



# Pilotage Act 1987

## 1987 CHAPTER 21

### PART III

#### WINDING-UP OF EXISTING PILOTAGE ORGANISATION

#### **24 Abolition of pilotage authorities**

- (1) On the appointed day every pilotage authority within the meaning of the Pilotage Act 1983 shall cease to exist as such an authority.
- (2) Not later than such date as the Secretary of State may direct before the appointed day the Pilotage Commission shall submit to the Secretary of State proposals for a scheme or schemes to be made by him for the transfer of the relevant property, rights and liabilities of the pilotage authorities (including in particular liabilities in respect of pensions payable in respect of staff or former staff) and the arrangements to be made in accordance with section 25 below as respects their staff and any staff employed by persons licensed as pilots under section 12 of the Pilotage Act 1983 to whom the Commission considers the arrangements should also apply.
- (3) Where only one competent harbour authority is to exercise functions under this Act in the harbours in the former pilotage district of a pilotage authority or, in the case of a pilotage authority which is the authority for more than one district, in all the districts of the pilotage authority, the proposed scheme or schemes shall provide for any property, rights and liabilities of that pilotage authority which in the opinion of the Pilotage Commission have been used, have accrued or, as the case may be, have been incurred exclusively in connection with its pilotage functions to vest in that competent harbour authority.
- (4) In the case of any pilotage authority to which subsection (3) above does not apply, the proposed scheme or schemes—
  - (a) shall provide for the vesting in any competent harbour authority the Pilotage Commission considers appropriate or in the Commission itself of any property, rights and liabilities of the pilotage authority which, in the opinion of the Commission, have been used, have accrued or, as the case may be,

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- have been incurred exclusively in connection with the authority's pilotage functions;
- (b) may make similar provision as to any such property, rights and liabilities which, in the opinion of the Commission have been used, have accrued or, as the case may be, have been incurred substantially but not exclusively in connection with those functions; and
  - (c) may require any competent harbour authority the Commission considers appropriate to make provision to secure that the future payment of any pension which is payable in respect of staff or former staff of the pilotage authority and calculated by reference to remuneration paid and service given before the appointed day is properly funded or guaranteed.
- (5) Proposals submitted under subsection (2) above may include such supplementary and incidental provision in connection with the matters there mentioned as the Pilotage Commission considers appropriate.
  - (6) Not later than three months before the appointed day the Secretary of State shall make a scheme or schemes giving effect to the proposals submitted to him under subsection (2) above with such modifications as he considers appropriate and on the appointed day the property, rights and liabilities of the pilotage authorities shall vest in accordance with the scheme or schemes.
  - (7) The modifications which may be made under subsection (6) above include the substitution for a provision for property of a person who is a pilotage authority to vest in a competent harbour authority or the Pilotage Commission of a provision for that person to retain that property and pay to the competent harbour authority or, as the case may be, the Commission such sum as may be agreed between them to be the value of the property at the appointed day.
  - (8) Nothing in this section shall require a scheme to make provision for the vesting in a competent harbour authority of any property, rights or liabilities already vested in it in its capacity as a pilotage authority.
  - (9) The Pilotage Commission may require any pilotage authority to furnish it within such time and in such form as the Commission may specify with such information as it considers necessary for the purpose of formulating the proposals to be submitted by it under this section; and any member of the Commission or person appointed by it for the purpose may inspect any books, documents or other records in the possession of the authority relating to any matter in respect of which information is required to be furnished under this subsection.
  - (10) Before submitting proposals for a scheme under subsection (2) above the Pilotage Commission shall consult the competent harbour authorities and pilotage authorities likely to be affected by the proposals and such persons or organisations as appear to it to be representative of the staff or former staff likely to be affected by them; and before making a scheme giving effect to those proposals the Secretary of State shall consider any representations concerning those proposals made to him by any such authority or by any person or organisation which appears to him to be so representative.
  - (11) Where an order is made under section 1(3)(b) above in respect of an authority to which any property, rights or liabilities have been transferred under this section, the order shall, if the Secretary of State considers that it is appropriate for it to do so, make provision for the transfer of them to the authority which he considers should exercise pilotage functions within its harbour.

- (12) References in this section and in section 25 below to a pilotage authority include references to any committee appointed by the authority under section 9(1)(e) of the Pilotage Act 1983.

## **25 Transfer of staff of pilotage authorities etc.**

- (1) The arrangements to be made under a scheme under section 24 above as respects the staff of pilotage authorities shall apply—
- (a) in the case of an authority which will continue to exist in another capacity on and after the appointed day, to such of the persons employed by it immediately before that day as the authority has determined are not required by it for its functions in that other capacity; and
  - (b) otherwise, to all the persons employed by the authority immediately before that day.
- (2) Such a scheme shall provide—
- (a) in the case mentioned in subsection (3) of section 24 above, that the staff to whom the scheme applies shall be employed on and after the appointed day by the competent harbour authority there mentioned; and
  - (b) in the case mentioned in subsection (4) of that section, that the staff to whom it applies shall be employed on and after that day by such competent harbour authority as the Pilotage Commission thinks fit or by the Commission.
- (3) Such a scheme may make provision for the payment of compensation to staff of pilotage authorities for any loss of employment which is attributable to any provision made by or under this Act but no such scheme shall affect any person's right to compensation otherwise than under the scheme.
- (4) Where such a scheme provides that an employee of a pilotage authority shall be employed by another person on and after the appointed day—
- (a) the contract of employment between the employee and the pilotage authority shall not be terminated by the abolition of that authority but shall have effect from the appointed day as if originally made between him and that other person; and
  - (b) without prejudice to paragraph (a) above—
    - (i) all the pilotage authority's rights, powers, duties and liabilities under or in connection with such a contract shall by virtue of this section be transferred on that day to that other person; and
    - (ii) anything done before that day by or in relation to the authority in respect of that contract or employee shall be deemed on and after that day to have been done by or in relation to that other person.
- (5) Subsection (4) above is without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right shall arise by reason only of the change of employer effected by this section.
- (6) Where a person formerly employed by a pilotage authority becomes employed by another person by virtue of this section—
- (a) Schedule 13 to the Employment Protection (Consolidation) Act 1978 or, in Northern Ireland, Schedule 1 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (computation of period

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of employment for the purposes of that Act) shall have effect in relation to him as if it included provision—

- (i) that the period of employment with the pilotage authority counted as a period of employment with that other person; and
  - (ii) that the change of employer did not break the continuity of the period of employment; and
  - (b) the period of his employment with the pilotage authority shall count as a period of employment with his new employer for the purposes of any provision of his contract of employment with his new employer which depends on his length of service with him.
- (7) Where the Pilotage Commission considers that arrangements under a scheme under section 24 above should also apply to any employee of a person licensed as a pilot under section 12 of the Pilotage Act 1983—
- (a) subsections (2) and (3) above shall apply as if the employee were employed by the pilotage authority for the district for which his employer is licensed;
  - (b) the contract of employment between the employee and the licensed pilot shall have effect from the appointed day as if originally made between the employee and the person by whom the scheme provides that he shall be employed on and after that day; and
  - (c) without prejudice to paragraph (b) above, subsections (4)(b), (5) and (6) above shall apply as they apply to the transfer of an employee of a pilotage authority but with the substitution for the references in subsections (4)(b) and (6) to the pilotage authority of references to the licensed pilot.
- (8) Nothing in paragraph 10 of Schedule 1 to the Pilotage Act 1983 (power of Commission to employ persons needed to assist it) shall prevent the Commission becoming the employer of any person under this section.

## **26 Abolition of Pilotage Commission**

- (1) On such day as the Secretary of State may by order appoint the Pilotage Commission shall cease to exist and the Commission shall use its best endeavours to secure that its work is completed by that day.
- (2) No later than six months before the day appointed under subsection (1) above the Pilotage Commission shall submit to the Secretary of State a scheme for the winding-up of the Commission and the disposal of the property, rights and liabilities of the Commission and the arrangements to be made as respects its staff, including in particular proposals concerning the payment of pensions in respect of staff or former staff and any compensation to be paid to staff for loss of employment; but the scheme shall not affect any person's right to compensation otherwise than under the scheme.
- (3) The Secretary of State shall by order provide for the transfer of the property, rights and liabilities of the Pilotage Commission and the arrangements to be made as respects any staff of the Commission in accordance with the scheme (with or without modifications).

## **27 Functions and constitution of Pilotage Commission pending abolition**

- (1) During the period beginning with the passing of this Act and ending immediately before the day appointed under section 26(1) above for the abolition of the Pilotage Commission—

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- (a) the Commission shall give the Secretary of State such advice as he may request from it in connection with the reorganisation of pilotage services under this Act;
  - (b) the Secretary of State may, if he considers it is appropriate to do so, exercise his power under paragraph 4 of Schedule 1 to the Pilotage Act 1983 (power to declare the office of any person who is a member of the Commission to be vacant) whether or not he is satisfied as mentioned in that paragraph;
- and no person shall be entitled to any compensation for loss of an office declared vacant by virtue of paragraph (b) above.
- (2) During the period mentioned in subsection (1) above, subsection (1) of section 2 of the Pilotage Act 1983 (Commission to consist of not less than 10 and not more than 15 persons appointed from among certain categories of persons) shall have effect with the substitution for " 10 " of " 5 "; and on and after the appointed day that section shall have effect with the following modifications—
- (a) in subsection (1) for the words from "from among the following" onwards there shall be substituted the words " and the Secretary of State shall appoint one member to be the Chairman of the Commission "; and
  - (b) for subsection (2) there shall be substituted—
    - “(2) It shall be the duty of the Secretary of State before appointing any person as a member or as Chairman of the Commission to consult on the appointment such persons as he considers are representative of the persons in the United Kingdom principally interested in the activities of the Commission.”.

## **28 Pilots' compensation schemes**

- (1) The Secretary of State shall make a scheme or schemes ("pilots' compensation schemes") under which payments are to be made for the purpose of compensating pilots for any loss of employment which may be suffered by them in consequence of the reorganisation of pilotage services under this Act.
- (2) Subject to subsection (4) below, a pilots' compensation scheme shall require a competent harbour authority to make payments to or for the benefit of those persons—
- (a) who immediately before the appointed day were licensed as pilots under section 12 of the Pilotage Act 1983 for the pilotage district in which its harbour is situated but were not then employed under a contract of employment by the pilotage authority for that district or any committee appointed by the authority under section 9(1)(e) of the Pilotage Act 1983;
  - (b) who either have no arrangements offered to them (whether by way of employment under a contract of employment or otherwise) for the provision of their services as authorised pilots after the appointed day or have such arrangements made with them which are terminated by the other party within such period as may be specified in the scheme;
  - (c) who are not at the relevant time holders of deep sea pilotage certificates; and
  - (d) who satisfy such further conditions as to eligibility as may be so specified;
- and where there is more than one such authority in any former pilotage district, the payments to be made by each authority shall be determined by the Pilotage Commission.
- (3) For the purposes of paragraph (c) of subsection (2) above—

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"the relevant time" means—

- (a) in the case of a person who has no such arrangements as mentioned in paragraph (b) of that subsection offered to him, immediately before the appointed day; and
- (b) in the case of a person who has such arrangements made with him which are terminated as there mentioned, immediately before the termination of those arrangements; and

"deep sea pilotage certificate" means a certificate granted by virtue of section 9(1)(j) of the Pilotage Act 1983 or under section 23 above.

- (4) In a case where such arrangements as mentioned in paragraph (b) of subsection (2) above are made for the provision of the services of any person in the harbour of a competent harbour authority other than the authority mentioned in that subsection, a pilots' compensation scheme shall require the payments in respect of that person to be made by that other authority.
- (5) A pilots' compensation scheme may contain such provision as the Secretary of State may determine as to—
  - (a) the terms and conditions on which and the times at which payments are to be made; and
  - (b) the circumstances in which payments may be recovered from the persons to whom they are made.
- (6) A pilots' compensation scheme may include provision enabling a competent harbour authority to require the whole or part of any existing fund constituted for the purpose of making payment by way of compensation for loss of employment to pilots working in its harbour (whether vested in any person absolutely or as a trustee) to be applied towards any payments required to be made by the authority under the scheme.
- (7) A pilots' compensation scheme may extend to one or more areas and different provision may be made in respect of different areas.
- (8) The Secretary of State may arrange for the Pilotage Commission to administer any pilots' compensation scheme and any dispute arising as to the entitlement of any person to a payment under a pilots' compensation scheme shall be determined by the Commission.
- (9) After the abolition of the Pilotage Commission its functions under this section may be exercised by such other person or persons as the Secretary of State may appoint after consultation with such persons as he considers are representative of the persons in the United Kingdom principally interested in pilotage.
- (10) A pilots' compensation scheme may be varied or revoked by a subsequent such scheme.

## **29 Funding of reorganisation**

- (1) The Secretary of State may, on application by the Pilotage Commission (or, as respects any functions to be performed by virtue of section 28(9) above, any person appointed under that section), make a scheme for the recovery of—
  - (a) the expenses of the Commission (or any such person) in performing the functions of the Commission after the appointed day (including any arrangements to be made by the Commission under section 26(3) above); and
  - (b) any sums required by the Commission by virtue of this Act.

- (2) A scheme made under subsection (1) above may provide for a charge to be imposed on any competent harbour authority and for the amount of such a charge to be determined by reference to such factors as the Secretary of State considers appropriate.
- (3) A scheme made under subsection (1) above may be varied or revoked by a subsequent scheme made under that subsection.
- (4) Before making a scheme under subsection (1) above or varying or revoking such a scheme the Secretary of State shall consult such persons as appear to him to be representative of those persons who are affected by it and he may, after considering any objections to the proposed scheme and consulting the Commission or any person appointed under section 28(9) above, modify the scheme; but the Secretary of State shall not make a scheme with a modification by virtue of which any amount payable under it is increased unless he has again consulted those persons.
- (5) A competent harbour authority may recover any sums required by it by virtue of this Part of this Act by increasing any charges, dues or fees payable to it.