

DRAFT PILOTAGE (GENERAL PROVISIONS) (AMENDMENT No. 8) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 3rd September 2002
by the Harbours and Airport Committee**



STATES OF JERSEY

STATES GREFFE

150

2002

P.145

Price code: B

REPORT

Background

The Pilotage Regulations are the core to the maintenance of the high standards essential for safe navigation of commercial ships in Jersey's pilotage waters.

To maintain these standards the Regulations now need up-dating -

Changes have occurred in the qualification requirements of professional ships' officers. The existing requirements for those wishing to apply for examination for a pilot's licence date from 1985, whereas new international qualifications have now replaced these.

The number of qualified pilots available locally and who are able to sit on the Pilotage Board has gradually reduced. By allowing any *Jersey Harbours* officer who holds the appropriate pilotage licence and is appointed under the Harbours (Administration) (Jersey) Law 1961 to sit on the board, the decline in those available is halted.

The Committee believes that with passenger safety of prime importance, initial examination for a licence and the renewal procedures should both include some practical observation of skills. The amendment introduces this requirement. Procedures are also simplified for the relatively easier pilotage into Gorey. If the amendments are approved, applications for a second category pilotage licence for Gorey only will be handled by a Board consisting of a general pilot and a qualified officer appointed under the Harbours (Administration) (Jersey) Law 1961.

Regarding the European Convention on Human Rights, the Regulations needed amendment to ensure that rights of appeal against decisions by the Board are adequate.

Financial and manpower implications

It is the view of the Harbours and Airport Committee that there are no financial or manpower implications for the States arising from the adoption of these Regulations.

Explanatory Note

These Regulations further amend the Pilotage (General Provisions) (Jersey) Regulations 1988 (the “principal Regulations”).

Regulation 1 is the interpretation provision.

Regulation 2 amends Regulation 1 of the principal Regulations to add construction provisions.

Regulation 3 amends Regulation 3 of the principal Regulations. Firstly, it provides that any officer appointed under Article 2 (2) of the Harbours (Administration) (Jersey) Law 1961 who holds a first or third category licence may be appointed to the Board which conducts the examination of applicants for pilots licences. Currently, of those officers, only the Deputy Harbour Master may be so appointed. Secondly, it enables applications for second category licences for the port of Gorey to be heard by the officer appointed and a general pilot alone.

Regulation 4 amends Regulation 4 of the principal Regulations to update the descriptions of certificate that an applicant for a licence must hold. In addition, it requires an applicant to undertake pilotage in the presence of a general pilot on 5 occasions. The general pilot then reports to the Board upon the applicant’s competence. The Board may take the report into account when considering the application.

Regulation 5 amends Regulation 6 of the principal Regulations to require an applicant for renewal of a licence to undertake pilotage in the presence of a general pilot on at least one occasion. The general pilot then reports to the Harbour Master upon the applicant’s competence and the Harbour Master may refuse the application if not satisfied as to the applicant’s competence.

Regulation 6 substitutes Regulation 10 of the principal Regulations to provide full rights of appeal to the Royal Court when an application for the grant or renewal of a licence is refused, or a licence is granted subject to conditions, or suspended or revoked. Currently, the principal Regulations confer a right of appeal only in the event of the suspension or revocation of or refusal to renew a licence.

Regulation 7 is the citation and commencement provision.

Pilotage (Jersey) Law 1988

PILOTAGE (GENERAL PROVISIONS) (AMENDMENT No. 8) (JERSEY) REGULATIONS 200-

(Promulgated on the day of 200-)

STATES OF JERSEY

The day of 200-

THE STATES, in pursuance of Article 2 of Pilotage (Jersey) Law 1988,^[1] have made the following Regulations -

1. In these Regulations “principal Regulations” means the Pilotage (General Provisions (Jersey) Regulations 1988,^[2] as amended.^[3]

2. In Regulation 1 of the principal Regulations, after the definition “pilot’s licence” there shall be added the following definition -

“ ‘STCW Code’ means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978 and includes any document amending that Code which is specified in a Merchant Shipping Notice, being a notice described as such issued by the Secretary of State or his agent.”.

(b) after paragraph (1) there shall be inserted the following paragraph-

“(1A) In these Regulations, any reference to a certificate of competency shall include a certificate endorsed by the Secretary of State to attest its recognition as a certificate of equivalent competency.”.

3. In Regulation 3 of the principal Regulations -

(a) in paragraph (1), for sub-paragraph (b) there shall be substituted the following sub-paragraph -

“(b) one of the officers appointed pursuant to Article 2(2) of the Harbours (Administration) (Jersey) Law 1961, as amended, who is the holder of a licence of the first or third category;”;

(b) in paragraph (2), for the words “the Deputy Harbour Master” there shall be substituted the words “the officer appointed pursuant to paragraph (1)(b)”;

(c) after paragraph (2) there shall be added the following paragraph-

“(3) Notwithstanding paragraphs (1) and (2), where the Board is to examine a person applying only for a second category licence in respect of the waters around the port of Gorey, it may consist of the officer appointed pursuant to paragraph (1)(b) and the person appointed pursuant to paragraph (1)(d), both of whom shall be present when a decision is taken.”.

4. In Regulation 4 of the principal Regulations -

(a) for paragraph (1)(d), there shall be substituted the following sub-paragraph -

“(d) subject to sub-paragraph (e), holds at least a certificate of competency referred to in Section AII/2 of the STCW Code;”;

(b) for paragraph (1)(e)(ii), there shall be substituted the following clause-

“(ii) holds a certificate of competency at least equivalent to the certificate mentioned in sub-

paragraph (d) or a certificate referred to in Section AII/3 of the STCW Code;”;

(c) after paragraph (1) there shall be inserted the following paragraphs-

“(1A) At least 5 of the visits required in either case described in paragraph (1)(e)(iii) must be undertaken in the presence of a general pilot.

(1B) The general pilot present during a visit pursuant to paragraph (1A) shall report to the Board up to the standard of pilotage by the applicant on that occasion.”;

(d) in paragraph (5), after the words “examination” there shall be inserted the words “and having regard to any report made pursuant to paragraph (1B),”.

5. In Regulation 6 of the principal Regulations -

(a) after paragraph (1) there shall be inserted the following paragraph-

“(1A) An applicant for renewal of a licence of the second category must, on at least one occasion undertake the pilotage required by paragraph (1)(a) in the presence of a general pilot.”;

(b) after paragraph (2) there shall be added the following paragraphs-

“(3) The general pilot present pursuant to paragraph (1A) shall report to the Harbour Master upon the standard of pilotage by the applicant on that occasion.

(4) Where, having regard to the report made pursuant to paragraph (3), the Harbour Master is not satisfied that the applicant’s pilotage is of a satisfactory standard, the Harbour Master shall refuse to renew the applicant’s licence.”

6. For Regulation 10 of the principal Regulations there shall be substituted the following Regulation-

“Appeals

10.-(1) Where the Committee refuses to grant or renew a licence, grants a licence subject to conditions or suspends or revokes a licence, it shall notify the applicant for the licence or the pilot, as the case may be, of the reasons for its decision.

(2) Where the Harbour Master refuses to renew a licence, the Harbour Master shall notify the pilot of the reasons for the decision.

(3) An applicant for a licence aggrieved by a refusal to grant him a licence or by the conditions attached on the grant of a licence to him may appeal to the Court.

(4) A pilot aggrieved by the suspension or revocation of his licence or by a refusal to renew his licence may appeal to the Court.

(5) An appeal may only be made within 28 days of the applicant or pilot being notified by the Committee of the reasons for its decision.

(6) Upon hearing an appeal, the Court may confirm the decision of the Committee or Harbour Master or make such order in the case as may seem just, and the decision of the Court shall be final and without further appeal, but without prejudice to the right of the Court to refer the matter to the Superior Number of the Royal Court.”.

7. These Regulations may be cited as the Pilotage (General Provisions) (Amendment No. 8) (Jersey) Regulations 200- and shall come into force on the seventh day after they are made by the States.

[1] Recueil des Lois, Volume 1988-1989, page 182.

[2] No. 7851.

[3] Nos. 8053, 8203, 8249, 8359, 8528, 8901 and 9345.