



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

### *Other provisions relating to pilotage*

#### **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 in 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 the preceding paragraph, 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) Accordingly sections 1 and 2 of the Pilotage Act 1913 (which among other things provide for the Secretary of State to initiate changes in the organisation of pilotage services and changes in byelaws to achieve uniformity of administration) shall cease to have effect and section 22 of that Act (which provides for information to be furnished to the Secretary of State by pilotage authorities) shall have effect as if—
- (a) the duties imposed by that section to deliver returns and furnish statements of accounts to the Secretary of State and to allow inspection of books and documents by him or a person appointed by him were duties to deliver the returns and furnish the statements to the Commission and to allow inspection by the Commission or a person appointed by the Commission ; and

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- (b) in subsection (1) the words " and any returns so delivered shall, as soon as may be, be laid before both Houses of Parliament " were omitted ; and
  - (c) in subsection (4) for the first reference to the Secretary of State there were substituted a reference to the Commission.
- (3) 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 (c) of subsection (1) of this section 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 17(1) of the Pilotage Act 1913.
- (4) It shall be the duty of the Commission—
- (a) before it performs a function conferred on it by subsection (1) of this section, to consult the persons in the United Kingdom who 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 ; and
  - (b) 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 by virtue of subsection (2)(a) of this section ;
- and it shall be the duty of the Secretary of State to lay before Parliament copies of any document he receives in pursuance of paragraph (b) of this subsection.

## **7 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 the preceding subsection, 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

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- (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) Subsections (5) and (6) of section 7 of the Pilotage Act 1913 and paragraphs 1 to 6, 8 and 9 of Schedule 1 to that Act (which relate to applications for pilotage orders and contain provisions as to the pilotage orders which do and do not require confirmation by Parliament) shall cease to have effect.

## 8 Compulsory pilotage

- (1) In section 11 of the Pilotage Act 1913 (which relates to compulsory pilotage)—
- (a) in subsection (2) (which provides that if a ship is not under pilotage as required by that section the master of it shall be liable to a fine not exceeding double the amount of the pilotage dues that could be demanded for the conduct of the ship) after the word " liable " there shall be inserted the words " on summary conviction " and for the words " could be demanded for the conduct of the ship " there shall be substituted the words " (disregarding any increase in the dues attributable to failure to comply with the requirements of byelaws in force in the district about requests for pilots) would have been payable in respect of the ship if it had been under pilotage as so required ";
  - (b) subsection (3)(b) (which provides that pleasure yachts are excepted ships) and subsections (4) and (5) (which enable byelaws to provide that ships mentioned in those subsections shall be excepted ships) shall cease to have effect; and
  - (c) at the end of paragraph (c) of subsection (3) (which provides that fishing vessels are excepted ships) there shall be inserted the words " of which the registered length is less than 47.5 metres ";

but nothing in the preceding provisions of this subsection or in any repeal by this Act of a provision of the said section 11 affects that section as set out in subsection (3) of this section.

- (2) Any byelaws which, immediately before the preceding subsection comes into force, were in force by virtue of subsection (4) of the said section 11 shall continue in force thereafter and may be revoked as if the said subsection (4) were still in force.
- (3) For the said section 11 as amended by subsection (1) of this section there shall be substituted the following section—
- (1) Subject to subsection (3) of this section, a ship which is being navigated in a pilotage district in circumstances which the Pilotage Order for the district specifies as circumstances in which pilotage in the district is compulsory shall be—
- (a) under the pilotage of a licensed pilot of the district who, in any such case as is specified in byelaws made under this Act by the pilotage authority for the district, is accompanied by an assistant who is also a licensed pilot of the district or, if the byelaws so provide, has a qualification specified in the byelaws ; or
  - (b) under the pilotage of a master or first mate who possesses a pilotage certificate for the district and is bona fide acting as master or first mate of the ship.

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- (2) Without prejudice to the generality of the preceding subsection but subject to the following subsection, a ship which is being navigated in a port in a pilotage district at a time when—
- (a) there is a defect in its hull, machinery or equipment which might affect materially the navigation of the ship; and
  - (b) the pilotage authority for the district have, at the request of the body managing or regulating the port, given notice to the master of the ship stating that the ship is to be under pilotage,
- shall be under such pilotage as is mentioned in paragraph (a) or (b) of the preceding subsection.
- (3) The preceding provisions of this section shall not apply to a ship belonging to Her Majesty, and a pilotage authority may by byelaws under this Act provide that a ship which is of a kind described in the byelaws by reference to its type, size or cargo shall not be required by virtue of the Pilotage Order for the authority's district to be under such pilotage as is mentioned in subsection (1) of this section; and in this Act "excepted ship" means, in relation to a pilotage district, a ship belonging to Her Majesty and any other ship of a kind described in byelaws made by virtue of this subsection by the pilotage authority for the district.
- (4) If any ship is not under pilotage as required by subsection (1) or (2) of this section, and either—
- (a) the master of the ship has not complied with the requirements of byelaws made under this Act, by the pilotage authority for the district in question, about requests for pilots ; or
  - (b) a licensed pilot of the district has offered to take charge of the ship,
- then, subject to the following subsection, the master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding whichever of the following is the greater, namely, one thousand pounds or double the amount of the pilotage dues which would have been payable in respect of the ship if it had been under pilotage as so required and, where the master has not complied as aforesaid, if he had so complied.
- (5) It shall be a defence in proceedings for an offence under the preceding subsection to prove that on the occasion to which the charge relates the ship was being navigated in the pilotage district in question only so far as was necessary to avoid serious danger to the ship.”
- (4) Without prejudice to the generality of subsection (2) of section 52 of this Act, an order in pursuance of that subsection which brings the preceding subsection into force may provide that it shall come into force in relation only to such pilotage districts as are specified in the order.
- (5) The Secretary of State may by order provide that the provisions of the Pilotage Act 1913 relating to compulsory pilotage shall, notwithstanding anything in section 12 of that Act (which provides that those provisions are not to apply to certain craft while they are employed and navigating as mentioned in that section), apply to such of the craft so mentioned as are specified in the order.
- (6) Section 13 of the Pilotage Act 1913 (which provides for a ship to be exempt from compulsory pilotage in a district if it is there for the purpose of taking or landing a

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pilot from another district) and section 14 of that Act (which relates to the defence of compulsory pilotage and is spent) shall cease to have effect.

## 9 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 2 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 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 the following subsection 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

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- (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 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) Any reference to pilotage dues in the Pilotage Act 1913 shall be construed as a reference to charges payable by virtue of this section, and in this section " prescribed " means prescribed by regulations made by the Secretary of State.
- (8) In paragraph (f) of section 17(1) of the Pilotage Act 1913 (which among other things enables byelaws to fix the rates of pilotage dues and to provide for the collection and distribution of them) the words from the beginning to " scales and " shall be omitted and for the words " collection and " there shall be substituted the words " collection (either before or after the performance of services to which they relate) and for the " ; but any byelaws made by an authority by virtue of the omitted words and in force immediately before the date when this subsection comes into force shall remain in force on and after that date but—
- (a) may be revoked by byelaws made by the authority and confirmed by the Secretary of State ; and
  - (b) shall not apply to services provided or to be provided after the date when charges first became payable by reference to a list made by the authority in pursuance of this section.

## **10 Refusal and cancellation 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

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- (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 pilots' certificates by virtue of which functions are so performed are adequate for the area;

and accordingly, for the purposes of paragraph (a) of section 27(1) of the Pilotage Act 1913 (which among other things enables a complaint to be made to the Secretary of State if an authority have refused or failed to grant a pilotage certificate without reasonable cause) a pilotage authority shall have reasonable cause for refusing or failing to grant a pilotage certificate if by virtue of this subsection the authority are not obliged to grant it.

(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
- (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 with the date when this section comes into force, repeal 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.

## **11 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

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- (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 the preceding paragraph.
- (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 the preceding subsection 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.

## **12 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 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.

## **13 Miscellaneous amendments etc of Pilotage Act 1913**

- (1) The Pilotage Act 1913 shall have effect with the amendments specified in Schedule 2 to this Act, and in that Schedule references to sections are to sections of that Act.
- (2) In each provision of the Pilotage Act 1913 which is specified in the first column of the following table, for the words specified in relation to that provision in the second and third columns of the table (which state respectively the amount of the maximum fine authorised by that provision for Great Britain and the Isle of Man and for other places) there shall be substituted the words specified in relation to that provision in the fourth column of the table.



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TABLE

<i>Provision of Act</i>	<i>Old amount for Great Britain and Isle of Man</i>	<i>Old amount for other places</i>	<i>New amount</i>
Sections 20(4), 36(2) and 50.	Twenty-five pounds	Ten pounds	Two hundred pounds
Sections 34(1) and 37.	Fifty pounds	Twenty pounds	One thousand pounds
Sections 30(3) and (4), 41 and 42.	Fifty pounds	Fifty pounds	Five hundred pounds
Section 48(1) and (2).	One hundred pounds	One hundred pounds	Five hundred pounds
Section 47.	One hundred pounds	One hundred pounds	One thousand pounds

- (3) In the following provisions of the Pilotage Act 1913 as in force elsewhere than in Great Britain and the Isle of Man, namely sections 17(1)(e), 39(2), 43(3) and 45(3) (which authorise fines not exceeding twenty pounds), for the words " twenty pounds " there shall be substituted the words " fifty pounds ".
- (4) Nothing in any of the preceding provisions of this section applies to an offence committed before the provision comes into force.
- (5) It is hereby declared that any reference to a ship in section 30 of the Pilotage Act 1913 (which authorises a licensed pilot to supersede an unlicensed pilot) and section 43(2) of that Act (which relates to the display of a pilot signal) does not include a ship which a person is piloting or ordered to pilot, in a dockyard port within the meaning of the Dockyard Ports Regulation Act 1865, in the course of his duties as a servant of the Crown ; but nothing in this subsection shall be construed as derogating from any immunity which affects a ship apart from this subsection.