

**GOVERNMENT
OF
ANGUILLA**



**LABOUR & IMMIGRATION POLICY
2008**

Effective:

DRAFT IMMIGRATION & LABOUR POLICY FOR ANGUILLA 2008

A. INTRODUCTION

Anguilla is part of the international community and our relationships must be grounded in democratic principles, respect for human rights and the fulfilling of our international obligations.

One of the international obligations Anguilla must fulfil is the fair treatment of Non-Anguillians who have been permitted to make Anguilla their home and who have made a contribution to the economic and social development of the island. These long term residents may have a legitimate expectation that they should possess certain rights enjoyed by Anguillians.

The need for an Immigration and Labour Policy that clearly sets out the rights to be enjoyed by long term residents is very urgent. The policy should set the terms of residence for future migrants so that they are not allowed to reside indefinitely and thereby establish a claim for Permanent Residence or Belonger Status.

The Immigration and Labour Policy must take careful note of the peculiar geographical, demographic, social and economic characteristics of Anguilla. At all times, the interests of the resident Anguillians must be given priority over those Non-Anguillians who chose to come to Anguilla and opt to stay. In addition, the policy must be guided by Anguilla's long term sustainable development needs. This in turn is influenced by the following:

- The increasing return flow of first and second generation Anguillians;
- The human resource needs of Anguilla and the demand for labor in a globalized environment;
- Demographic changes in Anguilla and the need to decide on a optimum total population for the long term need of Anguilla;
- The medium and long term economic development plan for Anguilla;

Anguilla is an Overseas Territory and the recent enactment of the Overseas Territories Bill by the British Parliament impacts the status of all British Dependent Territories Citizens. Long term residents in Anguilla, including children born in Anguilla to non-Anguillian mothers, will have their status regularized and claims for naturalization would be facilitated. On the other hand, the policy would also ensure that citizens of a third country are not afforded a 'back door' entry to British citizenship.

The main aims of the policy are:

1. to facilitate claims for Permanent Residence in Anguilla by long term residents and others with a connection to Anguilla;
2. to control immigration in the future;
3. to harmonize national immigration laws and policy with the provisions of the British Nationality Act 1981 and the Overseas Territories Act 2002; and
4. to provide general directives with regard to the recruitment of non-belongers to work in Anguilla.

B. ANALYSIS OF DATA

The 2001 Census indicated that there 3, 129 Non – Anguillians residents in Anguilla. A critical fact is that there were 807 Non- Anguillian children in the 0-14 Age Group. This data is very much outdated in 2008, but in light of the fact that no census will be done until 2011 we can only estimate the population size on non-belongers at this juncture.

The 2001 Census, using its “high migration assumption,” projects the population in 2011 to be 16,449. This in itself may be an underestimation in light of the fact that the over-heated economy has posted double digit increases over the last three years. This type of economic development was not anticipated in 2001 when the census was done.

Labour Department statistics for 2007 indicate that 3,632 work permits were issues that year. If it is assumed that on average half of the work permit holders has one dependent living with them then the figure in the population associated with the above number of work permits increases to 5448. This figure does not include non-Anguillians working for the Government of Anguilla, or residents approved to live here as a result of the volcanic activity in Montserrat and their dependents. Both of these categories are exempt from work permit requirements.

Most of these adults will develop a connection to the island, and the dependents will consider Anguilla as their main place of residence. Some may also have been residing here longer than seven years. They are potential claimants for some form of residence status now and in the future. The breakdown by Age Group of Anguillians and is shown in Table 1 below.

Table 1 – Persons by Citizenship, Broad Age Groups and Sex

Age Groups	Anguillian			Non- Anguillian			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
0-14	1203	1192	2395	387	420	807	1590	1612	3202
15-44	1913	1948	3861	809	877	1686	2722	2825	5547
45-74	863	856	1719	288	301	589	1151	1157	2308
75+	144	182	326	21	26	47	165	208	373
Total	4123	4178	8301	1505	1624	3129	5628	5802	11430

Source: 2001 Census Reports

In 2001 of the 3,129 Non- Anguillians, 1,966 were employed. The two largest employment categories are services and production. Construction and transport with 488 and 593 persons respectively. The distribution of Non- Anguillians in the employment categories must be carefully studied. This has implications for manpower planning and human resource development needs. Also, it should help to inform any future immigrants. The distribution of Anguillians and Non–Anguillians by employment categories is depicted in Table 2 below.

Table 2 – Employed Persons by Occupation and Citizenship, 1992 and 2001

Code	Occupation	1992			2001		
		Anguillian	Non-Anguillian	Total	Anguillian	Non-Anguillian	Total
211-348	Professional and Technical	335	182	517	730	390	1120
111-131	Administration & Managerial	77	46	123	123	133	369
411-422	Clerical and Sales	679	174	853	853	240	842
511-523	Service	727	309	1036	1036	488	1313
611- 621	Agricultural	194	38	232	232	89	270
711-933	Production, Construction &	1004	326	1330	1330	593	1640
	Sub- Total	3016	1075	4091	4091	1933	5554
	Not Stated	23	7	30	30	33	90
Total		3039	1082	4121	4121	1966	5644

Source: 1992 and 2001 Census Reports

An analysis of the Population by Age and Citizenship for 2001 shows that immigrants from the Caribbean outnumbered North Americans and Europeans 2:1. This is also an important factor in decision making. Generally speaking, while one group brings skills and the other capital, there is need to ensure the continuity of Anguilla’s majority ethnic

profile and the island's Caribbean cultural identity. Table 3 shows the present cultural mix. It must again be noted that this data is seven years old. Population projections can only give crude data on the overall increase of population size based on key assumptions, but does not provide country specific data as to the proportion of ethnicity or nationality in the overall projection. This type of detailed projection ten years in advance is not reliable in the current global economy.

Table 3 – Citizenship by Age Group, 2001

Citizenships	Age Groups				
	0-14	15-44	45-75	75+	Total
Anguillian	2395	3861	1719	326	8301
St. Kitts	95	401	118	9	623
Jamaican	62	164	27	2	255
Guyanese	46	142	25	-	213
Montserrat	30	96	23	4	153
Dominican Republic	77	244	76	4	401
Other Caribbean	126	389	101	8	624
U. S. A	365	189	145	18	717
U. K	62	182	129	13	332
St. Martin	70	83	22	4	179
Other European	26	66	36	4	132
Canadian	15	28	51	-	94
Other	11	47	22	-	80
Not Stated	2	2	2	-	6
Total	3382	5840	2496	392	12110

Source: 2001 Census Report

The absence of electronic records on the length of residence of Non – Anguillians make it difficult to accurately state the number who would be affected by this policy. This is also true for predicting the likely impact on revenue from work permits if new Permanent Residents are granted exemption from the Control of Employment Act.

A study of the data on people born overseas who did not come to Anguilla before one (1) year old reveals that there were 724 persons on temporary residents permit in 2001. This figure may give best 'estimate' of the number of persons who may claim residence under the policy. The distribution of this sector of the population is shown in table 4 below.

Table 4 – People Born Overseas Who Did Not Come to Anguilla Before 1 Year Old

Citizenship	Anguillian By		Naturalization	Resident Permit		
	Descent	Adoption		Belonger	Temporary	Permanent
Anguillian	377	10	395	75		
St. Martin	38	1	12	9	10	3
Other Europeans	10	1	3	18	17	6
Dominican Republic	52		14	26	118	33
Guyanese			6	7	68	9
Jamaican			8	11	88	13
St. Kitts & Nevis	71	3	72	63	65	51
Montserrat	5	1	2	23	87	7
Other Caribbean	23	4	41	44	138	34
U.S.A	74	1	11	38	48	17
Canadian			2	8	19	2
U.K	47	1	7	32	45	18
Other			3	2	20	3
Not Stated	2				1	
Total	699	22	576	356	724	196

Source: 2001 Census Report

The number of work permit holders has increased 464% between the years of 2002 and 2007 from 783 to 3632 respectively. This high increase is due mainly to an exponential increase in economic activity as a result of significant Foreign Direct Investment (FDI) since 2002 for major upscale tourism projects on the island. The island has also seen migrants from countries in Asia not typically associated with the construction sector here, particularly from China and India. The sector that continues to lead in work permit approvals is Production/Construction/Transportation, and by and large the increase is mostly for male workers. These factors are indicative of the level of economic activity driven by the tourism sector. Tables 5, 6 and 7 show the distribution of work permits by country of origin, occupation and sex respectively.

Table 5 – Work permits by country of origin 2002 - 2007

WORK PERMITS ISSUED BY COUNTRY OF ORIGIN							
NO.	Country	2002	2003	2004	2005	2006	2007
1.	St. Kitts & Nevis	59	43	32	53	76	182
2.	Dominican Republic	58	73	102	297	401	384
3.	Jamaica	102	101	87	136	198	219
4.	Dominica	80	84	84	158	343	386
5.	St. Lucia	20	39	47	48	134	234
6.	St. Vincent	50	54	45	84	137	182
7.	Trinidad & Tobago	31	32	24	25	42	96
8.	Barbados	13	20	11	19	25	20
9.	Guyana	84	80	81	139	181	197
10.	Other C'bean Countries	39	37	44	49	77	30
Total C'bean Countries		536	563	555	1007	1614	1950
11.	United Kingdom	47	32	40	36	45	81
12.	Canada	35	36	30	24	37	27
13.	Italy	3	4	1	7	11	12
14.	China	18	18	24	27	24	271
15.	France	13	19	15	26	36	44
16.	Philippines	-	-	-	29	46	111
17.	Africa	-	-	-	2	8	3
18.	India	-	-	-	5	143	570
19.	Germany	-	-	-	4	2	3
20.	Other Europe	-	-	-	12	177	343
21.	U.S.A	80	130	114	214	307	237
TOTAL		783	833	859	1418	2450	3632

Source: Anguilla Labour Department

Table 6 – Work Permits by Occupation 2002 – 2007

WORK PERMITS BY OCCUPATION							
NO.	PROFESSION	2002	2003	2004	2005	2006	2007
1.	Professional/Technical	168	191	205	204	344	381
2.	Administrative & Managerial	47	40	43	65	75	124
3.	Clerical	63	62	36	79	97	109
4.	Sales	31	35	35	54	101	120
5.	Service	195	202	206	274	389	524
6.	Agriculture	18	10	17	28	37	51
7.	Production/Construction/ Transportation	261	293	317	714	1407	2323
TOTAL		783	833	859	1418	2450	3632

Source: Anguilla Labour Department

Table 7 – Work Permits by Sex 2002 – 2007

WORK PERMITS BY SEX						
SEX	2002	2003	2004	2005	2006	2007
Male	515	542	575	1053	1899	2960
Female	268	291	284	365	551	672
TOTAL	783	833	859	1418	2450	3632

Source: Anguilla Labour Department

C. POLICY ON VISITORS

1. The provisions of the immigration and Passport Ordinance, 1980 and the Control of Employment Ordinance, 1980 will be strictly enforced;
2. Visitors who satisfy Immigration checks may be granted a permit to enter and remain on Anguilla for a maximum period of six (6) months;
3. No visitor will be granted permission to remain in Anguilla in order to facilitate a first time application for a work permit, unless in the discretion of the Minister of Labour he/she grants such permission if it is determined that such a grant is in the best interest of the consumer/public;
4. Visitors who own homes on Anguilla and who have not been granted a Permit of Permanent Residence (PPR) will be favorably considered for the grant of a permit to enter and remain on Anguilla for a period of six (6) months. Such permits may be extended up to a maximum of one (1) year;
5. Each visitor entering Anguilla may be given up to one month to remain on island. The discretion remains with the Chief Immigration Officer or his/her agent at the port to ascertain reasons for travel, and provide appropriate time to conduct stated activities. In the instance where persons are traveling for tourism purposes as part of villa rental or other long term hotel package deals, the minimum time that may be allotted in one month.
6. All visitors are required to leave Anguilla after the expiration of the time granted. Extension of time will not automatically be considered by the immigration department unless under exceptional circumstances. Any visitor who remains in Anguilla after the expiry of the time granted must leave the island within the time frame given by the Chief Immigration Officer. Any further extension of time in such circumstances may be exceptionally allowed.

D. PERMITS OF PERMANENT RESIDENCE

1. Section 25(i) of the Immigration and Passport Ordinance states inter- alia that, *“the Governor may grant to a person who is not a Belonger of Anguilla a permit of Permanent Residence (PPR) subject to such conditions as he thinks fit.”*

2. The holder of such a Permit of Permanent Residence (PPR) may enter and remain in Anguilla free of any immigration restrictions but shall not engage in any occupation in Anguilla for a profit or reward, or to be employed in Anguilla for a wage, salary or other remuneration unless so exempted, or unless in possession of a valid work permit.
3. Notwithstanding the above provisions, the Immigration Policy will make provision for the one- off grant of Permanent Residence to the following categories of persons:
 - i. Non-belongers who have been granted work permits for a period of fourteen (14) or more consecutive years;
 - ii. Children of Work Permit holders who have attended schools in Anguilla for seven (7) or more years and have attained age of seventeen (17) years;
 - iii. Non-belongers who have been legally residing in Anguilla for fourteen (14) or more years consecutively;
 - iv. Persons whose grandmother/ grandfather is/was an Anguillian by birth, and who resided in Anguilla for five (5) consecutive years;
4. Applicants for the grant of Permanent Residence under this policy must also meet the additional criteria of good health, good character and the ability to maintain themselves and their families.
5. Applicants for the grant of Permanent Residence must also pay the one – time prescribed fee of EC \$2000.00.

E. Conditional Permanent Residency

1. The Government of Anguilla will implement, including all laws and regulations, a revised category of Permanent Residency called **Conditional Permanent Residency**. This category will allow for individuals who qualify to obtain immigration status on Anguilla on an annual basis. This would lessen the necessity for some individuals to update their immigration status every six months.
2. Conditional Permanent residency will not lead to a path of naturalization or Belonger status, but would rather facilitate expatriates who wish to remain in Anguilla with some sort of residency provisions.
3. Conditional Permanent Residency will not negate the necessity of obtaining a work permit if employment is contemplated.

F. PERSONS BORN IN ANGUILLA TO NON BELONGERS

Individuals born in Anguilla to Non-Belongers will be exempted from paying immigration fees. While birth in Anguilla does not automatically bestow Belonger Status on an individual, it is considered proper to remove the necessity of these individuals paying Immigration fees. The necessary laws and regulations to bring this in force will be either amended or introduced.

G. WORK PERMITS AND IMMIGRATION

1. After the qualifying date under the new Immigration Policy all non- belongers employed in Anguilla on work permits will continue to be subject to the Control of Employment Ordinance, 1980;
2. Work Permits will not be granted on a continuous period longer than seven (7) years except in cases where the skills of the person are considered to be critical to the development of Anguilla by the Minister of Labour;
3. Persons who have been granted a work permit for up to seven (7) consecutive years must leave the island for a period no less than one year. Re-entry will depend on the case made out by a prospective employer and the human resource needs of Anguilla. Persons so affected will not be regarded as long terms residents;
4. The Ministry of Labour reserves the right to set work permit quotas for nationals from specified countries.

H. ELIGIBILITY OF EXPATRIATE GOVERNMENT EMPLOYEES

The provisions of this policy will apply equally to Government employees who are exempted from the requirement of a Work Permit under the Control of employment Ordinance, 1980. Additionally the Government of Anguilla will waive **fifty percent** of immigration fees all non-contracted expatriate workers employed by the Anguilla Public Service, the Government of Anguilla, and the Anguilla Police Service, their **spouse** and **one dependent** under the age of eighteen,.

I. WORK PERMITS

The government of Anguilla's strategy for economic development has targeted foreign and local capital investment in high quality tourism projects. To date, five major projects have been negotiated. These are the Temenos Golf Course/Luxury Hotel and Villas, the KOR Luxury Hotel and Villas, formerly Cocoloba Hotel, Conch Bay Resort, Rendezvous Bay Resort, and Altamer expansion. There are also significant investments by Anguillians in private homes and villas and in other industry and commerce.

Together, this unprecedented economic activity is generating employment, opportunities for construction workers in particular, far in excess of the numbers and skills available in the resident population. Employers are therefore forced to recruit expatriate workers, preferably from the Caribbean region.

The recruitment of expatriate workers creates a number of socio-economic pressures, which the social infrastructure of Anguilla cannot handle at the moment. These pressures include: increase demand for working class housing, increased demand for medical and health care, and increase demand for admissions at educational institutions.

The increase demand for admissions at educational institutions is fulfilled by the expectation that prospective workers may migrate with their families. There is also the practice where prospective workers have been allowed to work legally and reside indefinitely and thereby develop a legitimate expectation for permanent residence/belonger status in due course.

In order to reduce the social impact of this high demand for workers, the following conditions shall apply to the recruitment of expatriate workers:

1. Employers must register their request for workers with the Labour Department. The Labour Department will provide feedback on the availability of local expertise within one (1) week.
2. Employers who wish to recruit expatriate workers must submit the relevant information on each prospective employee to the Labour Department. This should include a recent police record and medical report (both no more than six months old).
3. Employers who request permission to bring in expatriate workers must satisfy Government officials that adequate housing and amenities are available for their workers. This holds true for employees who will reside in private accommodations, as well as those who will be accommodated on larger scale housing that is provided by employers at the work site.
4. Employers may be allowed to recruit expatriates who are visiting on the island with the permission of the Minister of Labour if the Minister is of the opinion that so doing would be in the public interest.
5. Expatriates who have lived on island for a period of at least seven years and have attended school here for the same time qualify for exemption from work permit requirements. The Ministry of Labour will introduce regulations or legislation that will allow these individuals to work in Anguilla without the requirement of a work permit.
6. In the case of the larger scale housing for workers on construction sites (life camps), the necessary approvals must be sought and granted by the relevant

government agencies before the Minister of Labour considers any request for work permits for migrants that will be housed in these facilities. In this regard permission must be granted, but not limited to, by the following:

- (a) Ministry of Health
- (b) Health Authority of Anguilla
- (c) Department of Health Protection
- (d) Department of Physical Planning
- (e) Department of Disaster Management
- (f) Fire Department

7. Employers must inform prospective employees before arrival in Anguilla of the following conditions of employment:

- (a) Employment will be for a fixed term not exceeding seven (7) years.
- (b) Employees must leave the island at the expiration of the term of employment. Re-employment cannot be guaranteed.
- (c) Employees will not be permitted to bring their families to Anguilla to reside during the duration of their employment unless permission is granted by the Minister of Labour.
- (d) Employees who wish to discontinue work with their employer in the first six (6) months will be asked to leave the island.
- (e) Employment will be based on agreed compensation packages provided by the employer in advance of the incumbent taking up the position in Anguilla, and any arbitration/conciliation will be governed by the laws of Anguilla.
- (f) Job-hopping between employers is strictly prohibited. A change of employer will not be approved unless in the opinion of the Minister of Labour the human rights of the employee is being infringed upon by an employer, or in the opinion of the Minister of Labour the employee is being unfairly or unjustly treated as a result of poor working conditions or victimization.
- (g) An offer of a higher salary to an employee by another employer will not be considered enough grounds to transfer to a new employer.
- (h) Medical reports that are submitted by employees from institutions that are not approved by the Government of Anguilla will not be accepted. The Government of Anguilla reserves the right to require retesting at institutions in Anguilla.

8. Employers must pay all relevant fees to the Government of Anguilla before employees take up employment. A Tax Clearance form issued by the Inland Revenue Department that is no more than six months old will be considered as proof that employers are not in arrears with their payments to government.

J. IMPLEMENTATION

This policy will take effect: