

Cruising and Home Permit Act 2021

The Cruising and Home Permit Act, 2021 (*the Act*) came into force on 12 October 2021. It provides expansively for cruising permits for home based charter boats and foreign based charter boats and home port permits for small cruise ships. The Act also repeals the Cruising Permit Act (Cap 203) and will be the principal piece of legislation governing cruising in the British Virgin Islands (the *BVI*).

Charter boat permits

Cruising Permit

A charter boat owner must not cruise in the territorial sea of the BVI without first obtaining a Cruising Permit from the Commissioner of Customs (*the Commissioner*) or any other person authorised by the Commissioner to issue such a permit. It is therefore the duty of each charter boat owner to carry a valid Cruising Permit at all times whilst cruising. Charter boat is defined in the Act as any vessel offered for hire, with or without a crew, for the conveyance of passengers, for a particular period of time and any period of time, and any boat conveyancing passengers for payment or reward (unless exempted from such fees).

The Cruising Permit allows the charter boat to peaceably cruise and enjoy the waters, beaches and reefs of the BVI for a specifically identified period on the Cruising Permit and the Commissioner maintains a record of every home based and foreign charter boats.

Home based charter boat means a charter boat, which for a period of five months or more, in any twelve-month period:

- Is registered in the BVI
- Has an established base of operations in the BVI
- Is managed by a company registered in the BVI

Foreign based charter boat is defined in the Act as any charter boat other than a boat which fits the description of a home-based charter boat.

Appointment of agents

A charter boat owner may appoint an agent to act on his or her behalf and such appointment is to be notified to the Commissioner in writing.

Friends and guests of charter boat owners

Friends and guests of charter boat owners are not exempt from the requirement of a cruising permit. For avoidance of doubt, cruising permit fees are also applicable to them. However, immediate family members are exempt. See further the Exemptions section below.

Obligations of charter boat owners

- The owner of a home based charter boat must obtain a cruising permit from the Commissioner in order to cruise in the BVI.

- The owner of a BVI based charter boat (has an established base of operations in the BVI) which is managed by a company in the BVI for a period of five months or more in any twelve-month period BUT is not registered in the BVI, may be permitted to pay an annual registration exemption fee of \$950 to the Virgin Islands Shipping Registry (**the VISR**).
- An owner of a foreign based charter boat which proposes to bring passengers in that boat to cruise within the territorial sea, must notify the Commissioner fourteen days before the commencement of such cruising. However, where the boat being used is regularly engaged in cruising within the territorial sea, notification of such cruising should be made by 1st November each year, or on such other date as may be specified by the Commissioner.
- Charter boat owners must submit the details of each boat required to the Commission for the purposes of the record
- Charter boat owners must maintain records of charters and of fees paid in such form as may be prescribed by regulations (and the Commissioner has a right to examine and take copies of all records, correspondence and documents relating to the number of persons accommodated on charter boats).

Home Port Permits

A small cruise ship owner is not permitted to home port in the Territory without first obtaining a Home Port Permit from the Director of the VISR or any person authorised by the Director of the VISR. The Home Port Permit is issued with certain conditions and for a specific time period. A small cruise ship is defined in the Act as a vessel which is not registered in the Virgin Islands and capable of carrying not more than 500 passengers but not less than thirteen passengers. Likewise, it is the duty of the owner of a small cruise ship to carry on the ship, a valid Home Port Permit at all times.

The small cruise ship permit will allow the master or a person in charge of the cruise ship permission to use the Cyril B. Romney, Tortola Cruise Pier or any other designated port in the Territory for the purpose of beginning or terminating a cruise from or at the home port. It will also allow cruise passengers to have the requisite permission to begin their cruise (including flying into the Territory) to commence their cruise or otherwise terminate the cruise. The Special Permit is also issued with certain conditions and for a specific time period and the Special Permit is intended to facilitate smaller cruise vessels which cruise regularly in BVI waters.

Aside from the permit above to regularly frequenting cruise vessels, a Special Permit may also be granted to the master of any cruise ship approved by the BVI Ports Authority (**the BVIPA**) to commence and terminate a cruise at the Cyril B. Romney Tortola Cruise Pier or any other port designated in the Special Permit on such terms and conditions as may be specified in the permit. This type of permit is intended to facilitate one-off cruise permission requests or those smaller cruise vessels which do not regularly cruise in BVI waters.

Fees

Classification	Fees per person per day
CRUISING PERMIT FEES	
Home based charter boats	US\$4.00
Foreign based charter boats	US\$16.00
Home port small cruise ship	US\$5.00
Approved cruise ship	US\$8.00
Classification	Annual/Cruise fees
HOME PORT & SEPCIAL PERMIT FEES	
Home Port Permit fee	US\$1500.00 per annum
Special Permit fee	US\$500.00 per cruise

Exemptions

The Commissioner may exempt from the payment of fees:

- For the first 24 hours of any voyage, a charter boat or cruise ship whose capacity exceeds 100 passengers and has on board a Safety of Life at Sea (**SOLAS**) approved overnight and accommodation; and

- Charter boats engaged on direct voyages (a) originating in a foreign port and terminating in a BVI port with no continuing internal legs; of (b) originating in a BVI port with no prior internal legs and terminating in a foreign port.
- The Commissioner may, with the approval of the Minister of Finance and the Financial Secretary, waive, remit or refund the whole or any part of cruising permit fees to be paid in respect of cruising in the Territory.
- Where a charter boat carrying immediate family members of the owner on board is 24 metres or greater in length, is registered in the BVI and is managed by a company in the BVI, such a vessel will be exempted from paying cruise permit fees.
- A ferry boat (as defined in section 2 of the BVIPA Act is not subject to the provisions of the Act.

Offences

The Act also specifies penalties for breach of the Act as follows:

- A charter boat owner who fails to comply with the requirement to obtain a charter boat permit is liable on summary conviction to a fine of five thousand dollars (US\$5,000).
- A small cruise ship or a cruise ship which fails to comply with the requirements to obtain a Home Permit or a Special Permit respectively, commits an offence and is liable on summary conviction to a fine of five thousand dollars (US\$5,000).
- Both these offences may also be compounded and where compounded, the owner will pay a fee of thirty dollars per person found to be cruising on the boat for each day that the offence continues (with such time not exceeding seven days, as the Commissioner may allow). The compounding aspect of the offence will not apply to a person who has been previously convicted of this offence or had on two previous occasions compounded the same offence.
- Any person who fails to comply with or contravenes any of the provisions of the Act for which no penalty is otherwise provided, is liable on summary conviction to a fine of five hundred dollars (US\$500).

Harneys BVI Private Wealth department specialises in shipping and marine matters and are available to provide any assistance you need to obtain Cruising Permits, Home Port Permits or Special Permits or any advice pertaining to the Act or the shipping industry in general. Please contact Ayana Hull, Head of our BVI Private Wealth team or your usual Harneys contact.



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