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PORTS (FUNCTIONS) ACT 1993



**PORTS (MODEL PILOTAGE)
REGULATIONS 1994**

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PORTS (FUNCTIONS) ACT 1993

**PORTS (MODEL PILOTAGE)
REGULATIONS 1994**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Ports (Model Pilotage) Regulations 1994*.

Interpretation

2. In these regulations, unless the contrary intention appears —

“**exempt master**” means the master or first mate of a vessel who holds a pilotage exemption certificate issued under regulation 14 (1);

“**IMO resolution**” means Resolution A.667(16) of the International Maritime Organization;

“**length overall**” means, in respect of a vessel, the length of the vessel determined in accordance with the Uniform Shipping Laws Code, as adopted by the Marine and Ports Council of Australia and published in the Commonwealth of Australia *Gazette* on 11 May 1981;

“**Navigation Act**” means the *Navigation Act 1912* of the Commonwealth;

“**pilot**” means a pilot approved by the port authority for the port under section 16 of the Act;

“**pilotage exemption certificate**” means a certificate issued under regulation 14 (1);

“**the harbour master**” means the harbour master for the port;

“**the port**” means the port administered by a port authority referred to in regulation 3;

“**tons**” means gross registered tons;

“**training vessel**” means a vessel that is registered in Australia and used primarily to train persons in marine skills;

“**vessel of war**” means a vessel that is owned or operated by the defence force of Australia.

Application

3. These regulations apply to a port authority that has adopted these regulations under section 36 (5) of the Act.

When pilotage is not compulsory

4. A vessel moving within the port is not required to use the services of a pilot if the vessel —

- (a) is a vessel of war;
- (b) is a commercial fishing vessel, registered in Australia, that does not exceed 35 metres length overall;
- (c) does not exceed 150 tons;
- (d) is a training vessel, registered in Australia; or
- (e) subject to regulation 20 (1), is a vessel —
 - (i) that is under the command of an exempt master;
 - (ii) in respect of which a licence or permit has been granted under Part VI of the Navigation Act or under Division 5 of Part III of the *Transport Co-ordination Act 1966*; and
 - (iii) that has a length or gross registered tonnage that is less than or equal to the maximum length or maximum gross registered tonnage, as the case requires, that is endorsed by the harbour master under regulation 14 (2) on the exempt master's pilotage exemption certificate.

Positioning of vessel when pilot is boarding or leaving vessel

5. The master of a vessel that —

- (a) is going to enter the port using the services of a pilot; or
- (b) has left the port using the services of a pilot,

must position the vessel so as to provide the best possible lee for the pilot when boarding or leaving the vessel.

Provision of ladders, hoists, etc. when pilot is boarding or leaving vessel

6. When a pilot is going to board or leave a vessel, the master of the vessel must ensure that appropriate facilities for boarding or leaving the vessel, as specified in the Annex to the IMO resolution, are provided for the pilot.

Requirements when pilot has boarded vessel

7. (1) When a pilot has boarded a vessel to provide pilotage for the vessel, the master of the vessel must —

- (a) inform the pilot of the vessel's draught, its manoeuvring characteristics and any defects in its equipment that could affect the safe navigation of the vessel; and
- (b) ensure that the International Code Flag "H" is displayed during the hours of daylight so as to be easily discernible.

(2) A person who fails to comply with subregulation (1) (a) or (b) commits an offence.

Penalty: \$1 000.

Pilot not to be detained

8. (1) The master of a vessel that has a pilot on board to provide pilotage for the vessel must take all reasonable steps to ensure that the pilot is not —

- (a) required to be taken into quarantine, whether ashore or afloat; or
- (b) without the pilot's consent, taken to sea or otherwise detained on board the vessel for any time beyond that reasonably necessary to provide pilotage for the vessel.

(2) A master who fails to comply with subregulation (1) commits an offence.

Penalty: \$1 000.

Master of tug to comply with directions of pilot

9. (1) The master of a vessel that is towing, or otherwise assisting the manoeuvring of, a vessel that is under the control of a pilot must comply with any direction given to that master by the pilot.

(2) A master who fails to comply with a direction given to the master under subregulation (1) commits an offence.

Penalty: \$1 000.

Harbour master may require second pilot to be used

10. If the harbour master considers that, because of the structure of a vessel or for any other reason, the vessel might not be safely navigated by one pilot, the harbour master may direct the master of the vessel to use a second pilot to assist in the pilotage of the vessel.

Complaint against pilot

11. (1) The master of a vessel may complain to the port authority about a pilot.

(2) A complaint must be in writing, signed by the master, and must set out the grounds of the complaint.

Eligibility for pilotage exemption certificate

12. A person is eligible to apply to the harbour master for a pilotage exemption certificate if the person is entitled to reside permanently in Australia under an Act of the Commonwealth and the person —

- (a) holds —
 - (i) a Master Class 1 Certificate of Competency issued under the Navigation Act;
 - (ii) a Foreign Going Master's Certificate of Competency issued under the Navigation Act;
 - (iii) a Certificate of Service as Master issued under the Navigation Act; or
 - (iv) a certificate issued outside Australia that is recognized by the Australian Maritime Safety Authority or by the Department of Transport of the State as equivalent to one of those certificates;
- (b) within the 12 months preceding the date of the application —
 - (i) has been the master of a vessel, under the control of a pilot, on at least 3 occasions when the vessel was navigated into, and on at least 3 occasions when the vessel was navigated out of, the port; or

(ii) has been the first mate of a vessel, under the control of a pilot or under the command of an exempt master, on at least 3 occasions when the vessel was navigated into, and on at least 3 occasions when the vessel was navigated out of, the port, on each occasion remaining on duty on the bridge of the vessel during the period it was so navigated;

and

(c) has a written record, verified by the signature of the harbour master, for each occasion referred to in paragraph (b) (i) or (ii), as the case requires, of —

- (i) the name of the vessel;
- (ii) the length and gross registered tonnage of the vessel; and
- (iii) the time and date when the vessel was navigated.

Application for pilotage exemption certificate

13. An application for a pilotage exemption certificate must be in the form approved by the harbour master and must be accompanied by —

- (a) the fee prescribed under the port authority Act;
 - (b) evidence, satisfactory to the harbour master that the applicant satisfies —
 - (i) the eligibility requirements in regulation 12; and
 - (ii) the medical and eyesight requirements in Part 9 of the Marine Orders made under section 425 (1AA) of the Navigation Act;
- and
- (c) the written record referred to in regulation 12 (c).

Issue of pilotage exemption certificate

14. (1) If the applicant makes an application in accordance with regulation 13 and satisfies the harbour master, in an examination approved by the port authority, that the applicant's knowledge and ability in respect of all matters relevant to the safe navigation of a vessel within the port are adequate, the harbour master must issue a pilotage exemption certificate to the applicant.

(2) The harbour master must, having regard to the vessels in the written record referred to in regulation 12 (c), endorse a pilotage exemption certificate to specify the maximum length or maximum gross registered tonnage, as the harbour master considers appropriate, of a vessel that the exempt master may navigate under the authority of the certificate.

(3) If, in an application under regulation 13 —

- (a) at least one of the occasions referred to in regulation 12 (b) (i) or (ii), as the case requires, does not take place during the hours of darkness; or
- (b) for any other reason associated with the application the harbour master considers it appropriate to do so,

the harbour master may issue a pilotage exemption certificate —

- (aa) in a case to which paragraph (a) applies, endorsed with the condition that the certificate is not valid during the hours of darkness; or

(bb) in a case to which paragraph (b) applies, endorsed with any other condition or conditions.

(4) An exempt master who fails to comply with any condition endorsed on the master's pilotage exemption certificate commits an offence.

Penalty: \$1 000.

Application for endorsement of pilotage exemption certificate

15. (1) An exempt master may apply to the harbour master to have the exempt master's pilotage exemption certificate endorsed to be valid —

- (a) during the hours of darkness; or
- (b) for vessels having a maximum length or maximum gross registered tonnage, as the case requires, greater than the maximum length or maximum gross registered tonnage endorsed on the master's certificate.

(2) An application under subregulation (1) must be in the form approved by the harbour master and must be accompanied by —

- (a) the fee prescribed under the port authority Act; and
- (b) a written record, verified by the signature of the harbour master, containing the information referred to in regulation 12 (c) for each occasion within the 12 months preceding the date of the application when the applicant has been —
 - (i) the master of a vessel, under the control of a pilot; or
 - (ii) the first mate of a vessel, under the control of a pilot or the command of an exempt master,

when the vessel was navigated into or out of the port.

(3) The harbour master may, having regard to the written record referred to in subregulation (2) (b), endorse the applicant's pilotage exemption certificate in accordance with the application or otherwise as the harbour master considers appropriate, or the harbour master may refuse to endorse it.

Validity and lapse of pilotage exemption certificate

16. (1) A pilotage exemption certificate, including a pilotage exemption certificate revalidated under regulation 17 (3), is valid unless it lapses under subregulation (2) or it is cancelled under regulation 18.

(2) A pilotage exemption certificate lapses if the person who holds the certificate does not navigate a vessel, under the authority of the certificate, for a period of 12 months.

Revalidation of pilotage exemption certificate

17. (1) If a pilotage exemption certificate lapses under regulation 16 (2), the person who held the certificate may apply to the harbour master, within 12 months after the date the certificate lapsed, to have the certificate revalidated, if the applicant has been within that 12 months —

- (a) the master of a vessel, under the control of a pilot; or
- (b) the first mate of a vessel, under the control of a pilot or under the command of an exempt master,

on at least one occasion when the vessel was navigated into and at least one occasion when the vessel was navigated out of the port.

(2) An application under subregulation (1) must be in the form approved by the harbour master and must be accompanied by —

- (a) the fee prescribed under the port authority Act; and
- (b) a written record, verified by the signature of the harbour master, containing the information referred to in regulation 12 (c) for each occasion referred to in subregulation (1).

(3) If the applicant makes an application in accordance with this regulation and satisfies the harbour master, in an examination approved by the port authority and in respect of the matters referred to in regulation 14 (1), the harbour master must revalidate the pilotage exemption certificate.

(4) A person who held a pilotage exemption certificate that has lapsed under regulation 16 (2), and not been revalidated under subregulation (3), may apply for a new certificate under regulation 13 if the person is eligible under regulation 12.

Cancellation of pilotage exemption certificate

18. (1) If, in the opinion of the harbour master, a person who holds a pilotage exemption certificate —

- (a) is unable to navigate a vessel safely in the port; or
- (b) has contravened the Act or these regulations,

the harbour master —

- (aa) must, in a case to which paragraph (a) applies; or
- (bb) may, in a case to which paragraph (b) applies,

by notice in writing, cancel the person's pilotage exemption certificate.

(2) A person whose pilotage exemption certificate is cancelled under subregulation (1) must return the certificate to the harbour master.

(3) A person who fails to comply with subregulation (2) commits an offence.

Penalty: \$1 000.

Appeal

19. (1) A person whose pilotage exemption certificate is cancelled under regulation 18 may appeal to the port authority against the decision of the harbour master to cancel the certificate.

(2) An appeal under subregulation (1) —

- (a) must be in writing, signed by the appellant;
- (b) must set out the grounds of the appeal; and
- (c) must be made within 30 days after the day the appellant receives notice of the cancellation.

(3) The port authority must, within 21 days after the day the port authority receives notice of the appeal, and after having considered the grounds of the appeal and any other material, if any, that the port authority considers appropriate to consider —

- (a) confirm the decision of the harbour master; or
- (b) set aside the decision of the harbour master.

(4) The port authority must inform the appellant and the harbour master of the port authority's decision under subregulation (3).

(5) If the port authority's decision is to set aside the cancellation of the appellant's pilotage exemption certificate, the harbour master must return the certificate to the appellant.

Harbour master may direct exempt master to use pilot

20. (1) If the harbour master considers that a vessel that is going to enter, leave or move within the port under the command of an exempt master may require a pilot —

- (a) because of local tidal or local current conditions;
- (b) because of major works being carried out in the port;
- (c) because the vessel, or another vessel in the port, is carrying a noxious or otherwise hazardous cargo; or
- (d) because of any other circumstances that the harbour master considers may endanger the safety of the vessel, any other vessel, any other property or any person in the port,

the harbour master may direct the exempt master to use the services of a pilot when the vessel enters, leaves or moves within the port.

(2) An exempt master who fails to comply with a direction given to the exempt master under subregulation (1) commits an offence.

Penalty: \$1 000.

Use of pilotage exemption certificate to be recorded

21. An exempt master must maintain a written record, verified by the signature of the harbour master, of —

- (a) the name of the vessel;
- (b) the length and gross registered tonnage of the vessel; and
- (c) the time and date when the vessel was navigated,

for each occasion when the exempt master navigates a vessel under the authority of a pilotage exemption certificate.

By the command of the Lieutenant-Governor and deputy of the Governor,

D. G. BLIGHT, Clerk of the Council.



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