



# Pilotage Act 1983

## 1983 CHAPTER 21

### PART I

#### ADMINISTRATION

##### *Introductory*

#### **1 Continuation in being of existing organisation**

- (1) There shall continue to be a body corporate called the Pilotage Commission (in this Act referred to as " the Commission ") and the Commission constituted under the Merchant Shipping Act 1979 and in being immediately before the commencement of this Act shall continue in being as the Commission for the purposes of this Act.
- (2) Subject to the provisions of any pilotage order made under section 9 of this Act, every pilotage district and every pilotage authority established, constituted or incorporated under the Pilotage Act 1913 and in being immediately before the commencement of this Act shall continue in being as a pilotage district or, as the case may be, a pilotage authority for the purposes of this Act.

##### *The Pilotage Commission*

#### **2 Constitution of Commission**

- (1) The Commission shall consist of not less than 10 and not more than 15 persons appointed by the Secretary of State from among the following, namely—
  - (a) licensed pilots;
  - (b) persons appearing to the Secretary of State to have wide practical experience of the management of ships;
  - (c) persons appearing to the Secretary of State to have wide practical experience of the administration of pilotage services;
  - (d) persons appearing to the Secretary of State to have wide practical experience of the management of docks or harbours;

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- (e) other persons appearing to the Secretary of State to have special knowledge or experience likely to be of value to the Commission in connection with the performance of its functions;

and it shall be the duty of the Secretary of State to appoint as members of the Commission at least one person from each of the categories of persons mentioned in paragraphs (a) to (d) of this subsection and to appoint one member to be the chairman of the Commission.

- (2) It shall be the duty of the Secretary of State—
  - (a) before appointing as a member a person in any category of persons which is mentioned in paragraphs (a) to (d) of subsection (1) above, to consult on the appointment such persons as the Secretary of State considers are representative of the persons in the United Kingdom in the category in question ;
  - (b) before appointing as a member a person in the category of persons which is mentioned in paragraph (e) of that subsection, to consult on the appointment—
    - (i) such persons as the Secretary of State considers are representative of the persons in the United Kingdom in all the categories of persons mentioned in the said paragraphs (a) to (d), and
    - (ii) such other persons, if any, as he considers appropriate;
  - (c) before appointing a member to be the chairman of the Commission, to consult on the appointment such persons as the Secretary of State considers are representative of the persons in the United Kingdom in all the categories of persons mentioned in the said paragraphs (a) to (d).
- (3) the provisions of Schedule 1 to this Act shall have effect with respect to the Commission,
- (4) It is hereby declared that the Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown or as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that its property is not to be regarded as property of or held on behalf of the Crown.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975, after the entry relating to the Performing Right Tribunal there shall be inserted the words " The Pilotage Commission " ; and in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, after the entry relating to the said Tribunal there shall be inserted the words aforesaid.

### **3 Payments by pilotage authorities to Commission**

- (1) The Commission may make a scheme or schemes requiring pilotage authorities to pay to the Commission from time to time, in respect of the expenses of the Commission in performing its functions, such sums as are determined under the scheme or schemes ; and such a scheme—
  - (a) may provide for the payment of different sums by different authorities;
  - (b) must contain provision requiring the Commission to indicate how the sums to be payable under the scheme for periods determined under it are related to the Commission's estimates of its expenditure during those periods;
  - (c) may be revoked or varied by a subsequent scheme made by virtue of this subsection ;

but a scheme made by virtue of this subsection shall not come into force unless it has been confirmed by the Secretary of State.

- (2) It shall be the duty of the Commission, immediately after it has submitted such a scheme to the Secretary of State for confirmation—
  - (a) to send a copy of the scheme to each pilotage authority by which sums are to be payable under the scheme; and
  - (b) to publish in a manner approved by the Secretary of State a notice which—
    - (i) states that the scheme has been so submitted, and
    - (ii) specifies a place where a copy of the scheme may be obtained free of charge by any licensed pilot, any harbour authority and any shipowner, and
    - (iii) states that any person mentioned in paragraph (a) or sub-paragraph (ii) above and any person appearing to the Secretary of State to represent any persons so mentioned may, within a period specified in the notice of not less than 42 days beginning with the date of first publication of the notice, object to the scheme by giving to the Secretary of State a statement in writing setting out his objections to the scheme and the reasons for the objections.
- (3) The Secretary of State may, after considering any statement of objections and of reasons for objections to a scheme which is given to him by a person and within the period mentioned in paragraph (b)(iii) of subsection (2) above, by order confirm the scheme either without modification or, after consulting the Commission about any modifications he proposes to make to the scheme, with such modifications as he thinks fit; but the Secretary of State shall not have power to make a modification of a scheme which would increase the amount of any sum payable in pursuance of the scheme.
- (4) Any sum payable to the Commission by a pilotage authority in pursuance of a scheme made by virtue of this section may be recovered by the Commission in any court of competent jurisdiction.
- (5) In this section " modifications" includes additions, omissions and alterations.

#### **4 Other financial provisions relating to Commission**

- (1) The Commission may borrow in sterling any sum which it requires for the purpose of carrying out its functions, but the aggregate amount of the principal of sums borrowed by the Commission which is outstanding at any time shall not exceed £200,000 or such larger amount, not exceeding £500,000, as the Secretary of State may specify by order.
- (2) The Secretary of State may out of money provided by Parliament lend to the Commission, with the consent of the Treasury and on such terms as he may determine with the consent of the Treasury, any sum which the Commission has power to borrow in pursuance of subsection (1) above; and any sum received by the Secretary of State by way of interest on or the payment of a loan made by virtue of this subsection shall be paid into the Consolidated Fund.
- (3) It shall be the duty of the Commission—
  - (a) to keep proper accounts and proper records in relation to the accounts ; and
  - (b) to prepare in respect of the period of 12 months ending with the 31st March in each year a statement of those accounts in such form as the Secretary of State may direct with the approval of the Treasury; and

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- (c) to cause the accounts kept and the statement prepared for each such period to be audited by auditors appointed by the Commission with the approval of the Secretary of State.
- (4) A person shall not be qualified to be appointed as an auditor in pursuance of subsection (3) above unless he is a member of one or more of the following bodies—
- the Institute of Chartered Accountants in England and Wales;
  - the Institute of Chartered Accountants of Scotland ;
  - the Association of Certified Accountants ;
  - the Institute of Chartered Accountants in Ireland;
  - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State ;
- but a Scottish firm may be so appointed if each of the partners in the firm is qualified to be so appointed.

#### *Functions of Commission*

### **5 General functions of Commission**

- (1) It shall be the duty of the Commission to give to the Secretary of State, and to pilotage authorities, dock and harbour authorities, pilots and shipowners, such advice as the Commission considers appropriate for any of the following purposes, namely—
- (a) securing by means of pilotage the safety of navigation in ports of, and waters off the coasts of, the United Kingdom ;
  - (b) ensuring that efficient pilotage services are provided for those ports and waters and, in particular, that suitable equipment is provided in connection with those services ;
  - (c) ensuring that the terms of service of pilots providing those services are fair; and
  - (d) promoting standards, in the qualifications which entitle persons to apply for pilots' licences and in the training of pilots, which are uniform for areas which the Commission considers are of the same kind.
- (2) The Secretary of State may by order confer on the Commission such functions, in addition to the functions conferred on the Commission by this Act, as he considers appropriate for any of the purposes mentioned in subsection (1) above.
- (3) Without prejudice to the generality of subsection (2) above, an order in pursuance of that subsection may in particular provide for the making of schemes under which payments may be made by the Commission for the purpose of compensating pilots and their assistants for loss of employment or reductions in earnings suffered by them in consequence of changes in the organisation of pilotage services or of the granting of pilotage certificates to nationals of member States of the Economic Community other than the United Kingdom.
- (4) The Commission shall have power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions.

## **6 Review of pilotage services and non-compulsory pilotage areas**

- (1) It shall be the duty of the Commission—
  - (a) to keep under consideration the organisation of pilotage services at ports of, and waters off the coasts of, the United Kingdom, to consider suggestions for changes in the organisation of those services which are made to the Commission by persons appearing to the Commission to be interested in the organisation of them and to make proposals for such changes in the organisation of those services as the Commission considers appropriate;
  - (b) without prejudice to the generality of paragraph (a) above, to consider what numbers of pilots are needed in order to provide efficient pilotage services in pilotage districts and to make to the pilotage authorities concerned such recommendations about the numbers as the Commission considers appropriate ; and
  - (c) to carry out such investigations as the Commission considers appropriate in order to ascertain whether pilotage should be made compulsory at places in, or off the coasts of, the United Kingdom where it is not compulsory and to make proposals for pilotage to be made compulsory at such places as the Commission considers appropriate in consequence of the investigations.
- (2) If the Commission considers that a pilotage order or byelaws should be made for the purpose of giving effect to such a proposal as is mentioned in paragraph (a) or paragraph (c) of subsection (1) above and that an application for such an order or for confirmation of byelaws which are appropriate for that purpose has not been made to the Secretary of State by a pilotage authority affected by the proposal within a period which the Commission considers reasonable in the circumstances, the Commission may apply to the Secretary of State for a pilotage order for that purpose or, as the case may be, may exercise for that purpose the power to make byelaws which is conferred on the pilotage authority by section 15(1) of this Act.
- (3) It shall be the duty of the Commission before it performs a function conferred on it by subsection (1) above, to consult such persons in the United Kingdom as the Commission considers are likely to be affected by the performance of the function or to consult persons appearing to the Commission to represent those persons.

## **7 Pilots' pension and compensation schemes**

- (1) The Commission may establish and maintain a scheme for the payment of pensions and other benefits to and in respect of pilots and former pilots.
- (2) Such a scheme may include provision for the assets and liabilities of any pilots' benefit fund established by virtue of section 17(1)(j) of the Pilotage Act 1913 or section 15(1)(i) of this Act to become, with the consent of the managers of the fund, assets and liabilities of the scheme instead of assets and liabilities of the fund ; and the managers of any such fund shall have power to give their consent for the purposes of this subsection and to wind up the fund to which their consent relates.
- (3) The Commission may establish and maintain a scheme under which payments may be made for the purpose of compensating pilots and their assistants for loss of employment or reductions in earnings suffered by them in consequence of incidents over which they have no control.

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## **8 Annual report**

It shall be the duty of the Commission—

- (a) to prepare and publish, as soon as possible after the 31st March in each year, a report on the performance of its functions during the period of 12 months ending with that date;
  - (b) to include in the report a copy of the statement of accounts prepared in respect of that period in pursuance of section 4(3)(b) of this Act and a copy of the auditors' report on the statement and on the accounts to which the statement relates ; and
  - (c) to deliver a copy of the report to the Secretary of State before it is published ;
- and it shall be the duty of the Secretary of State to lay before Parliament copies of each report of which he receives a copy in pursuance of this section.

### *Pilotage orders*

## **9 Power of Secretary of State to make pilotage orders**

- (1) The Secretary of State may, by order made under this Act (in this Act referred to as a pilotage order).—
- (a) make such rearrangement of pilotage districts and pilotage authorities as he thinks necessary or expedient;
  - (b) establish new pilotage districts and new pilotage authorities and abolish existing pilotage districts and existing pilotage authorities in cases where it appears to him necessary or expedient;
  - (c) define the limits of pilotage districts ;
  - (d) provide for the incorporation of any pilotage authority, and make such alteration in the constitution of any pilotage authority with reference to their powers and duties as pilotage authority ;
  - (e) make such provisions as to the appointment of committees (including, if the Secretary of State thinks fit, the appointment of persons not members of the authority), and, as to the relations between the authority and the committee, as he thinks necessary or expedient;
  - (f) empower a pilotage authority to delegate to a committee of the authority any of their powers and duties, and provide, if it appears necessary or desirable, that the decisions of the committee on questions so delegated shall not require confirmation by the pilotage authority;
  - (g) make such provision for the direct representation of pilots and shipowners on any pilotage authority or committee of a pilotage authority as the Secretary of State thinks necessary or expedient;
  - (h) in cases where a pilotage authority have powers and duties relating to matters other than pilotage, provide for their accounts as pilotage authority being kept separate from their accounts in relation to those other matters;
  - (i) make provision as to the circumstances in which pilot age in a pilotage district is to be compulsory, subject to provision being also made, in a case where pilotage ceases to be compulsory in connection with the rearrangement of the district, for the payment of compensation to the pilots concerned for any loss or damage which may be incurred by them in consequence of such rearrangement;

- (j) authorise, where it appears to the Secretary of State to be expedient, any pilotage authority to make byelaws providing for the grant of certificates (in this Act referred to as deep sea certificates) certifying that persons are qualified to act as pilots of ships for any part of the sea or channels outside the district of any pilotage authority, so, however, that a pilot holding such a certificate shall not be entitled to supersede any other person as pilot of a ship ;
  - (k) provide that any Act (other than this Act), order, charter, custom, byelaw, regulation, or provision shall, so far as it relates to pilotage, cease to have effect within any pilotage district or as respects any pilotage authority, but may re-enact the whole or any part thereof so far as is not inconsistent with the provisions of this Act;
  - (l) provide for compensation being paid to any pilots for any loss or damage which may be incurred by them in consequence of any order abolishing or rearranging any pilotage districts;
  - (m) make any provisions which appear to the Secretary of State to be necessary or expedient for the purpose of giving full effect to the order.
- (2) A pilotage order in dealing with any Act, order, charter, custom, byelaw, regulation, or provision shall not provide for abolishing or diminishing any power of a pilotage authority to acquire, own, hire, build, renew, maintain, or work pilot boats.
- (3) Provision shall be made by pilotage order for the direct representation of pilots either on the pilotage authority or on the committee of the pilotage authority of any district where there are not less than six licensed pilots if a majority of the pilots licensed for the district signify in writing to the Secretary of State that they desire such representation, and, where such provision is made, provision shall also be made for the representation of shipowners on the authority or committee, as the case may be.
- (4) A pilotage order establishing a pilotage authority for any pilotage district shall provide for any dock or harbour authority wishing to be represented on the pilotage authority to be so represented if—
- (a) the dock or harbour authority has jurisdiction in the district, and
  - (b) the authority was represented on the pilotage authority for the district in existence on 7th March 1913 (the date of the passing of the Pilotage Act 1913).
- (5) A pilotage order shall not be made by the Secretary of State except—
- (a) on an application in writing by any person interested in the pilotage of any pilotage district or in the operation of the laws relating to pilotage in that district or the administration of those laws; or
  - (b) on an application by the Commission made under section 6(2) of this Act.
- (6) Until such day as the Secretary of State may by order appoint, paragraph (c) of subsection (1) above shall have effect as if for that paragraph there were substituted—
- “(c) define the limits of pilotage districts distinguishing as respects any pilotage district in part of which pilotage is compulsory and in part of which pilotage is not compulsory, the part of the district in which pilotage is compulsory;”.
- (7) Different days may be appointed under subsection (6) above for different purposes.

## **10 Procedure connected with making and coming into force of pilotage orders**

- (1) The Secretary of State may by regulations make provision as to the notices to be given, the other steps to be taken and the payments to be made in connection with an application for a pilotage order, and the regulations must include provision for notice of the application to be advertised and for any person who objects to the application and who appears to the Secretary of State to have a substantial interest in the pilotage services in the area to which the application relates to be given an opportunity of making representations in writing to the Secretary of State about the application.
- (2) Where the Secretary of State makes a pilotage order in consequence of such an application, then—
  - (a) if before the order is made either—
    - (i) no objection to the application has been made in accordance with regulations made by virtue of subsection (1) above, or
    - (ii) every objection so made to the application has been withdrawn, the statutory instrument containing the order shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
  - (b) if an objection so made to the application has not been withdrawn before the order is made the order shall be subject to special parliamentary procedure, and the Statutory Orders (Special Procedure) Act 1945 shall have effect accordingly but as if—
    - (i) sections 2 and 10(2) of that Act (which relate to preliminary proceedings) were omitted, and
    - (ii) that Act extended to Northern Ireland and, in the application of section 7(3) of that Act to Northern Ireland, for any reference to a local authority and the Secretary of State there were substituted respectively a reference to a district council and the Department of the Environment for Northern Ireland.
- (3) Any Act confirming a pilotage order made under this Act may be repealed, altered or amended by any subsequent pilotage order made under this Act.

### *Powers of Pilotage Authorities*

## **11 General powers of pilotage authorities**

Subject to the provisions of this Act, a pilotage authority may do all such things as may be necessary or expedient for the performance of their powers and duties.

## **12 Licensing of pilots**

- (1) Subject to the provisions of this Act, a pilotage authority may license pilots for their district.
- (2) The required fee shall be payable on the examination for a pilot's licence and on the grant, renewal or alteration of any such licence.

In this subsection the "required fee" means the fee fixed by byelaw made in pursuance of paragraph (o) of section 15(1) of this Act.



### **13 Employment of pilots by pilotage authorities**

- (1) A pilotage authority shall have and be deemed always to have had—
  - (a) power to employ pilots licensed by the authority and, as assistants for such pilots, persons who are or are not pilots so licensed; and
  - (b) power to make arrangements with shipowners and other persons under which payments are made to the authority in respect of services of persons employed by the authority by virtue of paragraph (a) above.
- (2) If a majority of the persons who for the time being hold pilots' licences for the district of a pilotage authority and are not employed by the authority resolve that the authority shall not be entitled to exercise the power mentioned in subsection (1) above to employ, as pilots or assistants, any pilots licensed by the authority, the authority shall not be entitled to exercise that power until the resolution is revoked by a majority of such persons as aforesaid ; and
  - (a) the Secretary of State may by regulations make provision with respect to the passing and revocation of resolutions for the purposes of this subsection and with respect to records of resolutions and of the revocation of them; but
  - (b) nothing in the preceding provisions of this subsection shall affect any contract of employment in force when a resolution is passed in pursuance of those provisions.

### **14 Pilotage charges**

- (1) A pilotage authority may make in the prescribed form a list of the charges to be paid, by persons who make use in the district of the authority of the services of a pilot licensed by the authority, for the services of the pilot and in respect of the pilotage services of the district; and without prejudice to the generality of the preceding provisions of this subsection—
  - (a) the charges for the services of a pilot may be or include charges in respect of an assistant for the pilot and in respect of the fees and expenses of the pilot and any assistant of his during periods spent outside the district of the authority in anticipation or in consequence of his activities as a pilot or assistant;
  - (b) the charges for the services of a pilot, in a case where the master of the relevant ship has not complied with the requirements of byelaws made under this Act by the authority about requests for pilots, may be greater than, but not more than one and a half times, the charges for those services in a case where the master has so complied;
  - (c) the charges in respect of the pilotage services of the district may be or include charges in respect of the cost of providing, maintaining and operating pilot boats for the district, charges in respect of other costs of providing and maintaining the pilotage organisation provided by the authority and charges in respect of sums payable or paid by the authority to the Commission by virtue of section 3 of this Act; and
  - (d) the list may provide for the payment of different charges in connection with different circumstances, may provide for a charge which is not paid within a prescribed period after it becomes due to be increased periodically in accordance with a prescribed scale and may alter or cancel any previous list made by the authority by virtue of this section.
- (2) The charges specified in a list made in pursuance of this section shall not be payable in respect of any use of the services of a pilot before the expiration of the period of

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28 days beginning with the day when the list was first published in the prescribed manner; and if at any time after that day an objection to the list is made in writing to the Commission in accordance with subsection (3) below the Commission may, after giving the authority which made the list an opportunity of commenting in writing to the Commission on the objection and considering any comments then made by the authority, serve in a prescribed manner on the authority a notice in writing cancelling the list or altering the list in a manner specified in the notice and providing that the cancellation or alteration shall have effect on and after a day so specified which is not earlier than the date of service of the notice.

- (3) An objection to a list must—
- (a) be made by—
    - (i) a majority of the pilots licensed for the district to which the list relates by the authority which made the list or, if the objection is to a particular charge in the list, by a majority of those pilots who are customarily employed in providing the services to which the charge relates, or
    - (ii) three or more persons who are owners of ships which are customarily navigated in the district of the authority, or
    - (iii) a dock or harbour authority whose area lies within the district of the authority, or
    - (iv) any other person appearing to the Commission to have a substantial interest in the list; and
  - (b) be so made on one or more of the following grounds, namely—
    - (i) that one or more of the charges in the list should not be payable or should not be payable in a case specified in the objection ;
    - (ii) that the amount of one or more of the charges in the list should be reduced or increased or should be reduced or increased in a case so specified.
- (4) The alteration or cancellation of a list made in pursuance of this section shall not affect charges payable in pursuance of the list in respect of the use of the services of a pilot before the alteration or cancellation took effect.
- (5) If the Secretary of State directs the Commission to give to an authority by which a list has been made in pursuance of this section a notice in writing cancelling the list, or altering it in a manner specified in the direction, with effect from a day so specified, it shall be the duty of the Commission to comply with the direction.
- (6) It shall be the duty of an authority which has made a list in pursuance of this section to send copies of the list to the Secretary of State and the Commission and, unless it has been cancelled, to keep copies of the list, or if it has been altered of the altered list, available during office hours at the principal office of the authority for inspection free of charge and purchase at a reasonable price by members of the public.
- (7) In this section " prescribed " means prescribed by regulations made by the Secretary of State.

## **15 Power of pilotage authorities to make byelaws**

- (1) A pilotage authority may by byelaws made under this Act—
- (a) determine the qualification in respect of age, physical fitness, time of service, local knowledge, skill, character, and otherwise to be required from persons

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- applying to be licensed by them as pilots, provide for the examination of such persons, and fix the term for which a licence is to be in force, and the conditions under which a licence may be renewed ;
- (b) fix the limit (if any) on the number of pilots to be licensed, and provide for the method in which and the conditions under which the list of pilots is to be filled up;
  - (c) provide generally for the good government of pilots licensed by the authority, and of apprentices, and in particular for ensuring their good conduct and constant attendance to and effectual performance of their duties, whether at sea or on shore ;
  - (d) determine the system to be adopted with respect to the supply and employment of pilots, and provide, so far as necessary, for the approval, licensing, and working of pilot boats in the district, and for the establishment and regulation of pilot boat companies ;
  - (e) provide for the punishment of any breach of any bye laws made by the authority for the good government of pilots or apprentices by the imposition of fines not exceeding—
    - (i) in England and Wales and in Scotland, £20 ;
    - (ii) in Northern Ireland, £50. Such fines to be recoverable as fines are recoverable under the Merchant Shipping Acts 1894 to 1981;
  - (f) provide for the collection (either before or after the performance of services to which they relate) and for the distribution of pilotage charges;
  - (g) if, and so far as, it appears to the authority to be generally desired by the pilots concerned, provide for the pooling of pilotage charges earned by the licensed pilots or by any class of pilots in the district;
  - (h) provide for a deduction to be made from any sums received by pilots of any contributions required for any fund established for the payment of pensions or other benefits to pilots, their widows or children (in this Act referred to as a pilots' benefit fund);
  - (i) establish, either alone or in conjunction with any other pilotage authority, pilots' benefit funds, and provide for the direct payment to any such fund of any contributions by pilots towards the fund, or of any part of the ordinary receipts of the pilotage authority, and also for the administration of any such fund and for the conditions of participation in any such fund ;
  - (j) provide for the method of conducting the examination of masters and first mates applying for pilotage certificates so as to maintain a proper standard of efficiency;
  - (k) prohibit the grant of pilotage certificates to masters or first mates who do not hold at least such certificate issued under the Merchant Shipping Act 1970 as may be specified in the byelaws ;
  - (l) provide that a pilotage certificate shall not be renewed without re-examination unless the master or first mate has made not less than a specified number of visits to the port as master or first mate of any ship in respect of which the certificate is granted ;
  - (m) if the pilotage authority are an authority authorised to grant deep sea certificates by virtue of a pilotage order made with reference to that authority, provide for the grant of deep sea certificates ;
  - (n) apply, with any necessary modifications, any byelaws made under this section for the good government of pilots and the punishment of any breach of any such byelaws to masters and mates holding pilotage certificates ;

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- (o) fix the fees payable on the examination for a pilot's licence, or for a pilotage certificate, and on the grant, renewal, or alteration of any such licence or certificate ;
  - (p) require the owners of ships, whose masters or first mates hold pilotage certificates, to contribute towards the pilot fund or account of the pilotage district, and require the holders of such certificates to make a periodical return to them of the pilotage services rendered by them ; but the contribution so required from an owner shall not exceed such proportion of the pilotage charges which would have been payable in respect of the ship if the master or first mate had not held a pilotage certificate, as may be fixed by the Secretary of State;
  - (q) provide for any matter for which provision is to be made or may be made under this Act by byelaw.
- (2) Nothing in paragraph (e) of subsection (1) above prejudices the powers of a pilotage authority under this Act to revoke or suspend a licence in the case of any breach of any byelaw made by the authority.
- (3) A byelaw shall not take effect unless it has been submitted to the Secretary of State and confirmed by him with or without modifications.
- (4) Notice of any byelaw proposed to be submitted for confirmation under this section shall, before it is so submitted, be published in such manner as the Secretary of State directs.
- (5) A byelaw may make different provision for different circumstances.

## **16 Power of Secretary of State as respects byelaws**

- (1) If at any port either—
- (a) a majority of the licensed pilots belonging to the port; or
  - (b) not less than 6 persons, being masters, owners, or insurers of vessels using the port; or
  - (c) a dock or harbour authority not being the pilotage authority; or
  - (d) the Commission;
- object to any byelaw in force at the port, or desire that any byelaw should be in force at the port which is not in force therein, they may make a representation to the Secretary of State to that effect.
- (2) If (after he has given the pilotage authority concerned and, if he thinks fit, any other persons an opportunity to make representations on the subject) the representation appears to the Secretary of State reasonable, he may by order—
- (a) revoke, vary or add to any byelaw to which the representation objects, or
  - (b) require the pilotage authority concerned to submit to him for confirmation a byelaw for the purpose of giving effect to the representation.
- (3) Any byelaw revoked by any such order shall cease to have effect, and any byelaw to which additions are made or which is varied or added to, shall have effect with the variations or additions made by the order.
- (4) If a pilotage authority fail to submit to the Secretary of State for confirmation a byelaw in accordance with an order made under this section, the Secretary of State may treat the byelaw which he has required the pilotage authority to submit to him as a byelaw

submitted to him by the authority, and confirm it accordingly, and the byelaw so confirmed shall have effect as if it had been made and confirmed in accordance with this Act.

*Other provisions relating to pilotage authorities*

**17 Licensing of pilots by pilotage authority not to involve any liability**

The grant or renewal of a licence to a pilot by a pilotage authority under the powers given to them by this Act does not impose any liability on the authority for any loss occasioned by any act or default of the pilot.

**18 Receipts and expenses of pilotage authority**

- (1) All receipts of a pilotage authority in their capacity as such (other than any money received by them on behalf of and paid over to any pilot, or if the authority administer a pilots' benefit fund, any sums received by them as direct payments for that fund), shall be paid into a separate fund or account, to be called the pilot fund or account of the pilotage district.
- (2) All expenses incurred by a pilotage authority in the exercise of their powers or performance of their duties as such authority shall be paid out of their pilot fund or account, and, except so far as may be provided to the contrary by byelaw, the balance remaining after the payment of those expenses shall in each year be applied for the purposes of any pilots' benefit fund established in the district and so far as not required for that purpose shall be applied for the benefit of pilots in such manner as may be determined by the pilotage authority with the approval of the Secretary of State.
- (3) A separate account shall be kept by any pilotage authority who administer a pilots' benefit fund of all moneys received by them as payments to that fund, or for the benefit of that fund, and money standing to the credit of that account shall not be applicable to any purpose other than the purposes of the fund.
- (4) Nothing in this section shall prevent a pilotage authority which owns or hires the pilot boats for the district from keeping a separate account in respect of such boats.

**19 Returns and statements of accounts of pilotage authorities**

- (1) Every pilotage authority shall deliver triennially or, if the Secretary of State so directs, at shorter intervals, to the Commission, in the form and at the time required by the Secretary of State, returns giving such particulars as the Secretary of State may by order prescribe with respect to pilotage in their district.
- (2) Every pilotage authority shall in addition furnish annually to the Commission, at such time as the Secretary of State directs, a statement of their accounts in the form prescribed by the Secretary of State, duly audited, including a statement of the average gross and net earnings of pilots during the past year, and, where the authority administer a pilots' benefit fund, the separate accounts of that fund, including particulars of the investments if any.
- (3) Every pilotage authority shall allow the Commission or any person appointed by the Commission for the purpose, to inspect any books or documents in the possession

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of that authority relating to any matter in respect of which a return is required to be delivered or a statement is required to be furnished under this section.

- (4) If a pilotage authority refuse or fail without reasonable cause to deliver any return or furnish any statement to the Commission in accordance with this section, Her Majesty may by Order in Council suspend the pilotage authority for such time as Her Majesty may direct, and thereupon the Secretary of State shall by order direct that, in the meantime, the powers of the authority shall be exercised, and the duties of the authority shall be performed by such person as he may appoint for the purpose.
- (5) It shall be the duty of the Commission to send to the Secretary of State and to publish in such manner as the Commission thinks fit, copies of the returns and statements received by the Commission under this section.
- (6) It shall be the duty of the Secretary of State to lay before Parliament copies of any document he receives in pursuance of subsection (5) above.

#### *Masters' and First Mates' Certificates*

### **20 Grant of masters' and first mates' certificates by pilotage authorities**

- (1) Subject to subsection (2) below, a pilotage authority may grant a certificate (in this Act referred to as a pilotage certificate) to any person who is bona fide the master or first mate of any ship if that person applies for such a certificate, and if, after examination, they are satisfied that, having regard to his skill, experience, and local knowledge, he is capable of piloting the ship of which he is master or first mate within their district.
- (2) A pilotage certificate shall not be granted—
  - (a) to the master or first mate of a ship unless he is a—
    - (i) Commonwealth citizen or,
    - (ii) citizen of the Republic of Ireland or,
    - (iii) national of a member State of the Economic Community other than the United Kingdom,
 and the ship is registered under the law of a member State of the Economic Community ;
  - (b) in any district where a byelaw is in force prohibiting the grant of pilotage certificates to masters or first mates who do not hold at least such certificate issued under the Merchant Shipping Act 1970 as is specified in the byelaw except to a master or first mate holding a certificate so specified ;
  - (c) in any district where a byelaw is in force prohibiting the grant of a pilotage certificate in respect of a vessel of a description specified in the byelaw, in respect of such a vessel.
- (3) A pilotage certificate shall be in a form approved for the time being by the Secretary of State, and shall contain (in addition to any other particulars which may be required) the name of the person to whom the certificate is granted, the name and draught of water of the ship or ships in respect of which it is granted, the limits of the district in respect of which the certificate is granted, and the date on which it was granted.
- (4) A pilotage certificate shall not be in force for more than a year from the date on which it is granted, but may, if held by the master or first mate of a ship, be renewed annually by the pilotage authority, subject to the provisions of any byelaw made by that authority as to re-examination.

- (5) A pilotage certificate may be granted so as to extend to more than one ship belonging to the same owner, while the master or first mate is bona fide acting as master or first mate of any such ship, provided that they are ships of substantially the same class and registered as mentioned in paragraph (a) of subsection (2) above.
- (6) A pilotage authority may, on the application of the master or first mate of a ship, alter his pilotage certificate so as to relate to any other ship or ships of a not substantially greater draught of water or tonnage than that to which the certificate formerly related, to which the master or first mate may be transferred, or so as to cover any ships of substantially the same class and which are registered as mentioned in paragraph (a) of subsection (2) above and belong to the same owner as the ships to which the certificate already relates.
- (7) A pilotage authority may, for the purposes of this section, treat ships which are shown to their satisfaction to be bona fide under the management of the same person as manager, managing owner, demisee, or time charterer, as being ships owned by that person.
- (8) The required fee shall be payable on the examination for a pilotage certificate and on the grant, renewal or alteration of any such certificate.

In this subsection the " required fee " means the fee fixed by byelaw made in pursuance of paragraph (o) of section 15(1) of this Act.

## **21 Refusal and revocation of pilotage certificates**

- (1) A pilotage authority shall not be obliged to grant a pilotage certificate if the Commission considers—
  - (a) that, without the certificate, the number of persons holding pilots' licences for the authority's district and the number of persons holding pilotage certificates for the district are appropriate for the district; or
  - (b) that, if the certificate were granted, functions by virtue of it would probably be performed wholly or mainly in a particular area in the authority's district, and that, without the certificate, the number of persons holding pilots' licences by virtue of which functions are performed wholly or mainly in that area and the number of persons holding pilotage certificates by virtue of which functions are so performed are adequate for the area.

- (2) If—
  - (a) a majority of the persons holding pilots' licences for the district of a pilotage authority; or
  - (b) a majority of the persons who hold pilots' licences for the district of a pilotage authority and appear to the Commission to perform functions by virtue of the licences wholly or mainly within a particular area in the district,

make representations in writing to the Secretary of State, within the period of two months beginning with the day when a pilotage certificate is granted by the authority, requesting him to revoke the certificate—

- (i) on the ground, in the case of a request by a majority mentioned in paragraph (a) above, that apart from the holder of the certificate the number of persons holding pilots' licences for the district and the number of persons holding pilotage certificates for the district are in the opinion of the Commission appropriate for the district; or

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- (ii) on the ground, in the case of a request by a majority mentioned in paragraph (b) above, that in the opinion of the Commission the holder of the certificate is likely to perform functions by virtue of the certificate wholly or mainly within the area in question and that, apart from him, the number of persons who hold pilots' licences by virtue of which functions are in the opinion of the Commission performed wholly or mainly in that area and the number of persons who hold pilotage certificates by virtue of which functions are in the opinion of the Commission so performed are in the opinion of the Commission appropriate for that area,

the Secretary of State may, after giving to the holder of the certificate and the authority an opportunity of making representations in writing to him about the request, give to the holder a notice in writing revoking the certificate; and the certificate shall cease to have effect when the holder receives the notice.

- (3) The Secretary of State may, by an order made after the expiration of the period of ten years beginning on 4th July 1980 (the date on which section 10 of the Merchant Shipping Act 1979 came into force), repeal subsections (1) and (2) above and subsection (3) of section 25 of this Act (which subsection makes provision consequential on subsections (1) and (2) of this section); and such an order may contain such transitional provisions as the Secretary of State considers are appropriate in connection with the repeal.

## **22 Provision with respect to foreign certificates of competency**

For the purposes of this Act, references to certificates issued under the Merchant Shipping Act 1970 shall be deemed to include references to any certificate of competency granted by the government of a foreign country, being a certificate of a class approved by the Secretary of State for the purpose.

### *Supplementary Provisions as to Licences and Certificates*

## **23 Form of pilot's licence and production and return of licence to pilotage authority**

- (1) A pilot's licence shall be in a form approved for the time being by the Secretary of State.
- (2) A licensed pilot shall, when required by the pilotage authority by whom the licence has been granted, produce his licence to the authority, and, in a case where his licence is revoked or suspended, shall deliver up his licence to the authority.
- (3) On the death of a licensed pilot, the person into whose hands his licence comes shall without delay transmit it to the pilotage authority by whom it was granted.
- (4) If any licensed pilot or other person fails without reasonable excuse, to comply with the requirements of this section, he shall be liable on summary conviction in respect of each offence to a fine not exceeding—
- (a) in England and Wales and in Scotland, level 3 on the standard scale,
  - (b) in Northern Ireland, £200.



## **24 Suspension or revocation of a pilot's licence or a pilotage certificate**

- (1) A pilotage authority may suspend or revoke any pilot's licence or any pilotage certificate granted by them if it appears to them, after giving the holder thereof an opportunity of being heard.—
- (a) that he has been guilty of any offence under this Act, or
  - (b) that he has been guilty of any breach of any byelaw made by the authority, or
  - (c) that he has been guilty of any other misconduct affecting his capability as a pilot, or
  - (d) that he has failed in or neglected his duty as a pilot, or
  - (e) that he has become incompetent to act as pilot;
- and a licence or certificate, if so revoked, shall cease to have effect, and, if so suspended, shall cease to have effect for the period for which it is suspended.
- (2) In any case where pilots are directly represented on a committee of a pilotage authority, that committee may, until a pilotage order is made regulating the relations between the authority and the committee, exercise the powers conferred on a pilotage authority by this section with respect to pilots' licences as though they were the pilotage authority.

## **25 Appeal to Secretary of State by pilot, master or first mate, against action of pilotage authority**

- (1) If a complaint is made to the Secretary of State that a pilotage authority have—
- (a) without reasonable cause refused or failed to examine any candidate for a pilot's licence, or a master or first mate for a pilotage certificate, or to grant such a licence or certificate after examination ; or
  - (b) conducted any examination for a pilot's licence or a pilotage certificate improperly or unfairly; or
  - (c) imposed conditions on the granting of a pilot's licence or a pilotage certificate which they have no power to impose or which are unreasonable ; or
  - (d) without reasonable cause refused or failed to renew a pilotage certificate, or, having obtained possession of any such certificate, refused or failed to return it; or
  - (e) without reasonable cause suspended or revoked a pilotage certificate; or
  - (f) in any other manner failed properly to perform their duties under this Act with respect to the matters above-mentioned in this section, or improperly exercised any of their powers under this Act with respect to those matters;
- the Secretary of State shall consider the complaint, and if he is of the opinion that the complaint is in any respect well founded, shall make such order as he thinks fit for the purpose of redressing the matter complained of, and the pilotage authority shall give effect to any order so made by the Secretary of State.
- (2) The Secretary of State may—
- (a) before he considers a complaint as required by subsection (1) above, ask the Commission for its advice on the complaint; and
  - (b) when considering the complaint as so required, have regard to the Commission's advice on the complaint.
- (3) For the purposes of subsection (1)(a) above a pilotage authority shall have reasonable cause for refusing or failing to grant a pilotage certificate if by virtue of section 21 of this Act the authority are not obliged to grant it.

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- (4) If a pilotage authority refuse or fail to give effect to any order of the Secretary of State under subsection (1) above, the Secretary of State may, for the purpose of giving effect to the order, exercise any powers of the pilotage authority, and anything done by the Secretary of State in the exercise of those powers shall have the same effect as if it had been done by the pilotage authority.

## **26 Appeal to court by pilot against action of pilotage authority**

- (1) A pilot may appeal to the relevant court against—
- (a) the suspension or revocation of his licence by the pilotage authority,
  - (b) the refusal or failure of the pilotage authority to renew his licence,
  - (c) the refusal or failure of the pilotage authority who have obtained possession of his licence to return it to him,
  - (d) the imposition upon him by the pilotage authority of a fine exceeding £2.
- (2) In this section the expression "the relevant court" means—
- (a) in the case of an appeal by a pilot licensed for a district in England or Wales, either a judge of county courts having jurisdiction within the port for which the pilot is licensed or a stipendiary magistrate having jurisdiction within that port; and the expression "stipendiary magistrate" includes a metropolitan stipendiary magistrate,
  - (b) in the case of an appeal by a pilot licensed for a district in Scotland, the sheriff having jurisdiction at the port where the decision is given,
  - (c) in the case of an appeal by a pilot licensed for a district in Northern Ireland, either a judge of the county court having jurisdiction within the port for which the pilot is licensed or a court of summary jurisdiction having jurisdiction within that port,
- and the expression " court " shall be construed accordingly.
- (3) For the purpose of hearing the appeal, the court shall sit with an assessor of nautical and pilotage experience selected and summoned by the court.
- (4) Objection may be taken to any person proposed to be summoned as an assessor, either personally or in respect of his qualification, and by either party to the appeal.
- (5) The court may confirm or reverse the suspension or revocation of the licence, or make such order in the case as may seem just, and its decision shall be final, unless special leave to appeal from the same to the High Court on a question of law or a question of mixed law and fact is given by the court, or by the High Court, and in such case the decision of the High Court shall be final.

In the application of this subsection to Scotland, references to the Court of Session shall be substituted for references to the High Court.

- (6) The costs incurred by a pilotage authority under this section shall be payable out of any fund applicable to the general expenses of the pilotage authority.
- (7) Rules of Court with respect to the procedure under this section (including costs and the remuneration of assessors) may be made, with the concurrence of the Treasury as to fees.

This subsection does not extend to Northern Ireland.

*Special Provisions as to the Trinity House*

**27 Trinity House outport districts**

- (1) For the purposes of this Act, any district which at the time of the passing of this Act is under the authority of sub-commissioners appointed by the Trinity House and any pilotage district which may be declared after the passing of this Act to be a Trinity House outport district, shall be deemed to be a Trinity House outport district.
- (2) The powers and duties of the Trinity House under this Act as the pilotage authority of an outport district shall be exercised and performed through a committee appointed for the district in such manner and subject to such conditions as may be determined by a pilotage order, under the name of sub-commissioners or such other name as may be fixed by the order, and any such order may be made so as to apply to all or any one or more of the outport districts.

**28 Trinity House Pilot Fund**

Nothing in this Act shall oblige the Trinity House to maintain separate pilot funds for each of the pilotage districts of which they are the authority, and, if they maintain a single pilot fund for all those districts, the provisions of this Act as to pilot funds shall apply as if all the districts of which they are the pilotage authority were a single pilotage district.

**29 Collection of pilotage charges in Port of London by officers of Customs and Excise**

- (1) The following pilotage charges in respect of foreign ships, not being excepted ships, trading to and from the port of London, namely: —
  - (a) as to ships inwards, the full amount of pilotage charges for the distance piloted; and
  - (b) as to ships outwards, the full amount of charges for the distance required by law ;shall be paid to the chief officer of Customs and Excise in the port of London by the master, or by any consignees or agents of the ship who have paid, or made themselves liable to pay, any other charge for the ship in the port of London.
- (2) The chief officer of Customs and Excise, on receiving any pilotage charges in respect of foreign ships, shall give to the person paying the charges a receipt in writing for the charges, and in the port of London the ship may be detained until the receipt is produced to the proper officer of Customs and Excise of the port.
- (3) The chief officer of Customs and Excise shall pay over to the Trinity House the pilotage charges received by him under this section, and the Trinity House shall apply the charges so received—
  - (a) in paying to any licensed pilot who produces to them sufficient proof of his having piloted the ship such charges as would have been payable to him for pilotage services if the ship had been a British ship, after making any deductions which they are authorised to make by byelaw under this Act;
  - (b) in paying to any person not being a licensed pilot who produces to them sufficient proof of his having, in the absence of a licensed pilot, piloted the ship, such amount as the Trinity House think proper, not exceeding the amount

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- which would, under similar circumstances, have been payable to a licensed pilot after making the said deductions ;
- (c) in paying over to the Trinity House pilot fund the residue, together with the amount of any deductions made as aforesaid.
- (4) Nothing in this section shall affect the application of the provisions of this Act as to the recovery of pilotage charges.