

VIRGIN ISLANDS

**COMMERCIAL RECREATIONAL
VESSELS LICENSING ACT, 1992**

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SCHEDULE

No. 8 of 1992

**Commercial
Recreational
Vessels Licensing Act, 1992**

**Virgin
Islands**

I Assent

Peter A. Penfold

Governor

11th September, 1992

VIRGIN ISLANDS

No. 8 of 1992

An Act to provide for the licensing of commercial recreational vessels; to issue permits to non-commercial recreational vessels and for matters connected therewith or incidental thereto.

[Gazetted 25th September, 1992]

ENACTED by the Legislature of the Virgin Islands as follows –

1. This Act may be cited as the Commercial Recreational Vessels Licensing Act 1992 and shall come into operation on such date as the Governor may appoint by Proclamation published in the Gazette.

Short title
and com-
mencement.

2. In this Act-

Interpre-
tation.

"commercial recreational vessel" means any vessel offered for hire, for payment or for reward, with or without crew, for the conveyance of passengers for a particular period of time;

"company owned vessel" means any vessel other than a vessel owned by a private individual in his own name, jointly with that person's spouse, or a vessel owned by a business partnership, limited liability company or other body corporate wheresoever that owning entity may be registered;

"Comptroller" means the Comptroller of Customs and any person acting under his express or implied authority;

"cruising" includes stopping in any part of the territorial waters but does not include mere passage through the territorial waters;

"home based vessel" means any vessel-

- (a) registered in the British Virgin Islands;
- (b) home ported in the British Virgin Islands;
- (c) kept in the British Virgin Islands when not in operation; and
- (d) having its charters originate in the British Virgin Islands;

"length of vessel" means the length overall of the hull in any vessel, taken in feet and inches, from the stem to the stern of the vessel excluding any extension to the hull;

"operator" means any person or company charged by the owner of a licensed vessel to operate such vessel and includes the master and any crew of such vessel;

"owner" means any individual, partnership, limited liability company or other body corporate which has title to the licensed vessel;

"territorial waters" 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.

3. (1) No person shall offer for hire, for payment or for reward, any unlicensed commercial recreational vessel (hereinafter referred to as "vessel") for use in the territorial waters whether such vessel is foreign based or home based, or being the owner of any such vessel or the agent of such owner, give or offer to give or hire, for payment or reward, any such vessel to any other person for use in the territorial waters without first obtaining a licence.

(2) An application for a licence shall be made by the owner or the operator of the vessel to the Minister in the appropriate form.

(3) At the time of making the initial application the form should be accompanied by -

- (a) a business plan outlining the proposed operation;
- (b) details of the numbers of persons to be employed on a permanent or seasonal basis;

Restriction
on
chartering
of
unlicensed
commercial
recreational
vessels.

- (c) details as to how the operation is to be financed;
- (d) copies of vessel registration documents and insurance certificate.

(4) Where an application is made to the Minister in accordance with subsection (2), the Minister may approve or disapprove the application.

(5) Where the Minister-

- (a) approves an application, he shall issue a licence;
- (b) disapproves an application, he shall, within a period of fourteen days after receipt of such application, notify the applicant of such disapproval.

(6) Any person who is aggrieved by a decision of the Minister may within seven days of receipt of notification of such decision, appeal in writing to the Governor in Council, whose decision thereon shall be final.

4. (1) A licence granted under section 3 shall be -

Type of licence.

- (a) an annual licence valid from 1st November in the year of issue to 31st October in the following year; or
- (b) a temporary licence for a specified cruise.

(2) An annual licence shall remain valid until it is revoked or cancelled, and a temporary licence for a specified cruise shall be valid only for the cruise, for which it is granted, unless the licence is extended by the Minister.

(3) A licence granted under section 3 may contain such conditions as the Minister may think it fit to impose with respect to the vessel and the cruise which it may undertake, and such conditions may be imposed so as to apply to the vessel wherever it may be or while in such waters or on such cruise as may be specified.

(4) Upon the payment by the applicant of the appropriate fee as set out in the Schedule, the Minister may issue a licence and a licence pennant or other proof of registration to the applicant.

5. A licence granted under this Act is not transferable.

Licence not transferable.

Production of licence etc.

6. The owner or operator of any licensed vessel is responsible for ensuring that -

- (a) the valid annual licence is carried on the vessel and is available for inspection by the Comptroller;
- (b) the licence pennant or other proof of registration is displayed on such vessel at such height that it is visible and readable from the water line.

Revocation of licence etc.

7. (1) A licence granted under this Act may be modified, suspended, revoked or cancelled by the Minister but no such licence shall be modified, suspended, revoked or cancelled unless the licensee has been given an opportunity of making representations against such modification, suspension, revocation or cancellation.

(2) An applicant dissatisfied with the decision of the Minister may appeal to the Governor in Council, whose decision thereon shall be final.

(3) Where a licence granted under this Act is revoked or cancelled or otherwise ceases to be valid, the licensee shall, within sixty days after such revocation, cancellation or cessation, return it or cause it to be returned to the Comptroller.

Register of vessels.

8. It shall be the duty of the Comptroller to maintain a register of vessels licensed to operate within the territorial waters.

Limitation on charter pickups.

9. No vessel, other than a home based vessel, shall be permitted to make more than seven charter pickups which originate within the Territory within any period of twelve months.

Temporary importation permit for non-commercial recreational vessels.

10. (1) Subject to subsections (2), (3) and (4) the owner of any non-commercial recreational vessel who is not a resident of the Territory and where such vessel is to remain in the Territory for any period in excess of thirty days, in any twelve months, shall obtain a temporary importation permit from the Minister.

(2) The owner of any non-commercial recreational vessel that is registered in the United States Virgin Islands and home ported in the United States Virgin Islands, and where such vessel is to remain in the Territory for any period in excess of one hundred and twenty days in any twelve months shall obtain a temporary importation permit from the Minister.

(3) A temporary importation permit shall be issued

on such terms and conditions as the Minister may determine.

(4) The Minister may, upon being satisfied that a non-commercial recreational vessel has been undergoing repairs within the period specified in subsection (1), exempt the owner of such vessel from payment of such fee or any part thereof.

(5) For the purposes of this section -

"non-commercial recreational vessel" means any vessel other than a commercial recreational vessel.

11. (1) Where a person fails to comply with any provision of this Act or where any of the terms or conditions contained in a licence or permit granted under this Act is contravened, the master and the owner, or, in the case of a vessel other than a home based vessel, the agent in the Territory of the owner of the vessel in respect of which the contravention has taken place, shall be guilty of an offence and on summary conviction thereof be liable to a fine not exceeding five thousand dollars or to a fine of five times the applicable value of the licence fee, whichever is greater.

Penalty.

(2) In addition to any fine imposed under subsection (1) where any vessel is found to be operating without a valid licence or permit on more than two separate occasions the court shall order that vessel to be forfeited to the Crown.

12. The Comptroller may compound any offence committed by a person under this Act, but no such offence shall be compounded where such person has contravened the provisions of this Act on two previous occasions.

Power of Comptroller to compound offences.

13. The Minister may make regulations -

Regulations.

- (a) as may be necessary to give effect to the principles and provisions of this Act;
- (b) prescribing any form to be used under this Act.

14. (1) Subject to subsection (2), any vessel which is presently in the Territory and on which import duty has been paid or was previously exempt from payment of import duty under any other law is exempt from the requirement under section 3 to obtain a licence until 30th September, 1997, and it shall be the duty of the owner of such a vessel to apply to the Comptroller for a certificate of exemption and for an exemption pennant.

Exemption.

(2) An exemption under subsection (1) shall not be

granted unless -

- (a) import duty has been paid on such vessel and proof of such payment can be shown to the Comptroller; and
- (b) the vessel remains under the registered name of the owner.

(3) An exemption granted under subsection (1) shall not affect the liability of the owner of such vessel under any other Act or at common law.

15. The provisions relating to the temporary importation of vessels contained in the Customs Duties Ordinance No. 2 of 1974*, and any duties payable under that Ordinance in respect of such vessels shall not apply to commercial recreational vessels nor to temporary imported non-commercial recreational vessels.

Certain provisions in Ordinance No. 2 of 1974* not applicable to commercial recreational vessels, etc.

16. (1) Notwithstanding the licence fee payable by a non-belonger in item II Commercial under the category of "Yacht and Boat Management and Charter" set out in the First Schedule to the Business, Professions and Trade Licenses Act, 1989**, the licence fee payable from 1st January 1993 until 31st December 1996, by a non-belonger who is an owner or operator of a crewed yacht shall be \$100.00 per annum.

Special fee for owner or operator of crewed yacht.

(2) "Non-belonger" for the purpose of this section means any person other than a person deemed to belong to the Virgin Islands under the provisions of section 2 (2) of the Virgin Islands Constitution Order, 1976.

*Cap. 106 (Vol. II) in Revised Edition

**Cap. 200 (Vol. III) in Revised Edition

SCHEDULE

(Section 4)

LICENSES - CATEGORIES

	Per Annum	Per Cruise
A. A vessel not exceeding 40 feet in length	\$400.00	\$25.00
B. A vessel exceeding 40 feet in length but not exceeding 50 feet in length	\$600.00	\$35.00
C. A vessel exceeding 50 feet in length	\$800.00	\$45.00
D. Any vessel engaged in Diving, Fishing, or Day Trips, but not offering accommodation	\$200.00	\$15.00
E. Temporary Importation Permit	\$200.00	

Passed the Legislative Council this 27th day of August, 1992.

K. L. FLAX,
Speaker.

FAITH MADURO,
Ag. Clerk of the Legislative Council.