



**Virgin Islands Shipping Registry**

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## **Marine Circular No.1/2019**

**To: Owners, Operators, Brokers, Charterers, Shipping Agents, Masters, Officers and Crew Members, Inspectors, Surveyors and Managers of Bareboat Charter Vessels and Crewed Yachts.**

1. The Merchant Shipping Act, 2001 (No. 13 of 2001);
2. The Merchant Shipping (Amendment) Act 2018;
3. The Bill entitled the Merchant Shipping Amendment Act 2018 which seeks to bring into force the international Maritime Labour standards for vessels flagged with the Virgin Islands Shipping Registry (VISR) was passed by the House of Assembly in December 2018. This Circular provides further information on the amendments to the Act.

### **MERCHANT SHIPPING (AMENDMENT) ACT, 2018**

The Bill entitled the Merchant Shipping Amendment Act 2018 which seeks to bring into force the international Maritime Labour standards for vessels flagged with the Virgin Islands Shipping Registry (VISR) was passed by the House of Assembly in December 2018. As a result of VISR's consultations with customers globally, the bill saw significant amendments made to the original Merchant Shipping Act which would make VISR more attractive to the ship owners.

Further information on the amendments to the Act is as detailed below:

Section 4 of the MSA 2001 deals with the qualifications for owning a Virgin Islands ship, this section specifies the nationalities of the limited legal entities, be it individuals or corporations, which are eligible to own Virgin Islands-registered vessels. The amendment allows a broader range of nationals and corporates of Countries to be eligible to register their vessels with the VISR. Significantly American citizens and companies are now eligible to own a Virgin Islands ships. The full list of eligible jurisdictions is listed in the Annex to this notice.

Section 4 (j) of the MSA 2001 required that the bodies corporate incorporated in a Member State of the Caribbean Community or the Organisation of Eastern

Caribbean States should also be registered in the Virgin Islands. The amendment to the Act removes this requirement.

Registration of ships chartered by bareboat to a qualified person under Section 28 of the Act, provided for such registration to only a ship of 1500 gross tonnage or above. Smaller commercial vessels were not permitted. The amendment sees this restriction removed. This allows for VISR Clients, who may wish to have the flexibility to retain the foreign flag of their vessel, while still having the ability to bareboat register their vessels in the BVI for business reasons without any restrictions.

Further under Section 33, dispensations for ships to be bareboat chartered and registered outside the Virgin Islands, was permitted only for a ship of 1500 gross tonnage or above. The amendment sees this restriction also removed. This allows for VISR Clients who may wish to have the flexibility to retain the BVI flag for reasons such as favourable mortgage purposes, whilst still having the freedom to bare boat charter their vessels as and when required for business reasons.

Registration of a vessel “under construction” would allow certain asset-based lending procedures to be accomplished before the vessel's delivery date. Larger ships could cost US \$ 100 million or more to build and owners would therefore usually seek financing in the form of a mortgage. Lenders (mortgagees) usually require that where a vessel is under construction and pledged as security (collateral) for the owner's financing, the ship owners should provide to the mortgagee a registration certification as a means of identifying the vessel. Additionally, the financing divisions of shipyards are often familiar with local lenders specializing in the financing of ships which are under construction. In such cases, it is important that the prospective flag chosen by the future owner be acceptable to the lender, the shipyard, and the classification society. Consequently, it is important that the Merchant Shipping Act permits the registration of vessels under construction. Section 65 of the Act was amended to allow for the government to make regulations with respect to registration of vessels “under construction”.

To enable the VISR to offer their services more closely to their clients, the VISR wish to open branch offices in multiple locations of their business concentration. The satellite offices will provide the full range of services offered by the

headquartered registry. There will be a Deputy Registrar in these offices, who will under the directions of the Registrar, provide all ship registration functions. There was no provision in the Merchant Shipping Act to appoint Deputy Registrars. To facilitate this, Section 449 of the Act was amended to include powers to appoint Deputy Registrars in the offices recommended by the Director of Shipping. With this amendment in place, VISR could in the first instance be able to place a Deputy Registrar in London and Hong Kong Branch Offices, where the Territory has already established financial services business offices. Consideration for a branch office in Fort Lauderdale would be also taken up, as Florida represents the largest portion of clients for the registry. This Deputy Registrar will be able to offer all the services available from the VISR in the Virgin Islands.

These are the amendments that have been passed by the House

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