

VIRGIN ISLANDS

ENVIRONMENT PROTECTION AND IMPROVEMENT FUND ACT, 2017

ARRANGEMENT OF SECTIONS

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No. of 2017

**Environment Protection and
Improvement Fund Act, 2017**

**Virgin
Islands**

I Assent

Governor.
, 2017

VIRGIN ISLANDS

No. of 2017

A Bill for

An Act to establish a Fund to be called the Environmental Protection and Improvement Fund for the purpose of providing funding for the protection and improvement of the environment and for matters incidental thereto.

[Gazetted , 2017]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and
commencement.

1. (1) This Act may be cited as the Environmental Protection and Improvement Fund Act, 2017.

(2) The provisions of this Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Interpretation.

2. In this Act, unless the context otherwise requires

“levy” means the environmental protection levy referred to in section 3;

“Minister” means the Minister responsible for finance;

“resident passenger” means a passenger who,

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(a) for the purposes of the Immigration and Passport Act

(i) is deemed to belong to the Virgin Islands as defined in section 2 (2) of the Virgin Islands Constitution Order, 2007, or

UKSI 2007
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- (ii) is residing in Virgin Islands by virtue of section 31 of that Act;
- (b) is a holder of a valid work permit issued pursuant to Part X of the Labour Code; No 4 of 2010
- (c) is, by virtue of section 172 of the Labour Code, exempt from the requirements of Part X of the Labour Code;
- (d) is employed on contract by the Government of the Virgin Islands;

“ticket” means a document, coupon or receipt which entitles a passenger to travel aboard a vessel;

“vessel” means every description of ship, boat, canoe or other craft used in the trade or conveyance of passengers including an aircraft;

“visitor” means, subject to section 6, a person who is in the Virgin Islands

- (a) on an entry permit; or
- (b) in transit from a place outside the Virgin Islands to some other place outside the Virgin Islands;
- (c) on a visit primarily for recreational purposes so, however, that in any case, or on any occasion, where that person’s status as a visitor is being considered for the purposes of this Act, a person shall not be deemed to be a visitor if
 - (i) on that occasion his or her stay in the Virgin Islands exceeds 1 month; or
 - (ii) during his or her stay, he or she works or performs any function in the Virgin Islands for payment or reward.

Environmental
levy.

3. (1) A levy, called an environmental levy at the rate of \$10.00, shall be levied on and payable by each visitor arriving in the Virgin Islands by air or sea.

(2) The specified sums of money shall be included in the cost of a ticket and collected by the owner, master or any agent for any vessel or by any person through whom passengers are brought into the Virgin Islands.

(3) Every owner, master or agent of a vessel shall present, by the third day after every seven working days, a Passenger Levy Confirmation Report in respect

Schedule 1

of all vessels to the Financial Secretary as prescribed Schedule 1 or as near thereto as circumstances permit.

(4) The Cabinet may, on the recommendation of the Minister, by Order vary the rate of the levy under this section and, the Order shall be subject to a negative resolution of the House of Assembly.

Establishment of the Fund and application of monies of the Fund.

4. (1) There is hereby established a fund to be known as the Environmental Protection and Improvement Fund (referred to in this Act as the “Fund”) into which shall be paid any amounts representing the monies collected pursuant to section 3.

(2) The Minister shall direct that the monies of the Fund be applied towards

- (a) activities related to
 - (i) environmental protection and improvement;
 - (ii) climate change, and other matters affecting the environment;
- (b) the maintenance and development of tourist sites and other tourism related activities throughout the Territory; and
- (c) the marketing of the Territory as a premier tourist destination.

Liability for payment of levy.

5. (1) The Financial Secretary may direct that the visitors levy collected under this Act, shall be paid by the owner, master or agent of a vessel and shall for that purpose, supply to every owner, master or agent of a vessel a receipt in respect of any payment collected for the levy.

(2) Where a ticket is cancelled after the purchase, the sum of the levy shall be refunded by the Financial Secretary to the purchaser upon proof of the cancellation of that ticket.

(3) Every owner, master or agent of a vessel shall, upon being required to do so by the Financial Secretary, enter into a bond in such form as prescribed in Schedule 2 and for such amount as may be directed by the Financial Secretary.

Schedule 2

(4) Where a master or owner of a vessel or aircraft fails to pay the levy as required under this Act, the Financial Secretary may detain or seize the vessel until the levy is paid, and the master or owner of the vessel shall be liable to a fine not exceeding five thousand dollars in addition to the amount of the levy.

(5) In any proceedings under this Act against any person for failing to comply with the provisions thereof

- (a) the owner, master or agent of any vessel shall be liable for the default of each other and of their employees;
- (b) a firm shall be liable for the default of any member or employee thereof;
- (c) a company shall be liable for the default of any director, officer or employee thereof;
- (d) every other person shall be liable for the default of his or her employee.

6. (1) This Act shall not apply to Her Majesty's Ships of War, or to any vessel not engaged in the carriage of passengers for hire or reward belonging to the Government of any country, or to any pleasure yacht, or to any vessel or aircraft calling at the Territory for the purpose of receiving medical attention to passengers.

Exemptions.

(2) Notwithstanding section 3, the levy shall not be paid by, nor demanded from, any of the following persons:

- (a) a resident passenger;
- (b) Judges, Masters and other officers of the Eastern Caribbean Supreme Court;
- (c) guests of the Government of the Virgin Islands;
- (d) official representatives of the Government of any country;
- (e) persons accorded diplomatic privileges in accordance with the Diplomatic Privileges (Vienna Convention) Ordinance;
- (f) persons or class of persons exempted from taxes under any other enactment;
- (g) persons or class of persons exempted by the Minister by Order published in the *Gazette*.

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(3) No sums shall be collected or paid under this Act

- (a) in respect of a visitor arriving in the Virgin Islands on a second or subsequent occasion in the course of the same visit;
- (b) in respect of a person certified by the Minister responsible for Finance to be coming to the Virgin Islands in connection with the promotion and development of the tourism trade of the Virgin Islands;

- (c) in respect of a person in transit who on arrival by air or sea, does not leave the airport or dock at which they have disembarked before proceeding to a destination outside the Virgin Islands;
- (d) in respect of the crew of a vessel.

(4) Any claim to entitlement to exemption from the levy under this Act which cannot be resolved by a master or owner of a vessel or aircraft shall be referred to the Financial Secretary and the decision of the Financial Secretary shall be final.

Amendment of
Schedules.

7. The Minister may by Order, amend the Schedules.

Regulations.

8. The Minister may make regulations to give effect to the provisions of this Act.

SCHEDULE 1

[section 3]

Form

The Environmental Protection and Improvement Fund Act, 2017

(No. of 2017)

Environmental Levy Confirmation Report

Date of Vessel Departure _____

Name of Vessel _____ Vessel I.D. No. _____

I _____, confirm that the passengers on the above-mentioned vessel totaled _____ and were comprised as follows:

	Numbers	\$
Paying VISITOR @ \$10.00 each	_____	_____
Exempt Adults	_____	0.00
Exempt Children	_____	0.00
TOTAL	_____	_____

Manager/Supervisor

SCHEDULE 2

[section 5]

Environmental Protection and Improvement Fund Act, 2017

(No. of 2017)

BOND

KNOW ALL MEN BY THESE PRESENTS that we
.....of.....
.....and
.....of
..... are held and firmly
bound in the sum of dollars of good and lawful money of the
Virgin Islands, to be paid to the Treasurer for which payment well and truly to be made
we bind ourselves and each of us, jointly and severally, for and in the whole, our heirs,
executors and administrators and every one of them firmly by these presents.

Sealed with our Seals and dated this.....day of.....,

AND WHEREAS we the saidand
undertake to make good any and all claims in respect of the collection of the levy payable
as provided by the **Environmental Protection and Improvement Fund Act, 2017**
(No. of 2017);

NOW THE CONDITION of the above written obligation is such that if the said
..... and do pay unto the
Treasurer all such levy within a period not exceeding one year from the date on which the
tax was received then this obligation shall be void but otherwise shall remain in full force
and effect.

Signed, Sealed and Delivered by }(seal)
the above-named } Obligator
in the presence of:

.....
Witness

Signed, Sealed and Delivered by }(seal)
the above-named } Surety
in the presence of:

.....
Witness

* Delete if inapplicable – all deletions must be initialed

OBJECTS AND REASONS

This Bill seeks to establish a Fund to be called the Environmental Protection and Improvement Fund for the purpose of providing funding for the protection and improvement of the environment and for related matters.

Clause 1 would concern the short title and commencement and clause 2 would concern the explanation of the explanation of the terms used in the Bill.

By clause 3, a levy of 10 dollars would become chargeable on and payable by each visitor arriving in the Virgin Islands by air or sea and, the levy charged be included in the cost of a ticket and collected by the owner, master or any agent for any vessel or by any person through whom passengers are brought into the Virgin Islands.

By clause 4, a fund, to be known as the Environmental Protection and Improvement Fund (referred to in this Act as the “Fund”), would be established into which would be paid any amounts representing the monies collected pursuant to clause 3. The Minister Finance would direct that the monies of the Fund would be applied towards any of the activities specified in subclause (2)

By clause 5, the Financial Secretary would direct that the visitors levy collected under this clause 3, would be paid by the owner, master or agent of a vessel and would for that purpose, supply to every owner, master or agent of a vessel a receipt in respect of any payment collected for the levy. Where a master or owner of a vessel or aircraft fails to pay the levy as required under this Act, the Financial Secretary may detain or seize the vessel until the levy is paid, and the master or owner of the vessel would be liable to a fine not exceeding five thousand dollars in addition to the amount of the levy.

Clause 6 would concern exemptions and clause 7 would concern the power of the Minister to amend the Schedules whilst clause 8 would concern his power to make regulations.

The Bill would have two Schedules, the first prescribing a Form for the Passenger Levy Confirmation Report and the second, prescribing the form of the bond to be entered into by every owner, master or agent of a vessel upon being required to do so by the Financial Secretary.

Minister for Finance.