

No. of 2021

VIRGIN ISLANDS
CRUISING AND HOME PORT PERMIT ACT, 2021
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No. of 2021

Cruising and Home Port Permit Act, 2021

Virgin
Islands

I Assent

Governor.
, 2021

VIRGIN ISLANDS

No. of 2021

An Act to make provisions for Cruising and Home Port Permit; to repeal the Cruising Permit Act (Cap. 203) and other matters connected therewith.

[Gazetted , 2021]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

1. (1) This Act may be cited as the Cruising and Home Port Permit Act, 2021. Short title and commencement.

(2) This Act shall come into force on such date as may be appointed by the Minister by notice published in the *Gazette*.

2. In this Act, unless the context otherwise requires, Interpretation.

“Charter boat” means any vessel offered for hire, with or without a crew, for the conveyance of passengers for a particular period of time and any period of time and any boat conveying passengers for payment or reward subject to the provisions of section 11;

“Commissioner” means the Commissioner of Customs appointed as such under the Customs Management and Duties Act, 2010 and any person acting under his express or implied authority; No. 6 of 2010

“Cruising” includes stopping in any part of the territorial sea but does not include mere passage through the territorial sea;

“Cruising Permit” means a written instrument authorising the master or person in charge of any charter boat to cruise in the Territory;

“foreign based charter boat” means any charter boat other than a home based charter boat;

“home based charter boat” means a charter boat

- (a) operating in the Virgin Islands;
- (b) generally maintained in the Virgin Islands; and
- (c) managed by a company or any other legal entity incorporated, registered or licensed in the Virgin Islands,

for a period of five months or more in any twelve month period;

“Home Port Permit” means a document or written instrument authorising the master or a person in charge of a small cruise ship to use the Cyril B. Romney Tortola Cruise Pier or any other port in the Territory as a home port;

“Owner includes the crew and any person regularly in charge of any charter boat and any person employed by him or her in the operation of such boat;

“small cruise ship” means a vessel which is not registered in the Virgin Islands and capable of carrying not more than 500 passengers; and

“territorial sea” means three nautical miles measured from the shoreline of the Territory subject to the provisions of the Geneva Convention on the Territorial Sea and Contiguous Zone 1958.

PART II CHARTER BOAT PERMIT

Issue of Cruising
Permit.
Schedule 1

3.(1) A charter boat owner shall not cruise in the territorial sea without first obtaining a Cruising Permit in the form set forth in Schedule 1 from the Commissioner or any person authorised by the Commissioner to issue such permit.

(2) It shall be the duty of the owner of a charter boat under subsection (1), to carry a valid Cruising Permit at all times while cruising.

<p>4. There shall be paid on the issue of a permit under section 3, a fee at the rate set forth in Schedule 2 in respect of home based charter boats and foreign based charter boats, provided that no fees shall be levied in respect of employed bona fide crew of the charter boats.</p>	<p>Charge for Cruising Permits. Schedule 2</p>
<p>5. The Commissioner shall maintain a record of every home based charter boat.</p>	<p>Record of home based charter boats.</p>
<p>6. (1) An owner of a foreign based charter boat who proposes to bring passengers in that boat to cruise within the territorial sea, shall notify the Commissioner fourteen days before the commencement of such cruising, however, where such a boat is regularly engaged in cruising within the territorial sea, notification of such cruising should be made by 1st November of each year, or on such other date as may be specified by the Commissioner.</p>	<p>Provisions applicable to foreign based charter boats.</p>
<p>(2) The Commissioner shall maintain a record of all charter boats under subsection (1).</p>	
<p>7. A charter boat owner shall submit to the Commissioner the details of each boat required for record in the prescribed form.</p>	<p>Details of boat for record.</p>
<p>8. A charter boat owner or operator shall maintain records of charters and of fees paid in such form as may be prescribed by regulations.</p>	<p>Maintenance.</p>
<p>9. A charter boat owner may appoint an agent to act on his or her behalf and such appointment shall be notified to the Commissioner in writing.</p>	<p>Appointment of agents.</p>
<p>10. The Commissioner shall have the right to examine and take copies of all records, correspondence and documents relating to the number of persons accommodated on charter boats.</p>	<p>Access to records.</p>
<p>11. The Commissioner may exempt from payment of fees or authorise repayment of fees paid for any charter boat participating in any regatta, tournament or similar activity organised by any club or similar organisation accepted as such by the Commissioner.</p>	<p>Exemption of fees.</p>
<p>12. A ferry as defined under section 2 of the British Virgin Islands Ports Authority Act, 1990, shall not be subject to the provisions of this Act.</p>	<p>Ferries not subject to Act. No. 12 of 1990</p>

**PART III
HOME PORT PERMIT**

Issuing of Home Port Permit.

13. (1) A small cruise ship owner shall not home port in the Territory without first obtaining a Home Port Permit from the Commissioner or any person authorised by the Commissioner to issue such a permit.

(2) It shall be the duty of the owner of a small cruise ship under subsection (1) to obtain and to carry on such a ship a valid Home Port Permit at all times.

(3) A small cruise ship permit shall outline specific terms and conditions including the following:

- (a) the master or a person in charge of the small cruise ship has permission to use the Cyril B. Romney Tortola Cruise Pier or any other designated port in the Territory for the purpose of beginning or terminating a cruise from or at the home port; and
- (b) cruise passengers have the requisite permission to begin their cruise (including flying into the Territory) to commence their cruise or otherwise terminate the cruise.

Nature of Home Port Permit. Schedule 3

14. The Home Port Permit shall in broad outline be in the form set forth in the Schedule 3.

Charge for Home Port Permit. Schedule 2

15. There shall be paid on the issue of a home port special permit a fee at the rate set forth in the Schedule 2.

Part II ceasing to apply.

16. The provisions of Part II of this Act shall cease to apply two years from the date on which this Act comes into force.

**PART IV
BVI PORT AUTHORITY APPROVED CRUISE SHIPS**

BVI Ports Authority approved cruise ship permit.

17. The Commissioner may grant a special permit in the form set out in Schedule 4 to the Master of any cruise ship approved by the BVI Ports Authority to commence and terminate a cruise at the Cyril B. Romney Tortola Cruise Pier or any other port designated in the Permit on such terms and conditions as may be specified in the permit.

18. There shall be paid on the issue of a permit issued under section 17 a fee at the rate set forth in Schedule 2.

Charge of BVI
Ports Authority
approved cruise
ship.
Schedule 2

PART V OFFENCES

19. (1) The owner of any charter boat who fails to comply with the requirements of section 3 commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Offences and
penalties for
failure to comply
with section 3.

(2) Subject to the provisions of subsection (3) a person who commits an offence under section 3 may compound that offence by payment of a compounding fee of thirty dollars per person found to be cruising on such a boat for each day that the offence has continued, to the Commissioner within such time not exceeding seven days, as the Commissioner may allow.

(3) The provisions of subsection (2) shall not apply to a person who

(a) has been previously convicted of an offence under section 3; or

(b) has on two previous occasions compounded such an offence.

20. (1) The owner of any small cruise ship who fails to comply with the requirements of section 13 commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Offences and
penalties for
failure to comply
with section 13.

(2) Subject to the provision of subsection (3) any person who commits an offence under section 13 may compound that offence by payment of a compounding fee of thirty dollars per person found on the small cruise ship for each day that the offence has continued to the Commissioner within such time, not exceeding seven days, as the Commissioner may allow.

(3) The provisions of subsection (2) shall not apply to a person who-

(a) has been previously convicted of an offence under section 13; or

(b) has on two previous occasions compounded such an offence.

21. A person who fails to comply with or contravenes any of the provisions of this Act for which no penalty is otherwise provided is liable on summary conviction to a fine of two hundred dollars.

General penalty.

Criminal Proceedings.

22. Prosecutions for offences committed under this Act may be instituted in the Magistrates' Court by the Commissioner, but no prosecution for an offence under section 3 or 13 shall be instituted unless the person charged has either

- (a) on one previous occasion compounded offences committed by him under either section 3 or 13; or
- (b) failed to pay a compounding fee within the time allowed by the Commissioner.

PART VI MISCELLANEOUS

Power to amend Schedule.

23. (1) With the approval of Cabinet, the Minister may, by Order published in the *Gazette*

- (a) and a newspaper of wide circulation in the Territory, amend Schedule 2 of this Act; and
- (b) amend Schedules 1, 3 and 4 of this Act.

(2) An Order made under subsection (1)(a) shall be subject to a negative resolution of the House of Assembly;

Regulations.

24. (1) The Cabinet may make regulations generally for carrying into effect the provisions of this Act.

(2) Regulations made under this section may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding one hundred and fifty dollars or such lower limit as may be specified in the regulations

Declaration of public Emergency.

25. The fees chargeable under this Act shall not be payable where there has been a declaration of public emergency in the Territory.

Repeal. Cap. 203

26. The Cruising Permit Act is repealed.

SCHEDULE 1

[Section 3]

CRUISING PERMIT

GOVERNMENT OF THE VIRGIN ISLANDS

By virtue of the powers conferred on me by section 3 of the Cruise and Home Port Permit Act, 2021 I.....Commissioner of Customs hereby authorise the Master of the vessel known and commonly called.....and his crew to peaceably cruise and enjoy the waters, beaches and reefs of the Virgin Islands from the.....day of....., 20..... today of....., 20.....

Commissioner of Customs

SCHEDULE 2

[Sections 4, 15 and 18]

CLASSIFICATION FEES

CLASSIFICATION	FEES PER PERSON PER DAY
Home based charter boats	\$6.00
Foreign based charter boats	\$16.00
Home port	\$5.00
BVI Port Authority Approved Cruise Ship	\$5.00

SCHEDULE 3

[Section 14]

HOME PORT PERMIT

GOVERNMENT OF THE VIRGIN ISLANDS

By virtue of the powers conferred on me by section 13 of the Cruising and Home Port Permit Act, 2021 I.....Commissioner of Customs do hereby authorise the Master of the small cruise ship known and commonly called.....to use the Cyril B. Romney Tortola Cruise Pier or any other designated port in the Territory as its home port in accordance with the provisions of Part II of this Act, subject to the following terms and conditions:

- (i)
- (ii)
- (iii)
- (iv)

The Home Port Permit issued, subject to payment in full, will be in force from the.....day of....., 20..... today of....., 20.....

Commissioner of Customs

OBJECTS AND REASONS

This Bill provides for Cruising and Home Port Permits, repeals the Cruising Permit Act (Cap. 203) and provides for other matters connected therewith.

The Bill consists of six parts.

Part I (clauses 1 to 2) would comprise of the preliminary sections.

Clause 1 would provide for the short title and commencement of the proposed legislation.

Clause 2 would define certain words and expressions used in the Act.

Part II (clauses 3-12) would provide for the Charter boat permits.

Clause 3 would provide for Charter boat owners to be able to cruise in the territorial sea upon obtaining a cruising permit in the form set forth in Schedule 1 from the Commissioner or any person authorised by the Commissioner issue such permit. It is the duty of the owner of such charter boat to carry a valid cruising permit at all times while cruising.

Clause 4 would provide for fees for home based charter boats and foreign based charter boats in Schedule 2.

Clause 5 would provide for the Commissioner of customs to maintain a record of every home based charter boat.

Clause 6 would provide for an owner of a foreign based charter boat who proposes to bring passengers in that boat to cruise within the territorial sea, to notify the Commissioner fourteen days before the commencement of such cruising and where such a boat is regularly engaged in cruising within the territorial sea, notification of such cruising should be made by 1st November of each year, or on a date as may be specified by the Commissioner.

Clause 7 would provide for the owner of every charter boat to submit to the Commissioner of Customs the details of each boat required for record in the prescribed form.

Clause 8 would provide for charter boat owners or operators to maintain records of charters and of fees paid in such form as may be prescribed.

Clause 9 would provide for owners of charter boats to appoint an agent to act on his or her behalf and such appointment must be notified to the Commissioner in writing.

Clause 10 would provide for the Commissioner of Customs to have the right to examine and take copies of all records, correspondence and documents relating to the number of persons accommodated on charter boats.

Clause 11 would provide that the Commissioner Customs may exempt from the payment fees or authorise repayment of fees paid for any charter boat participating in any regatta, tournament or similar activity organised by any club or similar organisation accepted as such by the Commissioner.

Clause 12 would provide that for ferries shall not be subject to the provisions of this Act.

Part III (clauses 13-16) would provide for the Home Port Permits.

Clause 13 would provide for small cruise ship owners to home port in the Territory upon obtaining a home port permit from the Commissioner or person authorised by the Commissioner to issue such a permit. It shall be the duty of the owner of a small cruise ship to obtain and to carry on such a ship a valid home port permit at all times. For the purposes of this clause a small cruise ship permit shall outline specific terms and conditions.

Clause 14 would provide for home port permit to be in the form as set forth in Schedule 3.

Clause 15 would provide for Home port special permit fees at the rate set forth in Schedule 2.

Clause 16 would provide for the provisions of Part II to cease to apply two years from the date on which this Act comes into force.

Part IV (clauses 17-18) would provide for the BVI Port Authority approved Cruise Ships.

Clause 17 would provide for the Commissioner of Customs to grant a special permit in the form set out in Schedule 4 to the Master of any cruise ship approved by the BVI Ports Authority to commence and terminate a cruise at the Cyril B. Romney Tortola Cruise Pier or any other port designated in the Permit on such terms and conditions as may be specified in the permit.

Clause 18 would provide for the fees for cruise ships approved by the BVI Ports Authority under Schedule 2.

Part V (clauses 19-23) would provide for offence.

Clause 19 would provide for the owners of charter boats who fail to comply with the requirements of section 3 to be liable on summary conviction to a fine of five thousand dollars. This section also would provide for the compounding of such offences in specific circumstances.

Clause 20 would provide for the owners of small cruise ships who fail to comply with the requirements of section 13 to be liable on summary conviction to a fine of five thousand dollars. This section also would provide for the compounding of such offences in specific circumstances.

Clause 21 would provide for a person who fails to comply with or contravenes any of the provisions of this Act for which no penalty is otherwise provided to be liable on summary conviction to a fine of two hundred dollars.

Clause 22 would provide for Prosecutions for offences committed under this Act may be instituted in the Magistrates' Court by the Commissioner, but no prosecution for an offence under section 3 or 13 shall be instituted unless under specific conditions.

Clause 23 would provide for the amending of the Schedules of the Act.

Part II (clauses 24-26) would provide for miscellaneous provisions.

Clause 24 would provide for the Cabinet to make regulations generally for carrying into effect the provisions of this Act.

Clause 25 would provide for fees chargeable under the Act shall not be payable where there has been a declaration of public emergency in the Territory.

Clause 26 would provide for the repeal of the Cruising Permit Act (Cap 203).

Schedule 1 would provide for Cruising Permit.

Schedule 2 would provide for Classification Fees.

Schedule 3 would provide for Home Port Permit.

Schedule 4 would provide for Special Permit.

Premier.

