

ANTIGUA AND BARBUDA



ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT ACT, 2013

No. 2 of 2013

*[Published in the Official Gazette Vol. XXXIII No. 20
dated 11th April, 2013.]*

Printed at the Government Printing Office, Antigua and Barbuda,
by Ralph George, Government Printer
— By Authority, 2013.



THE CITIZENSHIP BY INVESTMENT ACT, 2013

Section 1

Short title and commencement

(1) This Act may be cited as the Citizenship by Investment Act, 2013.

(2) This Act shall come into force on the day after the day on which it is enacted.

(3) This Act shall apply to the Islands of Antigua and Barbuda.

ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT ACT, 2013

ARRANGEMENT

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1. Short title and commencement.
2. Interpretation.
3. Registration of persons as citizens by investment.
4. Deprivation of citizenship by investment.
5. Six-monthly Report
6. Regulations.

SCHEDULE

Antigua and Barbuda Citizenship by Investment Regulations, 2013

[L.S.]



I Assent,

Louise Lake-Tack,
Governor-General.

28th March, 2013

ANTIGUA AND BARBUDA

ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT ACT, 2013

No. 2 of 2013

AN ACT to enable persons to acquire citizenship of Antigua and Barbuda by registration following investment in Antigua and Barbuda and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and commencement

(1) This Act may be cited as Antigua and Barbuda Citizenship by Investment Act, 2013.

(2) This Act comes into force on a date to be appointed by the Minister by Order published in the *Gazette*.

2. Interpretation

In this Act—

“the Citizenship Act” means Antigua and Barbuda Citizenship Act Cap 22; and

“Minister” means the Prime Minister.

3. Registration of persons as citizens by investment

(1) Subject to the provisions of the Citizenship Act, a person may, after applying under this section to the Minister in the prescribed manner and upon payment of any fee that may be prescribed, be registered under the provisions of the Citizenship Act as a citizen of Antigua and Barbuda.

(2) Registration under subsection (1) shall be—

- (a) at the discretion of the Minister and subject to the approval of Cabinet;
- (b) subject to the Minister being satisfied that the applicant has invested in accordance with the provisions of the Schedule; and
- (c) subject to such conditions or limitations as may be prescribed.

4. Deprivation of citizenship by investment

(1) In addition to the powers conferred on him by the Citizenship Act, the Minister responsible for immigration and citizenship may by Order deprive of his citizenship a citizen of Antigua and Barbuda who is such by investment under this Act if the citizen does not spend at least 35 days in Antigua and Barbuda during the period of five calendar years after his registration.

(2) A person who is deprived of his citizenship under subsection (1) shall not be entitled to repayment of any investment, contribution or purchase price made by him in his original application for citizenship.

(3) Where the Minister responsible for immigration and citizenship makes an Order under section 8 of the Citizenship Act in respect of a person who is a citizen of Antigua and Barbuda by virtue of registration and who is such by investment under this Act, depriving that person of his citizenship on the grounds that —

- (a) such registration as a citizen was obtained by false representation or fraud or wilful concealment of material facts; or
- (b) the person has been convicted in Antigua and Barbuda of an act of treason or sedition;

that person shall have a right of appeal to the High Court.

(4) Notice of appeal under subsection (3) shall be given within twenty one days of the date that the Minister serves a copy of the Order on the person.

5. Six-monthly Report

The Minister shall, every six months on the prescribed dates, prepare a report containing the prescribed information on the applications made, granted and refused under this Act, and shall, as soon as practicable but not later than thirty days after the completion of the report, cause a copy of the report to be laid on the table of the House of Representatives.

6. Regulations

(1) The procedure for the consideration and approval of applications for citizenship by investment, the establishment of necessary administrative machinery and the making of administrative appointments shall be conducted in accordance with the provisions of the Schedule.

(2) The Minister may by regulations revoke, amend or add to the Regulations in the Schedule and may thereby make further provision for the purpose of carrying this Act into effect, for the better carrying out of the objects and purposes of this Act.

(3) Regulations made under this Act may—

- (a) make different provision in relation to different cases or circumstances;
- (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases, and define a class by reference to any circumstances whatsoever; and
- (c) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(4) Regulations made under this Act may create an offence punishable by a fine not exceeding \$20,000.

(5) Regulations made under this Act shall be subject to affirmative resolution of the House of Representatives.

SCHEDULE

(Section 6)

ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT ACT, 2013

1. Short title

These Regulations may be cited as the Antigua and Barbuda Citizenship by Investment Regulations, 2013.

2. Interpretation

In these Regulations unless the context otherwise requires—

“Act” means the Antigua and Barbuda Citizenship by Investment Act, 2013;

“Agent” means a person who has applied for, and been granted, an Agent’s Licence pursuant to regulation 4 and is thereby authorised to act on behalf of the main applicant in relation to a citizenship by investment application;

“Agent’s Licence” means a Citizenship by Investment Agent’s Licence granted under regulation 4;

“applicant” means a person who applies for Citizenship by Investment;

“approved charitable investment” means a funding in a non-profit organisation approved by the Minister in accordance with regulation 8;

“approved development area” means an area which has been approved for development by the Cabinet of Antigua and Barbuda for the purposes of this Act;

“approved project” means a real estate **project** that is approved by **Cabinet** within an approved development area after consultation with the Antigua and Barbuda Investment Authority;

“authenticated translation” means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organisation, or similar official institution, or if done in a country where there are no official accredited translators, a translation done by a company whose role or business is professional translation;

“certified copy” means, subject to regulation 5(13), a photocopy certified by a notary public to be a true copy of the original;

“child” means a biological or legally adopted child of the main applicant, or of the spouse of the main applicant;

“dependant” means—

- (a) a spouse of the main applicant;
- (b) a child of the main applicant or his or her spouse who is less than eighteen years of age;
- (c) a child of the main applicant or his or her spouse who is at least eighteen years and less than twenty-six years of age and who is in full time attendance at a recognised institution of higher learning and fully supported by the main applicant;
- (d) a child of the main applicant or of the spouse of the main applicant who is at least eighteen years of age, who is physically or mentally challenged, and who is living with and fully supported by the main applicant; or
- (e) parents or grandparents of the main applicant or his or her spouse above the age of sixty-five years living with and fully supported by the main applicant;

“investment” means—

- (a) the purchase of real estate in an approved project in accordance with regulation 6;
- (b) a contribution to the National Development Fund in accordance with regulation 7; or
- (c) an investment in a business in Antigua and Barbuda in accordance with regulation 9;

“main applicant” means the person who, either as a single applicant or as the head of a family, undertakes an investment for the purposes of these Regulations and signs the relevant agreements and undertakings on behalf of his or her dependants;

“minimum investment” means an investment into an approved project of an amount not less than that defined by these Regulations;

“National Development Fund” means a special fund established under section 42(2) of the Finance Administration Act 2006 for the purpose of funding government sponsored projects including public-private partnerships **and approved charitable investments.**

“police certificate” means a statement from the national law enforcement authority of each country or countries of residence of the applicant and his dependants on the status of the applicant and his dependants’ criminal records; and

“Unit” means the office established by regulation 3.

3. Establishment of Citizenship by Investment Unit

(1) The Minister shall establish a Citizenship by Investment Unit that shall be responsible for processing all applications for Agents’ Licences, and all applications for Citizenship by Investment.

(2) The Unit shall be staffed by persons of integrity who will be employed in a non-established capacity by the Permanent Secretary in the Office of the Minister from amongst persons who are qualified and have the necessary experience and capacity in matters relating to law, finance, trade, urban development, and environmental studies.

(3) The Minister shall appoint one of those persons to be the Chief Executive Officer of the Unit whose paramount duties shall be to provide the necessary leadership to the Unit and to continuously monitor the investment programme to ensure that its independence and integrity are maintained and that it is managed in accordance with international best practices.

(4) The Chief Executive Officer shall keep the Minister fully informed of the business of the Unit and shall furnish the Minister with such information as the Minister may request with respect to any particular matter relating to the business and activities of the Unit.

(5) The Chief Executive Officer may from time to time and with the approval of the Minister employ at such remuneration and on such terms and conditions as he thinks fit such other support staff as may be necessary and proper for the due and efficient management and administration of the Unit.

(6) The employees of the Unit shall not be public officers for the purposes of Chapter VII of the Constitution.

4. Citizenship by Investment Agents

(1) An application for Citizenship by Investment shall be submitted **only** by an Agent who is the holder of an Agent’s Licence issued under Regulations made under the Act.

(2) An Agent’s Licence may only be issued to a natural person who is ordinarily resident in Antigua and Barbuda.

(3) An application for an Agent’s Licence shall be submitted to the Unit and shall be made on the prescribed form and accompanied by the fee prescribed in the Schedule of Fees and by such evidence of the applicant’s professional qualification, ability, resources, experience and integrity as the Unit may require.

(4) An Agent shall maintain a place of business in Antigua and Barbuda and shall promptly inform the Unit of any changes in the location thereof.

(5) An Agent's Licence shall be revoked if—

- (a) the ability, resources, experience or integrity of the Agent has fallen below the standard that might reasonably be expected;
- (b) the annual fee specified in paragraph 1 of the Schedule remains unpaid for fourteen days after it has become due;
- (c) the requirements of subregulation (4) have not been complied with.

(6) A person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months, or to both.

5. Qualifications and general requirements and procedures for citizenship by investment

(1) Any person who is—

- (a) at least eighteen years of age;
- (b) proposes to make an investment; and
- (c) who meets the application requirements,

may apply as a main applicant to become a citizen of Antigua and Barbuda pursuant to section 3 of the Act.

(2) Applications shall be made on the forms prescribed in accordance with regulation 14 and shall be accompanied by ten percent of the processing fees and the full amount of the due diligence fees as specified in the Schedule of Fees (which shall not be refunded in the event of an application not being granted) and by the originals or certified copies of—

- (a) a certificate in the prescribed form by a medical practitioner that the main applicant and his dependants are not suffering from any contagious disease and that they are otherwise in good health; and
- (b) a police certificate.

(3) Applications shall be submitted to the Unit only by an Agent.

(4) Application forms shall be available only from the Unit upon request by an Agent.

(5) An application form shall be completed in English and any document submitted with the application shall be in English, or, if the original language of the document is not in English, the document shall be accompanied by an authenticated translation.

(6) The main applicant shall, with the exception of his or her spouse, provide a sworn affidavit of support for each dependant over eighteen years old.

(7) Each application form must be completed personally by the main applicant or the Agent and signed by the main applicant and by any dependants over the age of eighteen, and the following conditions shall be applicable—

- (a) for a dependant who is below the age of eighteen, both parents may be required to sign the forms on behalf of the dependant; and
- (b) in a case where one parent has sole custody of a dependant, or another person has legal guardianship of a dependant, the appropriate legal documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.

(8) If an applicant makes a false statement or omits information requested on any of the forms, the citizenship application may be declined.

(9) With the exception of a police certificate, which may be submitted subsequently at a later date before the application is approved, applications shall only be accepted and processed if all forms are properly completed, dated and signed, and if accompanied by all required documents and fees.

(10) Every application that is submitted shall be examined by the Unit.

(11) The Unit shall perform, or cause to be performed, due diligence checks in respect of every applicant and every dependant over 11 years of age and the applicant may be required to attend an interview in Antigua and Barbuda or at an embassy or High Commission of Antigua and Barbuda before any decision is made in relation to his application.

(12) An applicant who is at least eighteen years and less than twenty-six years of age who is applying as a dependant of a main applicant shall submit written confirmation from an accredited university or college of further education of the applicant's enrolment at that university or college at the time of application.

(13) Where a notary public certifies a document to be a true copy of the original that document must be authenticated by—

- (a) an apostille in accordance with the provisions of the Hague Convention of 5th October 1961 Abolishing the Requirement for Legalisation for Foreign Public Documents, in the case of a jurisdiction that is a party to that Convention; or
- (b) validation of the certificate of the notary public by the appropriate government department in the case of a jurisdiction that is not a party to that Convention.

(14) Within three months of the submission of an application for Citizenship by Investment, the Unit shall notify in writing the Agent on behalf of the main applicant, that the application has been—

- (a) approved;
- (b) denied; or
- (c) delayed for cause and is still being processed.

(15) Within thirty days of the notification of the approval under subregulation (14)(a) the applicant or applicants shall pay the balance of the processing fee and -

- (a) deposit the required contribution under regulation 7 into the National Development Fund; or
- (b)
 - (i) complete and execute all necessary documents and pay the purchase price and all required disbursements to enable title to be registered in the applicant's name and allow for the implementation of the proposed real estate investment in accordance with the guidelines established by the Unit; or
 - (ii) complete and execute all necessary documentation for the payment or investment of all sums due for the implementation of the proposed investment in business in accordance with the guidelines established by the Unit.

(16) Every successful applicant shall attend at such office in Antigua and Barbuda as may be specified from time to time by the Minister to take the oath or affirmation of allegiance in the form contained in the Third Schedule to the Antigua and Barbuda Citizenship Act, Cap 22.

6. Real estate investments

(1) Cabinet shall from time to time by Order declare approved development areas for the purpose of real estate investments under this Act, and shall notify the Unit accordingly.

(2) **On the application of a developer, Cabinet** shall after consultation with the Antigua and Barbuda Investment Authority approve within an approved development area, projects for residential, tourism, or commercial and industrial purposes.

(3) Where an applicant executes a binding purchase and sale agreement with a developer of an approved project within an approved development area, conditional upon the applicant being approved for citizenship by investment, an application may be submitted on his behalf by an Agent.

(4) The full purchase price of the real estate shall be at least \$1,080,000.

(5) Two or more applicants who execute such a binding purchase and sale agreement may apply jointly for citizenship by investment, provided that each applicant contributes the minimum investment of \$1,080,000 towards the investment.

(6) Beneficial ownership of real estate shall be permissible only through a company that is not a non-profit company and provided that such company—

- (a) has issued all of its authorised shares to the applicant or the applicants under subregulation (4);
- (b) is established and is in good standing under the laws of Antigua and Barbuda;
- (c) is not an exempt or offshore entity; and
- (d) submits irrefutable evidence as to its beneficial ownership, which evidence shall be certified by the Registrar of Companies.

(7) Where a citizen by investment disposes of real estate purchased as an approved project or disposes of his shares in a company owning such real estate before the expiry of the period of five years or before the proposed development has been substantially completed he shall, unless exempted by Cabinet for good and sufficient reason —

- (a) be deprived of his citizenship by the Minister responsible for immigration and citizenship; and
- (b) be disqualified from further participation in the Citizenship by Investment programme.

(8) Where contemporaneously with a disposal as described in subregulation (7) the applicant purchases another approved project or a beneficial interest in a similar company for at least the purchase price specified in subregulation (4) or alternatively makes another investment under this Act, subregulation (7) (a) and (b) will not apply.

(9) An application **for citizenship by investment** under subregulation (2) shall be considered only after the applicant has demonstrated to the satisfaction of the Unit that he has the financial means to develop the approved project and in accordance with the guidelines published by the Unit after consultation with the Antigua and Barbuda Investment Authority.

7. National Development Investments

Where a person proposes to make a contribution to the National Development Fund of at least \$675,000 an application for Citizenship by Investment may be submitted on his or her behalf through an Agent.

8. Charitable Investments

The Minister may from time to time approve one or more non-profit organisations which deliver services in health care, education, environmental management, youth development or the promotion of sport or culture for the allocation of charitable investments from the National Development Fund.

9. Investment in business

(1) The Unit shall after consultation with the Antigua and Barbuda Investment Authority approve businesses, whether existing or proposed, for the purposes of investment in business under this Act and shall publish same.

(2) Where—

- (a) a person proposes to make an investment in an approved business of at least \$4,000,000 on his own behalf; or
- (b) at least 2 persons propose to make a joint investment in such an approved business totalling at least \$13,500,000, and each of those persons individually propose to contribute at least \$1,080,000 to the joint investment, an application or applications for Citizenship by Investment may be submitted on his or their behalf through an Agent.

10. Ineligible applicants

An applicant who—

- (a) has provided false information on his or her application form;
- (b) not having received a free pardon, has at any time previously been convicted in any country of an offence for which the maximum custodial penalty is in excess of six months imprisonment;
- (c) is the subject of a criminal investigation;
- (d) is a potential national security risk to Antigua and Barbuda or to any other country;

- (e) is involved in any activity likely to cause disrepute to Antigua and Barbuda; or
- (f) has been denied a visa to a country with which Antigua and Barbuda has visa-free travel and who has not subsequently obtained a visa to the country that issued the denial,

shall not be approved for citizenship under this Act.

11. Promotion and dissemination of information

(1) The Unit shall from time to time by contract appoint representatives and service providers to promote, advertise, and disseminate information on the citizenship by investment programme and identify suitable applicants whose applications must be submitted through an Agent.

(2) The Unit shall appoint **only** representatives and service providers whose professional qualification, ability, resources, experience, expertise, integrity and conduct conform to the guidelines issued by the Unit.

(3) Unless in compliance with the guidelines issued by the Unit, no promotional information, or advertisement in relation to the citizenship by investment programme shall be published or disseminated publicly.

(4) A person who contravenes sub-regulation (3) commits an offence and is liable on summary conviction to a fine not exceeding \$15,000.

12. Review process

(1) The Minister may, where he deems it necessary, appoint a panel to review an application.

(2) Where the Minister appoints a review panel, the panel may request the applicant to appear in person before it.

(3) A panel that is appointed pursuant to sub-regulation (1) shall be comprised of the following persons—

- (a) a representative from the Attorney General's Chambers;
- (b) a representative of the Minister responsible for Immigration;
- (c) a representative of the Prime Minister;
- (d) a representative of the Minister responsible for Finance.

(4) The Review Panel shall make recommendations to the Minister based on its findings in relation to the application under review.

13. Six-Monthly Report

(1) The reports referred to in section 5 of the Act shall set out the information described in sub-regulation (2) for the half years in each year starting on the 1st January and the 1st July and shall be prepared within fourteen days of the expiry of each half-yearly period.

(2) The information contained in the reports referred to in sub-regulation (1) shall include-

- (a) the numbers of applications made, granted and refused under Act;
- (b) the dates of the applications and of the Minister's decisions;
- (c) the names, addresses and nationalities of the applicants and of any dependants included in the applications;
- (d) the amounts of the purchase prices, contributions or investments, as the case may be;
- (e) the names of the approved project, charitable organisation, government-sponsored project or business investment in respect of which payment was made to support each application;
- (f) the aggregate amount in the National Development Fund at the date of the report; and
- (g) the date on which the payment made by a successful applicant was transmitted from the **National Development Fund** to the government-sponsored project or the approved non-profit organisation, as the case may be, together with such other information as the Minister may consider appropriate.

14. Forms

The Unit shall prescribe forms to facilitate the applications required as provided in these Regulations.

SCHEDULE OF FEES*Regulations 4(3) and 5(2)***1. Citizenship by Investment Agent's licence**

There shall be payable on application for a Citizenship by Investment Agent's Licence, a fee of \$8,100 and on each anniversary of the granting of a Citizenship by Investment Agent's Licence, the Agent shall pay a fee of \$13,500.

2. Citizenship by Investment

The following fees shall be payable to the Unit **in respect of an** application for Citizenship by Investment—

Fees	\$
Processing fee – Principal applicant	\$135,000
Processing fee – Spouse	\$135,000
Processing fee – Dependent child aged 0 – 11	\$67,500
Processing fee – Dependent child aged 12 – 17	\$67,500
Processing fee – Dependent child aged 18 – 25	\$135,000
Processing fee – Dependent parent aged over 65	\$135,000
Due diligence fee - Principal applicant	\$20,250
Due diligence fee – Spouse	\$20,250
Due diligence fee - Dependent child aged 0 – 11	\$0
Due diligence fee - Dependent child aged 12 – 17	\$5,400
Due diligence fee - Dependent child aged 18 – 25	\$10,800
Due diligence fee - Dependent parent aged over 65	\$10,800

Passed by the House of Representatives on
the 1st February, 2013.

Passed by the Senate on the 19th March,
2013.

D. Gisele Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

Romana Small,
Clerk to the House of Representatives.

Romana Small,
Clerk to the Senate.