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Marine Circular No. 05/2025

To: Owners, Managers, Operators, Masters and Crew Members of (a) Virgin Islands ships and (b) non-Virgin Islands ships in Virgin Islands waters

ADOPTION OF:

THE MERCHANT SHIPPING (PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS) REGULATIONS 2020

INTERNATIONAL CONVENTION ON PREVENTION OF POLLUTION FROM SHIPS:

ANNEX IV: REGULATIONS FOR THE PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS

SUMMARY

1. This Notice contains the text of the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020 (U.K.S.I. 2020/620) (“the 2020 Regulations”) which are adopted as part of the law of the Virgin Islands.
2. The adoption of the 2020 Regulations gives effect in the Virgin Islands to the provisions of Annex IV (Regulations for the prevention of pollution by sewage from ships) (“Annex IV”) to the International Convention on Prevention of Pollution from Ships of the International Convention on the Prevention of Pollution from Ships (“MARPOL”).

ANNEX IV MARPOL

1. MARPOL was developed to minimise pollution of the oceans and seas from ships, including dumping, oil, and exhaust pollution. MARPOL was adopted by the International Maritime Organization in 1973 and has been updated through subsequent amendments and protocols, most notably the 1978 Protocol. The convention consists of six annexes, each addressing different sources of ship generated marine pollution.
2. MARPOL Annex IV addresses pollution caused by sewage from ships and, in addition to restricting or prohibiting the discharge of sewage, sets out construction and operational standards relating to the handling of sewage on ships.
3. Annex IV was extended to the Virgin Islands on 19 June 2006.
4. This Notice explains how Annex IV is given effect in the Virgin Islands through the adoption of relevant United Kingdom merchant shipping regulations and contains the text of those regulations as adopted in the Virgin Islands.

ADOPTION OF THE 2020 REGULATIONS

5. Section 464(1) of the Merchant Shipping Act, 2001 (“the Act”) enables the Governor by Order to apply to the Virgin Islands as part of the law of the Virgin Islands any enactment of the United Kingdom, subject to such exceptions, adaptations and modifications as may be specified in the Order.
6. By virtue of the Merchant Shipping (Adoption of United Kingdom Enactments) Order, 2005 as amended (“the Adoption Order”) the Virgin Islands adopted the 2020 Regulations, which give effect to Annex IV in the United Kingdom.
7. Part I of the Schedule to the Adoption Order provides that certain references in the 2020 Regulations to terms that apply only to the United Kingdom should be construed as a reference to the appropriate, equivalent Virgin Islands’ term. The Adoption Order further provides that a reference in the 2020 Regulations to any enactment, name, locality, agency, court, officer, person, money, penalties for offences or such other matter relating solely to the United Kingdom, is deemed to have been replaced by a reference to such alternatives as may be necessary to make the 2020 Regulations fully applicable to the local circumstances of the Virgin Islands.

8. Sections 3 and 4 of the Adoption Order provide that if an adopted UK enactment is amended or revoked and replaced, the amendments or replacement enactments take effect in the Virgin Islands automatically.
9. Accordingly, in accordance with sections 3 and 4 of the Adoption Order, the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020 (as amended by U.K.S.I. 2022/1234) now have the force of law in the Virgin Islands.
10. Section 464(3) of the Act provides that the Minister shall cause a text of an adopted UK enactment to be prepared incorporating the exceptions, adaptations, and modifications specified in the Order.
11. This Notice accordingly sets out in **Annex-1** the text of the United Kingdom's Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020, as adopted, incorporating the relevant exceptions, adaptations, and modifications.

M Notices

12. To accompany many UK Regulations, the Maritime and Coastguard Agency publishes M-Notices, comprising Merchant Shipping Notices ('MSNs'), Marine Guidance Notes ('MGNs') and Marine Information Notices ('MINs'). In some cases, the M-Notices are referenced in the Regulations and, where they are they are incorporated as part of the regulations, their provisions are as mandatory as those contained in the Regulations. Consequently, where the Virgin Islands has adopted UK Regulations which incorporate M-Notices, the M-Notices also have the force of law.
13. In other cases, M-Notices are issued which provide guidance on the regulations without being incorporated in the regulations. Although not having the force of law in the same way as incorporated M-Notices, they may nonetheless be relevant to the interpretation of the UK Regulations, as adopted in the Virgin Islands.

14. **Annex-2** contains tables listing the M-Notices that are related to the adopted Regulations.

Issued by the Virgin Islands Shipping and Maritime Authority with approval of the Minister.

**Mr. John Samuel
Managing Director
Virgin Islands Shipping and Maritime Authority**

Issue Date: 2025-10-17

ANNEX-1

THE MINISTER PURSUANT TO S. 464(3) OF THE MERCHANT SHIPPING ACT, 2001 (ACT NO. 13 OF 2001) AS AMENDED, PUBLISHES THE FOLLOWING TEXT OF THE ENACTMENT OF THE UNITED KINGDOM AS ADOPTED IN THE VIRGIN ISLANDS IN ACCORDANCE WITH THE MERCHANT SHIPPING (ADOPTION OF UNITED KINGDOM ENACTMENTS) ORDER 2005 (S.I. 2005 NO. 30) AS AMENDED

TEXT OF THE MERCHANT SHIPPING (PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS) REGULATIONS 2020 (U.K.S.I. 202/620)

Merchant Shipping Notices referred to in the UK Regulations are listed in Annex-2, together with electronic links to the Notices.

Other instruments and documents which are mentioned in the adopted UK Regulations are available in the Virgin Islands from the Virgin Islands Shipping and Maritime Authority, 1st Floor, Wickham's Cay II, Road Town, Tortola, Virgin Islands VG1110; vishipping@bvimaritime.vg; www.bvimaritime.vg

S T A T U T O R Y I N S T R U M E N T S

2020 No. 620

MARINE POLLUTION

The Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020

Made

29th June 2020

Laid before Parliament

30th June 2020

Coming into force

22nd July 2020

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PART 1

General

Citation and commencement

1. (1) These Regulations may be cited as the Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020.

(2) These Regulations come into force on 22nd July 2020.

Amendments and revocations

2. (1) The amendments listed in Part 1 of Schedule 1 (amendments) have effect.

(2) The instruments listed in the first column of the Table in Part 2 of Schedule 1 (revocations) are revoked to the extent specified in the third column of that Table.

Interpretation

3. (1) In these Regulations

“the 2001 Act” means the Merchant Shipping Act 2001;

“Annex IV” means Annex IV to the Convention (Regulations for the Prevention of Pollution by Sewage from Ships);

“appropriate documentation” means the documentation referred to in regulation 12(3) (prohibition on non-Virgin Islands ships proceeding to sea without a Sewage Certificate or appropriate documentation);

“Certifying Authority” has the meaning given in regulation 5 (Certifying Authorities);

“Contracting State” means a State which has consented to be bound by the Convention, and for which Annex IV to the Convention is in force;

“Contracting State ship” means a ship, other than a Virgin Islands ship, which is registered in, or is not registered but is entitled to fly the flag of, a Contracting State;

“the Convention” means the International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocols of 1978 and 1997;

“date of expiry”, in relation to a Sewage Certificate held in respect of a ship, means the last day of the period specified in that Sewage Certificate as the period for which that Certificate is valid;

“direct replacement” means the direct replacement of equipment and fittings with equipment and fittings that conform with the relevant requirements which apply to that ship;

“flag State”, in relation to a ship, means the State whose flag the ship is entitled to fly;

“GT” means gross tonnage and the gross tonnage of a ship is to be determined, for the purposes of these Regulations, in accordance with Schedule 2 (gross tonnage);

“IMO” means the International Maritime Organization;

“international voyage” means a voyage between

(a) a port in the Virgin Islands and a port outside the Virgin Islands; or

(b) a port in a Contracting State other than the Virgin Islands and a port in any other State or territory, whether a Contracting State or not, which is outside the Virgin Islands;

“national waters” has the meaning given in section 2(2) of the 2001 Act;

“nautical mile” means an international nautical mile of 1,852 metres;

“offshore terminal” means an installation situated away from the shore, where bulk, fluid or gas cargo, or more than one of these, is

- (a) transferred between ships;
- (b) loaded onto a ship after having been transported from the shoreline; or
- (c) unloaded from a ship for transporting to the shoreline;

“Ports Authority” means the Virgin Islands Ports Authority established under section 3 of the British Virgin Islands Ports Authority Act, 1990;

“sea” includes any estuary or arm of the sea;

“sewage” has the meaning given in regulation 1 of Annex IV (definitions);

“Sewage Certificate” means an International Sewage Pollution Prevention Certificate in the form shown in appendix I to Annex IV;

“ship” means a vessel of any type whatsoever which is operating in the marine environment, including a hydrofoil boat, an air-cushion vehicle, a submersible, a floating craft and a fixed or floating platform;

“surveyor” means a surveyor of ships, or any other person appointed by a Certifying Authority other than the Minister, to be a surveyor; and

“UNCLOS” means the United Nations Convention on the Law of the Sea;

“Virgin Islands protected waters” means

- (a) national waters;
- (b) Virgin Island waters; and
- (c) the exclusive fisheries zone contiguous to the territorial sea area, established by the Governor of the Virgin Islands by proclamation dated 9th March 1977;

“Virgin Islands waters” has the meaning given in section 2(2) of the 2001 Act.

(2) In these Regulations the following terms have the meaning given in regulation 17 of Annex IV (definitions)

- (a) “Polar Code”; and
- (b) “polar waters”.

(3) For the purposes of these Regulations

- (a) subject to sub-paragraph (b), a “discharge” in relation to sewage, means any release howsoever caused from a ship, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;
- (b) a “discharge” does not include
 - (i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, signed at London on 13th November 1972, as amended by the 1996 Protocol; or
 - (ii) the release of sewage for the purposes of legitimate scientific research into pollution abatement or control; and
- (c) “Virgin Islands ship” means a ship which
 - (i) is registered in the Virgin Islands; or

(ii) is not registered under the law of any country but is wholly owned by persons each of whom is qualified to be an owner of Virgin Islands ship in accordance with section. 4(1) of the 2001 Act.

(4) Any reference in these Regulations to the date that a ship was constructed is a reference to the date on which the keel of the ship was laid or on which the ship was at a stage of construction at which

(a) construction identifiable with a specific ship began; and

(b) assembly of that ship incorporated at least 50 tonnes of structural material or one percent of the estimated mass of all structural material, whichever is less,

and “constructed” is to be construed accordingly.

Ambulatory reference

4. (1) Any reference in these Regulations to the Convention, an Annex to the Convention or to the Polar Code is to be construed

(a) as a reference to the Convention, an Annex to the Convention or the Polar Code as modified from time to time; and

(b) as, if the Convention, an Annex to the Convention or the Polar Code are replaced, a reference to that replacement.

(2) For the purposes of paragraph (1), the Convention, an Annex to the Convention or the Polar Code are modified or replaced if a modification or replacement takes effect in accordance with Article 16 (Amendments) of the Convention.

(3) A modification or amendment of the Convention, an Annex to the Convention or the Polar Code has effect at the time such modification or replacement comes into force in accordance with Article 16 (Amendments) of the Convention.

Certifying Authorities

5. (1) In these Regulations, “Certifying Authority” means the Minister or any organization which is authorized under section 414(2) of the 2001 Act to undertake surveys and issue certificates for the purposes of these Regulations.

(2) Authorisation under paragraph (1) may be given conditionally or unconditionally and is subject to paragraph (4).

(3) Without prejudice to the generality of paragraph (2), conditions may impose limitations on any person’s authorisation relating to

(a) an individual ship;

(b) classes of ship; and

(c) the extent of any survey to be carried out by that person.

(4) The Minister may specify in relation to an individual case or to a class of case, that for the purpose of these Regulations, a survey, or part of survey, may only be carried out by the Minister and not by another Certifying Authority.

(5) A Certifying Authority, other than the Minister, is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property is not to be regarded as property of, or held on behalf of, the Crown.

Application

6. (1) Subject to paragraphs (2) and (3), these Regulations apply to
- (a) Virgin Islands ships, wherever they may be, engaged on international voyages;
 - (b) Virgin Islands ships operating in polar waters; and
 - (c) other ships while they are within Virgin Islands protected waters and engaged on international voyages.
- (2) These Regulations do not apply to any
- (a) warship;
 - (b) naval auxiliary ship;
 - (c) other ship owned or operated by a State and used, for the time being, only on government non-commercial service; or
 - (d) a ship of less than 400 GT unless that ship carries more than 15 persons.
- (3) Regulation 22 (procedure to be adopted when a ship is deficient) applies to
- (a) Virgin Islands ships, wherever they may be, engaged on international voyages; and
 - (b) any other ship which is
 - (i) in a port in the Virgin Islands;
 - (ii) at an offshore terminal in Virgin Islands protected waters; or
 - (iii) a floating platform in Virgin Islands protected waters, other than a floating platform which is in transit.

Exemption for UNSP barges

- 6A. (1) The Minister may exempt a UNSP barge from the requirements of regulation 11 (prohibition on Virgin Islands ships proceeding to sea without a Sewage Certificate), regulation 13 (surveys of Virgin Islands ships) or regulation 14 (issue of Sewage Certificates by a Certifying Authority in respect of Virgin Islands ships) for a period not exceeding five years provided that the barge has undergone a survey to confirm that
- (a) it is not propelled by mechanical means;
 - (b) has neither persons nor living animals on board;
 - (c) is not used for holding sewage during transport; and
 - (d) has no arrangements that could produce sewage.
- (2) An exemption granted under paragraph (1) may, on the giving of reasonable notice, be altered or cancelled.
- (3) An exemption granted under paragraph (1), or an alteration or cancellation under paragraph (2), must be in writing.
- (4) Where an exemption is granted under paragraph (1), the Minister must issue a UNSP Exemption Certificate.
- (5) Where an exemption is altered or cancelled under paragraph (2), the Minister must indicate this on the UNSP Exemption Certificate.
- (6) The Minister may, at the request of another Contracting State

(a) survey a UNSP barge entitled to fly the flag of that State for the purpose of issuing an exemption from the requirements of regulation 12 (prohibition on non-Virgin Islands ships proceeding to sea without a Sewage Certificate or appropriate documentation) in respect of that ship; and

(b) if satisfied that the ship meets the requirements for that exemption, grant the exemption and issue a UNSP Exemption Certificate in respect of that ship.

(7) A UNSP Exemption Certificate issued under paragraph (6) must include a statement to the effect that it has been issued at the request of the relevant Contracting State.

(8) The Minister must, as soon as possible after issuing a UNSP Exemption Certificate under paragraph (6), send to the Contracting State who made the request, a copy of

(a) the exemption granted under paragraph (6);

(b) the UNSP Exemption Certificate so issued; and

(c) the corresponding survey report.

(9) In this regulation

“UNSP barge” means an unmanned non-self-propelled barge that

(a) is not propelled by mechanical means;

(b) has neither persons nor living animals on board;

(c) is not used for holding sewage during transport; and

(d) has no arrangements that could produce sewage; and

“UNSP Exemption Certificate” means the certificate described as “International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges” in appendix II to Annex IV.

PART 2

Discharge of Sewage

Prohibition on the discharge of sewage

7. (1) Subject to paragraph (2), the discharge of sewage from a ship into the sea is prohibited, except

(a) in the case of a ship on a voyage outside a special area, when the sewage is discharged in accordance with part A of regulation 11 of Annex IV (discharge of sewage from ships other than passenger ships in all areas and discharge of sewage from passenger ships outside special areas);

(b) in the case of a passenger ship operating in a special area from the relevant date onwards, when the sewage is discharged in accordance with part B of regulation 11 of Annex IV (discharge of sewage from passenger ships within a special area); and

(c) in the case of a Virgin Islands ship operating in polar waters, when the sewage is discharged in accordance with chapter 4 of part II-A of the Polar Code (prevention of pollution by sewage from ships).

(2) Paragraph (1) does not apply in the case of

(a) a discharge of sewage which is necessary for the purpose of

(i) securing the safety of a ship and those on board the ship; or

(ii) saving life at sea;

- (b) a discharge of sewage
 - (i) which results from damage to a ship or its equipment; and
 - (ii) where all reasonable precautions have been taken before and after the occurrence of the damage to prevent or minimise the discharge; or
- (c) a discharge of sewage which took place in waters under the jurisdiction of a State other than the Virgin Islands and was in accordance with such less stringent requirements as were imposed by that State.

(3) Subject to paragraph (2), where sewage is mixed with waste or waste water covered by an Annex to the Convention other than Annex IV, paragraph (1) applies in addition to any statutory prohibition or requirement which relates to that waste or waste water and which implements that other Annex.

(4) In this regulation

- (a) the following terms have the meaning given in regulation 1 of Annex IV (definitions)
 - (i) “passenger ship”; and
 - (ii) “special area”; and
- (b) “the relevant date” means the relevant date determined by the IMO for the special area in question pursuant to regulation 13.2 of Annex IV (reception facilities for passenger ships in special areas).

PART 3

Equipment

Sewage systems

- 8.** (1) A ship must be equipped in accordance with regulation 9 of Annex IV (sewage systems).
- (2) A ship constructed before 2nd October 1983 must be equipped, so far as is practicable, to discharge sewage in accordance with regulation 7 (prohibition on the discharge of sewage).
- (3) For the purposes of regulation 9 of Annex IV (sewage systems)
- (a) in the case of a Virgin Islands ship, a sewage treatment plant must be of a type approved by the Minister; and
 - (b) in the case of a ship which is not Virgin Islands ship;
 - (i) a sewage treatment plant;
 - (ii) a sewage comminuting and disinfecting system and its facilities; or
 - (iii) a holding tank,

will comply if the Minister is satisfied that it complies with the requirements of Annex IV.

Discharge connections

9. The sewage discharge pipeline of a ship must be fitted with a standard discharge connection in accordance with regulation 10 of Annex IV (standard discharge connections).

PART 4

Survey and Certification of Ships

Interpretation of Part 4

10. In this Part

(a) “initial survey” means a survey by a surveyor completed before a ship is put into service, or before a Sewage Certificate is first issued in respect of that ship, to verify that at the date of the survey, the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3 (equipment);

(b) “renewal survey” means a survey by a surveyor to verify that at the date of the survey, the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3 (equipment); and

(c) “additional survey” means a survey by a surveyor to verify that at the date of the survey the surveyor is satisfied that

(i) the repair or renewal has been made effectively;

(ii) the materials used in, and the workmanship of, the repair or renewal are satisfactory in all respects; and

(iii) the ship complies in all respects with the requirements of Part 3 (equipment).

Prohibition on Virgin Islands ships proceeding to sea without a Sewage Certificate

11. (1) Subject to regulation 26(2) (general provisions on detention), a Virgin Islands ship to which this regulation applies must not

(a) proceed to sea; or

(b) if it is already at sea, remain at sea,

unless the requirements of paragraph (2) are met.

(2) The requirements are that

(a) an initial survey or a renewal survey has been carried out in respect of the ship; and

(b) a Sewage Certificate has been issued in respect of that ship and is still valid.

Prohibition on non-Virgin Islands ships proceeding to sea without a Sewage Certificate or appropriate documentation

12. (1) A Contracting State ship must not proceed to sea from a port in the Virgin Islands unless—

(a) a Sewage Certificate has been issued pursuant to Annex IV in respect of that ship and is still valid;

(b) a surveyor is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment; or

(c) a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

(2) A ship which is not a Virgin Islands ship or a Contracting State ship must not proceed to sea from a port in the Virgin Islands unless

(a) a surveyor is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment; or

- (b) a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.
- (3) A ship to which sub-paragraph (1)(b) or (c) or paragraph (2) applies must not proceed to sea unless documentation has been issued in respect of that ship which is still valid and shows that-
- (a) an initial survey or a renewal survey has been carried out in respect of the ship; and
 - (b) either
 - (i) a surveyor is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment; or
 - (ii) a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

Surveys of Virgin Islands ships

13. A Virgin Islands ship to which this regulation applies must be subjected to-

- (a) an initial survey, which must be completed before a ship is put into service or before a Sewage Certificate is first issued in respect of that ship; and
- (b) a renewal survey, which must be completed before each subsequent Sewage Certificate is issued.

Issue of Sewage Certificates by a Certifying Authority in respect of Virgin Islands ships

14. (1) A Certifying Authority must issue a Sewage Certificate in respect of a Virgin Islands ship where

- (a) that Certifying Authority has been notified by a surveyor that the surveyor has carried out an initial survey or a renewal survey;
- (b) the notification described in paragraph (a) includes confirmation that, at the date of that survey, the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3 (equipment); and
- (c) any fee due under Part 28 (Merchant Shipping Fees and Charges) of the Schedule to the Statutory Rates, Fees and Charges Act, 2005 has been paid to that Authority.

(2) Where a ship becomes a Virgin Islands ship on transfer from the flag of a Contracting State other than the Virgin Islands, a Certifying Authority must issue a Sewage Certificate in respect of that ship where

- (a) a Sewage Certificate has been issued in respect of the ship and was still valid immediately before the date of the transfer;
- (b) the Certifying Authority has caused a survey to be carried out in respect of the ship; and
- (c) the Certifying Authority is satisfied that—
 - (i) the condition of the ship and its equipment is maintained to conform with the provisions of Annex IV, so as to ensure that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; and
 - (ii) no change, other than the direct replacement of equipment and fittings, has been made to the structure, equipment, systems, fittings, arrangements or materials of the ship covered by the last survey carried out under regulation 4.1 of Annex IV (surveys) without the approval of the Contracting State in question.

(3) A Sewage Certificate issued under this regulation must be in English.

Issue of Sewage Certificates by another Contracting State in respect of Virgin Islands ships

15. (1) The Minister may request a Contracting State to survey a Virgin Islands ship and, if the Contracting State is satisfied that the ship complies with the requirements of the Convention, to issue, or authorise the issue of, a Sewage Certificate in respect of that ship.

(2) Where a Sewage Certificate is issued pursuant to paragraph (1)

(a) the Minister is to be treated as the Certifying Authority in relation to it; and

(b) any reference in these Regulations to the Certifying Authority who issued the Certificate is to be treated as a reference to the Minister.

Issue of Sewage Certificates in respect of non--Virgin Islands ships

16. (1) The Minister, when requested to do so by a Contracting State other than the Virgin Islands, may cause a survey to be carried out in respect of a Contracting State ship.

(2) The Minister must issue a Sewage Certificate for a ship for which a survey described in paragraph (1) has been carried out, if

(a) the Minister is satisfied that the requirements of Annex IV are complied with; and

(b) any fee due under Part 28 (Merchant Shipping Fees and Charges) of the Schedule to the Statutory Rates, Fees and Charges Act, 2005 has been paid.

(3) The Minister must, as soon as possible after the completion of a survey carried out under paragraph (1), send to the Contracting State who made the request a copy of

(a) the Sewage Certificate issued pursuant to that paragraph; and

(b) the report of the survey.

Duration and validity of Sewage Certificates

17. (1) A Sewage Certificate issued in respect of a Virgin Islands ship is valid from the date of completion of the initial or renewal survey which immediately preceded the issue of that Certificate.

(2) Subject to paragraphs (4) to (6) and regulations 18 (extension of periods of validity of Sewage Certificates by a Certifying Authority) and 19 (extension of periods of validity of Sewage Certificates by a surveyor) and 22(3) (procedure to be adopted when a ship is deficient), a Sewage Certificate which is issued in respect of a Virgin Islands ship is valid for such period as is specified in the certificate, not exceeding five years, beginning with

(a) the date specified in paragraph (1);

(b) the date of expiry of the previous Sewage Certificate, where the renewal survey is completed

(i) within three months before the expiry of the Sewage Certificate; or

(ii) after the date of expiry of the latest Sewage Certificate; or

(c) the original date of expiry of the previous Sewage Certificate, where a new Sewage Certificate has been issued in respect of a ship referred to in regulation 18(1)(b) or regulation 18(3).

(3) Paragraph (4) applies where, following a renewal survey, a Sewage Certificate is issued in respect of

(a) a ship to which paragraph (2)(b)(ii) applies; or

(b) a ship referred to in regulation 18(1)(b) or (3).

(4) In the circumstances described in paragraph (5), the Minister may direct a Certifying Authority that the new Sewage Certificate is to be valid for such period as is specified in the Certificate, not exceeding five years beginning with the date of completion of the renewal survey in question.

(5) The circumstances are where the owner of the ship

- (a) submits a request to the Minister for a direction under paragraph (4);
- (b) satisfies the Minister that the owner is justified in making such a request; and
- (c) complies with any reasonable additional survey requirements which the Minister may impose.

(6) A Sewage Certificate issued in respect of a Virgin Islands ship ceases to be valid

- (a) upon the ship being transferred to the flag of another State;
- (b) if a survey under regulation 13 (surveys of Virgin Islands ships) is not completed in accordance with the requirements of these Regulations;
- (c) upon the ship proceeding to sea when-
 - (i) regulation 21 (additional surveys of Virgin Islands ships) applies to the ship; but
 - (ii) the requirements of regulation 21(3) have not been complied with;
- (d) upon a new Sewage Certificate being issued in respect of the ship;
- (e) upon the Sewage Certificate being cancelled by the Minister under regulation 24(1) (miscellaneous provisions relating to Sewage Certificates); or
- (f) upon the date of expiry of the Sewage Certificate.

(7) In this regulation and in regulation 19 (extension of periods of validity of Sewage Certificates by a surveyor), “the original date of expiry” means the date on which the Sewage Certificate would have expired but for any extension of its period of validity.

(8) A Sewage Certificate issued or endorsed by a Certifying Authority under Part 2 (Sewage: Survey and Certification of Ships) of the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (which were also adopted in the Virgin Islands), which is valid immediately before the day on which these Regulations come into force

- (a) has effect on and after that date as if it were issued or endorsed under these Regulations; and
- (b) subject to the provisions of these Regulations, continues to be valid until the date of expiry of that Certificate.

Extension of periods of validity of Sewage Certificates by a Certifying Authority

18. (1) The Certifying Authority that issued a Sewage Certificate in respect of a Virgin Islands ship may extend the period of validity of that Certificate

- (a) to a maximum period of five years provided that
 - (i) the remaining period of validity for that Certificate prior to the extension is less than five years; and
 - (ii) any surveys required under regulation 13 (surveys of Virgin Islands ships) have been carried out; and
- (b) for a period not exceeding three months if

- (i) a renewal survey has not been completed before the date of expiry of that Certificate;
- (ii) at the date of expiry, the ship is not in the port in which the survey is to be carried out; and
- (iii) it appears to the Certifying Authority that it is proper and reasonable to do so solely for the purpose of enabling the ship to proceed to the port in which the survey is to be carried out.

(2) Where the period of validity of a Sewage Certificate has been extended under paragraph (1)(b), the ship in question must not leave the port of survey until a new Sewage Certificate has been issued in respect of that ship.

(3) Subject to paragraph (4), the Certifying Authority who issued the Sewage Certificate in respect of a ship engaged solely on short voyages may extend the period of validity of that Sewage Certificate for a period not exceeding one month.

(4) A Certifying Authority must not extend the period of validity of a Sewage Certificate under paragraph (3), if the period of validity of that Sewage Certificate has already been extended under paragraph (1) or (3).

(5) Where the period of validity of a Sewage Certificate is extended under paragraph (1) or (3), the Certifying Authority in question must endorse the Sewage Certificate in accordance with the relevant form set out in appendix I to Annex IV.

(6) In this regulation “short voyage” means a voyage which

- (a) does not exceed 1,000 nautical miles between the last port of call in the State in which the voyage begins and the last port of call in the voyage before beginning any return voyage; and
- (b) on any return voyage does not exceed 1,000 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the State in which the voyage began,

and for the purposes of this definition no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather, or any other circumstances that neither the master, nor the owner, nor the charterer if any, of the ship could have prevented or forestalled.

Extension of periods of validity of Sewage Certificates by a surveyor

19. (1) A surveyor may extend the period of validity of a Sewage Certificate issued in respect of as Virgin Islands ship by endorsing that Certificate if

- (a) a renewal survey has been completed by the surveyor;
- (b) the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3 (equipment); and
- (c) the new Sewage Certificate cannot be issued or placed on board the ship before the date on which the existing Sewage Certificate is due to expire.

(2) An endorsement issued pursuant to paragraph (1) must be in the relevant form set out in appendix I to Annex IV.

(3) Where a Sewage Certificate has been endorsed under paragraph (1), that Certificate is valid for such further period as is specified in the Certificate, not exceeding five months beginning with the original date of expiry of the Certificate.

Responsibilities of the owner and master of a Virgin Islands ship

20. (1) The owner and the master of a Virgin Islands ship must ensure that the condition of the ship and its equipment are maintained to conform with the provisions of Part 3 (equipment), so as to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The owner and the master of a Virgin Islands ship must ensure that after any survey of the ship required by this Part has been completed, no change, except by way of direct replacement, is made to the structure, equipment, systems, fittings, arrangements or material of that ship without the approval of

(a) the Certifying Authority who appointed the surveyor to carry out the survey; or

(b) the Minister, where the Sewage Certificate was issued by a Contracting State other than the Virgin Islands following a request made pursuant to regulation 15 (issue of a Sewage Certificate by another Contracting State in respect of Virgin Islands ships),

as the case may be.

(3) Whenever

(a) an accident occurs to a Virgin Islands ship, or

(b) a defect is discovered in a Virgin Islands ship,

which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship required under Part 3 (equipment), the owner and the master of the ship must comply with the requirements of paragraph (4).

(4) The requirements are that

(a) the accident or defect is reported at the earliest opportunity to the Certifying Authority that issued the Sewage Certificate in respect of the ship; and

(b) in the case of a ship in a port outside of the Virgin Islands, the accident or the defect, as is immediately reported to the appropriate maritime authorities in the State in which the port is situated.

(5) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph 4(a), the Certifying Authority must

(a) cause an investigation to be initiated to determine whether or not an additional survey is necessary; and

(b) if it considers that an additional survey is necessary, cause that survey to be carried out.

(6) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a) and the ship in question is in a port outside the Virgin Islands, the Certifying Authority must take all appropriate steps to ascertain that the requirement in paragraph (4)(b) has been complied with.

Additional surveys of Virgin Islands ships

21. (1) This regulation applies to a Virgin Islands ship where

(a) a repair resulting from an investigation referred to in regulation 20(5) (responsibilities of the owner and master of a Virgin Islands ship) has been made to the ship; or

(b) an important repair or renewal has been made to the ship which is required in order to

(i) address a defect which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship; or

(ii) ensure compliance with the requirements of Annex IV.

(2) A ship to which this regulation applies must not

- (a) proceed to sea; or
- (b) if it is already at sea, remain at sea,

unless an additional survey has been carried out and the surveyor has issued a survey report expressing the satisfaction required by regulation 10(c) (interpretation of Part 4).

(3) The requirements are that

- (a) a survey has been carried out in respect of that ship;
- (b) at the date of the survey the surveyor is satisfied that—
 - (i) the repair or renewal has been made effectively;
 - (ii) the materials used in, and the workmanship of, the repair or renewal are satisfactory in all respects; and
 - (iii) the ship complies in all respects with the requirements of Part 3 (equipment); and
- (c) the surveyor has issued a survey report expressing the satisfaction required by subparagraph (b).

(4) In the case of a dispute as to whether a repair or renewal effected or intended to be effected in respect of a ship is an important repair or renewal for the purposes of this regulation, the owner or master of a ship may serve a written request upon the Minister seeking advice.

(5) A repair or renewal is not to be regarded as being an important repair or renewal for the purposes of this regulation unless the Minister advises to the contrary within 21 days of receipt of a request under paragraph (4).

Procedure to be adopted when a ship is deficient

22. (1) This regulation applies where a surveyor determines that

- (a) the condition of a ship or its equipment does not correspond substantially with the particulars of the Sewage Certificate, if any, issued in respect of that ship; or
- (b) a ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) In the circumstances described in paragraph (1) the surveyor must

- (a) immediately advise the owner or master of the corrective action which, in the opinion of the surveyor, is required; and
- (b) where the ship has a valid Sewage Certificate, notify the Certifying Authority that issued the Certificate
 - (i) that the surveyor has so advised the owner or master as the case may be; and
 - (ii) if that corrective action is not taken.

(3) Where

- (a) a Sewage Certificate has been issued in respect of a Virgin Islands ship and is still valid; and
- (b) the corrective action advised in accordance with paragraph (2)(a) is not taken within the time specified by the surveyor,

the Certifying Authority may suspend the validity of that Certificate until the corrective action has been taken.

(4) Where a Certifying Authority suspends the validity of a Sewage Certificate issued in respect of a ship, it must immediately give notice in writing of such suspension

(a) to the owner of the ship; and

(b) where the ship is in a port outside the Virgin Islands, to the appropriate maritime authorities of the State in which the port is situated.

(5) Where the owner of the ship is given notice of suspension, that owner must notify the master of the ship of the suspension.

(6) In the application of paragraphs (1) and (2) to a ship which is not a Virgin Islands ship

(a) “the Certifying Authority” means a diplomatic representative of the ship’s flag State or the appropriate maritime authorities of that State; and

(b) “surveyor” includes a person authorised by that flag State to survey the ship.

Arbitration

23. (1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a Virgin Islands ship, the applicant may serve a written notice on the responsible person within the period of 21 days beginning with the date of receiving notification of that outcome

(a) stating that there is a dispute between them; and

(b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraph (3), an arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.

(3) In default of agreement between the applicant and the responsible person, the arbitrator is such person as may be appointed by the President or Vice President of the Chartered Institute of Arbitrators following a request made by

(a) one party, after giving written notice to the other party, or

(b) the parties jointly,

...

(4) No person is to be an arbitrator under this regulation unless that person is

(a) a person who holds a certificate to act as

(i) a master or chief mate on a seagoing ship of 3,000 GT or more, in accordance with Regulation II/2 of Chapter 2 of the Annex to STCW;

(ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to STCW;

(b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);

(c) a naval architect;

(d) a qualified person;

(e) a person with special experience of shipping matters or of activities carried on in ports; or

- (f) a member of the Chartered Institute of Arbitrators.
- (5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 417 (powers of inspectors in relation to premises and ships) of the 2001 Act.
- (6) ...
- (7) The rules for arbitration set out in Merchant Shipping Notice No M.1613 apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.
- (8) In this regulation
 - (a) “applicant” means a person who makes an application for a survey required by these Regulations;
 - (b) “Merchant Shipping Notice” means a notice described as such and issued by the Secretary of State, and any reference to a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Minister to be relevant from time to time;
 - (c) “qualified person” means
 - (i) a person who satisfies the judicial-appointment eligibility condition in section 422(4) of the 2001 Act;
 - (ii) a person with at least ten years standing as a Barrister-at-Law or Solicitor in the Virgin Islands or in any other Commonwealth jurisdiction;
 - (d) “responsible person” means
 - (i) the Certifying Authority responsible under regulation 14 (issue of Sewage Certificates by a Certifying Authority in respect of Virgin Islands ships) or 15 (issue of Sewage Certificates by another Contracting State in respect of Virgin Islands ships) for the issue of the Sewage Certificate in connection with which a survey required by these Regulations is carried out; or
 - (ii) in the case of a dispute relating to an additional survey, the Certifying Authority which issued the Sewage Certificate in respect of the ship; and
 - (e) “STCW” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended in 1995 by resolution 1 of the STCW Conference convened at the IMO’s headquarters from 26th June to 7th July 1995.

Miscellaneous provisions relating to Sewage Certificates

24. (1) The Minister may cancel a Sewage Certificate issued in respect of a Virgin Islands ship where there is reason to believe that
- (a) the Sewage Certificate was issued on false or erroneous information; or
 - (b) since the completion of any survey required by these Regulations, the structure, equipment or machinery of the ship has sustained damage or is otherwise deficient.
- (2) The Minister may require the surrender of a Sewage Certificate issued to a Virgin Islands ship where that Certificate has expired, been suspended or been cancelled.
- (3) A direction given by the Minister under paragraph (2) may specify that a Sewage Certificate must be surrendered within such time and in such manner as the Minister may direct.
- (4) In relation to a ship, no person may

- (a) intentionally alter a Sewage Certificate, unless permitted to do so under these Regulations;
 - (b) intentionally make a false Sewage Certificate;
 - (c) knowingly or recklessly provide false information in connection with a survey required under these Regulations;
 - (d) with intent to deceive, use or lend a Sewage Certificate or permit a Sewage Certificate to be used by another person;
 - (e) fail to surrender a Sewage Certificate when required to do so by paragraph (2); or
- (5) The owner and master of a ship, in respect of which a Sewage Certificate has been issued, must ensure that the Sewage Certificate is readily available on board the ship for examination at all times, except where it has been surrendered pursuant to paragraph (2).

PART 5

Enforcement

Inspection of ships

25. (1) Sections 415 (powers to require production of ships' documents) , 416 (power to inspect ships and their equipment) and to 417 (powers of inspectors in relation to premises and ships) of the Merchant Shipping Act 2001 apply in relation to a ship to which these Regulations apply for the purpose of checking compliance with these Regulations.

(2) The power to inspect a ship and its equipment, any part of the ship, any articles on board and any document carried in the ship, is limited to

- (a) verifying whether sewage has been discharged from the ship in violation of these Regulations;
- (b) investigating any operation regulated by these Regulations, if there are clear grounds for believing that the master or the crew are not familiar with essential shipboard procedures for preventing pollution by sewage;
- (c) verifying whether a Sewage Certificate has been issued in respect of the ship and is still valid; or
- (d) verifying whether appropriate documentation has been issued in respect of the ship and is still valid;

except where there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the Sewage Certificate or other appropriate documentation referred to in sub-paragraph (c) or (d).

(3) The power in those sections to go on board a ship may only be exercised if the ship is

- (a) in a port in the Virgin Islands;
- (b) at an offshore terminal in Virgin Islands protected waters;
- (c) a fixed platform in Virgin Islands protected waters; or
- (d) a floating platform in Virgin Islands protected waters, other than a floating platform which is in transit.

(4) Where the ship is inspected for the purposes of paragraph (2)(a) and is not a Virgin Islands ship, the person exercising the powers of inspection must ensure that the report of the inspection is sent to

- (a) a diplomatic representative of the ship's flag State or the appropriate maritime authorities of that State; and
- (b) any other party to the Convention who requested the inspection.

General provisions on detention

26. (1) Where

- (a) a determination is made of the kind mentioned in regulation 22(1) (procedure to be adopted when a ship is deficient) in relation to a ship; or
- (b) a surveyor of ships has clear grounds for believing that
 - (i) a Sewage Certificate is required to have been issued in respect of a ship but has not been issued, or has been issued but is not valid;
 - (ii) appropriate documentation is required to have been issued in respect of a ship but has not been issued, or has been issued but is not valid;
 - (iii) the condition of a ship or its equipment does not correspond substantially with the particulars of that Certificate or other appropriate documentation;
 - (iv) the master or crew of a ship are not familiar with essential shipboard procedures relating to the prevention of pollution by sewage; or
 - (v) an offence under regulation 30(1) (offences) is being committed in respect of a ship,

the ship is liable to be detained until a surveyor of ships is satisfied that it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) Notwithstanding paragraph (1), a person having powers to detain a ship may permit a ship which is liable to be detained under paragraph (1) to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Where a surveyor of ships has clear grounds for believing that an offence under regulation 30(1)(d) or (e) (offences) has been committed in respect of a ship, the ship is liable to be detained.

(4) The power under this regulation to detain a ship may only be exercised if the ship is

- (a) in a port in the Virgin Islands;
- (b) at an offshore terminal in Virgin Islands protected waters;
- (c) a fixed platform in Virgin Islands protected waters; or
- (d) a floating platform in Virgin Islands protected waters, other than a floating platform which is in transit.

(5) Section 439 of the Merchant Shipping Act 2001 (enforcing detention of ship) applies where a ship is liable to be detained under the preceding provisions of this regulation as if—

- (a) references to detention of a ship under the 1995 Act were references to detention of the ship in question under the preceding provisions of this regulation; and
- (b) subsection (7) were omitted.

(6) Where a ship is liable to be detained under the preceding provisions of this regulation, the person detaining the ship must serve on the master of the ship a detention notice which

- (a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 439(1) of the 2001 Act.

(7) Where a ship other than a Virgin Islands ship is detained, the Minister must immediately inform a diplomatic representative of the ship's flag State or the appropriate maritime authorities of that State.

(8) Where a ship is detained under paragraph (3), a person having power to detain the ship must, at the request of the owner, manager, demise charterer or master, immediately release the ship

(a) if no proceedings for an offence under regulation 30(1)(d) or (e) (offences) are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for an offence under regulation 30(1)(d) or (e) (offences), having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted;

(c) if either

(i) the sum of \$40,000 is paid to the Minister by way of security; or

(ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than \$40,000 is given to the Minister,

by or on behalf of the owner, manager, demise charterer or master;

(d) where the owner, manager, demise charterer or master is convicted of an offence under regulation 30(1)(d) or (e) (offences), if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid; or

(e) the release is ordered by a court or tribunal referred to in Article 292 of UNCLOS, and any bond or other financial security ordered by such court or tribunal is posted.

(9) The Minister must repay any sum paid in pursuance of paragraph (8)(c) or release any security so given

(a) if no proceedings for an offence under regulation 30(1)(d) or (e) (offences) are instituted within the period of seven days beginning with the day on which the sum is paid; or

(b) if proceedings for that offence, having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted.

(10) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph 8(c) and the owner, manager, demise charterer or master is convicted of an offence under regulation 30(1)(d) or (e) (offences), the sum so paid or the amount made available under the security must be applied as follows

(a) first in payment of any costs or expenses ordered by the court to be paid by the owner, manager, demise charterer or master; and

(b) next in payment of any fine imposed by the court,

and any balance must be repaid to the first-mentioned person.

Power for the Ports Authority to detain a ship

27. (1) Where the Ports Authority has clear grounds for believing that an offence has been committed under regulation 30(1)(d) or (e) (offences) by the discharge from a ship of sewage into the waters of the harbour, the Ports Authority may detain the ship.

(2) ...

(3) Where a ship is liable to be detained under this regulation, the Ports Authority must serve on the master of the ship a detention notice which

- (a) states the grounds for the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by the Ports Authority.

(4) Where a ship is detained under this regulation, the Ports Authority must immediately release the ship

- (a) if no proceedings for an offence under regulation 30(1)(d) or (e) (offences) are instituted within the period of seven days beginning with the day on which the ship is detained;
- (b) if proceedings for an offence under regulation 30(1)(d) or (e) (offences), having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted;
- (c) if either
 - (i) the sum of \$40,000 is paid to the Ports Authority by way of security; or
 - (ii) security which, in the opinion of the Ports Authority, is satisfactory and is for an amount not less than \$40,000 is given to the Ports Authority;
- (d) where the owner, manager, demise charterer or master is convicted of an offence under regulation 30(1)(d) or (e) (offences), if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid; or
- (e) if the release is ordered by a court or tribunal referred to in Article 292 of UNCLOS and any bond or other financial security ordered by such court or tribunal is posted.

(5) The Ports Authority must repay any sum paid in pursuance of paragraph 4(c) or release any security so given

- (a) if no proceedings for an offence under regulation 30(1)(d) or (e) (offences) are instituted within the period of seven days beginning with the day on which the sum is paid; or
- (b) if proceedings for an offence under regulation 30(1)(d) or (e) (offences), having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted.

(6) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (4)(c) and the owner, manager, demise charterer or master is convicted of an offence under regulation 30(1)(d) or (e) (offences), the sum so paid for the amount made available under the security must be applied as follows

- (a) first in payment of any costs or expenses ordered by the court to be paid by the owner, manager, demise charterer or master; and
- (b) next in payment of any fine imposed by the court,

and any balance must be repaid to the first-mentioned person.

...

Duty of the Ports Authority to report deficient ships

28. The Ports Authority must immediately notify the Minister if the Ports Authority has reason to believe that a ship is about to

- (a) enter a port; or

(b) leave a port,
and does not comply with the requirements of these Regulations.

Right of appeal and compensation

29 (1) Regulations 16 and 17 of the Merchant Shipping (Port State Control) Regulations 2020 (arbitration and compensation) apply in relation to the exercise of the powers of detention under these Regulations as they apply in relation to the exercise of those powers under Part 1 of those Regulations, subject to the modifications in paragraph (2).

(2) The modifications are

(a) references to “inspector” are to be taken as references to the authority detaining the ship, or the Ports Authority, as the case may be;

Offences

30. (1) Any contravention of

(a) regulation 11 (prohibition on Virgin Islands ships proceeding to sea without a Sewage Certificate), 12(1), (2) or (3) (prohibition on non-Virgin Islands ships proceeding to sea without a Sewage Certificate or appropriate documentation), 18(2) (extensions of periods of validity of Sewage Certificates by a Certifying Authority), 20(1), (2) or (3) (responsibilities of the owner and master of a Virgin Islands ship), 21(2) (additional surveys of Virgin Islands ships) or 24(5) (duration and validity of Sewage Certificates) is an offence by the owner and master of the ship;

(b) regulation 8(1) or (2) (sewage systems), 9 (discharge connections) or 22(5) (procedure to be adopted when a ship is deficient) is an offence by the owner of the ship;

(c) regulation 24(4) (duration and validity of Sewage Certificates) is an offence by the person in question;

(d) regulation 7 (prohibition on the discharge of sewage) in the case of a fixed or floating platform, is an offence by the owner and manager of the platform; or

(e) regulation 7 (prohibition on the discharge of sewage) in the case of a ship other than a fixed or floating platform, is an offence by the owner, manager, demise charterer and master of the ship.

(2) Subject to paragraph (3), an offence under paragraph (1) is punishable by a fine not exceeding level 5 on the standard scale of fines in Schedule 5 of the 2001 Act.

Defences

31. (1) In any proceedings for an offence under these Regulations, it is a defence for the person charged to prove that they took all reasonable steps and exercised all due diligence to ensure that the regulation in question was complied with.

(2) Without prejudice to paragraph (1), in any proceedings for an offence under regulation 30(1)(d) or (e) (offences) it is a defence for the person charged to prove that

(a) the ship was not a Virgin Islands ship;

(b) the discharge took place in waters that were not Virgin Islands protected waters; and

(c) the ship was in a port in the Virgin Islands at the time of the institution of the proceedings by reason only of stress of weather or any other reason beyond the control of the owner, manager, charterer or master of the ship.

Restriction on jurisdiction over offences outside Virgin Islands limits

32. (1) Where there has been an offence under regulation 30(1)(d) or (e) (offences) in respect of a ship which is not a Virgin Islands ship in the internal waters, territorial sea or exclusive economic zone of a foreign State, proceedings in respect of that offence must not be instituted in the Virgin Islands unless

(a) that foreign State, the flag State of the ship or a foreign State polluted or threatened with pollution as a result of the offence requests that such proceedings be taken; or

(b) the offence has caused or is likely to cause pollution in Virgin Islands protected waters.

(2) Where proceedings have been instituted but not concluded, they must be suspended upon the request of the foreign State in question and the Minister must send all the evidence, court records and documents relating to the case, together with any sum paid or security given, to the foreign State.

(3) In this regulation

(a) “exclusive economic zone”, in relation to a foreign State, means the area beyond and adjacent to the territorial sea of that State, but not extending beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured; and

(b) “foreign State” means a State other than the Virgin Islands.

Suspension of proceedings at flag State request

33. (1) This regulation applies to proceedings instituted but not concluded in the Virgin Islands in respect of a contravention of a provision in Part 2 (discharge of sewage) committed outside Virgin Islands waters by a ship that is not a Virgin Islands ship.

(2) Subject to paragraph (3), any proceedings must be suspended if the court is satisfied that the ship’s flag State has instituted proceedings corresponding to the proceedings in paragraph (1) within six months of the institution of the proceedings in the Virgin Islands.

(3) Paragraph (2) does not apply

(a) where the contravention of these Regulations resulted in serious pollution of the Virgin Islands; or

(b) if the Minister certifies that the ship’s flag State has repeatedly disregarded its obligations to enforce effectively the requirements of the Convention in respect of its ships.

(4) Where proceedings instituted by the ship’s flag State have been brought to a conclusion, the suspended proceedings must be terminated.

Service of documents on foreign companies

34. Section 446(3) of the 2001 Act (service of documents) applies to proceedings for an offence under these Regulations.

...

PART 6

Review

Signed by authority of the Secretary of State for Transport

Kelly Tolhurst

Parliamentary Under Secretary of State

Department for Transport

29th June 2020

We consent to the making of these Regulations

David Rutley

James Morris

Two of the Lords Commissioners of Her Majesty's Treasury

23rd June 2020

SCHEDULE 1

Amendments and Revocations

...

Regulation 3(1)

SCHEDULE 2

Gross Tonnage

1. The “gross tonnage” of a Virgin Islands ship is to be determined in accordance with paragraphs 3 to 7, and the “gross tonnage” of a ship other than a Virgin Islands ship is to be determined in accordance with paragraphs 8 to 10.

2. In this Schedule-

“the 1997 Regulations” means the Merchant Shipping (Tonnage) Regulations 1997;

“length overall” and “length” (except in the expression “length overall”) have the same meaning as in the 1997 Regulations; and

“the Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969.

Virgin Islands Ships

3. In the case of a ship of 24 metres in length or over for which the Minister permits the continuing use of a gross tonnage pursuant to regulation 12(1) (use of gross tonnage ascertained under previous Regulations) of the 1997 Regulations, the “gross tonnage” is the smaller of—

(a) the largest gross tonnage permitted for that ship pursuant to regulation 12(1) of the 1997 Regulations; and

(b) the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

4. In the case of any other ship of 24 metres in length or over, the “gross tonnage” is the gross tonnage of the ship determined in accordance with regulation 6 (gross tonnage) of the 1997 Regulations.

5. In the case of a fishing vessel of 15 metres or more in length overall but less than 24 metres in length, the “gross tonnage” is the tonnage of the vessel determined in accordance with regulations 6 (gross tonnage) and 12C (measurement of smaller fishing vessels) of the 1997 Regulations.

6. In the case of a fishing vessel of less than 15 metres in length overall and less than 24 metres in length, the “gross tonnage” is the Registered Tonnage of the vessel determined in accordance with regulation 7 of the Merchant Shipping (Fishing Vessels – Tonnage) Regulations 1988.

7. In the case of any other ship of less than 24 metres in length, the “gross tonnage” is the gross tonnage of the ship determined in accordance with regulation 14(2) (measurement and certification) of the 1997 Regulations.

Ships other than Virgin Islands ships

8. Subject to paragraph 9, in the case of a ship which has a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is that gross tonnage.

9. Where a ship has a gross tonnage determined in accordance with the Tonnage Convention but the ship’s flag State permits the use of some other gross tonnage, the “gross tonnage” of the ship is the smaller of-

- (a) the largest gross tonnage permitted by the flag State to be used for that ship; and
- (b) the gross tonnage determined in accordance with the Tonnage Convention.

10. In the case of a ship which does not have a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is the gross tonnage or equivalent measure determined in accordance with the law of the ship’s flag State (and where the ship has more than one such gross tonnage or equivalent measure, the “gross tonnage” is to be taken to be the largest of them).

...

ANNEX 2
UNITED KINGDOM M-NOTICES

[This text does not form part of the published adopted regulations]

To accompany UK Regulations, the Maritime and Coastguard Agency publishes M-Notices, comprising Merchant Shipping Notices(‘MSNs’), Marine Guidance Notes (‘MGNs’) and Marine Information Notices (‘MINs’).

In some cases, the M-Notices are referenced in the Regulations and, where they are they are incorporated as part of the regulations, their provisions are as mandatory as those contained in the Regulations. Consequently, where the Virgin Islands has adopted UK Regulations which incorporate M-Notices, the M-Notices also have the force of law.

Table 1 below lists the M-Notices incorporated in the adopted Regulations in this way and provides a link to the UK Government’s website on which the latest version of the M-Notices can be found.

In other cases, M-Notices are issued which provide guidance on the regulations without being incorporated in the regulations. Although not having the force of law in the same way as incorporated M-Notices, they may nonetheless be relevant to the interpretation of the UK Regulations, as adopted in the Virgin Islands. Table 2 below lists these M-Notices.

In line with the Adoption Order, where the following terms appear in the M-Notices, they should be read as follows:

- (a) a reference to a United Kingdom ship or ships should be read as a reference to a Virgin Islands ship or ships.
- (b) any reference to Northern Ireland or Scotland should be omitted.
- (c) a reference to England and Wales or the United Kingdom should be read as a reference to the Virgin Islands.
- (d) a reference to the “Secretary of State”, the “Department for Transport” or to a “Minster” should be read as a reference to the Minister.
- (e) a reference to the “Maritime and Coastguard Agency” or “MCA”, should be read as a reference to the Virgin Islands Shipping and Maritime Authority.

TABLE 1 M-NOTICES INCORPORATED IN THE ADOPTED REGULATIONS

M-Notice Number	Title of M-Notice	Link
None		

TABLE 2: M-NOTICES INCORPORATED THAT MAY BE OF RELEVANCE TO THE ADOPTED REGULATIONS

M-Notice Number	Title of M-Notice	Link
MGN 676 (M)	Unmanned non-self-propelled barges- MARPOL Annexes I and IV exceptions	https://www.gov.uk/government/publications/mgn-676-m-unmanned-non-self-propelled-barges-marpol-annexes-i-and-iv-exemptions