

VIRGIN ISLANDS
CRUISING AND HOME PORT PERMIT ACT, 2021
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I Assent
(Sgd.) John Rankin CMG,
Governor.
26th July, 2021

VIRGIN ISLANDS

No. 29 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 10th August, 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 12;

“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;

“Director” means the Director of the Virgin Islands Shipping Registry;

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

“home based charter boat” means a charter boat

- (a) registered in the Virgin Islands;
- (b) having an established base of operations in the Virgin Islands; and
- (c) managed by a company registered 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 upon payment of annual fee;

“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 but no less than 13 passengers;

“special permit” means a document or written instrument authorising a 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 designated port upon payment of a per cruise fee; 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**

- 3.** Where a Virgin Islands based Charter vessel
- Annual
Registration
exemption fee.
- (a) is managed by a company registered in the Virgin Islands;
and
- (b) has an established base of operations in the Virgin Islands,
- for a period of five months or more in any twelve month period, but is not registered in the Virgin Islands the owner may be permitted to pay an annual Registration exemption fee of nine hundred and fifty dollars to the Virgin Islands Shipping Registry.
- 4. (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.
- Issue of Cruising
Permit. Schedule
1
- (2) It shall be the duty of the owner of such charter boat to carry a valid Cruising Permit at all times while cruising.
- 5.** There shall be paid on the issue of a permit under section 4, 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.
- Charge for
Cruising Permits.
Schedule 2
- 6.** The Commissioner shall maintain a record of every home based charter boat.
- Record of home
based charter
boats.
- 7. (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.
- Provisions
applicable to
foreign based
charter boats.
- (2) The Commissioner shall maintain a record of all charter boats under subsection (1).
- 8.** A charter boat owner shall submit to the Commissioner the details of each boat required for record in the prescribed form.
- Details of boat
for record.
- 9.** A charter boat owner or operator shall maintain records of charters and of fees paid in such form as may be prescribed by regulations.
- Maintenance.

Appointment of agents.

10. 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.

Access to records.

11. 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.

Exemption of fees.

12. (1) 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.

(2) The Commissioner may exempt from payment of fees

(a) for the first 24 hours of any voyage, a charter boat or cruise ship whose capacity exceeds 100 passengers and has on board a Safety of Life at Sea (SOLAS) approved overnight accommodation; and

(b) charter boats engaged on direct voyages

(i) originating in a foreign port and terminating in a Virgin Islands port with no continuing internal legs; or

(ii) originating in a Virgin Islands port with no prior internal legs and terminating in a foreign port.

Cruising permit fees applicable to friends and guests.

13. (1) For the purposes of this Act cruising permit fees shall be applicable to friends and guests of the owner of a charter boat.

(2) Notwithstanding subsection (1) a charter boat which is

(a) 24 meters or greater in length;

(b) registered in the Virgin Islands;

(c) managed by a company registered in the Virgin Islands; and

(d) carrying immediate family members of the owner on board,

shall be exempted from paying cruising permit fees.

Waiver, remit or refund of cruising permit fees.

14. For the purposes of this Act the Commissioner may with the approval of the Minister of Finance and the Financial Secretary waive, remit or

refund the whole or part of cruising permit fees to be paid in respect of cruising in the Territory.

15. 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.

Ferries not subject to Act. No. 12 of 1990

PART III HOME PORT PERMIT

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

Issuing of Home Port 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.

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

Nature of Home Port Permit. Schedule 3

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

Charge for Home Port Permit. Schedule 2

PART IV BVI PORT AUTHORITY APPROVED CRUISE SHIPS

19. The Director 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.

BVI Ports Authority approved cruise ship permit. Schedule 4

Charge of BVI
Ports Authority
approved cruise
ship.
Schedule 2

20. There shall be paid on the issue of a special permit issued under section 19 a fee at the rate set forth in Schedule 2.

PART V OFFENCES

Offences and
penalties for
failure to comply
with section 4.

21. (1) The owner of any charter boat who fails to comply with the requirements of section 4 commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(2) Subject to the provisions of subsection (3) a person who commits an offence under section 4 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 4;
or
 - (b) has on two previous occasions compounded such an offence.

Offences and
penalties for
failure to comply
with section 16
or 19.

22. (1) The owner of any small cruise ship or a cruise ship who fails to comply with the requirements of section 16 or 19 commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(2) Subject to the provision of subsection (3) any person who commits an offence under section 16 or 19 may compound that offence by payment of a compounding fee of thirty dollars per person found on the small cruise ship or a 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 16 or 19; or
 - (b) has on two previous occasions compounded such an offence.

General penalty.

23. 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 five hundred dollars.

24. 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 4, 16 or 19 shall be instituted unless the person charged has either

Criminal Proceedings.

- (a) on one previous occasion compounded offences committed by him or her under either section 4, 16 or 19; or
- (b) failed to pay a compounding fee within the time allowed by the Commissioner.

PART VI MISCELLANEOUS

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

Power to amend Schedule.

- (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;

26. The Cabinet may make regulations generally for carrying into effect the provisions of this Act.

Regulations.

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

Declaration of public Emergency.

28. The Cruising Permit Act is repealed.

Repeal.
Cap. 203

SCHEDULE 1

[Section 4]

CRUISING PERMIT

GOVERNMENT OF THE VIRGIN ISLANDS

By virtue of the powers conferred on me by section 4 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 5, 18 and 20]

CLASSIFICATION FEES

CLASSIFICATION	FEES PER PERSON PER DAY
CRUISING PERMIT FEES	
Home Based Charter Boats	\$4.00
Foreign Based Charter Boats	\$16.00
Home Port Small Cruise Ship	\$5.00
Approved Cruise Ship	\$8.00
HOME PORT & SPECIAL PERMIT FEES	
Home Port Permit fees (Annual Fees)	\$1,500.00
Special Permit Fee (Per Cruise)	\$500.00

SCHEDULE 3

[Section 17]

HOME PORT PERMIT

GOVERNMENT OF THE VIRGIN ISLANDS

By virtue of the powers conferred on me by section 17 of the Cruising and Home Port Permit Act, 2021 I.....Director 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.....

Director

SCHEDULE 4

[Section 19]

SPECIAL PERMIT

GOVERNMENT OF THE VIRGIN ISLANDS

By virtue of the powers conferred on me by section 19 of the Cruising and Home Port Permit Act 2021 I.....Director do hereby authorise the Master of the Cruise ship known and commonly called.....and approved by the BVI Ports Authority to use the Cyril B. Romney Tortola Cruise Pier or any other designated port in the Territory to commence or terminate a cruise in the Territory, upon payment of a fee specified in the Schedule 2 and subject to the following terms and conditions:

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

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

Director

Passed by the House of Assembly this 17th day of June, 2021.

(Sgd.) Julian Willock,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.