

Regulations of Anguilla: 14/2009Gazette Dated: 30th June, 2009

ANGUILLA FOUNDATION ACT, 2008 (ACT 10 of 2008)

ANGUILLA FOUNDATION REGULATIONS, 2009

Regulations made by the Governor in Council, on the advice of the Commission, under section 74 of the Anguilla Foundation Act, 2008, Act 10 of 2008.

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SCHEDULE 1: Forms

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Definitions

1. In these Regulations—

“Act” means the Anguilla Foundation Act, 2008;

“dollar” or “\$” means a dollar in the currency of the United States of America.

Forms

2. The forms set out in Schedule 1 are prescribed for use in the matters to which they relate.

Fees

3. (1) The fee required to be paid under the Act for a filing or other service is set out in Part 1 of Schedule 2.

(2) A penalty is payable in the amount and in the circumstances set out in Part 2 of Schedule 2.

Citation

4. These Regulations may be cited as the Anguilla Foundation Regulations, 2009.

Made by the Acting Governor in Council, on the advice of the Commission, this 25th day of June, 2009

Stanley E. Reid
ACTING GOVERNOR OF ANGUILLA

SCHEDULE 1
(Section 2)

FORMS

FORM 1

ANGUILLA FOUNDATION ACT, 2008

(Sections 9 and 10)

**REQUEST FOR NAME SEARCH AND NAME RESERVATION
OR RESERVATION FOR A SUCCESSIVE PERIOD**

1. Who is the intended registered agent of the foundation?

Name of contact person:

Registered Agent:

2. Proposed name or names in order of preference:

1. 2.

3. 4.

5. 6.

3. Main activities the foundation proposes to carry on:

Holding and managing assets for family purposes

Holding and managing assets for business purposes

Commercial activities

Philanthropic/charitable activities

Other (please specify)

4. Derivation of Name [i.e. any connecting factor from which proposed name is derived]:

5. First available name to be reserved:

Yes

No

6. Purpose of Name Request: *(please ✓ appropriate box)*

Declaration of Establishment

Continuing foundation

- present name:

- present jurisdiction:

Change of name

- present name:

- foundation registration or deposit number:

8. Note any relevant information (e.g. names of affiliated entities, consents required and available from other entities):

9. Person making the request:

Name

Address

Telephone

Fax No.

E-mail

If the person making the request is a regulated person, state name and licencee only:

Name

Licencee

10. Signature of person making the request

.....[Date].....[Signature]

FOR REGISTRY USE ONLY

Date Filed:

Received By:

Yes, Name No. appears to be available and is reserved for you for 120 days until

Yes, Reservation of Name No. has been extended for a *first/second/third successive period of 120 days until

No, Name No. is not available. Please see reasons below:

Prohibited

Same as or too similar to attached names

Obscene or on public grounds objectionable

Other

* Delete inappropriate word(s)

FORM 2

ANGUILLA FOUNDATION ACT, 2008

(Sections 13 and 14)

REGISTRATION OF FOUNDATION

OR

DEPOSIT OF DECLARATION OF ESTABLISHMENT

1. Name of Foundation:

2. The Declaration of Establishment accompanies this application, together with the prescribed fee.

*[Application is made for the registration of the Foundation].

*[The Foundation Council has decided not to register the Foundation, not being a foundation that has a commercial purpose. The Declaration of Establishment is hereby deposited with the Registrar, together with the prescribed fee, to be recorded in the schedule of deposited foundations.

(*DELETE WHICHEVER IS INAPPLICABLE)

3. Initial property endowment: \$ _____

Registered Agent's Certificate:

I/We.....of,

as the intended Registered Agent of the above foundation, CERTIFY that the initial property endowment is readily available and I/we HEREBY UNDERTAKE that it will be vested in or under the legal control of the Foundation immediately upon the Foundation's acquisition of legal personality pursuant to section 15 of the Act.

4. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Registered Agent Code No:

Date Filed:

Received By:

FORM 3

ANGUILLA FOUNDATION ACT, 2008

(Section 69)

NOTIFICATION OF PAYMENT OF ANNUAL FEE

1. Name of Foundation:

2. Foundation registration or deposit number:

3. It is hereby certified that no change in the particulars specified in section 4(2) of the Act has occurred that has not been notified to the Registrar in accordance with the provisions of the Act and these Regulations.

4. The prescribed fee accompanies this notification.

5. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Registered Agent Code No:

Date Filed:

Received By:

FORM 4

ANGUILLA FOUNDATION ACT, 2008

(Section 16)

**NOTIFICATION OF AMENDMENT OF DECLARATION OF ESTABLISHMENT OR
CHANGE IN PARTICULARS SPECIFIED IN SECTION 4(2) OF THE ACT**

1. Name of Foundation:

2. Foundation registration or deposit Number:

3. Nature and date of amendment of Declaration of Establishment or change in particulars specified in section 4(2) of the Act:

4. The Declaration of Establishment has been amended as follows:

Date of amendment:

5. The particulars specified in section 4(2) of the Act have changed as Follows:

Date of change:

6. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY**Foundation Registration No:****Foundation Deposit No:****Registered Agent Code No:**

Date Filed:

Received By:

Yes, the amendment to the declaration of establishment is permitted.

No, the amendment to the declaration of establishment is not permitted :

Unlawful

Immoral

Contrary to Public Policy

Other (specify):

FORM 5

ANGUILLA FOUNDATION ACT, 2008

(Sections 38 and 40)

APPLICATION BY FOREIGN FOUNDATION FOR CERTIFICATE OF CONTINUANCE

1. Name of foreign foundation:

2. Foundation registration number in foreign country (if any):

3. Foundation registered office (or equivalent) in foreign country (if any):

Address

Mailing Address

E-mail

4. Foundation Registered Agent (or equivalent) in foreign country (if any):

Full name

Address

Mailing Address

E-mail

Nationality

5. Continued foundation Registered Office:

Address

Mailing Address

6. Continued Foundation Registered Agent:

Full name

Address

Mailing Address

E-mail

Nationality

7. Articles of Continuance, together with the prescribed fee, accompany this application.

[Application is made for the registration of the Foundation]

[The Foundation’s documents are to be deposited, (the Foundation not being a foundation that has a commercial purpose)

(DELETE WHICHEVER IS INAPPLICABLE)

8. Registered Agent’s Certificate:

I/We.....of, as the intended Registered Agent of the above foundation, CERTIFY that a property endowment of not less than \$10,000 (or its equivalent in value) is [currently vested in or under the legal control of the Foundation] / [is readily available] and I/we HEREBY UNDERTAKE that it will be vested in or under the legal control of the Foundation upon the issue of the foundation’s certificate of continuance.

9. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Continuing Foundation Registration No:

Continuing Foundation Deposit No:

Continuing Foundation Registered Agent Code No:

Date Filed:

Received By:

Yes, the application for continuance is granted

No, the application for continuance is not permitted:

Unlawful

Immoral

Contrary to Public Policy

Other (specify):

FORM 6

ANGUILLA FOUNDATION ACT, 2008

(Section 44)

CERTIFICATE OF DEPARTURE FROM ANGUILLA



1. Name of Foundation: ("the Foundation")

2. Foundation registration or deposit number:

3. Registered Office:

Address:

Mailing Address:

4. Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. A Certificate of Discontinuance is applied for

6. I/Weof,, as registered agent of the Foundation, CERTIFY that:

(a) The Foundation departed from Anguilla to continue in _____ [jurisdiction] with effect from _____ [day] _____ [month] _____ [year];

(b) The Foundation has been continued in _____ [jurisdiction], as evidenced by the following certified copy or original documents that accompany this Certificate:

(i)

(ii)

(iii)

(iv)

(v)

(c) The Foundation's Registered Office in the new jurisdiction is:

Address:

Mailing Address:

7. The Foundation's Registered Agent in the new jurisdiction (if any) is:

Name:

Address:

Mailing Address:

E-mail:

8. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Foundation Registered Agent Code No:

Date Filed:

Received By:

All fees paid and up to date

All notices complied with

All returns complied with

Foundations Act section 44 and Regulations complied with

Certificate of discontinuance issued.

Yes

No

Unpaid fees

Notices not complied with

Returns not complied with

Foundations Act section 44 not complied with

Foundations Regulations not complied with

FORM 7

ANGUILLA FOUNDATION ACT, 2008

(Section 47)

STATEMENT OF INTENT TO DISSOLVE FOUNDATION

1. Name of Foundation:

2. Foundation Registration/Deposit No:

3. Foundation Registered Office:

Address:

Mailing Address:

4. Foundation Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. Date of intended voluntary dissolution:

6. Reason for dissolution:

(please ✓ appropriate box)

End of definite period for which Foundation was established

Requirement of its Declaration of Establishment

Requirement of its By-laws

Requirement of the Act

Resolution of the Foundation Council

Other (please specify)

7. Statement of intent to dissolve made pursuant to section 47(1) of the Act:

It is intended, pursuant to section [46(1)(a)] / [46(1)(b)] / [46(1)(c)] of the Act, to dissolve the Foundation with effect from the.....day of..... . This statement of intent is made in accordance with section 47 of the Act.

8. A certificate of intent to dissolve the Foundation is requested.

9. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Foundation Registered Agent Code No:

Date Received:

Received By:

Certificate of Intent to Dissolve Foundation Issued:

FORM 8

ANGUILLA FOUNDATION ACT, 2008

(Section 51)

**APPLICATION FOR RESTORATION OF FOUNDATION TO THE REGISTER
OR TO THE SCHEDULE OF DEPOSITED FOUNDATIONS**

1. Name of Foundation:

2. Foundation Registration/Deposit No:

3. Foundation Registered Office:

Address:

Mailing Address:

4. Foundation Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. Date of striking off:

6. Reason for striking off:

(please ✓ appropriate box)

End of fixed period of foundation

Declaration / Bye-laws / Foundations Act

Foundation Council Resolution

Order of the High Court of Anguilla

Failure to pay prescribed annual fees

Failure to comply with required notices

Failure to comply with required returns

Failure to maintain a registered agent pursuant to section 17 of the Act

Other (please specify)

7. Interest of applicant in the foundation

8. It is hereby requested that that the Foundation be restored [to the Register] / [to the Schedule of Deposited Foundations] pursuant to section 51.

.....[Date].....[Name].....[Signature]

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Foundation Registered Agent Code No:

Date Filed:

Received By:

Prescribed Fee Paid

All Foundation Documents Required Filed

All Outstanding Fees and Penalties Paid

Restored to Register:

FORM 9

ANGUILLA FOUNDATION ACT, 2008

(Section 58)

REQUEST FOR CERTIFICATE OF GOOD STANDING

1. Name of Foundation:

2. Foundation Registration No:

3. Foundation Registered Office:

Name:

Address:

Mailing address:

4. Foundation Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. It is hereby requested that that the Registrar provide a certificate of good standing pursuant to section 58.

6. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Registered Agent Code No: Date Filed:

Received By:

Prescribed Fee Paid

Name of Foundation on the Register

All Foundation Documents Required Filed

All Outstanding Fees and Penalties Paid

Certificate of good standing issued

FORM 10

ANGUILLA FOUNDATION ACT, 2008

(Section 59)

**REQUEST FOR CERTIFICATE OF ACCURACY
OF DETAILS OF CONFIRMATION PREPARED BY REGISTERED AGENT**

1. Name of Foundation:

2. Foundation Deposit No:

3. Foundation Registered Office:

Name:

Address:

Mailing address:

4. Foundation Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. It is hereby requested that that the Registrar provide a certificate that the details of the accompanying confirmation prepared by the registered agent and delivered herewith to the Registrar are true and correct, pursuant to section 59.

6. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

FOR REGISTRY USE ONLY

Foundation Deposit No:

Foundation Registered Agent Code No:

Date Filed:

Received By:

Prescribed Fee Paid

Name of Foundation on the Register

All Foundation Documents Required Filed

All Outstanding Fees and Penalties Paid

Certificate of Accuracy

FORM 11

ANGUILLA FOUNDATION ACT, 2008

(Section 60)

AUTHORISATION BY FOUNDATION COUNCIL MEMBER FOR INSPECTION OR COPY OF DOCUMENTS OR A CERTIFICATE OF REGISTRATION

1. Name of Foundation:

2. Foundation Registration/Deposit No:

3. Foundation Registered Office:

Name:

Address:

Mailing address:

4. Foundation Registered Agent:

Name:

Address:

Mailing Address:

E-mail:

5. It is hereby requested that that the Registrar permit

Name:

Address:

Mailing Address:

E-mail:

(a) [to inspect the following document/documents or category of documents of the foundation:

.....]

and/or

(b) [to require a copy or part, certified or otherwise, of the following document/documents or category of documents of the foundation:

.....]

and/or

(c) [to require a certificate of registration of the foundation]

(DELETE WHICHEVER IS INAPPLICABLE)

9. Signature of Registered Agent.

Name:	Signature:	Address:	Date:

OR

Signature of Foundation Council Member:

Date:

Name:

Signature

FOR REGISTRY USE ONLY

Foundation Registration No:

Foundation Deposit No:

Foundation Registered Agent Code No:

Date Filed:

Received By:

Prescribed Fee Paid

Inspection Authorised

Requested Copy Documents provided

SCHEDULE 2

(Section 3)

FEES AND PENALTIES

PART 1

FEES

<i>Section</i>	<i>Filing or Other Service</i>	<i>US\$</i>
1.	Request for a name search	15
2.	Request for a name reservation for 120 (one hundred and twenty) days	50
	Request for a name reservation for first or subsequent successive period of 120 (one hundred and twenty) days	170
3.	Registration or deposit of Declaration of Establishment where: (a) the initial property endowment is more than \$10,000 but not more than \$50,000	500
	(b) the initial property endowment exceeds \$50,000.....	700
4.	Registration or deposit of notification of amendment of the Declaration of Establishment	150
5.	Registration or deposit of notification of change of the registered agent	50
6.	Registration or deposit of notification of change of the registered office	50
7.	Registration or deposit of notification of changes to the particulars specified in section 4(2) or 4(3) of the Act	50
8.	Application by a foreign foundation for a Certificate of Continuance in Anguilla	250
9.	Registration or deposit of Certificate of Departure from Anguilla	400
10.	On being served a notice of dissolution or striking off by the Registrar	100
11.	Registration or deposit of a statement of intent to dissolve	100
12.	Application for restoration of foundation to the Register or to the Schedule of Deposited Foundations: (a) if the application is made within 6 months immediately following the striking off	1,500
	(b) if the application is made later than 6 months immediately following the striking off	2,000
13.	Request of a certificate of good standing	150
14.	Request for a certificate of accuracy of details of confirmation prepared by registered agent	100
15.	Authorisation by foundation council member for inspection or copy of documents or a certificate of registration	100
16.	For a certified copy of a document	2.00 per page
17.	For an uncertified copy of a document	1.50 per page
18.	Annual fee for registered or deposited foundation (payable not later than the last day of the calendar quarter in which the foundation was established or continued under this Act)	500

PART 2

PENALTIES

Definition

1. In this Part of this Schedule, the expression “Base Amount” shall mean the amount for the time being of the annual fee under section 18 of Part 1 of this Schedule.

Use of former name of a foundation

2. A foundation that contravenes section 11(5) of the Act shall be liable to pay a penalty of an amount equal to 10% of the Base Amount for every month or part of a month during which such contravention continues, provided that the Registrar shall have discretion to remit all or part of such penalty if he considers that extenuating circumstances justify his so doing.

Accounts and records

3. A foundation that commits an offence under section 37(7) of the Act shall be liable to pay a penalty of an amount equal to 100% of the Base Amount.

Breach of provisions concerning registered agent

4. A foundation that contravenes section 17(6), (7) or (8) of the Act may, at the discretion of the Registrar having regard to any extenuating circumstances, be required to pay a penalty of up to 100% of the Base amount.

5. A person who, not being a regulated person, acts as the registered agent of a foundation, shall, subject to the provisions of section 17(11) of the Act, be required to pay a penalty of 100% of the Base Amount.

Annual fee paid after due date

6. A foundation that fails to pay the annual fee under section 18 of Part 1 of this Schedule by the due date shall, in addition to the annual fee, pay a penalty of an amount equal to 10% of the Base Amount.

7. A foundation that, having failed to pay the annual fee by the due date, fails to pay the annual fee and the penalty due under section 6 of this Part of this Schedule before the expiration of 3 months from the due date shall, in addition to the annual fee and the said penalty, be liable to pay a further penalty of an amount equal to 25% of the Base amount.

8. A foundation that, having failed to pay the annual fee by the due date, fails to pay the annual fee and the penalties due under sections 6 and 7 of this Part of this Schedule before the expiration of 6 months from the due date shall, in addition to the annual fee and the said penalties, be liable to pay a further penalty of an amount equal to 50% of the Base Amount.

9. A foundation that, having failed to pay the annual fee by the due date, fails to pay the annual fee and the penalties due under sections 6, 7 and 8 of this Part of this Schedule before the expiration of 12 months from the due date shall, in addition to any annual fees outstanding and the said penalties, be liable to pay a further penalty of an amount equal to 100% of the Base Amount.

10. A foundation that, having been struck off the Register or off the schedule of deposited foundations pursuant to section 49 of the Act, applies for restoration pursuant to section 51 of the Act, shall, in addition to all annual fees and penalties outstanding, be liable to pay a further penalty of an amount equal to 100% of the Base amount in respect of every year or part of a year that has expired since the expiration of 12 months from the due date as mentioned in section 9 of this Part of this Schedule.

Failure to file any return, notice or document

11. A foundation that fails to file with the Registrar any return, notification or document required to be filed under the Act or regulations made under the Act (other than Form 3 of Schedule 1) shall be liable to pay a penalty of an initial amount equal to 25% of the Base amount plus an amount equal to 10% of the Base Amount for the second and every subsequent month or part of a month during which such failure continues.
