

No. 11 of 2025

VIRGIN ISLANDS

MERCHANT SHIPPING (AMENDMENT) ACT, 2025

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I ASSENT

(Sgd.) Daniel Pruce,
Governor.
27th May, 2025

VIRGIN ISLANDS

No. 11 of 2025

AN ACT TO AMEND THE MERCHANT SHIPPING ACT, 2001, No.13 OF 2001, IN ORDER TO UPDATE THE LIST OF QUALIFYING PERSONS FOR OWNING A VIRGIN ISLANDS SHIP; TO ENHANCE THE IMPLEMENTATION OF THE SAFETY CONVENTION IN THE VIRGIN ISLANDS AND TO GIVE EFFECT TO REGIONAL AND OTHER CODES OF PRACTICE RELATING TO THE SAFETY OF SHIPS; TO PROVIDE FOR MARITIME ENFORCEMENT POWERS IN RESPECT OF CRIMINAL INVESTIGATIONS OR OFFENCES ON SHIPS; AND FOR CONNECTED PURPOSES.

[Gazetted 29th May, 2025]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement

1. (1) This Act may be cited as the Merchant Shipping (Amendment) Act 2025.

(2) This Act shall come into force on such date as the Governor may, by Proclamation published in the *Gazette*, appoint.

(3) Notwithstanding subsection (2), section 28 of this Act shall not come into force until the Governor issues a Code of Practice in accordance with that section.

Section 4 amended

2. Section 4 of the Merchant Shipping Act, 2001, No. 13 of 2001 (hereinafter referred to as the “principal Act”) is amended

- (a) by inserting the words “or in the United Kingdom” after the words “in any such Member State” in paragraph (h) in subsection (1); and

(b) in subsection (1) by deleting paragraph (k) and substituting with the following new paragraphs:

“(k) persons who are citizens of, or bodies corporate or foreign companies incorporated, established or registered in, a Commonwealth country, or any overseas country, territory or dependency of such a country; and ”; and

(ka) persons who are citizens of, or bodies corporate or foreign companies incorporated, established or registered in, a country listed in Schedule 7, or any overseas country, territory or dependency of such a country;”; and

(c) by deleting subsection (3) and substituting the following subsection:

“(3) In this section

“Commonwealth country” has the meaning given in section 2(1) of the Interpretation Act, Cap. 136; and

“place of business” means the place where meetings of the directors of the body corporate are regularly held and, in the case of a meeting held by electronic or other mechanical means, the place where the majority of members of the body corporate taking part in the meeting are present.”.

Section 171 amended

3. The principal Act is amended in section 171 by repealing the following definitions:

- (a) Antarctic area;
- (b) Arctic waters;
- (c) Cargo Ship Safety Construction Certificate;
- (d) Polar waters;
- (e) Safety Convention Certificate; and
- (f) Safety Convention Country.

Insertion of new section 172A

4. The principal Act is amended by inserting the following heading and a new section after section 172

“Safety Convention and its effect and application, etc.

Implementation of the Safety Convention and to have its force of law

172A. (1) The International Convention for the Safety of Life at Sea, 1974, as amended or modified by its Protocols of 1978 and 1988 (“the Safety Convention”) shall have force of law in the Virgin Islands.

(2) The Governor may make Regulations (“the Safety Regulations”) for the purposes of implementing into domestic law, and giving effect to the provisions of the Safety Convention, its Protocols and the Annex thereto, which constitute an integral part of the Safety Convention.

(3) Unless expressly provided otherwise, in this section, sections 173, 173A, 173B and section 459(1)(a) and (d), a reference to “the Safety Convention” constitutes at the same time a reference to

- (a) its Protocols;
- (b) the Annex; and
- (c) the Codes relating thereto issued by the IMO.

(4) Regulations made under subsection (2) may make provision in respect of any of the following matters

- (a) surveys of all ships including passenger ships and life-saving appliances and other equipment of cargo ships;
- (b) surveys of radio installations of cargo ships and of structure, machinery and equipment of cargo ships;
- (c) surveys of nuclear ships;
- (d) enhanced surveys and surveys of high-speed craft;
- (e) verification under the International Ship and Port Facility Security (ISPS) Code;
- (f) maintenance of conditions after surveys and verifications;
- (g) inquiries or investigations of incidents;
- (h) certificates for passenger ships, cargo ships and nuclear ships and high-speed craft;
- (i) permits to operate high-speed craft;
- (j) certification and verification of safety management systems;
- (k) the issue and endorsement of certificates;
- (l) the duration, validity, forms, acceptance, availability and qualification of certificates;
- (m) construction of ships;
- (n) lifesaving appliances and arrangements;
- (o) radio-communications;
- (p) safety of navigation;
- (q) carriage of cargos;
- (r) special measures to enhance maritime safety and security;
- (s) nuclear ships;

- (t) management for the safe operation of ships;
 - (u) safety measures for high-speed craft;
 - (v) inspection and control of ships;
 - (w) verification of compliance with the provisions of the Safety Convention; and
 - (x) such other matters as may be deemed necessary for full implementation of the Safety Convention.
- (6) Regulations made under this section may, notwithstanding Schedule 5 of this Act, provide
- (a) for offences and penalties for non-compliance of the provisions of the Safety Convention, and any Regulations made under this section, sections 173, 173A, 173B, and section 459(1)(a) and (d);
 - (b) that penalties for offences referred to in paragraph (a), shall be punishable, on summary conviction, by a fine not exceeding \$25,000; and
 - (c) that penalties for offences referred to in paragraph (a), shall be punishable, on conviction on indictment, by a fine not exceeding \$100,000, or by imprisonment for a term not exceeding two years, or both.”.

Section 173 amended

5. The principal Act is amended in section 173 by
- (a) deleting subsection (1A); and
 - (b) inserting the words “of the United Kingdom” after the words “Regulations, 1998” in subsection (6).

Insertion of new section 173B

6. The principal Act is amended by inserting the following section after section 173A:

“Implementation of the Codes

173B. (1) A Code which applies to, or shall apply to Virgin Islands ships wherever they may be, or foreign ships while in Virgin Islands waters by virtue of

- (a) its relation to the Safety Convention;
- (b) its origin under any international or regional Treaty or Convention, Protocol, Agreement or other arrangements made between States or Territories;
- (c) any obligations set by Red Ensign Group or such other group, or any regional community; or
- (d) it being issued by any maritime administration,

may be implemented in the Virgin Islands by regulations made by the Governor.

(2) Regulations made under subsection (1) may

- (a) make such provisions as may be required for full implementation and giving effect to the Code; and
- (b) provide for such offences and penalties as are allowed by section 172A(6).”.

Section 174 amended

7. The principal Act is amended in section 174(2)(c) by deleting the words “appointed by the Minister” and substituting with the words “designated for the purpose in the Regulations”.

Section 175 repealed

8. The principal Act is amended by repealing section 175.

Section 180 amended

9. The principal Act is amended in section 180(b) by deleting the words “Passenger Ship Safety Certificate or”.

Section 181 amended

10. The principal Act is amended in section 181 by deleting the word “international” and substituting with the word “non-international”.

Section 182 amended

11. The principal Act is amended in section 182(1) by deleting the word “international” and substituting the word “non-international”.

Section 184 heading amended

12. The heading of section 184 is amended by deleting the words “and compliance with ISM Code”.

Section 186 repealed

13. The principal Act is amended by repealing section 186.

Section 188 amended

14. The principal Act is amended in section 188(2) by inserting the words “or by the Managing Director” after the words “by the Safety Convention”.

Section 189 amended

15. The principal Act is amended in section 189 by deleting subsection (1).

Section 190 amended

16. The principal Act is amended in section 190(1) by deleting the number “186” and substituting with the number “187”.

Section 191 amended

17. The principal Act is amended in section 191 by

- (a) deleting the number and words “186(1)(a) or (b)” and substituting with the number “187” in subsections (1) and (2);
- (b) deleting subsections (3) and (4); and
- (c) deleting the words and number “sections 186 and” substituting with the word and number “section 187” in subsection (5) after the words “prescribed by”.

Sections 192 and 193 repealed

18. The principal Act is amended by repealing sections 192 and 193.

Section 194 amended

19. The principal Act is amended in section 194 by deleting the number “185” and substituting with the number “187” in subsection (2).

Section 197 amended

20. The principal Act is amended in section 197 by repealing subsection (1).

Section 200 amended

21. The principal Act is amended in section 200 by deleting the number “197(1)” and substituting with the number “197(2)” in subsection (2).

Section 204 repealed

22. The principal Act is amended by repealing section 204.

Section 205A repealed

23. The principal Act is amended by repealing section 205A.

Section 415 amended

24. Section 415 of the principal Act is amended

- (a) in subsection (1)
 - (i) by inserting the following paragraph after paragraph (b):
“(ba) and inspector;”;
 - (ii) by deleting paragraph (g) and substituting with the following paragraphs:
“(g) a commissioned naval officer; and
(h) a police officer;”;

- (b) in subsection (2) by deleting the words “Those powers” and substituting with the words “The powers referred to in subsection (1)”.

Section 417 amended

25. The principal Act is amended in section 417

- (a) in the heading by inserting the words “and police officers” after the word “inspectors”;
- (b) by deleting subsection (1) and substituting with the following subsections:

“(1) The powers conferred by this section are conferred in relation to any Virgin Islands ship wherever it may be and any other ship which is present in the Virgin Islands or in Virgin Islands waters.

(1A) The powers conferred by this section may be exercised by

- (a) any inspector appointed under section 414(5) or any surveyor acting as an inspector under section 414(6) for the purpose of performing his functions; and
 - (b) any police officer for the purpose of investigating an offence under this Act or any regulations made under it.”;
- (c) in subsection (2)
 - (i) in the opening sentence by deleting the words “Such an inspector may” and substituting with the words “Such an inspector or police officer may”;
 - (ii) by deleting paragraph (a) and substituting with the following:

“(a) at any reasonable time or, in a situation which in his opinion is or may be dangerous at any time board any ship if he has reason to believe that it is necessary for him to do so;”;
 - (iii) in paragraph (b) by deleting the words “on entering any premises by virtue of paragraph (a) or”;
 - (iv) in paragraph (d) by deleting substituting with the following:

“(d) give a direction requiring that the ship or any part of the ship or any thing in the ship or such a part shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);”;
 - (v) in paragraph (f) by deleting the words “premises or” wherever it appears;

- (vi) in paragraph (g) by deleting the words “premises or” wherever it appears;
- (vii) in paragraph (i) by deleting the word “inspector” wherever it appears and substituting with the words “inspector or police officer”;
- (viii) in paragraph (k) by deleting the word “inspector” and substituting with the words “inspector or police officer”;
- (d) in subsection (5)
 - (i) by deleting the word “inspector” in both places it appears and substituting with the words “inspector or police officer”; and
 - (ii) by deleting the words “premises or” and “the premises”;
- (e) in subsection (6) by deleting the word “inspector” and substituting with the words “inspector or police officer”;
- (f) in subsection (7)
 - (i) by deleting the word “inspector” in both places it appears and substituting with the words “inspector or police officer”; and
 - (ii) by deleting the words “premises or” “not the premises or”;
- (g) in subsection (8) by deleting the word “inspector” and substituting with the words “inspector or police officer”.

Section 419 amended

26. The principal Act is amended in section 419(1) by deleting the words “an inspector appointed under section 414(6) or any surveyor acting as an inspector under section 414(7)” and substituting with “an inspector appointed under section 414(5) or any surveyor acting as an inspector under section 414(6)”.

Section 420 amended

27. The principal Act is amended in section 420(1) by deleting the words “an inspector appointed under section 414(6) or any surveyor acting as an inspector under section 414(7)” and substituting with “an inspector appointed under section 414(5) or any surveyor acting as an inspector under section 414(6)”.

Insertion of a new Part XVIII

28. The principal Act is amended by inserting the following Part after Part XVII:

“PART XVIIA

Maritime enforcement

Application of maritime enforcement powers: general

430A. (1) A law enforcement officer may, for the purpose of preventing, detecting, investigating or prosecuting an arrestable offence, exercise any of the maritime enforcement powers in relation to

- (a) a Virgin Islands ship in Virgin Islands waters, foreign waters or international waters;
- (b) a ship without nationality in Virgin Islands waters or international waters;
- (c) a foreign ship in Virgin Islands waters or international waters; or
- (d) a ship, registered under the law of a recognised jurisdiction in Virgin Islands waters or international waters.

(2) In this section, “the maritime enforcement powers” are the powers as set out in

- (a) section 430D (power to stop, board, divert and detain);
- (b) section 430E (power to search and obtain information); and
- (c) section 430F (power of arrest and seizure).

(3) For the purpose of this part, a law enforcement officer shall be

- (a) an officer as may be designated by the Commissioner of police; or
- (b) an officer as may be designated by the Commissioner for customs.

(4) An officer shall not be designated under this section unless that officer has received the relevant training in maritime enforcement.

(5) An arrestable offence is an offence as defined in section 3 of the Criminal Code, Revised Edition 2013.

Restriction on exercise of maritime enforcement powers

430B. (1) The authority of the Attorney General is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 430A(1), in relation to a Virgin Islands ship in foreign waters.

(2) The Attorney General may give authority under subsection (1) only if the State, or the relevant territory, in whose waters the powers would be exercised, consents to the exercise of the powers.

(3) The authority of the Attorney General is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 430A(1), in relation to a foreign ship, or a ship registered under the law of a relevant Territory, within the territorial sea adjacent to Virgin Islands or in international waters.

(4) The Attorney General may give authority under subsection (3) in relation to a foreign ship only if-

- (a) the flag state has requested the assistance of the Virgin Islands for the purpose of preventing, detecting, investigating or prosecuting an arrestable offence;
- (b) the flag state has authorised the Virgin Islands to act for that purpose; or
- (c) the United Nations Convention on the Law of the Sea 1982 otherwise permits the exercise of the powers in relation to the ship.

Hot pursuit of ships from Virgin Islands waters

430C. (1) A law enforcement officer may, for the purpose of preventing, detecting, investigating or prosecuting an arrestable offence, exercise any of the maritime enforcement powers in relation to a ship that is no longer in Virgin Islands waters if

- (a) the ship is pursued from Virgin Islands waters;
- (b) immediately before the pursuit of the ship, the ship was in Virgin Islands waters;
- (c) before the pursuit of the ship, a signal was given for it to stop;
- (d) the signal was given in such a way as to be audible or visible from the ship; and
- (e) the pursuit of the ship is not interrupted.

(2) For the purposes of subsection (1) (e), a pursuit remains active and is not interrupted by reason only of the fact that

- (a) the method of carrying out the pursuit; or
- (b) the identity of the ship or aircraft carrying out the pursuit,

changes during the course of the pursuit.

(3) This section is subject to section 430D.

Restriction on exercise of maritime enforcement powers in hot pursuit

430D. (1) Except in circumstances where another enactment provides otherwise, the authority of the Governor is required before a law enforcement officer may exercise any of the maritime enforcement powers, in reliance on section 430C, in relation to a foreign ship, which was in the Virgin Islands water immediately before the pursuit of the ship.

(2) The Governor may give authority under subsection (1) in relation to a foreign ship only if

- (a) the flag state has requested the assistance of the Virgin Islands for the purpose of preventing, detecting, investigating or prosecuting an arrestable offence;
- (b) the flag state has authorised the Virgin Islands to act for that purpose; or
- (c) the United Nations Convention on the Law of the Sea 1982 or other international agreement otherwise permits the exercise of the powers in relation to the ship.

Power to stop, board, divert and detain

430E. (1) This section applies if a law enforcement officer has reasonable grounds to suspect that

- (a) an arrestable offence is being, or has been, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 430A or 430C; or
- (b) a ship in relation to which those powers are so exercisable is otherwise being used in connection with the commission of an arrestable offence.

(2) The law enforcement officer may-

- (a) stop the ship;
- (b) board the ship; and
- (c) require the ship to be taken to a port in the Virgin Islands or elsewhere and detained there.

(3) Except as provided by subsection (5), the authority of the Governor is required before a law enforcement officer may exercise the power conferred by subsection (2)(c) to require the ship to be taken to a port outside the Virgin Islands.

(4) The Governor may give authority for the purposes of subsection (3) only if the State, or the relevant jurisdiction, in which the port is located is willing to receive the ship.

(5) If the law enforcement officer is acting under authority given for the purposes of section 430B(3) or 430D(1), the law enforcement officer may require the ship to be taken to

- (a) a port in the flag state or relevant jurisdiction in question; or
- (b) if the flag state or relevant territory requests, a port in any other State or relevant jurisdiction willing to receive the ship.

(6) The law enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of subsection (2)(c).

(7) A law enforcement officer must give notice in writing to the master of any ship detained under this section.

(8) The notice under subsection (7) must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a law enforcement officer.

Power to search and obtain information

430F. (1) This section applies if a law enforcement officer has reasonable grounds to suspect that there is evidence relating to an arrestable offence (other than items subject to legal privilege) on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 430A or 430C.

(2) The law enforcement officer may search

- (a) the ship;
- (b) anyone found on the ship; and
- (c) anything found on the ship, including cargo.

(3) The law enforcement officer may require a person found on the ship to give information about himself or herself or about anything found on the ship.

(4) The power to search conferred by subsection (2)

- (a) is a power to search only to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in subsection (1); and
- (b) does not authorise a law enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.

(5) In exercising a power conferred by subsection (2) or (3), a law enforcement officer may (amongst other things)

- (a) open any containers;
- (b) require the production of documents, books or records relating to the ship or anything on it, other than anything that the law enforcement officer has reasonable grounds to believe to be an item subject to legal privilege; and
- (c) make photographs or copies of anything the production of which the law enforcement officer has power to require.

(6) The power in subsection (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.

(7) The power of a law enforcement officer under subsection (2)(b) or (c) or (3) may be exercised on the ship or elsewhere.

Power of arrest and seizure

430G. (1) This section applies if a law enforcement officer has reasonable grounds to suspect that an arrestable offence has been, or is being, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 430A or 430C.

(2) The law enforcement officer may

- (a) arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence; and
- (b) seize and retain anything found on the ship which appears to the officer to be evidence of the offence, other than anything that the officer has reasonable grounds to believe to be an item subject to legal privilege.

(3) The power of a law enforcement officer under subsection (2) may be exercised on the ship or elsewhere.

Maritime enforcement powers: supplementary and protective searches

430H. (1) This section applies where a power conferred by section 430E is exercised in relation to a ship.

(2) A law enforcement officer may search any person found on the ship for anything which the officer has reasonable grounds to believe the person might use to

- (a) cause physical injury;
- (b) cause damage to property; or
- (c) endanger the safety of any ship.

(3) The power under subsection (2) may be exercised on board the ship or elsewhere.

(4) A law enforcement officer searching a person under subsection (2) may seize and retain anything found if the law enforcement officer has reasonable grounds to believe that the person might use it for a purpose mentioned in paragraphs (a) to (c) of that subsection.

(5) Anything seized under subsection (4) may be retained only for so long as there are reasonable grounds to believe that it might be used as mentioned in that subsection.

(6) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public, other than an outer coat, jacket or gloves.

Maritime enforcement powers: other supplementary provision

430I. (1) A law enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part if the court is satisfied that

- (a) the act was done in good faith; and
- (b) there were reasonable grounds for doing it.

(2) The powers conferred by this Part do not affect any other powers that a law enforcement officer may have.

Maritime enforcement powers: offences

430J. (1) A person commits an offence if the person

- (a) intentionally obstructs a law enforcement officer in the performance of functions under this Part; or
- (b) fails without reasonable excuse to comply with a requirement imposed by a law enforcement officer in the performance of those functions.

(2) A person who provides information in response to a requirement imposed by a law enforcement officer in the performance of functions under this Part commits an offence if

- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is; or
- (b) the person intentionally fails to disclose any material particular.

(3) A law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this section.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding \$10,000.

Maritime enforcement powers: code of practice

430K. (1) The Governor shall prepare and issue a code of practice in respect of the practice to be followed by law enforcement officers when arresting a person under the power conferred by section 430G.

(2) The code must, in particular, provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters).

(3) The code

- (a) is admissible in evidence in criminal and civil proceedings; and
- (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(4) The code, or any revision of the code, does not come into operation until the Governor so provides by notice in the *Gazette*.

(5) The Code of Practice shall be subject to a negative Resolution of the House of Assembly.

Interpretation

430L. In this Part

“foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or State other than the Virgin Islands;

“flag state”, in relation to a foreign ship, means

- (a) the State in which the ship is registered; or
- (b) the State whose flag the ship is otherwise entitled to fly;

“international waters” means waters beyond the territorial sea of the Virgin Islands or of any other State or relevant territory;

“items subject to legal privilege” shall be construed under the applicable rules of privilege under Part XIX of the Evidence Act 2006, No. 15 of 2006;

“law enforcement officer” has the meaning given by section 430A(3);

“maritime enforcement powers” has the meaning given by section 430A(2);

“relevant territory” means, for the purposes of this Part, a British overseas territory.”.

Section 465 repealed

29. The principal Act is amended by repealing section 465.

Insertion of new Schedule 7

30. The principal Act is amended by inserting the following Schedule after Schedule 6:

“SCHEDULE 7

[Section 4(1)]

LIST OF COUNTRIES

The countries are

1. Andorra;
2. Argentina;
3. Aruba;
4. Bahrain;
5. Brazil;
6. the Canary Islands (*Spain*);

7. Chile;
8. China;
9. the Faroe Islands;
10. Israel;
11. Japan;
12. Liberia;
13. Madeira (*Portugal*);
14. the Marshall Islands;
15. Mexico;
16. Monaco;
17. Panama;
18. Republic of Korea (*South Korea*);
19. Slovenia;
20. Suriname;
21. Switzerland;
22. the United Arab Emirates;
23. the United States of America; and
24. Uruguay.”.

Passed by the House of Assembly this 3rd day of April, 2025.

(Sgd.) Corine George-Massicote,
Speaker.

(Sgd.) Bethsaida Smith-Hanley,
Clerk of the House of Assembly.