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Marine Circular No. 06/2025

To: Shipowners, Operators, Agents, Masters and Officers of Merchant Ships, Authorized Classification Societies and Surveyors and Interested Parties.

ADOPTION OF:

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

INTERNATIONAL CONVENTION ON PREVENTION OF POLLUTION FROM SHIPS:

ANNEX V: REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS

SUMMARY

1. This Notice contains the text of the Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020 (U.K.S.I. 2020/621) (“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 V (Regulations for the prevention of pollution by garbage from ships) (“Annex V”) to the International Convention on Prevention of Pollution from Ships of the International Convention on the Prevention of Pollution from Ships (“MARPOL”).

ANNEX V 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 V addresses pollution caused by garbage from ships and, in addition to restricting or prohibiting the discharge of garbage, sets out construction and operational standards relating to the handling of garbage on ships.
3. Annex V was extended to the Virgin Islands on 19 June 2006.
4. This Notice explains how Annex V 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 V 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. In accordance with sections 3 and 4 of the Adoption Order, the Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020 (as amended by U.K.S.I. 2024/570) 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 sets out in **Annex-1** the text of the 2020 Regulations, 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** of this Notice 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 GARBAGE FROM SHIPS) REGULATIONS 2020 (U.K.S.I. 2020/621)

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. 621

MARINE POLLUTION

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

<i>Made</i>	29th June 2020
<i>Laid before Parliament</i>	30th June 2020
<i>Coming into force</i>	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 Garbage from Ships) Regulations 2020.

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

Interpretation

2. (1) In these Regulations

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

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

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

“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 the Schedule (gross tonnage);

“the IMSBC Code” means the International Maritime Solid Bulk Cargoes (IMSBC) Code;

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

“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;

“Polar Code” has the meaning given to it in regulation 13 of Annex V (definitions);

“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;

“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;

“SOLAS” means the International Convention for the Safety of Life at Sea, 1974; 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 1 of Annex V (definitions)

- (a) “Antarctic area”;
- (b) “fixed or floating platform”; and
- (c) “garbage”.

(3) For the purposes of these Regulations

- (a) subject to sub-paragraph (b), a “discharge” in relation to garbage, 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 garbage for the purposes of legitimate scientific research into pollution abatement or control; and
- (c) a “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.

Ambulatory reference

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

- (a) as a reference to the Convention, an Annex to the Convention, the Polar Code or the IMSBC Code as modified from time to time; and
- (b) as, if the Convention, an Annex to the Convention, the Polar Code or the IMSBC Code is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1)

- (a) the Convention, an Annex to the Convention or the Polar Code is modified or replaced if a modification or replacement takes effect in accordance with Article 16 (Amendments) of the Convention; and
- (b) the IMSBC Code is modified or replaced if a modification or replacement takes effect in accordance with Article VIII (Amendments) of SOLAS.

(3) A modification or replacement of

- (a) 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; and
- (b) the IMSBC Code has effect at the time such modification or replacement comes into force in accordance with Article VIII (Amendments) of SOLAS.

Application

4. (1) Subject to paragraph (2), these Regulations apply to

- (a) Virgin Island ships, wherever they may be; and
- (b) other ships while they are within Virgin Islands protected waters.

(2) These Regulations do not apply to any

- (a) warship;
- (b) naval auxiliary ship; or
- (c) other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

PART 2

Discharge of Garbage

Prohibition on the discharge of garbage

5. (1) The discharge of garbage from a ship into the sea is prohibited except as provided in

- (a) regulation 4 of Annex V (discharge of garbage outside special areas);

- (b) regulation 5 of Annex V (special requirements for discharge of garbage from fixed or floating platforms);
- (c) regulation 6 of Annex V (discharge of garbage within special areas);
- (d) section 5.2 (operational requirements) of chapter 5 of part II-A of the Polar Code (prevention of pollution by garbage from ships); and
- (e) regulation 8 (exceptions).

(2) For the purposes of regulation 4.2 of Annex V and regulation 6.2 of Annex V (discharge of cleaning agents or additives) a substance will be “harmful to the marine environment” where it—

- (a) falls within the definition of a “harmful substance” in regulation 1 of Annex III to the Convention; and
- (b) contains any components which are known to be carcinogenic, mutagenic or reprotoxic.

Mixed garbage

6. (1) In these Regulations where garbage is mixed with

- (a) substances regulated by an Annex to the Convention other than Annex V; or
- (b) other types of garbage,

the more stringent discharge requirements apply to the mixture.

(2) In paragraph (1) “mixed” includes contaminated.

Restriction on Virgin Island ships entering the Antarctic area

7. A Virgin Islands ship must not enter the Antarctic area unless—

- (a) it has sufficient capacity for the retention on board of all garbage while operating in that area; and
- (b) it has concluded arrangements for the discharge of that retained garbage at a reception facility outside of the Antarctic area.

Exceptions

8. (1) Regulations 5(1) (prohibition on the discharge of garbage) and 6 (mixed garbage) do not apply to—

- (a) the discharge of garbage 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) the accidental loss of garbage
 - (i) which is a result of 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 accidental loss;
- (c) the accidental loss of fishing gear, provided that all reasonable precautions have been taken to prevent the accidental loss; or
- (d) the discharge of fishing gear for
 - (i) the protection of the marine environment; or
 - (ii) for the safety of a ship or its crew.

(2) The requirement in

- (a) regulation 4 of Annex V (discharge of garbage outside special areas);
- (b) regulation 6 of Annex V (discharge of garbage within special areas); and
- (c) section 5.2 (operational requirements) of chapter 5 of part II-A of the Polar Code (prevention of pollution by garbage from ships),

that the discharge of garbage is only permitted while a ship is en route, does not apply to a discharge of food wastes where the retention on board a ship of the food wastes presents an imminent health risk to the persons on board.

(3) Where fishing gear accidentally lost or discharged pursuant to paragraph (1)(c) or (d) poses a significant threat to

- (a) the marine environment; or
- (b) navigation,

the accidental loss or discharge must be reported in accordance with paragraph (4).

(4) A report under paragraph (3) must be to

- (a) the ship's flag State; and
- (b) any coastal State which has jurisdiction over the waters where the accidental loss or discharge occurred.

(5) In this regulation the following terms have the meaning given in regulation 1 of Annex V (definitions)

- (a) "en route";
- (b) "fishing gear"; and
- (c) "food wastes".

PART 3

Solid Bulk Cargoes

Declaration regarding solid bulk cargoes

9. (1) A shipper of solid bulk cargo on a ship to which these Regulations apply must make a declaration to the owner or master in the form specified in section 4.2.3 of the IMSBC Code as to whether the solid bulk cargo is harmful to the marine environment in accordance with paragraph (2).

(2) The shipper must declare solid bulk cargo to be harmful to the marine environment if it falls within one or more of the parameters listed in Appendix I of Annex V (criteria for the classification of solid bulk cargoes).

(3) Where the shipper does not deliver the cargo to the ship or its agent

- (a) the shipper must provide the forwarder with the declaration; and
- (b) the forwarder must provide the owner or master with the declaration.

(4) In this regulation

- (a) "forwarder" means a person who receives a declaration under this regulation in preparation for eventual delivery of the cargo to the ship or its agent, and may include a cargo packer or consolidator;
- (b) "shipper" means any person who, whether as principal or agent for another, consigns solid bulk cargoes for carriage by sea; and
- (c) "solid bulk cargoes"

- (i) has the meaning given in paragraph 2 of regulation 1-1 of Chapter VI of SOLAS;
and
- (ii) does not include grain.

PART 4

Placards, Garbage Management and Garbage Record-Keeping

Placards

10. (1) A ship which

- (a) has a length overall of 12 metres or more; or
- (b) is a fixed or floating platform,

must display placards which notify the crew and any passengers of the requirements for the discharge of garbage contained in regulations 3 to 6 of Annex V (provisions relating to discharge requirements) and section 5.2 (operational requirements) of chapter 5 of part II-A of the Polar Code (prevention of pollution by garbage from ships).

(2) Placards must be written in accordance with regulation 10.1.2 of Annex V (placards).

(3) In paragraph (1) “length overall” means the extreme length of the hull of the ship measured between the foremost part of the bow and the aftmost part of the stern.

Garbage management plan

11. (1) A ship which

- (a) is of 400 GT or above;
- (b) carries 15 or more persons; or
- (c) is a fixed or floating platform,

must carry a garbage management plan which complies with the requirements of regulation 10.2 of Annex V (garbage management plans).

(2) The master of a ship and the manager of a fixed or floating platform must ensure that its crew follow the ship’s garbage management plan.

Garbage record keeping

12. (1) This regulation and regulation 13 (entries in garbage record books) apply to a ship which

- (a) is of 400 GT or above;
- (b) carries 15 or more persons and is engaged in voyages to ports or offshore terminals under the jurisdiction of a party to the Convention other than the ship’s flag State; or
- (c) is a fixed or floating platform.

(2) A ship to which this regulation applies must be provided with a garbage record book in

- (a) the format specified in regulation 10.3 of Annex V (garbage record books); and
- (b) the form specified in Appendix II to Annex V (form of garbage record book).

(3) The garbage record book and receipts obtained from reception facilities must be

- (a) kept on board the ship to which they relate and in such a place as to be readily available for inspection at all reasonable times; and
- (b) preserved for a period of at least two years after the last entry has been made.

Entries in garbage record books

13. (1) On a ship to which this regulation applies each

- (a) discharge;
- (b) accidental loss; or
- (c) completed incineration,

of garbage must be recorded promptly in the garbage record book and the entry signed for by the officer in charge of the discharge, accidental loss or completed incineration.

(2) An entry under paragraph (1)(a) must include the information specified in regulation 10.3.2, 10.3.3, 10.3.4 or 10.3.6 of Annex V (garbage record books) appropriate to the operation being recorded.

(3) In the case of a Virgin Islands ship, the garbage record book must be written in English and, in the case of any other ship, it must be written in or translated into English, French or Spanish.

(4) Where an entry has been written in the national language of the ship's flag State as well as in English, French or Spanish, in the case of any dispute or discrepancy the entry made in that national language prevails.

(5) Each completed page of the garbage record book must be signed by the master of the ship or the manager of the fixed or floating platform.

Exemptions from regulations 12 and 13

14. (1) The Minister may grant an exemption in writing from one or more of the requirements of regulations 12 (garbage record keeping) and 13 (entries in garbage record books) in respect of a ship specified in regulation 10.4 of Annex V (exemptions from garbage record keeping).

(2) An exemption given by the Minister pursuant to paragraph (1) is only valid if given in writing and may be

- (a) given subject to such conditions and limitations as the Minister may specify; and
- (b) altered or cancelled by a notice given in writing by the Minister.

(3) In this regulation "in writing" includes the provision of such communication by electronic mail, facsimile or similar means which are capable of producing a document containing the text of any communication.

Log-books

15. (1) This regulation applies to a ship which is not required to be provided with a garbage record book.

(2) In the event of a discharge or accidental loss of garbage pursuant to regulation 8 (exceptions), a ship to which this regulation applies must record in its log-book the information specified in regulation 10.3.6 of Annex V (exceptions and garbage record books).

PART 5 Enforcement

Inspection of ships

16. (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 2001 Act 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) 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 garbage;
- (b) verifying whether garbage has been discharged from the ship in violation of these Regulations;
- (c) inspecting the garbage management plan;
- (d) inspecting the garbage record book; or
- (e) inspecting the log-book.

(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)(b) 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.

(5) Where the garbage record book is inspected under paragraph (2)(d) or the log-book is inspected under paragraph (2)(e) the person exercising the power of inspection may

- (a) make a copy of an entry in that book; and
- (b) require the master of the ship to certify that the copy is a true copy of the original.

(6) Any copy certified in accordance with paragraph (5) is to be admissible in any judicial proceedings as evidence of the facts stated in it.

General provisions on detention

17. (1) Where a surveyor of ships has clear grounds for believing that

- (a) the master or crew are not familiar with essential shipboard procedures relating to the prevention of pollution by garbage; or
- (b) an offence under regulation 21(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 21(1)(a) or (c) (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;
 - (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 Merchant Shipping Act 2001.
- (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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

18. (1) Where the Ports Authority has clear grounds for believing that an offence has been committed under regulation 21(1)(a) or (c) (offences) by the discharge from a ship of garbage into the waters of a port, the Ports Authority may detain the ship.

(2) ...

(3) Where a ship is liable to be detained under this regulation, the Ports Authority 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 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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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 21(1)(a) or (c) (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

19. 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

20. (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

21. (1) Any contravention of

- (a) regulation 5(1) (prohibition on the discharge of garbage), in the case of a fixed or floating platform, is an offence by the owner and manager of the platform;
- (b) regulation 7 (restriction on Virgin Islands ships entering the Antarctic area), 8(3) (reporting of the loss or discharge of fishing gear), 10 (placards), 11(1) (garbage management plan), 12(2) (garbage record book), 12(3)(a) (availability of inspection of garbage record book), 13(1), 13(2), 13(3) (entries in garbage record books) or 15(2) (exceptions and entries in log-books), in the case of a fixed or floating platform, is an offence by the owner and manager of the platform;
- (c) regulation 5(1) (prohibition on the discharge of garbage), 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;
- (d) regulation 7 (restriction on Virgin Islands ships entering the Antarctic area), 8(3) (reporting of the loss or discharge of fishing gear), 10 (placards), 11(1) (garbage management plan), 12(2) (garbage record book), 12(3)(a) (availability of inspection of garbage record book), 13(1), 13(2), 13(3) (entries in garbage record books), or 15(2) (exceptions and entries in log-books), 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;
- (e) regulation 9(1) or (3)(a) (declaration regarding solid bulk cargoes) is an offence by the shipper;
- (f) regulation 9(3)(b) (declaration regarding solid bulk cargoes) is an offence by the forwarder;
- (g) regulation 11(2) (garbage management plan), in the case of a fixed or floating platform, is an offence by the manager of the platform;
- (h) regulation 11(2) (garbage management plan), in the case of a ship other than a fixed or floating platform, is an offence by the master of the ship;

- (i) regulation 12(3)(b) (receipts from reception facilities), in the case of a fixed or floating platform, is an offence by the owner of the platform;
 - (j) regulation 12(3)(b) (receipts from reception facilities), in the case of a ship other than a fixed or floating platform, is an offence by the owner of the ship;
 - (k) regulation 13(1) or 13(2) (entries in garbage record books), is an offence by the officer in charge of the discharge, accidental loss or completed incineration;
 - (l) regulation 13(5) (entries in garbage record books), in the case of a fixed or floating platform, is an offence by the manager of the platform; and
 - (m) regulation 13(5) (entries in garbage record books), in the case of a ship other than a fixed or floating platform, is an offence by the master of the ship.
- (2) Subject to paragraphs (3) and (4) 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.
- (3) A contravention of regulation 10 (placards) is punishable on summary conviction by a fine not exceeding level 5 on the standard scale of fines in Schedule 5 of the 2001 Act .
- (4) ...

Defences

- 22.** (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 21(1)(a) or (c) (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, demise charterer or master of the ship.

Restriction on jurisdiction over offences outside Virgin Islands limits

- 23.** (1) Where there has been an offence under regulation 21(1)(a) or (c) (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 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;
 - (b) “foreign State” means a State other than the Virgin Islands; and
 - (c) “nautical mile” means an international nautical mile of 1,852 metres.

Suspension of proceedings at flag State request

24. (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 garbage), 3 (solid bulk cargoes) or 4 (placards, garbage management and garbage record-keeping) committed outside Virgin Islands waters by a ship which 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

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

...

**PART 6
Review**

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Signed by authority of the Secretary of State for Transport

Kelly Tolhurst
Parliamentary Under Secretary of State
Department for Transport

29th June 2020

SCHEDULE

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 as 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
None		
