



## Virgin Islands Shipping Registry

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## Marine Circular No.4/2020

# Application of UK Merchant Shipping Statutory Instruments and associated UK MCA MSN, MGN and MIN on board Virgin Islands Ships

**Notice to all Maritime Authorities, Recognised Organisations, Equipment Manufacturers, Ship Owners, Ship Operators, Ship Managers, Masters, Ships' Officers and Surveyors.**

This note should be read with the Merchant Shipping (Adoption of UK Enactments) Order 2005 and the Merchant Shipping (Adoption of UK Enactments) Order 2010 and the Merchant Shipping Act 2001 (as amended).

PLEASE NOTE: Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

SUMMARY: The UK Merchant Shipping Statutory Instruments apply to Virgin Islands ships. The associated Merchant Shipping Notices, Marine Guidance Notes and Marine information Notes (M-Notices) equally apply to Virgin Islands ships. In most instances the guidance provides relevant information. However in cases where the relevance may not be clear, this circular provides guidance on their application.

### 1. Legislative Framework

1.1 The Merchant Shipping Act 2001 (as amended) is the apex instrument for merchant shipping regulations in the Virgin Islands. This is an Act to consolidate the laws relating to merchant shipping and to make provision for other matters connected therewith.

1.2 Drawing from the powers in the Act, Merchant Shipping regulations are passed. The Government of the Virgin Islands passed subordinate legislation to adopt existing UK legislation. This approach was principally achieved by the Merchant Shipping (Adoption of UK Enactments) Order 2005 and the Merchant Shipping (Adoption of UK Enactments) Order 2010.

1.3 When using these UK legislation modifications are to be made to adopted UK enactments. These are construing a reference to a “United Kingdom ship” as a reference to a Virgin Islands ship; omitting any references to Scotland and Northern Ireland; construing every reference to England and Wales as a reference to BVI; ensuring that the High Court in BVI is the appropriate judicial forum; adjusting any offence provisions to fit with BVI criminal law; and construing every reference to a Secretary of State, Board of Trade or Department of Transport or a (UK) Minister, as a reference to the Virgin Islands Government Minister.

1.4 From the time the UK statutory Instruments were passed, many of them have been amended, replaced or revoked. The latest version of these regulations as amended applies to Virgin Islands ships. The latest version of these regulations must be referred to from the UK website.

## **2. UK Notices**

2.1 The Maritime and Coastguard Agency (MCA) publish three types of notices to accompany their merchant shipping regulations. These are Merchant Shipping Notices (MSNs), Marine Guidance Notes (MGNs) and Marine Information Notes (MINs).

2.2 These notices publicise to the shipping and fishing industries important safety, pollution prevention and other relevant information.

2.2.1 Merchant Shipping Notices - MSNs are used to convey mandatory information that must be complied with under UK legislation. These MSNs relate to Statutory Instruments and contain the technical detail of such regulations.

2.2.2 Marine Guidance Notes - MGNs give significant advice and guidance relating to the improvement of the safety of shipping and of life at sea, and to prevent or minimise pollution from shipping.

2.2.3 Marine Information Notes - MINs are intended for a more limited audience e.g. training establishments or equipment manufacturers, or contain information which will only be of use for a short period of time, such as timetables for MCA examinations. MINs are numbered in sequence and have a cancellation date (which will typically be no more than twelve months after publication).

## **3. How to access UK legislation and Notices**

3.1 The UK MCA publishes and updates the legislation and notices on the UK Government websites and can be accessed using the hyperlinks below.

[UK Merchant Shipping Regulations](#)

[UK Merchant Shipping Notice](#)

[UK Marine Guidance Notes](#)

[UK Marine Information Notes](#)

#### **4. Modifications in the application of M-notices**

4.1 The UK notices are written for the application on board UK flagged vessels. So when applying these notices on Virgin Islands ships modifications need to be made.

4.2 Any reference to the Maritime and Coastguard Agency or any of its branches, HM Coastguard should be construed as a reference to Virgin Islands Shipping Registry.

4.3 Any or all contact address given for any of the agencies, branches or departments should be read as

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4.4 In regard to European Union Directives and Regulations, only the Marine Equipment Directive (MED) 96/98/EC of 20 December 1996 which is implemented by the UK Merchant Shipping (Marine Equipment) Regulations 1999 SI No 1957 applies to Virgin Islands Ships. This is supplemented by Merchant Shipping Notice 1734 `Type-Approval of Marine Equipment (EC Notified Bodies)` and Merchant Shipping Notice 1735 `Type-Approval of Marine Equipment (UK Nominated Bodies)` and provide additional information. No other EU directives or regulations apply to Virgin Islands Ships.

4.5 It should be noted that the MCA M-Notices are frequently updated. Therefore the latest version of the M-notice should be accessed from the UK Government website.

4.6 The Notices are to be broadly read in the context of a Virgin Islands ships and Virgin Islands waters. It is very likely that queries may arise on the applicability or application of the guidance. The Virgin Islands Shipping Registry may be contacted for clarification of any queries that may arise or for more information at the address given above.

Director of Shipping