

No. 8 of 2021

VIRGIN ISLANDS

MERCHANT SHIPPING (AMENDMENT) ACT, 2021

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Section 8 amended.
3. Section 326 amended.
4. Section 434 amended.
5. Section 436 replaced.

I Assent
(Sgd.) John J. Rankin, CMG
Governor.
7th May, 2021

VIRGIN ISLANDS

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An Act to amend the Merchant Shipping Act, 2001 (No. 13 of 2001) in order to expand the circumstances in respect of which the Registrar of Shipping and Seamen may terminate the registration of a Virgin Islands ship; to enable a ship's mortgagee to assert his or her rights before termination of registration is finalised; to clarify questions as to the applicability of the Act in proceedings involving ships; to extend the jurisdiction of the Court in respect of offences committed on board ships; and to make provision for connected matters.

[Gazetted 13th May, 2021]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title.

1. This Act may be cited as the Merchant Shipping (Amendment) Act, 2021.

Section 8
amended.
No. 13 of 2001

2. The Merchant Shipping Act, 2001 (referred to in this Act as the "principal Act") is amended in section 8

- (a) subsection (1)(a)(ii), by deleting the word "or" appearing at the end thereof;
- (b) by inserting after the words "since that time," in subsection (1)(a)(iii), the word "or";

(b) by inserting after subsection (1)(a)(iii), the following new subparagraph:

“(iv) a registered ship is used for smuggling, illegal or clandestine trade or piracy, or to commit any other offence.”;

(c) by inserting after subsection (1)(d), the following new subparagraph:

“(da) if any person has committed any forgery of documents or made any false declarations contrary to sections 62 or 63 respectively.”; and

(d) by deleting subsection (5) and substituting therefor the following:

“(5) Where

(a) it appears to the Registrar that either of subsections (1) (a), (b), (c) or (f) applies, he shall serve notice on the owner or any representative person for the time being appointed in relation to that ship and any registered mortgagee to produce, within twenty-one days, evidence sufficient to satisfy the Director or the Registrar, as the case may be, that the ship should remain on the register, and if at the expiry of that period the Director or the Registrar, as the case may be, is not so satisfied, the Registrar may

(i) extend the notice and ask for further information or evidence; or

(ii) serve a final notice informing the owner or the representative person and any registered mortgagee of the termination of the ship's registry, and such termination shall take effect seven days after the service of that notice;

(b) the Registrar serves a notice under this subsection on a registered mortgagee, the

notice shall be deemed to be properly served if a copy of the notice is sent to the mortgagee at the address recorded for the mortgagee in the register;

- (c) a ship's registration is terminated under this subsection, the Registrar shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registry.”.

Section 326 amended.

3. Section 326 of the principal Act is amended

- (a) in subsection (1) by deleting the number “(1)”; and
- (b) by repealing subsection (2).

Section 434 amended.

4. Section 434 of the principal Act is amended by inserting after subsection (3), the following new subsection:

“(4) Where in any proceedings under this Act a question arises as to whether any ship or person is or is not governed by the provisions of this Act or of some part of this Act, that ship or person shall be deemed to be governed by those provisions, unless the contrary is proved.”.

Section 436 replaced.

5. Section 436 of the principal Act is replaced with the following:

“Jurisdiction in case of offences on board ship.

436. (1) Where any person is charged with having committed any offence on board

- (a) a Virgin Islands ship on the high seas or elsewhere outside the Virgin Islands; or
- (b) on board any foreign ship to which the person does not belong,

and that person is found within the jurisdiction of the Court in the Virgin Islands which would have had jurisdiction in relation to the offence if it had been committed on board a Virgin Islands ship within the limits of its ordinary jurisdiction, the Court shall have jurisdiction to try the offence as if it had been so committed.

(2) Notwithstanding anything contained in any other enactment, where any person on board a Virgin

Islands ship does any act or makes any omission which would be an offence if done or made in the Virgin Islands, that person shall, regardless of the position of the ship at the time of the act or omission, be guilty of that offence and may be tried by any Court having jurisdiction in the Virgin Islands.”.

Passed by the House of Assembly this 22nd day of April, 2021.

(Sgd.) Julian Willock,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.