citizenship of all of the directors of the company as contained in the Register of Directors of the company.

9.8 **Hedge Funds** (whether incorporated or unincorporated) - The Mutual Funds Act (Revised Statutes of Anguilla, Chapter M107) ("**Mutual Funds Act**")

- (a) To be registered or recognised under the Mutual Funds Act, a fund must first be incorporated, formed or organized. Typically funds are created as ABCs, IBCs, LLCs, LPs or PCCs.
- (b) *The Mutual Funds Act* provides for the registration or recognition and regulation of mutual funds and the licensing of managers and

administrators carrying on business in or from within Anguilla. Provision is also made for unit trusts (defined as an arrangement creating a trust under the laws of Anguilla or of any other recognised Country or Jurisdiction in which unit holders participating in the arrangement are the beneficiaries of the trust). The types of mutual funds covered by the Act are:

- Private Funds
- Professional Funds; and
- Public Funds

- (c) **Private Funds** are mutual funds whose constitutional documents specify that they will have no more than 99 members. The documents must also specify that an invitation to subscribe for or purchase shares issued by the mutual fund must not be made to the public. Exemption from registration or recognition is given to a family trust fund as defined in the Act.

A Private Mutual Fund is not required to have any service providers (including directors of corporate entities) in Anguilla, other than the registered office and registered agent. Therefore, each of the investment manager, the administrator, the custodian/prime broker, investment adviser and any other service providers may be located in any jurisdiction, as long as it is a "recognised Country or Jurisdiction". The term "recognised Country or Jurisdiction" means any country or jurisdiction recognised by the Financial Services Commission and this requirement seldom creates a problem.

A Private Mutual Fund is allowed to carry on its business in or from Anguilla for a period not exceeding 14 days without being registered (recognised/licensed). Thus registration can be deferred until the fund is established and operating.

There is no restriction on the amount of investment by individuals who may constitute a private fund.

- (d) **Professional Funds** are mutual funds whose shares are made available only to professional investors and the initial investment in which, by each of the persons constituting a majority of the investors, is not less than US\$100,000 or its equivalent in any other

currency. Professional investors are required to state in writing that they consent to being treated as a professional investor.

There is no restriction on the number of investors in a professional fund.

A mutual fund may also be recognised as a professional fund if it was carrying on business or engaged in an activity as a mutual fund on the date of the coming into force of the Act (1 October 2004); the initial investments in respect of the majority of each of the investors in the mutual fund have been not less than US\$100,000 or its equivalent in any other currency; and the shares of the mutual fund are, after the date of the coming into force of the Act, made available only to professional investors.

- (e) **Public Funds** are funds which are neither private nor professional funds. A public fund has a duty to publish and file a prospectus.

Promoters of private and professional funds should apply for recognition while those dealing with public funds should apply for registration under the Act. All applications are made to the Financial Services Commission on the appropriate form, accompanied by a statement setting out the nature and scope of the business to be carried on by the applicant and the name of any other country or jurisdiction where the applicant is carrying on or intends to carry on business. The application fee should be paid and certified copies of the constitutional documents of the fund submitted. The address of the applicant's place of business and address for service in Anguilla, name and address of a person resident in Anguilla who is authorized to represent the applicant and to accept service on its behalf and the address of any place(s) of business that the applicant may have outside Anguilla should also be submitted.

Applications for licensing managers and administrators must be accompanied by the application fee and include a statement of the financial, human resources and administrative facilities available to the applicant.

Public funds must maintain accounting records and prepare annual audited financial accounts for submission to the Commission. All licensees are subject to a Code of Practice governing matters relating to the conduct of business, financial resources, handling of

clients money and so on.

9.9 Anguilla Trusts

- (a) Trusts are created pursuant to the Trusts Act (Revised Statutes of Anguilla, Chapter T70) (“the Trusts Act”). The Trusts Act, enacted in the mid 90s, has its roots in English trust law but provides a more flexible framework. Specifically, the Trusts Act permits commercial or charitable purpose trusts, unit trusts, spendthrift trusts, asset protection trusts and what are termed variant trusts. The provision for variant trusts permits a settlor to create a trust (in whatever form and by whatever name) of a type recognized by the law or rules of his religion or nationality or which is customarily used by his community.
- (b) Any person who, under Anguilla law, can own or transfer property may be a settlor. The settlor may also be a beneficiary, trustee and protector. Beneficiaries may be identifiable by name or ascertainable by reference to a relationship to some person or description of a class. The interest of a beneficiary is personal property and subject to the terms of the trust. This interest may be sold, pledged, charged, transferred or otherwise dealt with in any manner. Anguilla trusts may be created either by oral declaration, by conduct, by operation of law or in writing. (c) The Trusts Act provides for a protector of the trust. The protector may have power to remove the trustee and to appoint new or additional trustees. The protector may also be a settlor, a trustee or a beneficiary of the trust and the trustee may also be a settlor, a beneficiary or a protector of the trust. The minimum number of trustees is one. There is no requirement that any trustee must be a resident of Anguilla, but where there is no trustee resident in Anguilla, a beneficiary resident in Anguilla may apply to the Court for appointment of a person resident in Anguilla and nominated in the application as an additional trustee unless the terms of the trust expressly excludes this provision of the Trusts Act. Trustees’ duties, including those to act with due skill and care and in utmost good faith, are set out in the Trusts Act.
- (c) The Trusts Act provides for the optional registration of trusts with the Registrar of Companies and gives the beneficiaries a statutory power to terminate the trust and distribute the trust assets under certain circumstances.

- (d) The Rule Against Perpetuities has been abolished and accumulation of income throughout the full term of a trust is permissible.
- (e) The **Fraudulent Dispositions Ordinance** provides that a disposition is a fraudulent disposition and is voidable by a creditor if the settlor was insolvent at the time of the disposition or became so as a result thereof and provided that the creditor commences his action within three years of the date that the assets were settled into trust. The burden of proving that the settlor was or became insolvent as a result of the transfer is on the creditor. In relation to asset-protection (or creditor-protection) trusts, therefore, Anguilla has deliberately taken a somewhat more conservative approach than some jurisdictions by providing for a period of three years.
- (f) The Reciprocal Enforcement of Judgments Act is specifically excluded in the Trusts Act. Where a trust is created under the laws of Anguilla, the Court shall not vary it, set it aside or recognize the validity of any claim against the trust property pursuant to the law of another jurisdiction or the order of another Court in respect of:
 - (i) personal or proprietary consequences of marriage or its termination;
 - (ii) succession rights including the fixed shares of spouses or relatives;
 - (iii) the claims of creditors in an insolvency;
 - (iv) the imposition of any foreign tax or duty.
- (g) Trusts are completely tax free as long as the settlor or any of the beneficiaries are not resident in Anguilla.

9.10 Anguilla Foundations

- (a) The **Foundation** is organized pursuant to the Anguilla Foundation Act (Revised Statutes of Anguilla, 10/2008) (the “**Anguilla Foundation Act**”).
- (b) The Anguilla Foundation is a hybrid entity, having the characteristics of both a corporation and a trust. Like a corporation, it is a separate legal entity that can buy and sell property, sue and be sued, enter into contracts and hold assets in its own name,

whereas a trust does not of itself have a legal personality.

- (c) The Anguilla Foundation is an estate-planning vehicle which provides all the best features of existing legislation in other common-law jurisdictions, while offering several innovative solutions to some of their drawbacks.
- (d) The Anguilla Foundation offers the private foundation (a civil-law concept) as an alternative to the existing common-law trust available in Anguilla. The Anguilla Foundation is very flexible and is the vehicle of choice for persons residing or domiciled in civil-law jurisdictions.
- (e) An Anguilla Foundation may be established by one or more natural or legal persons by a declaration of establishment in writing during their lifetime or (by a single founder) by will. An initial property endowment (which can subsequently be increased) of at least \$10,000 must be placed under the control of the intended registered agent of the foundation. Assets endowed upon an Anguilla Foundation constitute an estate independent from that of the founder(s).
- (f) Subject to the Anguilla Foundation Act and the declaration of establishment, an Anguilla Foundation may be established for any purpose which is lawful, moral, not contrary to public policy and capable of fulfillment. It can carry out any kind of civil or commercial transactions apart from activities prohibited in Anguilla or any financial services business (unless the required licence has been obtained).
- (g) The by-laws of an Anguilla Foundation may specify the administration and distribution of assets, name beneficiaries and provide for the residual beneficiary on dissolution. In addition, they may provide guidelines, policies and procedures for the foundation council, provide for any lawful matter compatible with the foundation and may (subject to the terms of the declaration of establishment) be amended or replaced by the Foundation Council.
- (h) An Anguilla Foundation allows the founder to stipulate requirements for succession planning. For example, the declaration of establishment or by-laws may provide that any beneficiary will forfeit any benefit if he challenges any aspect of the foundation. Subject to the terms of the Foundation's declaration of

establishment or by-laws, any assets of the Foundation available for distribution to a beneficiary are not capable of being alienated or passed by bankruptcy, insolvency or liquidation, or liable to be seized, sold, attached or otherwise taken in execution by process of law. Nevertheless, any beneficiary may enforce the due administration of the Foundation, but any such claim will constitute a claim against the Foundation. It will not constitute a claim against the assets.

- (i) An Anguilla Foundation is administered for the benefit of its beneficiaries and/or purposes in accordance with contractual rather than fiduciary principles. It is irrevocable and not subject to any perpetuity periods.
- (j) The Anguilla Foundation has the protection of the corporate veil which in many cases makes it a more appropriate solution than a trust for high-net worth families seeking an estate-planning and/or asset-protection solution.
- (k) Entrepreneurs seeking to provide for the welfare of successive generations can provide continuity for their business after death by holding shares in the family company, or a separate class of voting shares, in an Anguilla Foundation.
- (l) Anguilla is, as far we are aware, the first and only common-law jurisdiction to adopt the idea of allowing the option of registration or deposit of a foundation. If it is deposited rather than registered, it enjoys a high degree of privacy.
- (m) No Anguilla Foundation, nor any contribution to an Anguilla Foundation, will be void or voidable on account of a foreign law or judgment.
- (n) Perhaps the most innovative and unique feature of the Anguilla Foundation is a provision enabling the founder to specify a dispute resolution procedure to apply to the foundation so that, for example, a founder from a civil-law jurisdiction could, if he wished, specify that a civil-law type procedure (or indeed a procedure of his own devising) should apply in a place of his choosing.

10. ESTABLISHMENT OF BUSINESS

- 10.1 An annual Business Licence under the Trades, Businesses, Occupations and Professions Licensing Act must be obtained by any person carrying on a scheduled business. The annual fee varies from approximately EC \$ 6,000 for professional businesses down to EC\$400 for a barber's shop. Hotel and guest house licence fees are calculated on a per-room basis.
- 10.2 Businesses requiring special licences, such as banks or trust companies, are not required to obtain a separate Business Licence under this Act.
- 10.3 The application process is quite straightforward and, in normal circumstances, quite quick, provided all the necessary necessary information has been supplied. The process involves making an application to the Business and Planning Unit of the Ministry of Finance, along with a business plan and proof of physical presence.
- 10.4 Work permit applications for (foreign) staff members of the enterprise must be submitted in hard copy on prescribed forms, together with police record covering the last 10 years, medical examination report, three identical passport sized photographs, a certified copy of the passport identification page or birth certificate, certified copies of academic/professional certificates and a copy of the business licence.
- 10.5 Work permits are issued under the Control of Employment Act and are, with few exceptions, renewable annually. The issuance of a work permit authorises residence for immigration purposes for the duration of the work permit.

11. REGULATION AND BUSINESS RELATIONS

11.1 Regulation

The principal regulatory authority is the Governor, who acts in conjunction with the Financial Services Commission.

The principal piece of regulatory legislation is the Money Laundering Reporting Authority Act.

The Mutual Legal Assistance (United States of America) Act makes provision for implementing the 1986 Treaty between the UK and the US concerning the Cayman Islands, which was extended to Anguilla in 1990.

11.2 Trust Companies and Offshore Banking Act

This Act provides for the licensing of companies conducting "offshore banking business" or "trust business". The grant of a licence also confers exemption from the licensing requirements of the Trades, Businesses, Occupations and Professions Licensing Act.

Anguilla's regulation of offshore banking and trust business is very strict. The recommendations of the Basle Committee on Banking Regulation and Supervisory Practices are fully enforced.

11.3 Taxation

Anguilla has no direct taxation (other than the 3% Interim Stabilisation Levy), its only taxation being a room tax on tourist accommodation, customs duties, stamp duties and land taxes.

11.4 Advertising

There are no specific provisions governing advertising, though the common law relating to misrepresentation will apply.

11.5 Proceeds of Crime

Anguilla has enacted the Proceeds of Criminal Conduct Act 2000. This Act follows the normal pattern of such legislation as it has been enacted recently in many offshore jurisdictions.

11.6 Dispute resolution / Conflict of laws

The Arbitration Act of the United Kingdom from time to time in force is extended to Anguilla.

11.7 Reciprocal Enforcement of Judgments

Anguilla has a Reciprocal Enforcement of Judgments Act (with the UK Administration of Justice Act Part II as extended to Anguilla by U.K. Stat. Instr. 1985 No. 1994). This legislation applies to judgments of the Superior Courts of scheduled countries, including the United Kingdom, but not, for example, the United States.

11.8 Consumer legislation

Anguilla has a conventional Sale of Goods Act but no other specific

consumer protection legislation as such.

11.9 Exclusion and limitation of liability clauses

Exclusion and limitation of liability clauses are likely to be construed strictly according to their terms, as there is no equivalent, in Anguilla, to Unfair Contract Terms legislation.

11.10 Competition Law

There is no anti-trust or similar law in Anguilla.

11.11 Human rights legislation

The Anguilla Constitution makes provision for fundamental human rights and freedoms. It is arguable, furthermore, that the principles of the UK Human Rights Act 1998 could in certain circumstances be extended to Anguilla.

12. IMMIGRATION

12.1 Residents

There are two broad categories of residents, the Belonger and the Non-Belonger.

12.2 Belongers

A Belonger is a person who:

- (a) was born or adopted in Anguilla;
- (b) is a child of a mother or father born in Anguilla;;
- (c) is a spouse of an Anguillian and has been so married for at least three years; or
- (d) has been ordinarily resident in Anguilla for 15 years or more.

Belonger status may also be granted to significant investors.

Application for Belonger status must be made to the Belonger Commission and applicants must provide documentary evidence satisfactory to the Commission before the status is granted.

12.3 Non-Belongers

Non-Belongers may be holders of a work permit or holders of Permits of Permanent Residence. A Permit of Permanent Residence may be granted by the Governor, upon application by the applicant. A holder may enter and remain in Anguilla free of any immigration restrictions. However he may not engage in any occupation or employment unless he has been granted an exemption under the Control of Employment Act – see para 13 below.

Non-Belongers are also, of course, required to obtain an Alien Land Holding Licence in order to acquire an interest in land.

12.4 Visitors

Mere visitors to Anguilla may be granted permits authorising a stay for up to 6 months, which is renewable for a further 6 months under the Immigration and Passport Act.

13. EXPATRIATE WORKERS

13.1 Work Permits

Rapid economic growth in Anguilla has created a situation whereby the labour needs of the economy cannot be satisfied locally. Work permits issued under the Control of Employment Act are required for expatriate workers and are renewable annually, except in the case of the financial services and technology industries where three-year work permits are available.

13.2 Fees

Work permit fees for professional workers are the highest and are currently approximately US\$1,300 per person per annum.

13.3 Procedure

The employer must advertise the position for two weeks and satisfy the Labour Department that no qualified believer is available or interested. The applicant must produce satisfactory medical and character references before his application may be considered. Due to the shortage of skilled labour, more than 95% of applications are approved.

13.4 Employment law

The Fair Labour Standards Act makes detailed provisions for the protection of employees, in the areas of:

- (a) contracts of employment;
- (b) unfair dismissal;
- (c) wages and hours of work;
- (d) protection of wages;
- (e) holiday leave;
- (f) sick leave;
- (g) maternity leave;
- (h) protection from dismissal while on maternity leave.

13.5 Transfer of assets of a company

Employees are treated as privileged creditors of a company in liquidation.

14. LIFE IN ANGUILLA

14.1 Cost of Living

The cost of living in Anguilla is somewhat higher than the United States or the United Kingdom. Many residents take advantage of the proximity to the duty free ports of St. Martin/St. Maarten to purchase consumer goods, even though they are subject to duty on importation to Anguilla.

14.2 Education

The education system is modelled on the British system. The language of instruction is English, and Spanish and French are taught as foreign languages. The literacy rate on the island is 95%. This is due to the official policy of free and compulsory education up to high school or secondary level. Two private/elementary schools bolster the government-run system and there are numerous pre-school and day care as well as special

needs facilities available.

University and other higher education is often sought abroad, mainly in the US, UK and at the Caribbean campuses of the University of the West Indies. Additionally, the Government has declared its intention to establish a national tertiary institution to provide further education at the trade skills, technical, middle-management and professional levels. The Anguilla Community College was established in 2007 and offers a variety of courses ranging from short-term programs to Associate Degrees, primarily in the areas of accounting, management and hospitality. The St. James School of Medicine opened its Anguilla campus in January 2010 and is accredited in the Caribbean and internationally. Anguilla is also home to a branch of The University of the West Indies Open Campus, which offers select distance-learning courses from Pre-University to Graduate level.

14.3 Health

The health sector is serviced by medical practitioners, consultants and specialists in most disciplines, who practice at the only public hospital and at private clinics on the island. Air ambulances, plus care easily available in St. Martin, Puerto Rico, Barbados and Miami, supplement local facilities.

14.4 Housing for Rent

Housing is readily available throughout the island in the form of private villas, condominiums, apartments and other properties for both short and long-term rental.

14.5 Purchasing Property

Investors may also purchase their own properties on the island, but this is subject to the grant of an Alien Land Holding Licence under the Aliens Land Holding Regulation Act. The licence fee equates to 12½% of the value of freehold property (less for leasehold, depending on the length of term), whether developed or unimproved. As a consequence, there is an incentive to purchase a plot and build, rather than buy a developed property, since the licence fee applies only to the purchase price of property, not to the cost of subsequent building works.

14.6 Life Expectancy

Life expectancy for Males is 78.22 and for Females 83.39 years – higher than the United States average. This reflects the high quality of life on the island due to a well-preserved natural environment, high standard of living and adequate health care, nutrition and prevention of diseases.

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APPENDIX - Useful Coordinates

Government

Attorney General's Chambers

The Valley, Anguilla, BWI; Tel: +1 264 497 3044, Fax: +1 264 497 3126

Ministry of Finance:

The Valley, Anguilla, BWI; Tel: +1 264 497 2545, Fax: +1 264 497 3761

Tourism

Anguilla Tourist Board

PO Box 1388, The Valley, Anguilla, BWI.

Tel: +1 264 497 2579, Fax: +1 264 497 2710. Email: abtour@anguillanet.com

Banks

CIBC FirstCaribbean International Bank

P.O. Box 140, The Valley, Anguilla, BWI; Tel: +1 264 497 2301, Fax: +1 264 497 2980

Caribbean Commercial Bank

P.O. Box 23, The Valley, Anguilla, BWI; Tel: +1 264 497 2571, Fax: +1 264 497 3570.

Email: ccbaxa@anguillanet.com

National Bank of Anguilla

P.O. Box 44, The Valley, Anguilla, BWI; Tel: +1 264 497 2101, Fax: +1 264 497 3310.

Email: nbabankl@anguillanet.com

Scotiabank Anguilla

Fairplay Commercial Complex, P.O. Box 250, The Valley, Anguilla, BWI;

Tel: +1 264 497 3333, Fax: +1 264 497 3344. Email: scotia@anguillanet.com

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