

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 October, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to make provision for the pilotage of ships and to empower the Maritime Services Board to license pilots and grant pilotage exemption certificates and certificates of local knowledge; to provide for the payment of pilotage and harbour and light charges; to enable the Board to investigate any default on the part of pilots and the holders of any such certificates; to amend the Navigation Act, 1901, and the Maritime Services Act, 1935; and for purposes connected therewith.

BE

Pilotage.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Pilotage Act, 1971". Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division of Act.

PART I.—PRELIMINARY—ss. 1–6.

15 PART II.—LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE—ss. 7–14.

PART III.—PILOTAGE—ss. 15–29.

PART IV.—PILOTAGE AND OTHER RATES—ss. 30–34.

20 PART V.—INVESTIGATIONS AND APPEALS—ss. 35–47.

PART VI.—MISCELLANEOUS—ss. 48–53.

3. (1) The Navigation Act, 1901, is amended to the extent and in the manner specified in the Schedule to this Act. Repeal, savings and amendment.

25 (2) A pilot's licence or a pilotage certificate granted under the Navigation Act, 1901, which is—

(a) in force; or

(b)

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(b) subject to a suspension or revocation imposed for a period under section seventy-two of that Act,

at the commencement of this Act, shall be deemed to be respectively a licence or a pilotage exemption certificate granted under this Act and shall continue in force in accordance with its terms, subject to the provisions of this Act and to the continuation, unless removed under this Act, of any suspension or revocation for the period for which it was imposed.

10 (3) Any declaration by the Governor under section one hundred and seventy-three of the Navigation Act, 1901, that all or any of the provisions of Part V of that Act shall not apply to a vessel or to a vessel of a class, shall be deemed to be a declaration under paragraph (e) of subsection one
15 of section five of this Act that the vessel or any vessel of that class is an exempt ship, upon and subject to any condition, limitation or restriction expressed in the declaration by the Governor.

(4) The Maritime Services Act, 1935, is amended
20 by inserting in subsection one of section fifteen after the word "Act" where firstly occurring the words "and the Pilotage Act, 1971".

4. (1) In this Act, except in so far as the context or Interpretation. subject-matter otherwise indicates or requires—

25 "Board" means the Maritime Services Board of New South Wales;

"certificate" means a pilotage exemption certificate or a certificate of local knowledge, granted under section seven of this Act;

30 "certificate holder" means the holder of a certificate of local knowledge granted under section seven of this Act;

"exempt

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“exempt master” means the holder of a pilotage exemption certificate granted under section seven of this Act;

5 “harbour-master” means any duly appointed harbour-master or assistant harbour-master, and includes any person appointed under section 36A of the Maritime Services Act, 1935, to exercise or perform any of the powers, authorities, duties or functions of a harbour-master;

10 “length” means length overall;

“licence” means a licence granted under section seven of this Act;

15 “master” includes every person having lawfully, or de facto, the command, charge, or management of a vessel for the time being;

20 “owner” includes any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of the owner of a ship, whether on his own behalf or on behalf of another;

“pilot” means a person licensed under section seven of this Act to conduct ships to which he does not belong;

25 “pilotage port” means a port within the jurisdiction declared by the Board by order published in the Gazette to be a pilotage port;

“regulations” means regulations made under this Act;

30 “secretary” means the secretary of the Board and includes any person for the time being acting as such;

“ship”

Pilotage.

"ship" means a vessel not ordinarily propelled by oars only;

5 "the jurisdiction" means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

10 "vessel" includes any lighter, barge, boat, raft, craft and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatsoever description and howsoever navigated, and includes amphibious vehicles, hydroplanes, hydrofoils and hovercraft.

(2) Where under this Act the Board is required to give written notice to any person the notice may be given either by—

15 (a) leaving the notice with the person or, if he does not accept the notice, by putting the notice down in his presence and telling him the nature of the notice;

20 (b) leaving the notice at the proper address of the person; or

(c) sending the notice by pre-paid post addressed to the proper address of the person.

(3) For the purposes of paragraphs (b) and (c) of subsection two of this section the proper address of a person 25 shall be his usual or last known place of business or of abode.

(4) A certificate purporting to be under the hand of the secretary stating that written notice was given to any person on a date specified in the certificate shall be received in any proceedings as prima facie evidence that written notice 30 was given to that person on that date.

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5. (1) For the purposes of this Act, each of the following ships is an exempt ship—

Meaning
of
"exempt
ship".

- (a) a harbour and river ship the master of which is a certificate holder;
- 5 (b) a pleasure vessel;
- (c) a ship of less than one hundred feet in length engaged in fishing or whaling for the purpose of trade in Australia or New Zealand;
- (d) a ship of less than fifty feet in length; and
- 10 (e) any ship, or ship of any class, declared by the Board by order published in the Gazette to be an exempt ship.

(2) The Board may attach conditions to any exemption declared under paragraph (e) of subsection one of this section, and if it does so the exemption shall have effect only when the conditions are complied with.

(3) In this section—

20 "harbour and river ship" means a ship which may not lawfully be used for profit or reward on any voyage or excursion to sea;

"pleasure vessel" means a ship used solely for pleasure and which is not used or allowed or authorised to be used in the course of any business or in connection with any commercial transaction.

25 6. (1) A person shall be deemed not to be a pilot, an exempt master or a certificate holder—

Person
not to be
deemed a
pilot, etc.,
in certain
instances.

(a) when acting—

- (i) in any port, or portion thereof, to which his licence or certificate does not apply;

(ii)

Pilotage.

5 (ii) otherwise than in accordance with any other restriction on the application of his licence or certificate imposed by the Board under section eight of this Act or by a Board of Review under section forty-six of this Act; or

10 (b) subject to the provisions of subsection two of this section, during any period when his licence or certificate is suspended, or is deemed to have been suspended as provided in subsection two of section forty-one of this Act.

(2) Any reference in Part V of this Act to a pilot, an exempt master or a certificate holder includes a reference to a pilot, an exempt master or a certificate holder whose
15 licence or certificate has been suspended.

PART II.

**LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND
CERTIFICATES OF LOCAL KNOWLEDGE.**

7. (1) The Board may, subject to such limitations and
20 restrictions as may be prescribed, grant—

(a) a licence to any person to conduct ships to which
he does not belong; and

(b) a pilotage exemption certificate or a certificate of
local knowledge to any person.

25 (2) A licence or a certificate shall—

(a) be in such form as the Board may determine and
be signed by the secretary;

(b)

Granting
of
licences
and
certificates.

Pilotage.

(b) state the port or ports, or portions thereof, to which it applies; and

(c) state or have endorsed thereon any other restriction on its application imposed by the Board under section eight of this Act.

8. (1) When granting a licence or certificate the Board may impose restrictions on its application.

(2) If, subsequent to the granting of a licence or certificate, the Board decides that it is necessary to do so, it may impose restrictions on its application.

(3) The power of the Board under subsection two of this section to impose restrictions shall be deemed to include a power to vary restrictions imposed.

(4) The Board may revoke restrictions imposed by it.

(5) The Board shall—

(a) exercise its power under subsection two of this section subject to such limitations and restrictions as may be prescribed; and

(b) give written notice to the pilot, exempt master or certificate holder when it imposes or revokes any restriction under subsection two or four of this section.

9. Subject to the provisions of section six of this Act, a licence or certificate shall be in force until withdrawn.

10. (1) The Board may suspend or withdraw a licence or certificate if it decides that a pilot, exempt master or certificate holder has failed to take or satisfy such tests or examinations, or to meet such requirements, as may be prescribed.

(2)

Pilotage.

(2) The Board may withdraw the licence or certificate of a pilot, exempt master or certificate holder if he has held a licence or certificate, as the case may be, for under one year.

5 (3) In determining the period for which a pilot has held a licence or an exempt master or certificate holder has held a certificate there shall be—

(a) included any period during which—

(i) the pilot held a licence as a pilot;

10 (ii) the exempt master held a pilotage certificate,

under the Navigation Act, 1901; and

15 (b) excluded any period during which the licence or certificate was suspended, or a licence or pilotage certificate granted under the Navigation Act, 1901, was suspended or revoked under that Act or suspended under this Act.

(4) The Board shall give written notice to the person concerned of any suspension or withdrawal of his licence or
20 certificate under this section.

11. The Board may at any time remove the suspension of
a licence or certificate. Removal
of
suspension.

12. (1) A person undertaking or proposing to undertake
the conduct of a ship to which he does not belong shall produce
25 his licence to the master of the ship if required by the master
to do so. Production
and
delivery
of licences
and
certificates.

Penalty : Two hundred dollars.

(2) An exempt master or a certificate holder shall
produce his certificate on such occasions and to such persons
30 as may be prescribed.

Penalty : Two hundred dollars.

(3)

Pilotage.

(3) A person whose licence or certificate is suspended or withdrawn under section ten, thirty-six, or forty, of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the suspension or withdrawal.

Penalty : Two hundred dollars.

(4) A pilot, exempt master or certificate holder whose licence or certificate has been restricted in its application by the Board under subsection two of section eight of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the imposition of the restriction.

Penalty : Two hundred dollars.

(5) The person into whose hands a licence or certificate comes after the death of a pilot, exempt master or certificate holder shall, on demand by the Board, deliver it to an officer of the Board.

Penalty : Two hundred dollars.

13. No person shall—

(a) alter, add to, endorse or mark in any way a licence or certificate, except by direction of the Board ; or

Offence
to alter,
etc.,
licence or
certificate.

(b) damage, deface or destroy a licence or certificate.

Penalty : Four hundred dollars.

(1) No person, other than a pilot, shall undertake the conduct of a ship to which he does not belong in any port within the jurisdiction.

Prohibition
against
acting as
pilot.

Penalty : Four hundred dollars.

(2)

Pilotage.

(2) No person shall act as pilot for a ship entering into, departing from, or moving within, a pilotage port unless he—

(a) is in the employ of the Board; and

5 (b) has been assigned by the Board to act as a pilot in that pilotage port.

Penalty : Four hundred dollars.

PART III.

PILOTAGE.

10 15. (1) In every pilotage port pilotage shall be Compulsory
compulsory as provided in this section. pilotage.

(2) The master of a ship entering into a pilotage port shall take on board the pilot presenting himself to conduct the ship on its movement into the pilotage port.

15 Penalty : Four hundred dollars.

(3) The master of a ship shall not depart from, or move within, a pilotage port before taking on board the pilot made available by the Board to conduct the ship on its movement to sea or within the pilotage port.

20 Penalty : Four hundred dollars.

(4) If a pilot defers pilotage under section twenty-five or twenty-six of this Act the master of the ship concerned shall not depart from, or move within, the pilotage port before taking on board the pilot made available by the Board,
25 subsequent to the deferment, to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

Pilotage.

(5) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of this section shall not apply to an exempt ship or a ship in charge of an exempt master.

5 **16.** (1) The harbour-master of a pilotage port may, as a condition of allowing a ship to be secured to or remain at a berth or place of anchorage, require that a pilot remain on board the ship while so berthed or anchored. Require-
ment of
harbour-
master.

10 (2) If the master of a ship refuses or neglects or is unable, to comply with the requirement of a harbour-master under subsection one of this section the harbour-master may exercise all or any of the powers conferred by section 13w of the Maritime Services Act, 1935, on the harbour-master of a port mentioned in subsection one of that section.

15 (3) The master of a ship shall comply with any direction given by a harbour-master in pursuance of the provisions of subsection two of this section.

Penalty : Four hundred dollars.

20 (4) The provisions of this section apply to a ship whether or not it is a ship required by section fifteen of this Act to be under pilotage.

25 **17.** (1) The pilotage of a ship entering into a pilotage port (hereinafter in this Act referred to as "inward pilotage") shall commence when a pilot first gives assistance to the ship when it is entering into the pilotage port. Inward
pilotage.

(2) Inward pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored;
or

(b)

Pilotage.

- 5 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

18. When inward pilotage has ended the master shall— Duties of master when inward pilotage ends.
 (a) on a form provided by the Board for the purpose—
 (i) certify that the inward pilotage has ended;
 (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and
 (b) give the completed form to the pilot.

Penalty : Two hundred dollars.

- 15 19. (1) The pilotage of a ship departing from a pilotage port (hereinafter in this Act referred to as "outward pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage. Outward pilotage.

- 20 (2) Outward pilotage shall end when the master informs the pilot that he is satisfied that the ship has been placed in a safe position to proceed on its voyage.

- (3) If a pilot is of opinion that a master is in error in being satisfied that a ship has been placed in a safe position to proceed on its voyage he may so inform the master.

- 25 20. When outward pilotage has ended the master shall— Duties of master when outward pilotage ends.
 (a) on a form provided by the Board for the purpose—
 (i) certify that the outward pilotage has ended;

(ii)

Pilotage.

- 5 (ii) if the pilot stated his opinion, as provided in subsection three of section nineteen of this Act, that the ship was not in a safe position to proceed on its voyage, record such opinion;
- (iii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

10 Penalty : Two hundred dollars.

21. (1) The pilotage of a ship being moved within a Harbour pilotage port (hereinafter in this Act referred to as "harbour pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

(2) Harbour pilotage shall end—

- (a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored; or
- 20 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

25 (3) A pilot shall not commence harbour pilotage until the name and signature of the master of the ship concerned have been endorsed on the form referred to in section twenty-two of this Act.

22. When harbour pilotage has ended the master shall—

- 30 (a) on a form provided by the Board for the purpose—
- (i) certify that the harbour pilotage has ended;
- (ii)

Duties of master when harbour pilotage ends.

Pilotage.

(ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

5 Penalty : Two hundred dollars.

23. A master who indicates that he is not satisfied with the performance by a pilot of his duties on any inward pilotage, outward pilotage or harbour pilotage may furnish the Board, in such manner as is prescribed, with his reasons for not being satisfied, and in the event that he fails to do so the Board shall treat the pilotage concerned as having been satisfactory.

24. (1) A master of a ship under inward pilotage, outward pilotage or harbour pilotage, who causes his ship to be navigated in any way which is contrary to the directions of the pilot shall forthwith—

(a) by the most rapid means of communication available to him, inform the Board that he has done so; and

20 (b) furnish the pilot with written confirmation that he has so informed the Board.

Penalty : Four hundred dollars.

(2) When a pilot is on board a ship in pursuance of the provisions of section sixteen of this Act, the ship shall, whether or not it is required by section fifteen of this Act to be under the pilotage of a pilot, for the purposes of subsection one of this section, be deemed to be under harbour pilotage, and if the master does not comply with a direction of the pilot concerning or relating to the safety of the ship he shall be deemed to have navigated the ship in a way contrary to the direction of the pilot.

Pilotage.

25. When a ship is unable, or will in the opinion of the master of the ship be unable, to leave its berth or place of anchorage in a pilotage port within one hour of the time stated for so leaving in the application by the owner or master for a pilot, the pilot attending may defer pilotage and cease attendance.

26. (1) If, having been advised by the pilot made available for outward pilotage or harbour pilotage that a ship cannot leave its berth or place of anchorage in a pilotage port without undue risk, the master decides that the ship should so leave, he shall forthwith give written confirmation to the pilot that he has been so advised.

(2) If a master fails to give written confirmation as required by subsection one of this section the pilot may defer pilotage and cease attendance.

27. (1) If a pilot made available for outward pilotage or harbour pilotage considers that a ship should not leave its berth or place of anchorage because of the danger which would be involved, he shall—

- 20 (a) if he is not the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be, pending the decision of the harbour-master; or
- 25 (b) if he is the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be.

(2) The master of a ship shall comply with any direction given under subsection one of this section.

Penalty : Four hundred dollars.

30 (3) If a pilot gives the direction referred to in paragraph (a) or (b) of subsection one of this section he may defer the pilotage and cease attendance.

Pilotage.

28. (1) The owner of a ship shall, on such occasions and at such times, as may be prescribed, give to the Board such particulars of any certificate held by the master of the ship as may be prescribed.

Duties of owner and master in connection with pilotage.

5 Penalty : Three hundred dollars.

(2) The master of a ship required to be under pilotage shall, before the commencement of the pilotage, check the efficiency and accuracy of the steering and propulsive machinery, and the instruments and means of communication, used in the navigation of the ship.

Penalty : Three hundred dollars.

(3) The master of a ship under pilotage shall—

(a) give the pilot such particulars concerning the ship as may be prescribed;

15 (b) ensure that any order given with his authority by the pilot is carried out; and

(c) give the pilot such information as he may require for the navigation of the ship.

Penalty : Three hundred dollars.

20 (4) If the master of a ship gives false or misleading information to a pilot requiring information for the navigation of the ship he shall be deemed not to have complied with the provisions of paragraph (c) of subsection three of this section.

25 **29.** If a ship, not required to be under pilotage by section fifteen of this Act, is at the request of its owner, under pilotage, the provisions of sections seventeen to twenty-eight of this Act, both inclusive, shall apply mutatis mutandis to that ship and its master and owner for the purposes of such pilotage.

Provisions to apply when ship under pilotage at request of owner.

Pilotage.

PART IV.

PILOTAGE AND OTHER RATES.

30. (1) Subject to the provisions of this section, there shall be payable to the Board in respect of a ship on each occasion that it enters into, departs from, or moves within, a pilotage port such pilotage rates as may be prescribed.

Pilotage rates.

(2) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of subsection one of this section shall not apply to—

(a) an exempt ship; or

(b) a ship—

(i) which is registered at a port in or subject to the Commonwealth or in New Zealand;

(ii) which is moving within a port only, or which is employed in trading or going between a port in the jurisdiction and a port in or subject to the Commonwealth or in New Zealand; and

(iii) the master of which is an exempt master,

except on any occasion when the exempt ship or ship enters into, departs from, or moves within, a pilotage port under the pilotage of a pilot at the request of the owner of the ship.

31. There shall be payable to the Board harbour and light rates of a prescribed amount in the circumstances and at the times prescribed.

Harbour and light rates.

32. If pilotage rates or harbour and light rates are payable in respect of a ship the owner of the ship shall—

Duties of owner in respect of pilotage rates, etc.

(a) so inform the Board; and

(b)

Pilotage.

(b) furnish the Board with such particulars relating to the ship as may be prescribed,

within one month of the date when the rates became payable.

Penalty : Two hundred dollars.

5 **33.** (1) Whenever a pilot, who has attended a ship at the time stated by the owner or master in his application for a pilot— Charges,
etc., payable
in certain
cases.

10 (a) is unable thereupon to conduct the ship to sea or to another place within the port by reason of the ship's unreadiness for departure or for other cause not occasioned by any act or omission of the pilot, there shall be payable to the Board in respect of the period of delay a charge calculated in such manner as may be prescribed; or

15 (b) defers the pilotage of the ship at the request of the owner or master or in pursuance of the provisions of section twenty-five, twenty-six or twenty-seven of this Act, there shall be payable to the Board such portion of the pilotage rates prescribed for the
20 pilotage of the ship as may be prescribed.

(2) Whenever the master of a ship lying at a berth or anchorage in a pilotage port has requested, whether or not as the result of a requirement by a harbour-master, that a pilot remain on board such ship there shall be payable to
25 the Board a charge, calculated in such manner as may be prescribed, for the period during which the pilot remains on board the ship.

(3) Whenever at the end of an outward pilotage a pilot is unable to leave the ship by reason of adverse conditions there shall be payable to the Board for the period
30 elapsing between the end of the outward pilotage and the pilot's return to his pilot station such charge as may be prescribed, together with all travelling expenses reasonably incurred by the Board in respect of his return.

Pilotage.

34. (1) Any pilotage rates, harbour and light rates or charge or travelling expenses payable under section thirty-three of this Act may be demanded and recovered by the Board as a debt in any court of competent jurisdiction from the owner of the ship concerned.

Recovery of rates and charges.

(2) A certificate purporting to be under the hand of the secretary stating that a specified amount is the amount—

- (a) of any pilotage rates or harbour and light rates payable;
- (b) of any charge payable under section thirty-three of this Act; or
- (c) payable in respect of any travelling expenses incurred,

shall be received in any proceedings as prima facie evidence that the specified amount is payable.

PART V.**INVESTIGATIONS AND APPEALS.**

35. In this Part of this Act—

“certificated person” means an exempt master or a certificate holder;

Meaning of “certificated person” and “default”.

“default” means incompetence, misconduct or negligence in or in relation to the navigation of a ship.

36. (1) If it comes to the knowledge of the Board that a pilot or a certificated person, when acting as a pilot or a master, may have been guilty of any default, the Board may investigate the matter.

Investigation by the Board of default.

(2)

Pilotage.

- (2) If the Board begins an investigation it—
- (a) may suspend the pilot's licence or the certificated person's certificate; and
 - (b) shall give written notice to the pilot or certificated person concerning the investigation and any suspension of his licence or certificate.
- 5
37. (1) In making an investigation the Board—
- (a) shall not be bound by the rules of evidence;
 - (b) may conduct the investigation without regard to legal forms; and
 - (c) shall not, except as provided in section forty of this Act, be obliged to hear the pilot or certificated person concerned.
- 10
- (2) The evidence to be required in connection with the determination of any matter under investigation shall be such as the Board may determine.
- 15
38. If, in pursuance of the provisions of an Act or of an Act of the Commonwealth, a competent authority convenes a Court of Marine Inquiry to inquire into any matter relevant to an investigation being made by the Board, the Board shall not, after the convening of such Court, make a finding under section thirty-nine or forty of this Act without first having regard to the findings of that Court.
- 20
39. The Board may, at any stage in an investigation, if in its opinion the facts so warrant, find a pilot or a certificated person not guilty of any default, in which event it shall inform the pilot or certificated person of its finding and remove any suspension of his licence or certificate imposed under section thirty-six of this Act.
- 25

Provisions relating to investigation of default.

Board to have regard to findings of Court of Marine Inquiry.

Procedure if Board finds pilot, etc., not guilty of a default.

Pilotage.

40. (1) The Board shall not find a pilot or a certificated person guilty of any default unless it has—

Procedure if Board finds pilot, etc., guilty of a default.

5 (a) provided him with a statement of the evidence considered by the Board in the course of the investigation; and

(b) afforded him an opportunity, within such reasonable time as it shall specify in a written notice given to him, to make written submissions to the Board.

10 (2) The Board may make any further investigation it deems necessary as a result of written submissions made by a pilot or a certificated person, but shall not be required to provide the pilot or certificated person with a statement of any evidence obtained in the course of the further investigation.

15 (3) If, after it has considered the written submissions, if any, made by a pilot or a certificated person, the Board decides that the pilot or certificated person has been guilty of any default, it shall so find and—

(a) may take no action against the pilot or certificated person; or

20 (b) may—

(i) withdraw the pilot's licence or the certificated person's certificate;

25 (ii) suspend, or continue the suspension of, the pilot's licence or the certificated person's certificate; or

(iii) reprimand the pilot or certificated person,

and

Pilotage.

and shall—

- (c) give written notice to the pilot or certificated person of its finding and of any action taken under paragraph (b) of this subsection; and
- 5 (d) remove any suspension of the pilot's licence or the certificated person's certificate if it acts as provided in paragraph (a) or subparagraph (iii) of paragraph (b), of this subsection.

10 (4) The Board may provide a pilot or a certificated person with a statement of evidence in any way in which it may give written notice under subsection two of section four of this Act, and the provisions of subsection four of that section shall apply where a statement of evidence is provided as they apply where written notice is given.

15 **41. (1) The withdrawal of—**

- (a) a certificated person's certificate under subsection one of section ten of this Act; or
- (b) a pilot's licence or a certificated person's certificate under paragraph (b) of subsection three of section 20 forty of this Act,

Withdrawal
of licence
or certificate
deemed
to be
suspension.

shall not take effect—

- (c) until one month after the pilot or authorised person is given written notice of the withdrawal; and
- 25 (d) if the pilot or authorised person appeals to a Board of Review under section forty-two of this Act, unless the Board of Review confirms the action taken by the Board.

(2)

Pilotage.

- (2) During the period of one month referred to in paragraph (c) of subsection one of this section and, if the pilot or certificated person appeals to a Board of Review, pending the decision of that Board, a licence or certificate
5 which has been withdrawn shall be deemed to have been suspended.

42. (1) Subject to the provisions of subsection four of this section, a pilot whose licence has been restricted in its application by the Board, under subsection two of section eight of this Act, may appeal to a Board of Review against—
Right of appeal to Board of Review.

- (a) the decision to impose the restriction; or
- (b) the nature and extent of the restriction imposed.

or against both those matters.

- (2) A certificated person whose certificate—

- 15 (a) has been restricted in its application by the Board under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (i) the decision to impose the restriction; or
- (ii) the nature and extent of the restriction imposed,

20

or against both those matters; or

- (b) has been suspended or withdrawn under subsection one of section ten of this Act may appeal to a Board of Review against the decision to suspend or
25 withdraw the certificate.

- (3) A pilot or a certificated person found guilty of any default under section forty of this Act may appeal to a Board of Review against—

- (a) the finding of the Board; or

(b)

Pilotage.

- (b) the action taken by the Board under paragraph (b) of subsection three of that section,

or against both these matters.

- 5 (4) No appeal shall lie under subsection one of this section where the decision or restriction concerned relates to the port or ports, or portions thereof, to which a licence is to apply.

- 10 **43.** (1) A pilot or a certificated person having a right of appeal and wishing to appeal shall notify the Board in writing, ^{Procedure for making appeal.} stating in the notification the nature of his appeal and setting out such further particulars as may be prescribed.

- (2) A notification under subsection one of this section shall be given within one month, or within such extended period as the Board may allow, of the date on which
15 written notice is given by the Board to the pilot or certificated person of the matter against which he wishes to appeal.

- (3) On receipt of a notification—

- (a) the Board shall take steps to cause a Board of Review to be appointed;

- 20 (b) the secretary shall—

- 25 (i) in the case of an appeal under subsection one or subsection two of section forty-two of this Act, prepare a statement containing the Board's decision, the reasons therefor, and, except in the case of an appeal under paragraph (b) of subsection three of that section, particulars of the restriction imposed; and

(ii)

Pilotage.

(ii) in the case of an appeal under subsection three of section forty-two of this Act, prepare a record of evidence containing the evidence which was before the Board as a result of the investigation, any written submission made by the pilot or certificated person, the Board's finding and particulars of the action taken.

(4) The secretary shall make available to the pilot or certificated person concerned a copy of the statement or record of evidence referred to in subsection three of this section.

44. (1) A Board of Review shall, when required, be appointed by the Governor and shall consist of—

Appoint-
ment of
Board of
Review.

(a) a District Court Judge (hereinafter in this Act referred to as "the Chairman");

(b) a member nominated by the Board; and

(c) a member nominated by an organisation entitled to represent the pilot or certificated person concerned in industrial proceedings, or, if there is more than one such organisation, the organisation so entitled which is selected by the pilot or certificated person.

(2) No person shall be appointed in pursuance of a nomination under paragraph (b) or (c) of subsection one of this section unless the Governor is satisfied that the person nominated is sufficiently experienced in the navigation of ports in the jurisdiction to warrant his being appointed.

45. (1) The Chairman shall fix a date and place for the hearing of an appeal and shall give seven days' notice thereof to the pilot or certificated person concerned.

Procedure
before and
powers of
Board of
Review.

(2) A Board of Review shall receive and admit on production the statement or the record of evidence referred to in subsection three of section forty-three of this Act if it is duly certified by the secretary as correct.

(3)

Pilotage.

(3) The pilot or certificated person either in person or by his solicitor or counsel shall be afforded an opportunity of showing cause why any decision or finding of the Board, or any restriction imposed or action taken by the Board, which
5 is the subject of appeal, should not be upheld or confirmed by a Board of Review.

(4) The decision of the Chairman upon any question of law or procedure which may arise before a Board of Review shall be the decision of the Board of Review.

10 (5) A Board of Review in dealing with any appeal—

(a) shall consider any statement or record of evidence received and admitted by it under subsection two of this section and such other evidence and submissions as may be given before or made to it; and

15 (b) may require that further or better evidence, and in particular oral evidence where a witness able to give such evidence can in its opinion reasonably be made available, be tendered in respect of any matter which is bona fide disputed by the pilot or certificated person, or, in the case of evidence submitted
20 by the pilot or certificated person, bona fide disputed by the Board.

(6) For the purpose of any appeal a Board of Review shall have the powers, authorities, protections and
25 immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing
30 before a Board of Review.

(7) A Board of Review may make such order as it thinks fit respecting the costs of any appeal, and the costs awarded against any party to the proceedings may be recovered by the party in whose favour the order is made, in
35 any court of competent jurisdiction.

Pilotage.

46. (1) A Board of Review may by order—
- (a) uphold or quash a decision or finding of the Board; and
- (b) confirm, vary or quash any restriction imposed or action taken by the Board,
- which is the subject of appeal.
- (2) For the purpose of varying any restriction imposed or action taken by the Board, a Board of Review shall have the powers of the Board under this Act.
- (3) If a Board of Review quashes a decision or finding of the Board it shall, by order, quash any restriction imposed or action taken by the Board consequent on such decision or finding, whether or not the restriction or action is the subject of appeal.
47. (1) An order of a Board of Review under section forty-six of this Act shall have effect from the date thereof.
- (2) The Board shall take all such steps as may be necessary to implement an order of a Board of Review.
- (3) A pilot or a certificated person shall deliver his licence or certificate on demand made by the Board for the purpose of implementing an order of a Board of Review.
- Penalty : Two hundred dollars.

PART VI.

MISCELLANEOUS.

48. The Board may, but shall not be required to, hear the pilot, exempt master or certificate holder concerned before making a decision under subsection two of section eight or subsection one of section ten, of this Act, and such a decision of the Board shall not be challenged in any proceedings by reason only of the Board's failure to hear the pilot, exempt master or certificate holder.

Pilotage.

49. No proceedings, civil or criminal, shall be brought against the Board or any person who has given or supplied any evidence or information to the Board in connection with an investigation under section thirty-six of this Act, in respect of any matter contained in that evidence or information which is or is alleged to be defamatory.

No proceedings against Board, etc., in connection with an investigation.

50. (1) No person shall give any confidential report or disclose any information contained therein to any person other than a prescribed person.

Disclosure of confidential information.

10 Penalty : Four hundred dollars.

(2) In this section—

15 “confidential report” means any report made by a pilot to the Board relating to or in connection with the navigation, management or condition of a ship when he was pilot of that ship ;

“prescribed person” means—

- (a) a commissioner or an officer of the Board ;
- (b) a chairman or member of a Board of Review ;
- 20 (c) a court ;
- (d) a person acting in a professional capacity or expert capacity before a Board of Review or a court, when the confidential report or any of the contents thereof are relevant to the proceedings before the Board of Review or court ;
- 25 (e) the owner of the ship concerned or a person designated by him in writing ; or
- (f) any person designated by the Board in writing.
- 30

51. (1) All penalties recovered for offences against this Act or the regulations shall be paid to the Board.

Recovery of penalties.

(2)

Pilotage.

(2) All proceedings in respect of offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

5 **52.** (1) The Board, with the approval of the Governor, Regulations, may make regulations for or with respect to—

- 10 (a) any matter which is required or permitted to be prescribed under this Act, or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 15 (b) the application, in relation to any ship of a specified tonnage, length or draught, or of any other specified class, whether or not that ship is in charge of an exempt master or certificate holder, of the provisions of subsections one, two, three and four of section fifteen and subsection one of section thirty, of this Act;
- 20 (c) the qualifications with regard to age, physical fitness, experience, local knowledge, skill, character, citizenship, or otherwise, to be required from persons applying for a licence or certificate, and the testing and examination, whether as to health, knowledge, ability, or otherwise, of those persons;
- 25 (d) the testing or examination, whether as to health, knowledge, ability or otherwise, of the holder of a licence or certificate;
- 30 (e) the administration of the Board's pilotage service and the duties of pilots and other officers appointed to that service, and for the proper supervision by the Board of the navigation of pilotage ports by exempt masters or certificate holders;
- (f) the payment of fees for licences and certificates, or for services rendered by officers or employees of the Board; and
- 35 (g) the forms to be used for the purposes of this Act.

(2)

Pilotage.

(2) The regulations prescribing pilotage rates or harbour and light rates may prescribe—

- (a) different rates for inward pilotage, outward pilotage or harbour pilotage;
- 5 (b) different rates for different ports or classes of ports, or for different areas within ports or classes of ports; and
- (c) different rates for different classes of ships distinguished in such manner as may be specified.

10 (3) The regulations may—

- (a) provide for the calculation of pilotage rates or harbour and light rates on tonnage, length or draught;
- 15 (b) prescribe a fixed rate for any ship of not more than a specified tonnage or length or a minimum rate for all ships or for any class of ship; and
- 20 (c) define tonnage, provide for the manner in which it shall be ascertained, whether by way of reference to any specified record or publication, or by way of measurement or estimation, and provide for the settlement or resolution of any dispute concerning tonnage and for the payment of rates pending any such settlement.

(4) The regulations may—

- 25 (a) be of general application or limited by reference to time, place or circumstances;
- (b) be restricted to any specified class of subject-matter or restricted to all subject-matter other than any specified class or classes; and
- 30 (c) impose a penalty not exceeding four hundred dollars for any offence against the regulations.

(5) For the purposes of any regulation the draught of a ship shall be—

- 35 (a) in the case of a sea-going ship, the greatest depth below the waterline at which the ship may lawfully be navigated on the high seas;

(b)

Pilotage.

(b) in any other case, the greatest depth below the waterline at which the ship may lawfully be navigated.

53. (1) If it appears to the Board, on the application of
 5 any person affected by any regulation, that compliance with
 all or any part of the regulation is impracticable or
 unnecessary, the Board may direct that compliance with that
 regulation or part thereof may be dispensed with, and may,
 by the same direction, direct that some other requirement
 10 be substituted for the requirement of the regulation or part
 thereof.

Exemption
from
compliance
with
regulations.

(2) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation shall be deemed to be a breach of that regulation.

15 (3) Any direction under this subsection may be given under the hand of an officer or employee of the Board authorised by the Board in that behalf.

SCHEDULE.

Sec. 3 (1).

AMENDMENTS TO NAVIGATION ACT, 1901.

- 20 In section 1 omit the matter relating to Part V.
 In section 3 omit the definitions of "pilot" and "qualified pilot".
 In section 7 omit paragraph (c).
 Omit Part V.
 Omit section 149.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

No. , 1971.

A BILL

To make provision for the pilotage of ships and to empower the Maritime Services Board to license pilots and grant pilotage exemption certificates and certificates of local knowledge; to provide for the payment of pilotage and harbour and light charges; to enable the Board to investigate any default on the part of pilots and the holders of any such certificates; to amend the Navigation Act, 1901, and the Maritime Services Act, 1935; and for purposes connected therewith.

[MR WADDY *on behalf of* MR ASKIN—7 SEPTEMBER, 1971.]

BE

Pilotage.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Pilotage Act, 1971". Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division of Act.

PART I.—PRELIMINARY—ss. 1–6.

15 PART II.—LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE—ss. 7–14.

PART III.—PILOTAGE—ss. 15–29.

PART IV.—PILOTAGE AND OTHER RATES—ss. 30–34.

20 PART V.—INVESTIGATIONS AND APPEALS—ss. 35–47.

PART VI.—MISCELLANEOUS—ss. 48–53.

3. (1) The Navigation Act, 1901, is amended to the extent and in the manner specified in the Schedule to this Act. Repeal, savings and amendment.

25 (2) A pilot's licence or a pilotage certificate granted under the Navigation Act, 1901, which is—

(a) in force; or

(b)

Pilotage.

(b) subject to a suspension or revocation imposed for a period under section seventy-two of that Act,

at the commencement of this Act, shall be deemed to be respectively a licence or a pilotage exemption certificate granted under this Act and shall continue in force in accordance with its terms, subject to the provisions of this Act and to the continuation, unless removed under this Act, of any suspension or revocation for the period for which it was imposed.

10 (3) Any declaration by the Governor under section one hundred and seventy-three of the Navigation Act, 1901, that all or any of the provisions of Part V of that Act shall not apply to a vessel or to a vessel of a class, shall be deemed to be a declaration under paragraph (e) of subsection one
15 of section five of this Act that the vessel or any vessel of that class is an exempt ship, upon and subject to any condition, limitation or restriction expressed in the declaration by the Governor.

(4) The Maritime Services Act, 1935, is amended
20 by inserting in subsection one of section fifteen after the word "Act" where firstly occurring the words "and the Pilotage Act, 1971".

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

25 "Board" means the Maritime Services Board of New South Wales;

"certificate" means a pilotage exemption certificate or a certificate of local knowledge, granted under section seven of this Act;

30 "certificate holder" means the holder of a certificate of local knowledge granted under section seven of this Act;

"exempt

Pilotage.

- “exempt master” means the holder of a pilotage exemption certificate granted under section seven of this Act;
- 5 “harbour-master” means any duly appointed harbour-master or assistant harbour-master, and includes any person appointed under section 36A of the Maritime Services Act, 1935, to exercise or perform any of the powers, authorities, duties or functions of a harbour-master;
- 10 “length” means length overall;
- “licence” means a licence granted under section seven of this Act;
- 15 “master” includes every person having lawfully, or de facto, the command, charge, or management of a vessel for the time being;
- 20 “owner” includes any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of the owner of a ship, whether on his own behalf or on behalf of another;
- 25 “pilot” means a person licensed under section seven of this Act to conduct ships to which he does not belong;
- “pilotage port” means a port within the jurisdiction declared by the Board by order published in the Gazette to be a pilotage port;
- “regulations” means regulations made under this Act;
- 30 “secretary” means the secretary of the Board and includes any person for the time being acting as such;
- “ship”

Pilotage.

"ship" means a vessel not ordinarily propelled by oars only;

5 "the jurisdiction" means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

10 "vessel" includes any lighter, barge, boat, raft, craft and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatsoever description and howsoever navigated, and includes amphibious vehicles, hydroplanes, hydrofoils and hovercraft.

(2) Where under this Act the Board is required to give written notice to any person the notice may be given either by—

15 (a) leaving the notice with the person or, if he does not accept the notice, by putting the notice down in his presence and telling him the nature of the notice;

20 (b) leaving the notice at the proper address of the person; or

(c) sending the notice by pre-paid post addressed to the proper address of the person.

(3) For the purposes of paragraphs (b) and (c) of subsection two of this section the proper address of a person
25 shall be his usual or last known place of business or of abode.

(4) A certificate purporting to be under the hand of the secretary stating that written notice was given to any person on a date specified in the certificate shall be received in any proceedings as prima facie evidence that written notice
30 was given to that person on that date.

Pilotage.

5. (1) For the purposes of this Act, each of the following ships is an exempt ship—

Meaning
of
"exempt
ship".

(a) a harbour and river ship the master of which is a certificate holder;

5 (b) a pleasure vessel;

(c) a ship of less than one hundred feet in length engaged in the fishing or whaling trade;

(d) a ship of less than fifty feet in length; and

10 (e) any ship, or ship of any class, declared by the Board by order published in the Gazette to be an exempt ship.

(2) The Board may attach conditions to any exemption declared under paragraph (e) of subsection one of this section, and if it does so the exemption shall have effect only
15 when the conditions are complied with.

(3) In this section—

"harbour and river ship" means a ship which may not lawfully be used for profit or reward on any voyage or excursion to sea;

20 "pleasure vessel" means a ship used solely for pleasure and which is not used or allowed or authorised to be used in the course of any business or in connection with any commercial transaction.

6. (1) A person shall be deemed not to be a pilot, an
25 exempt master or a certificate holder—

Person
not to be
deemed a
pilot, etc.,
in certain
instances.

(a) when acting—

(i) in any port, or portion thereof, to which his licence or certificate does not apply;

(ii)

Pilotage.

- (ii) otherwise than in accordance with any other restriction on the application of his licence or certificate imposed by the Board under section eight of this Act or by a Board of Review under section forty-six of this Act; or
- (b) subject to the provisions of subsection two of this section, during any period when his licence or certificate is suspended, or is deemed to have been suspended as provided in subsection two of section forty-one of this Act.

(2) Any reference in Part V of this Act to a pilot, an exempt master or a certificate holder includes a reference to a pilot, an exempt master or a certificate holder whose licence or certificate has been suspended.

PART II.

LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE.

7. (1) The Board may, subject to such limitations and restrictions as may be prescribed, grant—
- (a) a licence to any person to conduct ships to which he does not belong; and
- (b) a pilotage exemption certificate or a certificate of local knowledge to any person.
- (2) A licence or a certificate shall—
- (a) be in such form as the Board may determine and be signed by the secretary;

Granting
of
licences
and
certificates.

b)

Pilotage.

(b) state the port or ports, or portions thereof, to which it applies; and

(c) state or have endorsed thereon any other restriction on its application imposed by the Board under section eight of this Act.

8. (1) When granting a licence or certificate the Board may impose restrictions on its application.

(2) If, subsequent to the granting of a licence or certificate, the Board decides that it is necessary to do so, it may impose restrictions on its application.

(3) The power of the Board under subsection two of this section to impose restrictions shall be deemed to include a power to vary restrictions imposed.

(4) The Board may revoke restrictions imposed by it.

(5) The Board shall—

(a) exercise its power under subsection two of this section subject to such limitations and restrictions as may be prescribed; and

(b) give written notice to the pilot, exempt master or certificate holder when it imposes or revokes any restriction under subsection two or four of this section.

9. Subject to the provisions of section six of this Act, a licence or certificate shall be in force until withdrawn.

10. (1) The Board may suspend or withdraw a licence or certificate if it decides that a pilot, exempt master or certificate holder has failed to take or satisfy such tests or examinations, or to meet such requirements, as may be prescribed.

(2)

Pilotage.

(2) The Board may withdraw the licence or certificate of a pilot, exempt master or certificate holder if he has held a licence or certificate, as the case may be, for under one year.

5 (3) In determining the period for which a pilot has held a licence or an exempt master or certificate holder has held a certificate there shall be—

(a) included any period during which—

(i) the pilot held a licence as a pilot;

10 (ii) the exempt master held a pilotage certificate,

under the Navigation Act, 1901; and

15 (b) excluded any period during which the licence or certificate was suspended, or a licence or pilotage certificate granted under the Navigation Act, 1901, was suspended or revoked under that Act or suspended under this Act.

(4) The Board shall give written notice to the person concerned of any suspension or withdrawal of his licence or
20 certificate under this section.

11. The Board may at any time remove the suspension of
a licence or certificate. Removal
of
suspension.

12. (1) A person undertaking or proposing to undertake
the conduct of a ship to which he does not belong shall produce
25 his licence to the master of the ship if required by the master
to do so. Production
and
delivery
of licences
and
certificates.

Penalty : Two hundred dollars.

(2) An exempt master or a certificate holder shall
produce his certificate on such occasions and to such persons
30 as may be prescribed.

Penalty : Two hundred dollars.

(3)

Pilotage.

(3) A person whose licence or certificate is suspended or withdrawn under section ten, thirty-six, or forty, of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the suspension
5 or withdrawal.

Penalty : Two hundred dollars.

(4) A pilot, exempt master or certificate holder whose licence or certificate has been restricted in its application by the Board under subsection two of section eight of
10 this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the imposition of the restriction.

Penalty : Two hundred dollars.

(5) The person into whose hands a licence or
15 certificate comes after the death of a pilot, exempt master or certificate holder shall, on demand by the Board, deliver it to an officer of the Board.

Penalty : Two hundred dollars.

13. No person shall—

- 20 (a) alter, add to, endorse or mark in any way a licence or certificate, except by direction of the Board; or
(b) damage, deface or destroy a licence or certificate.

Offence
to alter,
etc.,
licence or
certificate.

Penalty : Four hundred dollars.

14. (1) No person, other than a pilot, shall undertake
25 the conduct of a ship to which he does not belong in any port within the jurisdiction.

Prohibition
against
acting as
pilot.

Penalty : Four hundred dollars.

Pilotage.

(2) No person shall act as pilot for a ship entering into, departing from, or moving within, a pilotage port unless he—

(a) is in the employ of the Board; and

5 (b) has been assigned by the Board to act as a pilot in that pilotage port.

Penalty : Four hundred dollars.

PART III.

PILOTAGE.

10 15. (1) In every pilotage port pilotage shall be Compulsory compulsory as provided in this section. pilotage.

(2) The master of a ship entering into a pilotage port shall take on board the pilot presenting himself to conduct the ship on its movement into the pilotage port.

15 Penalty : Four hundred dollars.

(3) The master of a ship shall not depart from, or move within, a pilotage port before taking on board the pilot made available by the Board to conduct the ship on its movement to sea or within the pilotage port.

20 Penalty : Four hundred dollars.

(4) If a pilot defers pilotage under section twenty-five or twenty-six of this Act the master of the ship concerned shall not depart from, or move within, the pilotage port before taking on board the pilot made available by the Board, 25 subsequent to the deferment, to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

(5)

Pilotage.

(5) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of this section shall not apply to an exempt ship or a ship in charge of an exempt master.

5 **16.** (1) The harbour-master of a pilotage port may, as a ^{Require-} condition of allowing a ship to be secured to or remain at a ^{ment of} berth or place of anchorage, require that a pilot remain on ^{harbour-} board the ship while so berthed or anchored. ^{master.}

10 (2) If the master of a ship refuses or neglects or is unable, to comply with the requirement of a harbour-master under subsection one of this section the harbour-master may exercise all or any of the powers conferred by section 13w of the Maritime Services Act, 1935, on the harbour-master of a port mentioned in subsection one of that section.

15 (3) The master of a ship shall comply with any direction given by a harbour-master in pursuance of the provisions of subsection two of this section.

Penalty : Four hundred dollars.

20 (4) The provisions of this section apply to a ship whether or not it is a ship required by section fifteen of this Act to be under pilotage.

25 **17.** (1) The pilotage of a ship entering into a pilotage port (hereinafter in this Act referred to as "inward pilotage") shall commence when a pilot first gives assistance to the ship when it is entering into the pilotage port. ^{Inward} ^{pilotage.}

(2) Inward pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored;
or

(b)

Pilotage.

- 5 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

18. When inward pilotage has ended the master shall—
(a) on a form provided by the Board for the purpose—
 (i) certify that the inward pilotage has ended;
 (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties;
 and
(b) give the completed form to the pilot.

Duties of
master
when inward
pilotage
ends.

Penalty : Two hundred dollars.

19. (1) The pilotage of a ship departing from a pilotage port (hereinafter in this Act referred to as "outward pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

Outward
pilotage.

- 20 (2) Outward pilotage shall end when the master informs the pilot that he is satisfied that the ship has been placed in a safe position to proceed on its voyage.

- (3) If a pilot is of opinion that a master is in error in being satisfied that a ship has been placed in a safe position to proceed on its voyage he may so inform the master.

- 25 20. When outward pilotage has ended the master shall—
(a) on a form provided by the Board for the purpose—
 (i) certify that the outward pilotage has ended;

Duties of
master
when
outward
pilotage
ends.

(ii)

Pilotage.

- 5 (ii) if the pilot stated his opinion, as provided in subsection three of section nineteen of this Act, that the ship was not in a safe position to proceed on its voyage, record such opinion;
- (iii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

10 Penalty : Two hundred dollars.

21. (1) The pilotage of a ship being moved within a Harbour pilotage port (hereinafter in this Act referred to as "harbour pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

(2) Harbour pilotage shall end—

- (a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored; or
- 20 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

25 (3) A pilot shall not commence harbour pilotage until the name and signature of the master of the ship concerned have been endorsed on the form referred to in section twenty-two of this Act.

22. When harbour pilotage has ended the master shall—

- 30 (a) on a form provided by the Board for the purpose—
- (i) certify that the harbour pilotage has ended;
- (ii)

Duties of master when harbour pilotage ends.

Pilotage.

- (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

- (b) give the completed form to the pilot.

5 Penalty : Two hundred dollars.

23. A master who indicates that he is not satisfied with the performance by a pilot of his duties on any inward pilotage, outward pilotage or harbour pilotage may furnish the Board, in such manner as is prescribed, with his reasons for not being satisfied, and in the event that he fails to do so the Board shall treat the pilotage concerned as having been satisfactory.

Master may furnish reasons if not satisfied with pilotage.

24. (1) A master of a ship under inward pilotage, outward pilotage or harbour pilotage, who causes his ship to be navigated in any way which is contrary to the directions of the pilot shall forthwith—

Master to inform Board, etc., when departing from directions of pilot.

- (a) by the most rapid means of communication available to him, inform the Board that he has done so; and
- 20 (b) furnish the pilot with written confirmation that he has so informed the Board.

Penalty : Four hundred dollars.

(2) When a pilot is on board a ship in pursuance of the provisions of section sixteen of this Act, the ship shall, whether or not it is required by section fifteen of this Act to be under the pilotage of a pilot, for the purposes of subsection one of this section, be deemed to be under harbour pilotage, and if the master does not comply with a direction of the pilot concerning or relating to the safety of the ship he shall be deemed to have navigated the ship in a way contrary to the direction of the pilot.

Pilotage.

25. When a ship is unable, or will in the opinion of the master of the ship be unable, to leave its berth or place of anchorage in a pilotage port within one hour of the time stated for so leaving in the application by the owner or master for a pilot, the pilot attending may defer pilotage and cease attendance.

26. (1) If, having been advised by the pilot made available for outward pilotage or harbour pilotage that a ship cannot leave its berth or place of anchorage in a pilotage port without undue risk, the master decides that the ship should so leave, he shall forthwith give written confirmation to the pilot that he has been so advised.

(2) If a master fails to give written confirmation as required by subsection one of this section the pilot may defer pilotage and cease attendance.

27. (1) If a pilot made available for outward pilotage or harbour pilotage considers that a ship should not leave its berth or place of anchorage because of the danger which would be involved, he shall—

(a) if he is not the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be, pending the decision of the harbour-master; or

(b) if he is the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be.

(2) The master of a ship shall comply with any direction given under subsection one of this section.

Penalty : Four hundred dollars.

(3) If a pilot gives the direction referred to in paragraph (a) or (b) of subsection one of this section he may defer the pilotage and cease attendance.

Pilotage.

28. (1) The owner of a ship shall, on such occasions and at such times, as may be prescribed, give to the Board such particulars of any certificate held by the master of the ship as may be prescribed.

Duties of owner and master in connection with pilotage.

5 Penalty : Three hundred dollars.

(2) The master of a ship required to be under pilotage shall, before the commencement of the pilotage, check the efficiency and accuracy of the steering and propulsive machinery, and the instruments and means of communication, used in the navigation of the ship.

Penalty : Three hundred dollars.

(3) The master of a ship under pilotage shall—

(a) give the pilot such particulars concerning the ship as may be prescribed ;

15 (b) ensure that any order given with his authority by the pilot is carried out ; and

(c) give the pilot such information as he may require for the navigation of the ship.

Penalty : Three hundred dollars.

20 (4) If the master of a ship gives false or misleading information to a pilot requiring information for the navigation of the ship he shall be deemed not to have complied with the provisions of paragraph (c) of subsection three of this section.

29. If a ship, not required to be under pilotage by section fifteen of this Act, is at the request of its owner, under pilotage, the provisions of sections seventeen to twenty-eight of this Act, both inclusive, shall apply mutatis mutandis to that ship and its master and owner for the purposes of such pilotage.

Provisions to apply when ship under pilotage at request of owner.

Pilotage.

PART IV.**PILOTAGE AND OTHER RATES.**

30. (1) Subject to the provisions of this section, there shall be payable to the Board in respect of a ship on each occasion that it enters into, departs from, or moves within, a pilotage port such pilotage rates as may be prescribed.

(2) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of subsection one of this section shall not apply to—

(a) an exempt ship; or

(b) a ship—

(i) which is registered at a port in or subject to the Commonwealth or in New Zealand;

(ii) which is moving within a port only, or which is employed in trading or going between a port in the jurisdiction and a port in or subject to the Commonwealth or in New Zealand; and

(iii) the master of which is an exempt master,

except on any occasion when the exempt ship or ship enters into, departs from, or moves within, a pilotage port under the pilotage of a pilot at the request of the owner of the ship.

31. There shall be payable to the Board harbour and light rates of a prescribed amount in the circumstances and at the times prescribed.

32. If pilotage rates or harbour and light rates are payable in respect of a ship the owner of the ship shall—

(a) so inform the Board; and

(b)

Pilotage rates.

Harbour and light rates.

Duties of owner in respect of pilotage rates, etc.

Pilotage.

- (b) furnish the Board with such particulars relating to the ship as may be prescribed,

within one month of the date when the rates became payable.

Penalty : Two hundred dollars.

- 5 33. (1) Whenever a pilot, who has attended a ship at Charges,
the time stated by the owner or master in his application for etc., payable
a pilot— in certain
cases.

- 10 (a) is unable thereupon to conduct the ship to sea or to
another place within the port by reason of the ship's
unreadiness for departure or for other cause not
occasioned by any act or omission of the pilot, there
shall be payable to the Board in respect of the
period of delay a charge calculated in such manner
as may be prescribed; or
- 15 (b) defers the pilotage of the ship at the request of the
owner or master or in pursuance of the provisions
of section twenty-five, twenty-six or twenty-seven of
this Act, there shall be payable to the Board such
portion of the pilotage rates prescribed for the
20 pilotage of the ship as may be prescribed.

- (2) Whenever the master of a ship lying at a berth
or anchorage in a pilotage port has requested, whether or not
as the result of a requirement by a harbour-master, that a
pilot remain on board such ship there shall be payable to
25 the Board a charge, calculated in such manner as may be
prescribed, for the period during which the pilot remains on
board the ship.

- (3) Whenever at the end of an outward pilotage a
pilot is unable to leave the ship by reason of adverse condi-
30 tions there shall be payable to the Board for the period
elapsing between the end of the outward pilotage and the
pilot's return to his pilot station such charge as may be
prescribed, together with all travelling expenses reasonably
incurred by the Board in respect of his return.

Pilotage.

34. (1) Any pilotage rates, harbour and light rates or charge or travelling expenses payable under section thirty-three of this Act may be demanded and recovered by the Board as a debt in any court of competent jurisdiction from the owner of the ship concerned.

Recovery of rates and charges.

(2) A certificate purporting to be under the hand of the secretary stating that a specified amount is the amount—

- (a) of any pilotage rates or harbour and light rates payable;
- 10 (b) of any charge payable under section thirty-three of this Act; or
- (c) payable in respect of any travelling expenses incurred,

shall be received in any proceedings as prima facie evidence that the specified amount is payable.

PART V.

INVESTIGATIONS AND APPEALS.

35. In this Part of this Act—

20 “certificated person” means an exempt master or a certificate holder;

Meaning of “certificated person” and “default”.

“default” means incompetence, misconduct or negligence in or in relation to the navigation of a ship.

36. (1) If it comes to the knowledge of the Board that a pilot or a certificated person, when acting as a pilot or a master, may have been guilty of any default, the Board may investigate the matter.

Investigation by the Board of default.

(2)

Pilotage.

(2) If the Board begins an investigation it—

- (a) may suspend the pilot's licence or the certificated person's certificate; and
- (b) shall give written notice to the pilot or certificated person concerning the investigation and any suspension of his licence or certificate.

37. (1) In making an investigation the Board—

- (a) shall not be bound by the rules of evidence;
- (b) may conduct the investigation without regard to legal forms; and
- (c) shall not, except as provided in section forty of this Act, be obliged to hear the pilot or certificated person concerned.

Provisions relating to investigation of default.

(2) The evidence to be required in connection with

the determination of any matter under investigation shall be such as the Board may determine.

38. If, in pursuance of the provisions of an Act or of an Act of the Commonwealth, a competent authority convenes a Court of Marine Inquiry to inquire into any matter relevant to an investigation being made by the Board, the Board shall not, after the convening of such Court, make a finding under section thirty-nine or forty of this Act without first having regard to the findings of that Court.

Board to have regard to findings of Court of Marine Inquiry.

39. The Board may, at any stage in an investigation, if in its opinion the facts so warrant, find a pilot or a certificated person not guilty of any default, in which event it shall inform the pilot or certificated person of its finding and remove any suspension of his licence or certificate imposed under section thirty-six of this Act.

Procedure if Board finds pilot, etc., not guilty of a default.

Pilotage.

40. (1) The Board shall not find a pilot or a certificated person guilty of any default unless it has—

Procedure if Board finds pilot, etc., guilty of a default.

- 5 (a) provided him with a statement of the evidence considered by the Board in the course of the investigation; and
- (b) afforded him an opportunity, within such reasonable time as it shall specify in a written notice given to him, to make written submissions to the Board.

(2) The Board may make any further investigation **10** it deems necessary as a result of written submissions made by a pilot or a certificated person, but shall not be required to provide the pilot or certificated person with a statement of any evidence obtained in the course of the further investigation.

(3) If, after it has considered the written submissions, if any, made by a pilot or a certificated person, the **15** Board decides that the pilot or certificated person has been guilty of any default, it shall so find and—

- (a) may take no action against the pilot or certificated person; or
- 20** (b) may—
 - (i) withdraw the pilot's licence or the certificated person's certificate;
 - (ii) suspend, or continue the suspension of, the pilot's licence or the certificated person's **25** certificate; or
 - (iii) reprimand the pilot or certificated person,

and

Pilotage.

and shall—

- (c) give written notice to the pilot or certificated person of its finding and of any action taken under paragraph (b) of this subsection; and
- 5 (d) remove any suspension of the pilot's licence or the certificated person's certificate if it acts as provided in paragraph (a) or subparagraph (iii) of paragraph (b), of this subsection.

(4) The Board may provide a pilot or a certificated
10 person with a statement of evidence in any way in which it may give written notice under subsection two of section four of this Act, and the provisions of subsection four of that section shall apply where a statement of evidence is provided as they apply where written notice is given.

15 **41.** (1) The withdrawal of—

- (a) a certificated person's certificate under subsection one of section ten of this Act; or
- (b) a pilot's licence or a certificated person's certificate under paragraph (b) of subsection two of section
20 forty of this Act,

Withdrawal
of licence
or certificate
deemed
to be
suspension.

shall not take effect—

- (c) until one month after the pilot or authorised person is given written notice of the withdrawal; and
- 25 (d) if the pilot or authorised person appeals to a Board of Review under section forty-two of this Act, unless the Board of Review confirms the action taken by the Board.

(2)

Pilotage.

(2) During the period of one month referred to in paragraph (c) of subsection one of this section and, if the pilot or certificated person appeals to a Board of Review, pending the decision of that Board, a licence or certificate which has been withdrawn shall be deemed to have been suspended.

42. (1) Subject to the provisions of subsection four of this section, a pilot whose licence has been restricted in its application by the Board, under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (a) the decision to impose the restriction; or
- (b) the nature and extent of the restriction imposed,

or against both those matters.

(2) A certificated person whose certificate—

15 (a) has been restricted in its application by the Board under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (i) the decision to impose the restriction; or
- (ii) the nature and extent of the restriction imposed,

20

or against both those matters; or

(b) has been suspended or withdrawn under subsection one of section ten of this Act may appeal to a Board of Review against the decision to suspend or withdraw the certificate.

25

(3) A pilot or a certificated person found guilty of any default under section forty of this Act may appeal to a Board of Review against—

- (a) the finding of the Board; or

(b)

Pilotage.

- (b) the action taken by the Board under paragraph (b) of subsection three of that section,

or against both these matters.

- 5 (4) No appeal shall lie under subsection one of this section where the decision or restriction concerned relates to the port or ports, or portions thereof, to which a licence is to apply.

- 10 **43.** (1) A pilot or a certificated person having a right of appeal and wishing to appeal shall notify the Board in writing, ^{Procedure for making appeal.} stating in the notification the nature of his appeal and setting out such further particulars as may be prescribed.

- (2) A notification under subsection one of this section shall be given within one month, or within such extended period as the Board may allow, of the date on which
15 written notice is given by the Board to the pilot or certificated person of the matter against which he wishes to appeal.

- (3) On receipt of a notification—

- (a) the Board shall take steps to cause a Board of Review to be appointed;

- 20 (b) the secretary shall—

- (i) in the case of an appeal under subsection one or subsection two of section forty-two of this Act, prepare a statement containing the Board's decision, the reasons therefor, and, except in the case of an appeal under paragraph (b) of subsection three of that section, particulars of the restriction imposed; and
25

(ii)

Pilotage.

5 (ii) in the case of an appeal under subsection three of section forty-two of this Act, prepare a record of evidence containing the evidence which was before the Board as a result of the investigation, any written submission made by the pilot or certificated person, the Board's finding and particulars of the action taken.

10 (4) The secretary shall make available to the pilot or certificated person concerned a copy of the statement or record of evidence referred to in subsection three of this section.

44. (1) A Board of Review shall, when required, be appointed by the Governor and shall consist of—

- 15 (a) a District Court Judge (hereinafter in this Act referred to as "the Chairman");
- (b) a member nominated by the Board; and
- 20 (c) a member nominated by an organisation entitled to represent the pilot or certificated person concerned in industrial proceedings, or, if there is more than one such organisation, the organisation so entitled which is selected by the pilot or certificated person.

(2) No person shall be appointed in pursuance of a nomination under paragraph (b) or (c) of subsection one of this section unless the Governor is satisfied that the person nominated is sufficiently experienced in the navigation of ports in the jurisdiction to warrant his being appointed.

45. (1) The Chairman shall fix a date and place for the hearing of an appeal and shall give seven days' notice thereof to the pilot or certificated person concerned.

(2) A Board of Review shall receive and admit on production the statement or the record of evidence referred to in subsection three of section forty-three of this Act if it is duly certified by the secretary as correct.

Appointment of Board of Review.

Procedure before and powers of Board of Review.

(3)

Pilotage.

(3) The pilot or certificated person either in person or by his solicitor or counsel shall be afforded an opportunity of showing cause why any decision or finding of the Board, or any restriction imposed or action taken by the Board, which
5 is the subject of appeal, should not be upheld or confirmed by a Board of Review.

(4) The decision of the Chairman upon any question of law or procedure which may arise before a Board of Review shall be the decision of the Board of Review.

10 (5) A Board of Review in dealing with any appeal—

(a) shall consider any statement or record of evidence received and admitted by it under subsection two of this section and such other evidence and submissions as may be given before or made to it; and

15 (b) may require that further or better evidence, and in particular oral evidence where a witness able to give such evidence can in its opinion reasonably be made available, be tendered in respect of any matter which is bona fide disputed by the pilot or certificated person, or, in the case of evidence submitted
20 by the pilot or certificated person, bona fide disputed by the Board.

(6) For the purpose of any appeal a Board of Review shall have the powers, authorities, protections and
25 immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing
30 before a Board of Review.

(7) A Board of Review may make such order as it thinks fit respecting the costs of any appeal, and the costs awarded against any party to the proceedings may be recovered by the party in whose favour the order is made, in
35 any court of competent jurisdiction.

Pilotage.

46. (1) A Board of Review may by order— Decision
of Board
of Review.
(a) uphold or quash a decision or finding of the Board;
and

5 (b) confirm, vary or quash any restriction imposed or
action taken by the Board,
which is the subject of appeal.

(2) For the purpose of varying any restriction
imposed or action taken by the Board, a Board of Review
shall have the powers of the Board under this Act.

10 (3) If a Board of Review quashes a decision or
finding of the Board it shall, by order, quash any restriction
imposed or action taken by the Board consequent on such
decision or finding, whether or not the restriction or action
is the subject of appeal.

15 47. (1) An order of a Board of Review under section
forty-six of this Act shall have effect from the date thereof. Effect and
implementa-
tion of
decision of
Board of
Review.

(2) The Board shall take all such steps as may be
necessary to implement an order of a Board of Review.

(3) A pilot or a certificated person shall deliver his
20 licence or certificate on demand made by the Board for the
purpose of implementing an order of a Board of Review.

Penalty : Two hundred dollars.

PART VI.

MISCELLANEOUS.

25 48. The Board may, but shall not be required to, hear Board may
hear pilot,
etc., before
making
certain
decisions.
the pilot, exempt master or certificate holder concerned be-
fore making a decision under subsection two of section eight
or subsection one of section ten, of this Act, and such a
decision of the Board shall not be challenged in any proceed-
30 ings by reason only of the Board's failure to hear the pilot,
exempt master or certificate holder.

Pilotage.

49. No proceedings, civil or criminal, shall be brought against the Board or any person who has given or supplied any evidence or information to the Board in connection with an investigation under section thirty-six of this Act, in respect of any matter contained in that evidence or information which is or is alleged to be defamatory.

No proceedings against Board, etc., in connection with an investigation.

50. (1) No person shall give any confidential report or disclose any information contained therein to any person other than a prescribed person.

Disclosure of confidential information.

10 Penalty : Four hundred dollars.

(2) In this section—

“confidential report” means any report made by a pilot to the Board relating to or in connection with the navigation, management or condition of a ship when he was pilot of that ship;

15

“prescribed person” means—

- (a) a commissioner or an officer of the Board;
- (b) a chairman or member of a Board of Review;
- (c) a court;
- (d) a person acting in a professional capacity or expert capacity before a Board of Review or a court, when the confidential report or any of the contents thereof are relevant to the proceedings before the Board of Review or court;
- (e) the owner of the ship concerned or a person designated by him in writing; or
- (f) any person designated by the Board in writing.

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51. (1) All penalties recovered for offences against this Act or the regulations shall be paid to the Board.

Recovery of penalties.

(2)

Pilotage.

(2) All proceedings in respect of offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

5 **52.** (1) The Board, with the approval of the Governor, Regulations.
may make regulations for or with respect to—

- 10 (a) any matter which is required or permitted to be prescribed under this Act, or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 15 (b) the application, in relation to any ship of a specified tonnage, length or draught, or of any other specified class, whether or not that ship is in charge of an exempt master or certificate holder, of the provisions of subsections one, two, three and four of section fifteen and subsection one of section thirty, of this Act;
- 20 (c) the qualifications with regard to age, physical fitness, experience, local knowledge, skill, character, citizenship, or otherwise, to be required from persons applying for a licence or certificate, and the testing and examination, whether as to health, knowledge, ability, or otherwise, of those persons;
- 25 (d) the testing or examination, whether as to health, knowledge, ability or otherwise, of the holder of a licence or certificate;
- 30 (e) the administration of the Board's pilotage service and the duties of pilots and other officers appointed to that service, and for the proper supervision by the Board of the navigation of pilotage ports by exempt masters or certificate holders;
- 35 (f) the payment of fees for licences and certificates, or for services rendered by officers or employees of the Board; and
- (g) the forms to be used for the purposes of this Act.

(2)

Pilotage.

(2) The regulations prescribing pilotage rates or harbour and light rates may prescribe—

- (a) different rates for inward pilotage, outward pilotage or harbour pilotage;
- 5 (b) different rates for different ports or classes of ports, or for different areas within ports or classes of ports; and
- (c) different rates for different classes of ships distinguished in such manner as may be specified.

10 (3) The regulations may—

- (a) provide for the calculation of pilotage rates or harbour and light rates on tonnage, length or draught;
- (b) prescribe a fixed rate for any ship of not more than
15 a specified tonnage or length or a minimum rate for all ships or for any class of ship; and
- (c) define tonnage, provide for the manner in which it shall be ascertained, whether by way of reference to any specified record or publication, or by way of
20 measurement or estimation, and provide for the settlement or resolution of any dispute concerning tonnage and for the payment of rates pending any such settlement.

(4) The regulations may—

- 25 (a) be of general application or limited by reference to time, place or circumstances;
- (b) be restricted to any specified class of subject-matter or restricted to all subject-matter other than any specified class or classes; and
- 30 (c) impose a penalty not exceeding four hundred dollars for any offence against the regulations.

(5) For the purposes of any regulation the draught of a ship shall be—

- 35 (a) in the case of a sea-going ship, the greatest depth below the waterline at which the ship may lawfully be navigated on the high seas;

(b)

Pilotage.

(b) in any other case, the greatest depth below the waterline at which the ship may lawfully be navigated.

53. (1) If it appears to the Board, on the application of
 5 any person affected by any regulation, that compliance with
 all or any part of the regulation is impracticable or
 unnecessary, the Board may direct that compliance with that
 regulation or part thereof may be dispensed with, and may,
 by the same direction, direct that some other requirement
 10 be substituted for the requirement of the regulation or part
 thereof.

(2) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation shall be deemed to be a breach of that regulation.

15 (3) Any direction under this subsection may be given under the hand of an officer or employee of the Board authorised by the Board in that behalf.

SCHEDULE.

Sec. 3 (1).

AMENDMENTS TO NAVIGATION ACT, 1901.

- 20 In section 1 omit the matter relating to Part V.
 In section 3 omit the definitions of "pilot" and "qualified pilot".
 In section 7 omit paragraph (c).
 Omit Part V.
 Omit section 149.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[30c]

PILOTAGE BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to empower the Maritime Services Board to license pilots, and to grant certificates to be known as pilotage exemption certificates and certificates of local knowledge;
- (b) to enable the Board to impose restrictions on the application of licences or certificates;
- (c) to provide for the suspension or withdrawal of licences or certificates;
- (d) to set out the circumstances in which pilotage shall be compulsory;
- (e) to make provision with regard to pilotage and harbour and light rates;
- (f) to enable the Board to investigate any default of a pilot or of a holder of a certificate;
- (g) to provide for the appointment of a Board of Review and to specify the circumstances in which an appeal lies to a Board of Review;
- (h) to make other provisions of a consequential or ancillary character.

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PROOF

No. , 1971.

A BILL

To make provision for the pilotage of ships and to empower the Maritime Services Board to license pilots and grant pilotage exemption certificates and certificates of local knowledge; to provide for the payment of pilotage and harbour and light charges; to enable the Board to investigate any default on the part of pilots and the holders of any such certificates; to amend the Navigation Act, 1901, and the Maritime Services Act, 1935; and for purposes connected therewith.

[MR WADDY—7 SEPTEMBER, 1971.]

BE

Pilotage.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Pilotage Act, 1971". Short title
and com-
mencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–6.

15 PART II.—LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE—ss. 7–14.

PART III.—PILOTAGE—ss. 15–29.

PART IV.—PILOTAGE AND OTHER RATES—ss. 30–34.

20 PART V.—INVESTIGATIONS AND APPEALS—ss. 35–47.

PART VI.—MISCELLANEOUS—ss. 48–53.

3. (1) The Navigation Act, 1901, is amended to the extent and in the manner specified in the Schedule to this Act. Repeal,
savings
and
amendment.

25 (2) A pilot's licence or a pilotage certificate granted under the Navigation Act, 1901, which is—

(a) in force; or

(b)

Pilotage.

(b) subject to a suspension or revocation imposed for a period under section seventy-two of that Act,

at the commencement of this Act, shall be deemed to be respectively a licence or a pilotage exemption certificate 5 granted under this Act and shall continue in force in accordance with its terms, subject to the provisions of this Act and to the continuation, unless removed under this Act, of any suspension or revocation for the period for which it was imposed.

10 (3) Any declaration by the Governor under section one hundred and seventy-three of the Navigation Act, 1901, that all or any of the provisions of Part V of that Act shall not apply to a vessel or to a vessel of a class, shall be deemed to be a declaration under paragraph (e) of subsection one 15 of section five of this Act that the vessel or any vessel of that class is an exempt ship, upon and subject to any condition, limitation or restriction expressed in the declaration by the Governor.

(4) The Maritime Services Act, 1935, is amended 20 by inserting in subsection one of section fifteen after the word "Act" where firstly occurring the words "and the Pilotage Act, 1971".

4. (1) In this Act, except in so far as the context or Interpretation. subject-matter otherwise indicates or requires—

25 "Board" means the Maritime Services Board of New South Wales;

"certificate" means a pilotage exemption certificate or a certificate of local knowledge, granted under section seven of this Act;

30 "certificate holder" means the holder of a certificate of local knowledge granted under section seven of this Act;

"exempt

Pilotage.

- “exempt master” means the holder of a pilotage exemption certificate granted under section seven of this Act;
- 5 “harbour-master” means any duly appointed harbour-master or assistant harbour-master, and includes any person appointed under section 36A of the Maritime Services Act, 1935, to exercise or perform any of the powers, authorities, duties or functions of a harbour-master;
- 10 “length” means length overall;
- “licence” means a licence granted under section seven of this Act;
- 15 “master” includes every person having lawfully, or de facto, the command, charge, or management of a vessel for the time being;
- 20 “owner” includes any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of the owner of a ship, whether on his own behalf or on behalf of another;
- “pilot” means a person licensed under section seven of this Act to conduct ships to which he does not belong;
- 25 “pilotage port” means a port within the jurisdiction declared by the Board by order published in the Gazette to be a pilotage port;
- “regulations” means regulations made under this Act;
- 30 “secretary” means the secretary of the Board and includes any person for the time being acting as such;

“ship”

Pilotage.

"ship" means a vessel not ordinarily propelled by oars only;

"the jurisdiction" means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

"vessel" includes any lighter, barge, boat, raft, craft and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatsoever description and howsoever navigated, and includes amphibious vehicles, hydroplanes, hydrofoils and hovercraft.

(2) Where under this Act the Board is required to give written notice to any person the notice may be given either by—

- (a) leaving the notice with the person or, if he does not accept the notice, by putting the notice down in his presence and telling him the nature of the notice;
- (b) leaving the notice at the proper address of the person; or
- (c) sending the notice by pre-paid post addressed to the proper address of the person.

(3) For the purposes of paragraphs (b) and (c) of subsection two of this section the proper address of a person shall be his usual or last known place of business or of abode.

(4) A certificate purporting to be under the hand of the secretary stating that written notice was given to any person on a date specified in the certificate shall be received in any proceedings as prima facie evidence that written notice was given to that person on that date.

Pilotage.

5. (1) For the purposes of this Act, each of the following ships is an exempt ship—

Meaning
of
"exempt
ship".

- (a) a harbour and river ship the master of which is a certificate holder;
- 5 (b) a pleasure vessel;
- (c) a ship of less than one hundred feet in length engaged in the fishing or whaling trade;
- (d) a ship of less than fifty feet in length; and
- 10 (e) any ship, or ship of any class, declared by the Board by order published in the Gazette to be an exempt ship.

(2) The Board may attach conditions to any exemption declared under paragraph (e) of subsection one of this section, and if it does so the exemption shall have effect only 15 when the conditions are complied with.

(3) In this section—

- "harbour and river ship" means a ship which may not lawfully be used for profit or reward on any voyage or excursion to sea;
- 20 "pleasure vessel" means a ship used solely for pleasure and which is not used or allowed or authorised to be used in the course of any business or in connection with any commercial transaction.

6. (1) A person shall be deemed not to be a pilot, an exempt master or a certificate holder—

Person
not to be
deemed a
pilot, etc.,
in certain
instances.

(a) when acting—

- (i) in any port, or portion thereof, to which his licence or certificate does not apply;

(ii)

Pilotage.

- 5 (ii) otherwise than in accordance with any other restriction on the application of his licence or certificate imposed by the Board under section eight of this Act or by a Board of Review under section forty-six of this Act; or
- 10 (b) subject to the provisions of subsection two of this section, during any period when his licence or certificate is suspended, or is deemed to have been suspended as provided in subsection two of section forty-one of this Act.

(2) Any reference in Part V of this Act to a pilot, an exempt master or a certificate holder includes a reference to a pilot, an exempt master or a certificate holder whose
15 licence or certificate has been suspended.

PART II.

**LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND
CERTIFICATES OF LOCAL KNOWLEDGE.**

- 20 7. (1) The Board may, subject to such limitations and restrictions as may be prescribed, grant—
- (a) a licence to any person to conduct ships to which he does not belong; and
- (b) a pilotage exemption certificate or a certificate of local knowledge to any person.
- 25 (2) A licence or a certificate shall—
- (a) be in such form as the Board may determine and be signed by the secretary;

(b)

Pilotage.

(b) state the port or ports, or portions thereof, to which it applies; and

(c) state or have endorsed thereon any other restriction on its application imposed by the Board under section eight of this Act.

8. (1) When granting a licence or certificate the Board may impose restrictions on its application.

(2) If, subsequent to the granting of a licence or certificate, the Board decides that it is necessary to do so, it may impose restrictions on its application.

(3) The power of the Board under subsection two of this section to impose restrictions shall be deemed to include a power to vary restrictions imposed.

(4) The Board may revoke restrictions imposed by it.

(5) The Board shall—

- (a) exercise its power under subsection two of this section subject to such limitations and restrictions as may be prescribed; and
- (b) give written notice to the pilot, exempt master or certificate holder when it imposes or revokes any restriction under subsection two or four of this section.

9. Subject to the provisions of section six of this Act, a licence or certificate shall be in force until withdrawn.

10. (1) The Board may suspend or withdraw a licence or certificate if it decides that a pilot, exempt master or certificate holder has failed to take or satisfy such tests or examinations, or to meet such requirements, as may be prescribed.

(2)

Pilotage.

(2) The Board may withdraw the licence or certificate of a pilot, exempt master or certificate holder if he has held a licence or certificate, as the case may be, for under one year.

5 (3) In determining the period for which a pilot has held a licence or an exempt master or certificate holder has held a certificate there shall be—

(a) included any period during which—

(i) the pilot held a licence as a pilot;

10 (ii) the exempt master held a pilotage certificate,

under the Navigation Act, 1901; and

(b) excluded any period during which the licence or certificate was suspended, or a licence or pilotage certificate granted under the Navigation Act, 1901, was suspended or revoked under that Act or suspended under this Act.

15 (4) The Board shall give written notice to the person concerned of any suspension or withdrawal of his licence or certificate under this section.

11. The Board may at any time remove the suspension of a licence or certificate. Removal of suspension.

12. (1) A person undertaking or proposing to undertake the conduct of a ship to which he does not belong shall produce his licence to the master of the ship if required by the master to do so. Production and delivery of licences and certificates.

Penalty : Two hundred dollars.

(2) An exempt master or a certificate holder shall produce his certificate on such occasions and to such persons as may be prescribed.

Penalty : Two hundred dollars.

(3)

Pilotage.

(3) A person whose licence or certificate is suspended or withdrawn under section ten, thirty-six, or forty, of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the suspension
5 or withdrawal.

Penalty : Two hundred dollars.

(4) A pilot, exempt master or certificate holder whose licence or certificate has been restricted in its application by the Board under subsection two of section eight of
10 this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the imposition of the restriction.

Penalty : Two hundred dollars.

(5) The person into whose hands a licence or
15 certificate comes after the death of a pilot, exempt master or certificate holder shall, on demand by the Board, deliver it to an officer of the Board.

Penalty : Two hundred dollars.

13. No person shall—

- 20 (a) alter, add to, endorse or mark in any way a licence or certificate, except by direction of the Board; or
- (b) damage, deface or destroy a licence or certificate.

Offence
to alter,
etc.,
licence or
certificate.

Penalty : Four hundred dollars.

14. (1) No person, other than a pilot, shall undertake
25 the conduct of a ship to which he does not belong in any port within the jurisdiction.

Prohibition
against
acting as
pilot.

Penalty : Four hundred dollars.

Pilotage.

(2) No person shall act as pilot for a ship entering into, departing from, or moving within, a pilotage port unless he—

- (a) is in the employ of the Board; and
- 5 (b) has been assigned by the Board to act as a pilot in that pilotage port.

Penalty : Four hundred dollars.

PART III.

PILOTAGE.

- 10 **15.** (1) In every pilotage port pilotage shall be Compulsory
compulsory as provided in this section. pilotage.

(2) The master of a ship entering into a pilotage port shall take on board the pilot presenting himself to conduct the ship on its movement into the pilotage port.

- 15 Penalty : Four hundred dollars.

(3) The master of a ship shall not depart from, or move within, a pilotage port before taking on board the pilot made available by the Board to conduct the ship on its movement to sea or within the pilotage port.

- 20 Penalty : Four hundred dollars.

(4) If a pilot defers pilotage under section twenty-five or twenty-six of this Act the master of the ship concerned shall not depart from, or move within, the pilotage port before taking on board the pilot made available by the Board,
25 subsequent to the deferment, to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

(5)

Pilotage.

(5) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of this section shall not apply to an exempt ship or a ship in charge of an exempt master.

5 **16.** (1) The harbour-master of a pilotage port may, as a ^{Require-} condition of allowing a ship to be secured to or remain at a ^{ment of} berth or place of anchorage, require that a pilot remain on ^{harbour-} board the ship while so berthed or anchored. ^{master.}

(2) If the master of a ship refuses or neglects or is
10 unable, to comply with the requirement of a harbour-master under subsection one of this section the harbour-master may exercise all or any of the powers conferred by section 13w of the Maritime Services Act, 1935, on the harbour-master of a port mentioned in subsection one of that section.

15 (3) The master of a ship shall comply with any direction given by a harbour-master in pursuance of the provisions of subsection two of this section.

Penalty : Four hundred dollars.

(4) The provisions of this section apply to a ship
20 whether or not it is a ship required by section fifteen of this Act to be under pilotage.

17. (1) The pilotage of a ship entering into a pilotage ^{Inward} port (hereinafter in this Act referred to as "inward pilotage") ^{pilotage.} shall commence when a pilot first gives assistance to the ship
25 when it is entering into the pilotage port.

(2) Inward pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored;
or

(b)

Pilotage.

- 5 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

18. When inward pilotage has ended the master shall— Duties of master when inward pilotage ends.

- (a) on a form provided by the Board for the purpose—
- 10 (i) certify that the inward pilotage has ended;
- (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

Penalty : Two hundred dollars.

15 19. (1) The pilotage of a ship departing from a pilotage port (hereinafter in this Act referred to as "outward pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage. Outward pilotage.

20 (2) Outward pilotage shall end when the master informs the pilot that he is satisfied that the ship has been placed in a safe position to proceed on its voyage.

(3) If a pilot is of opinion that a master is in error in being satisfied that a ship has been placed in a safe position to proceed on its voyage he may so inform the master.

25 20. When outward pilotage has ended the master shall— Duties of master when outward pilotage ends.

(a) on a form provided by the Board for the purpose—

(i) certify that the outward pilotage has ended;

(ii)

Pilotage.

- 5 (ii) if the pilot stated his opinion, as provided in subsection three of section nineteen of this Act, that the ship was not in a safe position to proceed on its voyage, record such opinion;
- (iii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and
- (b) give the completed form to the pilot.

10 Penalty : Two hundred dollars.

21. (1) The pilotage of a ship being moved within a Harbour pilotage port (hereinafter in this Act referred to as "harbour pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

- (2) Harbour pilotage shall end—
- (a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored; or
- 20 (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

25 (3) A pilot shall not commence harbour pilotage until the name and signature of the master of the ship concerned have been endorsed on the form referred to in section twenty-two of this Act.

- 22.** When harbour pilotage has ended the master shall—
- 30 (a) on a form provided by the Board for the purpose—
- (i) certify that the harbour pilotage has ended;
- (ii)

Duties of master when harbour pilotage ends.

Pilotage.

- (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

5 Penalty : Two hundred dollars.

23. A master who indicates that he is not satisfied with the performance by a pilot of his duties on any inward pilotage, outward pilotage or harbour pilotage may furnish reasons if not satisfied with pilotage. Master may furnish reasons if not satisfied with pilotage. the Board, in such manner as is prescribed, with his reasons for not being satisfied, and in the event that he fails to do so the Board shall treat the pilotage concerned as having been satisfactory.

24. (1) A master of a ship under inward pilotage, outward pilotage or harbour pilotage, who causes his ship to be navigated in any way which is contrary to the directions of the pilot shall forthwith— Master to inform Board, etc., when departing from directions of pilot.

(a) by the most rapid means of communication available to him, inform the Board that he has done so; and

20 (b) furnish the pilot with written confirmation that he has so informed the Board.

Penalty : Four hundred dollars.

(2) When a pilot is on board a ship in pursuance of the provisions of section sixteen of this Act, the ship shall, whether or not it is required by section fifteen of this Act to be under the pilotage of a pilot, for the purposes of subsection one of this section, be deemed to be under harbour pilotage, and if the master does not comply with a direction of the pilot concerning or relating to the safety of the ship he shall be deemed to have navigated the ship in a way contrary to the direction of the pilot.

Pilotage.

25. When a ship is unable, or will in the opinion of the master of the ship be unable, to leave its berth or place of anchorage in a pilotage port within one hour of the time stated for so leaving in the application by the owner or master for a pilot, the pilot attending may defer pilotage and cease attendance.

26. (1) If, having been advised by the pilot made available for outward pilotage or harbour pilotage that a ship cannot leave its berth or place of anchorage in a pilotage port without undue risk, the master decides that the ship should so leave, he shall forthwith give written confirmation to the pilot that he has been so advised.

(2) If a master fails to give written confirmation as required by subsection one of this section the pilot may defer pilotage and cease attendance.

27. (1) If a pilot made available for outward pilotage or harbour pilotage considers that a ship should not leave its berth or place of anchorage because of the danger which would be involved, he shall—

(a) if he is not the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be, pending the decision of the harbour-master; or

(b) if he is the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be.

(2) The master of a ship shall comply with any direction given under subsection one of this section.

Penalty : Four hundred dollars.

(3) If a pilot gives the direction referred to in paragraph (a) or (b) of subsection one of this section he may defer the pilotage and cease attendance.

Pilotage.

28. (1) The owner of a ship shall, on such occasions and at such times, as may be prescribed, give to the Board such particulars of any certificate held by the master of the ship as may be prescribed.

Duties of owner and master in connection with pilotage.

5 Penalty : Three hundred dollars.

(2) The master of a ship required to be under pilotage shall, before the commencement of the pilotage, check the efficiency and accuracy of the steering and propulsive machinery, and the instruments and means of communication, used in the navigation of the ship.

10

Penalty : Three hundred dollars.

(3) The master of a ship under pilotage shall—

(a) give the pilot such particulars concerning the ship as may be prescribed ;

15 (b) ensure that any order given with his authority by the pilot is carried out ; and

(c) give the pilot such information as he may require for the navigation of the ship.

Penalty : Three hundred dollars.

20 (4) If the master of a ship gives false or misleading information to a pilot requiring information for the navigation of the ship he shall be deemed not to have complied with the provisions of paragraph (c) of subsection three of this section.

25 **29.** If a ship, not required to be under pilotage by section fifteen of this Act, is at the request of its owner, under pilotage, the provisions of sections seventeen to twenty-eight of this Act, both inclusive, shall apply mutatis mutandis to that ship and its master and owner for the purposes of such pilotage.

Provisions to apply when ship under pilotage at request of owner.

Pilotage.

PART IV.

PILOTAGE AND OTHER RATES.

30. (1) Subject to the provisions of this section, there ^{Pilotage} shall be payable to the Board in respect of a ship on each ^{rates.} 5 occasion that it enters into, departs from, or moves within, a pilotage port such pilotage rates as may be prescribed.

(2) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of subsection one of this section shall 10 not apply to—

(a) an exempt ship; or

(b) a ship—

- (i) which is registered at a port in or subject to the Commonwealth or in New Zealand;
- 15 (ii) which is moving within a port only, or which is employed in trading or going between a port in the jurisdiction and a port in or subject to the Commonwealth or in New Zealand; and

20 (iii) the master of which is an exempt master, except on any occasion when the exempt ship or ship enters into, departs from, or moves within, a pilotage port under the pilotage of a pilot at the request of the owner of the ship.

31. There shall be payable to the Board harbour and light ^{Harbour} rates of a prescribed amount in the circumstances and at the ^{and light} 25 times prescribed. ^{rates.}

32. If pilotage rates or harbour and light rates are payable ^{Duties of} in respect of a ship the owner of the ship shall— ^{owner in}

(a) so inform the Board; and ^{respect of}

(b) ^{pilotage}

^{rates, etc.}

Pilotage.

(b) furnish the Board with such particulars relating to the ship as may be prescribed,

within one month of the date when the rates became payable.

Penalty : Two hundred dollars.

5 **33.** (1) Whenever a pilot, who has attended a ship at the time stated by the owner or master in his application for a pilot— Charges,
etc., payable
in certain
cases.

10 (a) is unable thereupon to conduct the ship to sea or to another place within the port by reason of the ship's unreadiness for departure or for other cause not occasioned by any act or omission of the pilot, there shall be payable to the Board in respect of the period of delay a charge calculated in such manner as may be prescribed ; or

15 (b) defers the pilotage of the ship at the request of the owner or master or in pursuance of the provisions of section twenty-five, twenty-six or twenty-seven of this Act, there shall be payable to the Board such portion of the pilotage rates prescribed for the
20 pilotage of the ship as may be prescribed.

(2) Whenever the master of a ship lying at a berth or anchorage in a pilotage port has requested, whether or not as the result of a requirement by a harbour-master, that a pilot remain on board such ship there shall be payable to
25 the Board a charge, calculated in such manner as may be prescribed, for the period during which the pilot remains on board the ship.

(3) Whenever at the end of an outward pilotage a pilot is unable to leave the ship by reason of adverse conditions there shall be payable to the Board for the period
30 elapsing between the end of the outward pilotage and the pilot's return to his pilot station such charge as may be prescribed, together with all travelling expenses reasonably incurred by the Board in respect of his return.

Pilotage.

34. (1) Any pilotage rates, harbour and light rates or charge or travelling expenses payable under section thirty-three of this Act may be demanded and recovered by the Board as a debt in any court of competent jurisdiction from the owner of the ship concerned.

Recovery of
rates and
charges.

(2) A certificate purporting to be under the hand of the secretary stating that a specified amount is the amount—

- (a) of any pilotage rates or harbour and light rates payable;
- (b) of any charge payable under section thirty-three of this Act; or
- (c) payable in respect of any travelling expenses incurred,

shall be received in any proceedings as prima facie evidence that the specified amount is payable.

PART V.**INVESTIGATIONS AND APPEALS.**

35. In this Part of this Act—

“certificated person” means an exempt master or certificate holder;

Meaning of
“certificated
person” and
“default”.

“default” means incompetence, misconduct or negligence in or in relation to the navigation of a ship.

36. (1) If it comes to the knowledge of the Board that a pilot or a certificated person, when acting as a pilot or a master, may have been guilty of any default, the Board may investigate the matter.

Investigation
by the
Board of
default.

Pilotage.

(2) If the Board begins an investigation it—

(a) may suspend the pilot's licence or the certificated person's certificate; and

(b) shall give written notice to the pilot or certificated person concerning the investigation and any suspension of his licence or certificate.

37. (1) In making an investigation the Board—

(a) shall not be bound by the rules of evidence;

(b) may conduct the investigation without regard to legal forms; and

(c) shall not, except as provided in section forty of this Act, be obliged to hear the pilot or certificated person concerned.

Provisions relating to investigation of default.

(2) The evidence to be required in connection with the determination of any matter under investigation shall be such as the Board may determine.

38. If, in pursuance of the provisions of an Act or of an Act of the Commonwealth, a competent authority convenes a Court of Marine Inquiry to inquire into any matter relevant to an investigation being made by the Board, the Board shall not, after the convening of such Court, make a finding under section thirty-nine or forty of this Act without first having regard to the findings of that Court.

Board to have regard to findings of Court of Marine Inquiry.

39. The Board may, at any stage in an investigation, if in its opinion the facts so warrant, find a pilot or a certificated person not guilty of any default, in which event it shall inform the pilot or certificated person of its finding and remove any suspension of his licence or certificate imposed under section thirty-six of this Act.

Procedure if Board finds pilot, etc., not guilty of a default.

Pilotage.

40. (1) The Board shall not find a pilot or a certificated person guilty of any default unless it has—

Procedure if Board finds pilot, etc., guilty of a default.

- 5 (a) provided him with a statement of the evidence considered by the Board in the course of the investigation; and
- (b) afforded him an opportunity, within such reasonable time as it shall specify in a written notice given to him, to make written submissions to the Board.

(2) The Board may make any further investigation 10 it deems necessary as a result of written submissions made by a pilot or a certificated person, but shall not be required to provide the pilot or certificated person with a statement of any evidence obtained in the course of the further investigation.

(3) If, after it has considered the written submissions, 15 if any, made by a pilot or a certificated person, the Board decides that the pilot or certificated person has been guilty of any default, it shall so find and—

- (a) may take no action against the pilot or certificated person; or
- 20 (b) may—
 - (i) withdraw the pilot's licence or the certificated person's certificate;
 - (ii) suspend, or continue the suspension of, the pilot's licence or the certificated person's 25 certificate; or
 - (iii) reprimand the pilot or certificated person,

and

Pilotage.

and shall—

- (c) give written notice to the pilot or certificated person of its finding and of any action taken under paragraph (b) of this subsection; and
- 5 (d) remove any suspension of the pilot's licence or the certificated person's certificate if it acts as provided in paragraph (a) or subparagraph (iii) of paragraph (b), of this subsection.

(4) The Board may provide a pilot or a certificated
10 person with a statement of evidence in any way in which it may give written notice under subsection two of section four of this Act, and the provisions of subsection four of that section shall apply where a statement of evidence is provided as they apply where written notice is given.

15 **41.** (1) The withdrawal of—

- (a) a certificated person's certificate under subsection one of section ten of this Act; or
- (b) a pilot's licence or a certificated person's certificate
20 under paragraph (b) of subsection two of section forty of this Act,

Withdrawal
of licence
or certificate
deemed
to be
suspension.

shall not take effect—

- (c) until one month after the pilot or authorised person is given written notice of the withdrawal; and
- 25 (d) if the pilot or authorised person appeals to a Board of Review under section forty-two of this Act, unless the Board of Review confirms the action taken by the Board.

(2)

Pilotage.

(2) During the period of one month referred to in paragraph (c) of subsection one of this section and, if the pilot or certificated person appeals to a Board of Review, pending the decision of that Board, a licence or certificate
5 which has been withdrawn shall be deemed to have been suspended.

42. (1) Subject to the provisions of subsection four of this section, a pilot whose licence has been restricted in its application by the Board, under subsection two of section
10 eight of this Act, may appeal to a Board of Review against—

(a) the decision to impose the restriction; or

(b) the nature and extent of the restriction imposed,

or against both those matters.

(2) A certificated person whose certificate—

15 (a) has been restricted in its application by the Board under subsection two of section eight of this Act, may appeal to a Board of Review against—

(i) the decision to impose the restriction; or

20 (ii) the nature and extent of the restriction imposed,

or against both those matters; or

(b) has been suspended or withdrawn under subsection one of section ten of this Act may appeal to a Board of Review against the decision to suspend or
25 withdraw the certificate.

(3) A pilot or a certificated person found guilty of any default under section forty of this Act may appeal to a Board of Review against—

(a) the finding of the Board; or

(b)

Pilotage.

(b) the action taken by the Board under paragraph (b) of subsection three of that section,

or against both these matters.

5 (4) No appeal shall lie under subsection one of this section where the decision or restriction concerned relates to the port or ports, or portions thereof, to which a licence is to apply.

43. (1) A pilot or a certificated person having a right of appeal and wishing to appeal shall notify the Board in writing, ^{Procedure for making appeal.} stating in the notification the nature of his appeal and setting out such further particulars as may be prescribed.

(2) A notification under subsection one of this section shall be given within one month, or within such extended period as the Board may allow, of the date on which written notice is given by the Board to the pilot or certificated person of the matter against which he wishes to appeal.

(3) On receipt of a notification—

(a) the Board shall take steps to cause a Board of Review to be appointed;

20 (b) the secretary shall—

(i) in the case of an appeal under subsection one or subsection two of section forty-two of this Act, prepare a statement containing the Board's decision, the reasons therefor, and, except in the case of an appeal under paragraph (b) of subsection three of that section, particulars of the restriction imposed; and

(ii)

Pilotage.

5 (ii) in the case of an appeal under subsection three of section forty-two of this Act, prepare a record of evidence containing the evidence which was before the Board as a result of the investigation, any written submission made by the pilot or certificated person, the Board's finding and particulars of the action taken.

10 (4) The secretary shall make available to the pilot or certificated person concerned a copy of the statement or record of evidence referred to in subsection three of this section.

44. (1) A Board of Review shall, when required, be appointed by the Governor and shall consist of—

Appointment of Board of Review.

- 15 (a) a District Court Judge (hereinafter in this Act referred to as "the Chairman");
- (b) a member nominated by the Board; and
- 20 (c) a member nominated by an organisation entitled to represent the pilot or certificated person concerned in industrial proceedings, or, if there is more than one such organisation, the organisation so entitled which is selected by the pilot or certificated person.

(2) No person shall be appointed in pursuance of a nomination under paragraph (b) or (c) of subsection one of this section unless the Governor is satisfied that the person nominated is sufficiently experienced in the navigation of ports in the jurisdiction to warrant his being appointed.

45. (1) The Chairman shall fix a date and place for the hearing of an appeal and shall give seven days' notice thereof to the pilot or certificated person concerned.

Procedure before and powers of Board of Review.

(2) A Board of Review shall receive and admit on production the statement or the record of evidence referred to in subsection three of section forty-three of this Act if it is duly certified by the secretary as correct.

(3)

Pilotage.

(3) The pilot or certificated person either in person or by his solicitor or counsel shall be afforded an opportunity of showing cause why any decision or finding of the Board, or any restriction imposed or action taken by the Board, which
5 is the subject of appeal, should not be upheld or confirmed by a Board of Review.

(4) The decision of the Chairman upon any question of law or procedure which may arise before a Board of Review shall be the decision of the Board of Review.

10 (5) A Board of Review in dealing with any appeal—

(a) shall consider any statement or record of evidence received and admitted by it under subsection two of this section and such other evidence and submissions as may be given before or made to it; and

15 (b) may require that further or better evidence, and in particular oral evidence where a witness able to give such evidence can in its opinion reasonably be made available, be tendered in respect of any matter which is bona fide disputed by the pilot or certificated person, or, in the case of evidence submitted
20 by the pilot or certificated person, bona fide disputed by the Board.

(6) For the purpose of any appeal a Board of Review shall have the powers, authorities, protections and
25 immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing
30 before a Board of Review.

(7) A Board of Review may make such order as it thinks fit respecting the costs of any appeal, and the costs awarded against any party to the proceedings may be recovered by the party in whose favour the order is made, in
35 any court of competent jurisdiction.

Pilotage.

46. (1) A Board of Review may by order—
- (a) uphold or quash a decision or finding of the Board; and
- (b) confirm, vary or quash any restriction imposed or action taken by the Board,
- which is the subject of appeal.
- (2) For the purpose of varying any restriction imposed or action taken by the Board, a Board of Review shall have the powers of the Board under this Act.
- (3) If a Board of Review quashes a decision or finding of the Board it shall, by order, quash any restriction imposed or action taken by the Board consequent on such decision or finding, whether or not the restriction or action is the subject of appeal.
47. (1) An order of a Board of Review under section forty-six of this Act shall have effect from the date thereof.
- (2) The Board shall take all such steps as may be necessary to implement an order of a Board of Review.
- (3) A pilot or a certificated person shall deliver his licence or certificate on demand made by the Board for the purpose of implementing an order of a Board of Review.
- Penalty : Two hundred dollars.

PART VI.

MISCELLANEOUS.

48. The Board may, but shall not be required to, hear the pilot, exempt master or certificate holder concerned before making a decision under subsection two of section eight or subsection one of section ten, of this Act, and such a decision of the Board shall not be challenged in any proceedings by reason only of the Board's failure to hear the pilot, exempt master or certificate holder.

Pilotage.

49. No proceedings, civil or criminal, shall be brought against the Board or any person who has given or supplied any evidence or information to the Board in connection with an investigation under section thirty-six of this Act, in respect of any matter contained in that evidence or information which is or is alleged to be defamatory.

No proceedings against Board, etc., in connection with an investigation.

50. (1) No person shall give any confidential report or disclose any information contained therein to any person other than a prescribed person.

Disclosure of confidential information.

10 Penalty : Four hundred dollars.

(2) In this section—

15 “confidential report” means any report made by a pilot to the Board relating to or in connection with the navigation, management or condition of a ship when he was pilot of that ship ;

“prescribed person” means—

- (a) a commissioner or an officer of the Board ;
- (b) a chairman or member of a Board of Review ;
- 20 (c) a court ;
- (d) a person acting in a professional capacity or expert capacity before a Board of Review or a court, when the confidential report or any of the contents thereof are relevant to the proceedings before the Board of Review or court ;
- 25 (e) the owner of the ship concerned or a person designated by him in writing ; or
- (f) any person designated by the Board in writing.
- 30

51. (1) All penalties recovered for offences against this Act or the regulations shall be paid to the Board.

Recovery of penalties.

(2)

Pilotage.

(2) All proceedings in respect of offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

5 **52.** (1) The Board, with the approval of the Governor, Regulations, may make regulations for or with respect to—

- 10 (a) any matter which is required or permitted to be prescribed under this Act, or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 15 (b) the application, in relation to any ship of a specified tonnage, length or draught, or of any other specified class, whether or not that ship is in charge of an exempt master or certificate holder, of the provisions of subsections one, two, three and four of section fifteen and subsection one of section thirty, of this Act;
- 20 (c) the qualifications with regard to age, physical fitness, experience, local knowledge, skill, character, citizenship, or otherwise, to be required from persons applying for a licence or certificate, and the testing and examination, whether as to health, knowledge, ability, or otherwise, of those persons;
- 25 (d) the testing or examination, whether as to health, knowledge, ability or otherwise, of the holder of a licence or certificate;
- 30 (e) the administration of the Board's pilotage service and the duties of pilots and other officers appointed to that service, and for the proper supervision by the Board of the navigation of pilotage ports by exempt masters or certificate holders;
- (f) the payment of fees for licences and certificates, or for services rendered by officers or employees of the Board; and
- 35 (g) the forms to be used for the purposes of this Act.

(2)

Pilotage.

(2) The regulations prescribing pilotage rates or harbour and light rates may prescribe—

- (a) different rates for inward pilotage, outward pilotage or harbour pilotage;
- 5 (b) different rates for different ports or classes of ports, or for different areas within ports or classes of ports; and
- (c) different rates for different classes of ships distinguished in such manner as may be specified.

10 (3) The regulations may—

- (a) provide for the calculation of pilotage rates or harbour and light rates on tonnage, length or draught;
- 15 (b) prescribe a fixed rate for any ship of not more than a specified tonnage or length or a minimum rate for all ships or for any class of ship; and
- 20 (c) define tonnage, provide for the manner in which it shall be ascertained, whether by way of reference to any specified record or publication, or by way of measurement or estimation, and provide for the settlement or resolution of any dispute concerning tonnage and for the payment of rates pending any such settlement.

(4) The regulations may—

- 25 (a) be of general application or limited by reference to time, place or circumstances;
- (b) be restricted to any specified class of subject-matter or restricted to all subject-matter other than any specified class or classes; and
- 30 (c) impose a penalty not exceeding four hundred dollars for any offence against the regulations.

(5) For the purposes of any regulation the draught of a ship shall be—

- 35 (a) in the case of a sea-going ship, the greatest depth below the waterline at which the ship may lawfully be navigated on the high seas;

(b)

Pilotage.

(b) in any other case, the greatest depth below the waterline at which the ship may lawfully be navigated.

53. (1) If it appears to the Board, on the application of
5 any person affected by any regulation, that compliance with
all or any part of the regulation is impracticable or
unnecessary, the Board may direct that compliance with that
regulation or part thereof may be dispensed with, and may,
by the same direction, direct that some other requirement
10 be substituted for the requirement of the regulation or part
thereof.

(2) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation shall be deemed to be a breach of that regulation.

15 (3) Any direction under this subsection may be given under the hand of an officer or employee of the Board authorised by the Board in that behalf.

SCHEDULE.

Sec. 3 (1).

AMENDMENTS TO NAVIGATION ACT, 1901.

- 20 In section 1 omit the matter relating to Part V.
In section 3 omit the definitions of "pilot" and "qualified pilot".
In section 7 omit paragraph (c).
Omit Part V.
Omit section 149.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 56, 1971.

An Act to make provision for the pilotage of ships and to empower the Maritime Services Board to license pilots and grant pilotage exemption certificates and certificates of local knowledge; to provide for the payment of pilotage and harbour and light charges; to enable the Board to investigate any default on the part of pilots and the holders of any such certificates; to amend the Navigation Act, 1901, and the Maritime Services Act, 1935; and for purposes connected therewith. [Assented to, 14th December, 1971.]

BE

Pilotage.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.**PRELIMINARY.**

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Pilotage Act, 1971".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the *Gazette*.

Division
of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE—ss. 7–14.

PART III.—PILOTAGE—ss. 15–29.

PART IV.—PILOTAGE AND OTHER RATES—ss. 30–34.

PART V.—INVESTIGATIONS AND APPEALS—ss. 35–47.

PART VI.—MISCELLANEOUS—ss. 48–53.

Repeal,
savings
and
amendment.

3. (1) The Navigation Act, 1901, is amended to the extent and in the manner specified in the Schedule to this Act.

(2) A pilot's licence or a pilotage certificate granted under the Navigation Act, 1901, which is—

(a) in force; or

(b)

Pilotage.

- (b) subject to a suspension or revocation imposed for a period under section seventy-two of that Act,

at the commencement of this Act, shall be deemed to be respectively a licence or a pilotage exemption certificate granted under this Act and shall continue in force in accordance with its terms, subject to the provisions of this Act and to the continuation, unless removed under this Act, of any suspension or revocation for the period for which it was imposed.

(3) Any declaration by the Governor under section one hundred and seventy-three of the Navigation Act, 1901, that all or any of the provisions of Part V of that Act shall not apply to a vessel or to a vessel of a class, shall be deemed to be a declaration under paragraph (e) of subsection one of section five of this Act that the vessel or any vessel of that class is an exempt ship, upon and subject to any condition, limitation or restriction expressed in the declaration by the Governor.

(4) The Maritime Services Act, 1935, is amended by inserting in subsection one of section fifteen after the word "Act" where firstly occurring the words "and the Pilotage Act, 1971".

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

"Board" means the Maritime Services Board of New South Wales;

"certificate" means a pilotage exemption certificate or a certificate of local knowledge, granted under section seven of this Act;

"certificate holder" means the holder of a certificate of local knowledge granted under section seven of this Act;

"exempt

Pilotage.

“exempt master” means the holder of a pilotage exemption certificate granted under section seven of this Act;

“harbour-master” means any duly appointed harbour-master or assistant harbour-master, and includes any person appointed under section 36A of the Maritime Services Act, 1935, to exercise or perform any of the powers, authorities, duties or functions of a harbour-master;

“length” means length overall;

“licence” means a licence granted under section seven of this Act;

“master” includes every person having lawfully, or de facto, the command, charge, or management of a vessel for the time being;

“owner” includes any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of the owner of a ship, whether on his own behalf or on behalf of another;

“pilot” means a person licensed under section seven of this Act to conduct ships to which he does not belong;

“pilotage port” means a port within the jurisdiction declared by the Board by order published in the Gazette to be a pilotage port;

“regulations” means regulations made under this Act;

“secretary” means the secretary of the Board and includes any person for the time being acting as such;

“ship”

Pilotage.

“ship” means a vessel not ordinarily propelled by oars only;

“the jurisdiction” means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

“vessel” includes any lighter, barge, boat, raft, craft and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatsoever description and howsoever navigated, and includes amphibious vehicles, hydroplanes, hydrofoils and hovercraft.

(2) Where under this Act the Board is required to give written notice to any person the notice may be given either by—

- (a) leaving the notice with the person or, if he does not accept the notice, by putting the notice down in his presence and telling him the nature of the notice;
- (b) leaving the notice at the proper address of the person; or
- (c) sending the notice by pre-paid post addressed to the proper address of the person.

(3) For the purposes of paragraphs (b) and (c) of subsection two of this section the proper address of a person shall be his usual or last known place of business or of abode.

(4) A certificate purporting to be under the hand of the secretary stating that written notice was given to any person on a date specified in the certificate shall be received in any proceedings as prima facie evidence that written notice was given to that person on that date.

Pilotage.

Meaning
of
"exempt
ship".

5. (1) For the purposes of this Act, each of the following ships is an exempt ship—

- (a) a harbour and river ship the master of which is a certificate holder;
- (b) a pleasure vessel;
- (c) a ship of less than one hundred feet in length engaged in fishing or whaling for the purpose of trade in Australia or New Zealand;
- (d) a ship of less than fifty feet in length; and
- (e) any ship, or ship of any class, declared by the Board by order published in the Gazette to be an exempt ship.

(2) The Board may attach conditions to any exemption declared under paragraph (e) of subsection one of this section, and if it does so the exemption shall have effect only when the conditions are complied with.

(3) In this section—

"harbour and river ship" means a ship which may not lawfully be used for profit or reward on any voyage or excursion to sea;

"pleasure vessel" means a ship used solely for pleasure and which is not used or allowed or authorised to be used in the course of any business or in connection with any commercial transaction.

Person
not to be
deemed a
pilot, etc.,
in certain
instances.

6. (1) A person shall be deemed not to be a pilot, an exempt master or a certificate holder—

(a) when acting—

- (i) in any port, or portion thereof, to which his licence or certificate does not apply;
- (ii)

Pilotage.

- (ii) otherwise than in accordance with any other restriction on the application of his licence or certificate imposed by the Board under section eight of this Act or by a Board of Review under section forty-six of this Act; or
- (b) subject to the provisions of subsection two of this section, during any period when his licence or certificate is suspended, or is deemed to have been suspended as provided in subsection two of section forty-one of this Act.

(2) Any reference in Part V of this Act to a pilot, an exempt master or a certificate holder includes a reference to a pilot, an exempt master or a certificate holder whose licence or certificate has been suspended.

PART II.

**LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND
CERTIFICATES OF LOCAL KNOWLEDGE.**

- 7.** (1) The Board may, subject to such limitations and restrictions as may be prescribed, grant—
- (a) a licence to any person to conduct ships to which he does not belong; and
 - (b) a pilotage exemption certificate or a certificate of local knowledge to any person.
- (2) A licence or a certificate shall—
- (a) be in such form as the Board may determine and be signed by the secretary;

Granting
of
licences
and
certificates.

(b)

Pilotage.

- (b) state the port or ports, or portions thereof, to which it applies; and
- (c) state or have endorsed thereon any other restriction on its application imposed by the Board under section eight of this Act.

Imposition,
etc., of
restrictions
on
application
of
licence
or
certificate.

8. (1) When granting a licence or certificate the Board may impose restrictions on its application.

(2) If, subsequent to the granting of a licence or certificate, the Board decides that it is necessary to do so, it may impose restrictions on its application.

(3) The power of the Board under subsection two of this section to impose restrictions shall be deemed to include a power to vary restrictions imposed.

(4) The Board may revoke restrictions imposed by it.

(5) The Board shall—

- (a) exercise its power under subsection two of this section subject to such limitations and restrictions as may be prescribed; and
- (b) give written notice to the pilot, exempt master or certificate holder when it imposes or revokes any restriction under subsection two or four of this section.

Duration
of licence
or
certificate.

9. Subject to the provisions of section six of this Act, a licence or certificate shall be in force until withdrawn.

Suspension
and with-
drawal of
licence or
certificate.

10. (1) The Board may suspend or withdraw a licence or certificate if it decides that a pilot, exempt master or certificate holder has failed to take or satisfy such tests or examinations, or to meet such requirements, as may be prescribed.

(2)

Pilotage.

(2) The Board may withdraw the licence or certificate of a pilot, exempt master or certificate holder if he has held a licence or certificate, as the case may be, for under one year.

(3) In determining the period for which a pilot has held a licence or an exempt master or certificate holder has held a certificate there shall be—

(a) included any period during which—

(i) the pilot held a licence as a pilot;

(ii) the exempt master held a pilotage certificate,

under the Navigation Act, 1901; and

(b) excluded any period during which the licence or certificate was suspended, or a licence or pilotage certificate granted under the Navigation Act, 1901, was suspended or revoked under that Act or suspended under this Act.

(4) The Board shall give written notice to the person concerned of any suspension or withdrawal of his licence or certificate under this section.

11. The Board may at any time remove the suspension of a licence or certificate. Removal
of
suspension.

12. (1) A person undertaking or proposing to undertake the conduct of a ship to which he does not belong shall produce his licence to the master of the ship if required by the master to do so. Production
and
delivery
of licences
and
certificates.

Penalty : Two hundred dollars.

(2) An exempt master or a certificate holder shall produce his certificate on such occasions and to such persons as may be prescribed.

Penalty : Two hundred dollars.

(3)

Pilotage.

(3) A person whose licence or certificate is suspended or withdrawn under section ten, thirty-six, or forty, of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the suspension or withdrawal.

Penalty : Two hundred dollars.

(4) A pilot, exempt master or certificate holder whose licence or certificate has been restricted in its application by the Board under subsection two of section eight of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the imposition of the restriction.

Penalty : Two hundred dollars.

(5) The person into whose hands a licence or certificate comes after the death of a pilot, exempt master or certificate holder shall, on demand by the Board, deliver it to an officer of the Board.

Penalty : Two hundred dollars.

Offence
to alter,
etc.,
licence or
certificate.

13. No person shall—

(a) alter, add to, endorse or mark in any way a licence or certificate, except by direction of the Board; or

(b) damage, deface or destroy a licence or certificate.

Penalty : Four hundred dollars.

Prohibition
against
acting as
pilot.

14. (1) No person, other than a pilot, shall undertake the conduct of a ship to which he does not belong in any port within the jurisdiction.

Penalty : Four hundred dollars.

(2)

Pilotage.

(2) No person shall act as pilot for a ship entering into, departing from, or moving within, a pilotage port unless he—

- (a) is in the employ of the Board; and
- (b) has been assigned by the Board to act as a pilot in that pilotage port.

Penalty : Four hundred dollars.

PART III.

PILOTAGE.

15. (1) In every pilotage port pilotage shall be compulsory as provided in this section. Compulsory pilotage.

(2) The master of a ship entering into a pilotage port shall take on board the pilot presenting himself to conduct the ship on its movement into the pilotage port.

Penalty : Four hundred dollars.

(3) The master of a ship shall not depart from, or move within, a pilotage port before taking on board the pilot made available by the Board to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

(4) If a pilot defers pilotage under section twenty-five or twenty-six of this Act the master of the ship concerned shall not depart from, or move within, the pilotage port before taking on board the pilot made available by the Board, subsequent to the deferment, to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

Pilotage.

(5) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of this section shall not apply to an exempt ship or a ship in charge of an exempt master.

Require-
ment of
harbour-
master.

16. (1) The harbour-master of a pilotage port may, as a condition of allowing a ship to be secured to or remain at a berth or place of anchorage, require that a pilot remain on board the ship while so berthed or anchored.

(2) If the master of a ship refuses or neglects or is unable, to comply with the requirement of a harbour-master under subsection one of this section the harbour-master may exercise all or any of the powers conferred by section 13w of the Maritime Services Act, 1935, on the harbour-master of a port mentioned in subsection one of that section.

(3) The master of a ship shall comply with any direction given by a harbour-master in pursuance of the provisions of subsection two of this section.

Penalty : Four hundred dollars.

(4) The provisions of this section apply to a ship whether or not it is a ship required by section fifteen of this Act to be under pilotage.

Inward
pilotage.

17. (1) The pilotage of a ship entering into a pilotage port (hereinafter in this Act referred to as "inward pilotage") shall commence when a pilot first gives assistance to the ship when it is entering into the pilotage port.

(2) Inward pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored;
or

(b)

Pilotage.

- (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

- 18.** When inward pilotage has ended the master shall— Duties of master when inward pilotage ends.
- (a) on a form provided by the Board for the purpose—
 - (i) certify that the inward pilotage has ended;
 - (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and
 - (b) give the completed form to the pilot.

Penalty : Two hundred dollars.

- 19.** (1) The pilotage of a ship departing from a pilotage port (hereinafter in this Act referred to as “outward pilotage”) shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage. Outward pilotage.

(2) Outward pilotage shall end when the master informs the pilot that he is satisfied that the ship has been placed in a safe position to proceed on its voyage.

(3) If a pilot is of opinion that a master is in error in being satisfied that a ship has been placed in a safe position to proceed on its voyage he may so inform the master.

- 20.** When outward pilotage has ended the master shall— Duties of master when outward pilotage ends.
- (a) on a form provided by the Board for the purpose—
 - (i) certify that the outward pilotage has ended;

(ii)

Pilotage.

(ii) if the pilot stated his opinion, as provided in subsection three of section nineteen of this Act, that the ship was not in a safe position to proceed on its voyage, record such opinion;

(iii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

Penalty : Two hundred dollars.

Harbour
pilotage.

21. (1) The pilotage of a ship being moved within a pilotage port (hereinafter in this Act referred to as "harbour pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

(2) Harbour pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored; or

(b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

(3) A pilot shall not commence harbour pilotage until the name and signature of the master of the ship concerned have been endorsed on the form referred to in section twenty-two of this Act.

Duties of
master
when
harbour
pilotage
ends.

22. When harbour pilotage has ended the master shall—

(a) on a form provided by the Board for the purpose—

(i) certify that the harbour pilotage has ended;

(ii)

Pilotage.

- (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and
- (b) give the completed form to the pilot.

Penalty : Two hundred dollars.

23. A master who indicates that he is not satisfied with the performance by a pilot of his duties on any inward pilotage, outward pilotage or harbour pilotage may furnish the Board, in such manner as is prescribed, with his reasons for not being satisfied, and in the event that he fails to do so the Board shall treat the pilotage concerned as having been satisfactory.

24. (1) A master of a ship under inward pilotage, outward pilotage or harbour pilotage, who causes his ship to be navigated in any way which is contrary to the directions of the pilot shall forthwith—

- (a) by the most rapid means of communication available to him, inform the Board that he has done so; and
- (b) furnish the pilot with written confirmation that he has so informed the Board.

Penalty : Four hundred dollars.

(2) When a pilot is on board a ship in pursuance of the provisions of section sixteen of this Act, the ship shall, whether or not it is required by section fifteen of this Act to be under the pilotage of a pilot, for the purposes of subsection one of this section, be deemed to be under harbour pilotage, and if the master does not comply with a direction of the pilot concerning or relating to the safety of the ship he shall be deemed to have navigated the ship in a way contrary to the direction of the pilot.

Pilotage.

Deferment
of
pilotage.

25. When a ship is unable, or will in the opinion of the master of the ship be unable, to leave its berth or place of anchorage in a pilotage port within one hour of the time stated for so leaving in the application by the owner or master for a pilot, the pilot attending may defer pilotage and cease attendance.

Duty of
master
when
advised
against
leaving
berth, etc.

26. (1) If, having been advised by the pilot made available for outward pilotage or harbour pilotage that a ship cannot leave its berth or place of anchorage in a pilotage port without undue risk, the master decides that the ship should so leave, he shall forthwith give written confirmation to the pilot that he has been so advised.

(2) If a master fails to give written confirmation as required by subsection one of this section the pilot may defer pilotage and cease attendance.

Leaving
berth or
anchorage
contrary to
prohibition.

27. (1) If a pilot made available for outward pilotage or harbour pilotage considers that a ship should not leave its berth or place of anchorage because of the danger which would be involved, he shall—

- (a) if he is not the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be, pending the decision of the harbour-master ; or
- (b) if he is the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be.

(2) The master of a ship shall comply with any direction given under subsection one of this section.

Penalty : Four hundred dollars.

(3) If a pilot gives the direction referred to in paragraph (a) or (b) of subsection one of this section he may defer the pilotage and cease attendance.

Pilotage.

28. (1) The owner of a ship shall, on such occasions and at such times, as may be prescribed, give to the Board such particulars of any certificate held by the master of the ship as may be prescribed.

Duties of owner and master in connection with pilotage.

Penalty : Three hundred dollars.

(2) The master of a ship required to be under pilotage shall, before the commencement of the pilotage, check the efficiency and accuracy of the steering and propulsive machinery, and the instruments and means of communication, used in the navigation of the ship.

Penalty : Three hundred dollars.

(3) The master of a ship under pilotage shall—

- (a) give the pilot such particulars concerning the ship as may be prescribed;
- (b) ensure that any order given with his authority by the pilot is carried out; and
- (c) give the pilot such information as he may require for the navigation of the ship.

Penalty : Three hundred dollars.

(4) If the master of a ship gives false or misleading information to a pilot requiring information for the navigation of the ship he shall be deemed not to have complied with the provisions of paragraph (c) of subsection three of this section.

29. If a ship, not required to be under pilotage by section fifteen of this Act, is at the request of its owner, under pilotage, the provisions of sections seventeen to twenty-eight of this Act, both inclusive, shall apply mutatis mutandis to that ship and its master and owner for the purposes of such pilotage.

Provisions to apply when ship under pilotage at request of owner.

Pilotage.

PART IV.**PILOTAGE AND OTHER RATES.**

Pilotage
rates.

30. (1) Subject to the provisions of this section, there shall be payable to the Board in respect of a ship on each occasion that it enters into, departs from, or moves within, a pilotage port such pilotage rates as may be prescribed.

(2) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of subsection one of this section shall not apply to—

(a) an exempt ship; or

(b) a ship—

(i) which is registered at a port in or subject to the Commonwealth or in New Zealand;

(ii) which is moving within a port only, or which is employed in trading or going between a port in the jurisdiction and a port in or subject to the Commonwealth or in New Zealand; and

(iii) the master of which is an exempt master,

except on any occasion when the exempt ship or ship enters into, departs from, or moves within, a pilotage port under the pilotage of a pilot at the request of the owner of the ship.

Harbour
and light
rates.

31. There shall be payable to the Board harbour and light rates of a prescribed amount in the circumstances and at the times prescribed.

Duties of
owner in
respect of
pilotage
rates, etc.

32. If pilotage rates or harbour and light rates are payable in respect of a ship the owner of the ship shall—

(a) so inform the Board; and

(b)

Pilotage.

- (b) furnish the Board with such particulars relating to the ship as may be prescribed,

within one month of the date when the rates became payable.

Penalty : Two hundred dollars.

33. (1) Whenever a pilot, who has attended a ship at the time stated by the owner or master in his application for a pilot— Charges, etc., payable in certain cases.

- (a) is unable thereupon to conduct the ship to sea or to another place within the port by reason of the ship's unreadiness for departure or for other cause not occasioned by any act or omission of the pilot, there shall be payable to the Board in respect of the period of delay a charge calculated in such manner as may be prescribed; or
- (b) defers the pilotage of the ship at the request of the owner or master or in pursuance of the provisions of section twenty-five, twenty-six or twenty-seven of this Act, there shall be payable to the Board such portion of the pilotage rates prescribed for the pilotage of the ship as may be prescribed.

(2) Whenever the master of a ship lying at a berth or anchorage in a pilotage port has requested, whether or not as the result of a requirement by a harbour-master, that a pilot remain on board such ship there shall be payable to the Board a charge, calculated in such manner as may be prescribed, for the period during which the pilot remains on board the ship.

(3) Whenever at the end of an outward pilotage a pilot is unable to leave the ship by reason of adverse conditions there shall be payable to the Board for the period elapsing between the end of the outward pilotage and the pilot's return to his pilot station such charge as may be prescribed, together with all travelling expenses reasonably incurred by the Board in respect of his return.

34.

Pilotage.

Recovery of
rates and
charges.

34. (1) Any pilotage rates, harbour and light rates or charge or travelling expenses payable under section thirty-three of this Act may be demanded and recovered by the Board as a debt in any court of competent jurisdiction from the owner of the ship concerned.

(2) A certificate purporting to be under the hand of the secretary stating that a specified amount is the amount—

- (a) of any pilotage rates or harbour and light rates payable;
- (b) of any charge payable under section thirty-three of this Act; or
- (c) payable in respect of any travelling expenses incurred,

shall be received in any proceedings as prima facie evidence that the specified amount is payable.

PART V.

INVESTIGATIONS AND APPEALS.

Meaning of
"certificated
person" and
"default".

35. In this Part of this Act—

"certificated person" means an exempt master or a certificate holder;

"default" means incompetence, misconduct or negligence in or in relation to the navigation of a ship.

Investigation
by the
Board of
default.

36. (1) If it comes to the knowledge of the Board that a pilot or a certificated person, when acting as a pilot or a master, may have been guilty of any default, the Board may investigate the matter.

(2)

Pilotage.

(2) If the Board begins an investigation it—

- (a) may suspend the pilot's licence or the certificated person's certificate; and
- (b) shall give written notice to the pilot or certificated person concerning the investigation and any suspension of his licence or certificate.

37. (1) In making an investigation the Board—

- (a) shall not be bound by the rules of evidence;
- (b) may conduct the investigation without regard to legal forms; and
- (c) shall not, except as provided in section forty of this Act, be obliged to hear the pilot or certificated person concerned.

Provisions relating to investigation of default.

(2) The evidence to be required in connection with the determination of any matter under investigation shall be such as the Board may determine.

38. If, in pursuance of the provisions of an Act or of an Act of the Commonwealth, a competent authority convenes a Court of Marine Inquiry to inquire into any matter relevant to an investigation being made by the Board, the Board shall not, after the convening of such Court, make a finding under section thirty-nine or forty of this Act without first having regard to the findings of that Court.

Board to have regard to findings of Court of Marine Inquiry.

39. The Board may, at any stage in an investigation, if in its opinion the facts so warrant, find a pilot or a certificated person not guilty of any default, in which event it shall inform the pilot or certificated person of its finding and remove any suspension of his licence or certificate imposed under section thirty-six of this Act.

Procedure if Board finds pilot, etc., not guilty of a default.

Pilotage.

Procedure if
Board finds
pilot, etc.,
guilty of a
default.

40. (1) The Board shall not find a pilot or a certificated person guilty of any default unless it has—

- (a) provided him with a statement of the evidence considered by the Board in the course of the investigation; and
- (b) afforded him an opportunity, within such reasonable time as it shall specify in a written notice given to him, to make written submissions to the Board.

(2) The Board may make any further investigation it deems necessary as a result of written submissions made by a pilot or a certificated person, but shall not be required to provide the pilot or certificated person with a statement of any evidence obtained in the course of the further investigation.

(3) If, after it has considered the written submissions, if any, made by a pilot or a certificated person, the Board decides that the pilot or certificated person has been guilty of any default, it shall so find and—

- (a) may take no action against the pilot or certificated person; or
- (b) may—
 - (i) withdraw the pilot's licence or the certificated person's certificate;
 - (ii) suspend, or continue the suspension of, the pilot's licence or the certificated person's certificate; or
 - (iii) reprimand the pilot or certificated person,

and

Pilotage.

and shall—

- (c) give written notice to the pilot or certificated person of its finding and of any action taken under paragraph (b) of this subsection; and
- (d) remove any suspension of the pilot's licence or the certificated person's certificate if it acts as provided in paragraph (a) or subparagraph (iii) of paragraph (b), of this subsection.

(4) The Board may provide a pilot or a certificated person with a statement of evidence in any way in which it may give written notice under subsection two of section four of this Act, and the provisions of subsection four of that section shall apply where a statement of evidence is provided as they apply where written notice is given.

41. (1) The withdrawal of—

- (a) a certificated person's certificate under subsection one of section ten of this Act; or
- (b) a pilot's licence or a certificated person's certificate under paragraph (b) of subsection three of section forty of this Act,

Withdrawal
of licence
or certificate
deemed
to be
suspension.

shall not take effect—

- (c) until one month after the pilot or authorised person is given written notice of the withdrawal; and
- (d) if the pilot or authorised person appeals to a Board of Review under section forty-two of this Act, unless the Board of Review confirms the action taken by the Board.

(2)

Pilotage.

(2) During the period of one month referred to in paragraph (c) of subsection one of this section and, if the pilot or certificated person appeals to a Board of Review, pending the decision of that Board, a licence or certificate which has been withdrawn shall be deemed to have been suspended.

Right of
appeal to
Board of
Review.

42. (1) Subject to the provisions of subsection four of this section, a pilot whose licence has been restricted in its application by the Board, under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (a) the decision to impose the restriction; or
- (b) the nature and extent of the restriction imposed,

or against both those matters.

(2) A certificated person whose certificate—

- (a) has been restricted in its application by the Board under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (i) the decision to impose the restriction; or
 - (ii) the nature and extent of the restriction imposed,

or against both those matters; or

- (b) has been suspended or withdrawn under subsection one of section ten of this Act may appeal to a Board of Review against the decision to suspend or withdraw the certificate.

(3) A pilot or a certificated person found guilty of any default under section forty of this Act may appeal to a Board of Review against—

- (a) the finding of the Board; or

(b)

Pilotage.

- (b) the action taken by the Board under paragraph (b) of subsection three of that section,

or against both these matters.

(4) No appeal shall lie under subsection one of this section where the decision or restriction concerned relates to the port or ports, or portions thereof, to which a licence is to apply.

43. (1) A pilot or a certificated person having a right of appeal and wishing to appeal shall notify the Board in writing, stating in the notification the nature of his appeal and setting out such further particulars as may be prescribed. Procedure for making appeal.

(2) A notification under subsection one of this section shall be given within one month, or within such extended period as the Board may allow, of the date on which written notice is given by the Board to the pilot or certificated person of the matter against which he wishes to appeal.

(3) On receipt of a notification—

(a) the Board shall take steps to cause a Board of Review to be appointed;

(b) the secretary shall—

- (i) in the case of an appeal under subsection one or subsection two of section forty-two of this Act, prepare a statement containing the Board's decision, the reasons therefor, and, except in the case of an appeal under paragraph (b) of subsection three of that section, particulars of the restriction imposed; and

(ii)

Pilotage.

- (ii) in the case of an appeal under subsection three of section forty-two of this Act, prepare a record of evidence containing the evidence which was before the Board as a result of the investigation, any written submission made by the pilot or certificated person, the Board's finding and particulars of the action taken.

(4) The secretary shall make available to the pilot or certificated person concerned a copy of the statement or record of evidence referred to in subsection three of this section.

Appoint-
ment of
Board of
Review.

44. (1) A Board of Review shall, when required, be appointed by the Governor and shall consist of—

- (a) a District Court Judge (hereinafter in this Act referred to as "the Chairman");
- (b) a member nominated by the Board; and
- (c) a member nominated by an organisation entitled to represent the pilot or certificated person concerned in industrial proceedings, or, if there is more than one such organisation, the organisation so entitled which is selected by the pilot or certificated person.

(2) No person shall be appointed in pursuance of a nomination under paragraph (b) or (c) of subsection one of this section unless the Governor is satisfied that the person nominated is sufficiently experienced in the navigation of ports in the jurisdiction to warrant his being appointed.

Procedure
before and
powers of
Board of
Review.

45. (1) The Chairman shall fix a date and place for the hearing of an appeal and shall give seven days' notice thereof to the pilot or certificated person concerned.

(2) A Board of Review shall receive and admit on production the statement or the record of evidence referred to in subsection three of section forty-three of this Act if it is duly certified by the secretary as correct.

(3)

Pilotage.

(3) The pilot or certificated person either in person or by his solicitor or counsel shall be afforded an opportunity of showing cause why any decision or finding of the Board, or any restriction imposed or action taken by the Board, which is the subject of appeal, should not be upheld or confirmed by a Board of Review.

(4) The decision of the Chairman upon any question of law or procedure which may arise before a Board of Review shall be the decision of the Board of Review.

(5) A Board of Review in dealing with any appeal—

- (a) shall consider any statement or record of evidence received and admitted by it under subsection two of this section and such other evidence and submissions as may be given before or made to it; and
- (b) may require that further or better evidence, and in particular oral evidence where a witness able to give such evidence can in its opinion reasonably be made available, be tendered in respect of any matter which is bona fide disputed by the pilot or certificated person, or, in the case of evidence submitted by the pilot or certificated person, bona fide disputed by the Board.

(6) For the purpose of any appeal a Board of Review shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing before a Board of Review.

(7) A Board of Review may make such order as it thinks fit respecting the costs of any appeal, and the costs awarded against any party to the proceedings may be recovered by the party in whose favour the order is made, in any court of competent jurisdiction.

Pilotage.

Decision
of Board
of Review.

46. (1) A Board of Review may by order—

- (a) uphold or quash a decision or finding of the Board;
and
- (b) confirm, vary or quash any restriction imposed or
action taken by the Board,

which is the subject of appeal.

(2) For the purpose of varying any restriction imposed or action taken by the Board, a Board of Review shall have the powers of the Board under this Act.

(3) If a Board of Review quashes a decision or finding of the Board it shall, by order, quash any restriction imposed or action taken by the Board consequent on such decision or finding, whether or not the restriction or action is the subject of appeal.

Effect and
implementa-
tion of
decision of
Board of
Review.

47. (1) An order of a Board of Review under section forty-six of this Act shall have effect from the date thereof.

(2) The Board shall take all such steps as may be necessary to implement an order of a Board of Review.

(3) A pilot or a certificated person shall deliver his licence or certificate on demand made by the Board for the purpose of implementing an order of a Board of Review.

Penalty : Two hundred dollars.

PART VI.

MISCELLANEOUS.

Board may
hear pilot,
etc., before
making
certain
decisions.

48. The Board may, but shall not be required to, hear the pilot, exempt master or certificate holder concerned before making a decision under subsection two of section eight or subsection one of section ten, of this Act, and such a decision of the Board shall not be challenged in any proceedings by reason only of the Board's failure to hear the pilot, exempt master or certificate holder.

Pilotage.

49. No proceedings, civil or criminal, shall be brought against the Board or any person who has given or supplied any evidence or information to the Board in connection with an investigation under section thirty-six of this Act, in respect of any matter contained in that evidence or information which is or is alleged to be defamatory.

No proceedings against Board, etc., in connection with an investigation.

50. (1) No person shall give any confidential report or disclose any information contained therein to any person other than a prescribed person.

Disclosure of confidential information.

Penalty : Four hundred dollars.

(2) In this section—

“confidential report” means any report made by a pilot to the Board relating to or in connection with the navigation, management or condition of a ship when he was pilot of that ship ;

“prescribed person” means—

- (a) a commissioner or an officer of the Board ;
- (b) a chairman or member of a Board of Review ;
- (c) a court ;
- (d) a person acting in a professional capacity or expert capacity before a Board of Review or a court, when the confidential report or any of the contents thereof are relevant to the proceedings before the Board of Review or court ;
- (e) the owner of the ship concerned or a person designated by him in writing ; or
- (f) any person designated by the Board in writing.

51. (1) All penalties recovered for offences against this Act or the regulations shall be paid to the Board.

Recovery of penalties.

(2)

Pilotage.

(2) All proceedings in respect of offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

Regulations. **52.** (1) The Board, with the approval of the Governor, may make regulations for or with respect to—

- (a) any matter which is required or permitted to be prescribed under this Act, or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (b) the application, in relation to any ship of a specified tonnage, length or draught, or of any other specified class, whether or not that ship is in charge of an exempt master or certificate holder, of the provisions of subsections one, two, three and four of section fifteen and subsection one of section thirty, of this Act;
- (c) the qualifications with regard to age, physical fitness, experience, local knowledge, skill, character, citizenship, or otherwise, to be required from persons applying for a licence or certificate, and the testing and examination, whether as to health, knowledge, ability, or otherwise, of those persons;
- (d) the testing or examination, whether as to health, knowledge, ability or otherwise, of the holder of a licence or certificate;
- (e) the administration of the Board's pilotage service and the duties of pilots and other officers appointed to that service, and for the proper supervision by the Board of the navigation of pilotage ports by exempt masters or certificate holders;
- (f) the payment of fees for licences and certificates, or for services rendered by officers or employees of the Board; and
- (g) the forms to be used for the purposes of this Act.

(2)

Pilotage.

(2) The regulations prescribing pilotage rates or harbour and light rates may prescribe—

- (a) different rates for inward pilotage, outward pilotage or harbour pilotage;
- (b) different rates for different ports or classes of ports, or for different areas within ports or classes of ports; and
- (c) different rates for different classes of ships distinguished in such manner as may be specified.

(3) The regulations may—

- (a) provide for the calculation of pilotage rates or harbour and light rates on tonnage, length or draught;
- (b) prescribe a fixed rate for any ship of not more than a specified tonnage or length or a minimum rate for all ships or for any class of ship; and
- (c) define tonnage, provide for the manner in which it shall be ascertained, whether by way of reference to any specified record or publication, or by way of measurement or estimation, and provide for the settlement or resolution of any dispute concerning tonnage and for the payment of rates pending any such settlement.

(4) The regulations may—

- (a) be of general application or limited by reference to time, place or circumstances;
- (b) be restricted to any specified class of subject-matter or restricted to all subject-matter other than any specified class or classes; and
- (c) impose a penalty not exceeding four hundred dollars for any offence against the regulations.

(5) For the purposes of any regulation the draught of a ship shall be—

- (a) in the case of a sea-going ship, the greatest depth below the waterline at which the ship may lawfully be navigated on the high seas;

(b)

Pilotage.

- (b) in any other case, the greatest depth below the waterline at which the ship may lawfully be navigated.

Exemption
from
compliance
with
regulations.

53. (1) If it appears to the Board, on the application of any person affected by any regulation, that compliance with all or any part of the regulation is impracticable or unnecessary, the Board may direct that compliance with that regulation or part thereof may be dispensed with, and may, by the same direction, direct that some other requirement be substituted for the requirement of the regulation or part thereof.

(2) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation shall be deemed to be a breach of that regulation.

(3) Any direction under this subsection may be given under the hand of an officer or employee of the Board authorised by the Board in that behalf.

Sec. 3 (1).

SCHEDULE.

AMENDMENTS TO NAVIGATION ACT, 1901.

In section 1 omit the matter relating to Part V.

In section 3 omit the definitions of "pilot" and "qualified pilot".

In section 7 omit paragraph (c).

Omit Part V.

Omit section 149.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South Wales.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 1 December, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 56, 1971.

An Act to make provision for the pilotage of ships and to empower the Maritime Services Board to license pilots and grant pilotage exemption certificates and certificates of local knowledge; to provide for the payment of pilotage and harbour and light charges; to enable the Board to investigate any default on the part of pilots and the holders of any such certificates; to amend the Navigation Act, 1901, and the Maritime Services Act, 1935; and for purposes connected therewith. [Assented to, 14th December, 1971.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Pilotage.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.**PRELIMINARY.**

Short title and commencement. **1.** (1) This Act may be cited as the "Pilotage Act, 1971".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the *Gazette*.

Division of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND CERTIFICATES OF LOCAL KNOWLEDGE—ss. 7–14.

PART III.—PILOTAGE—ss. 15–29.

PART IV.—PILOTAGE AND OTHER RATES—ss. 30–34.

PART V.—INVESTIGATIONS AND APPEALS—ss. 35–47.

PART VI.—MISCELLANEOUS—ss. 48–53.

Repeal, savings and amendment. **3.** (1) The Navigation Act, 1901, is amended to the extent and in the manner specified in the Schedule to this Act.

(2) A pilot's licence or a pilotage certificate granted under the Navigation Act, 1901, which is—

(a) in force; or

(b)

Pilotage.

- (b) subject to a suspension or revocation imposed for a period under section seventy-two of that Act,

at the commencement of this Act, shall be deemed to be respectively a licence or a pilotage exemption certificate granted under this Act and shall continue in force in accordance with its terms, subject to the provisions of this Act and to the continuation, unless removed under this Act, of any suspension or revocation for the period for which it was imposed.

(3) Any declaration by the Governor under section one hundred and seventy-three of the Navigation Act, 1901, that all or any of the provisions of Part V of that Act shall not apply to a vessel or to a vessel of a class, shall be deemed to be a declaration under paragraph (e) of subsection one of section five of this Act that the vessel or any vessel of that class is an exempt ship, upon and subject to any condition, limitation or restriction expressed in the declaration by the Governor.

(4) The Maritime Services Act, 1935, is amended by inserting in subsection one of section fifteen after the word "Act" where firstly occurring the words "and the Pilotage Act, 1971".

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

"Board" means the Maritime Services Board of New South Wales;

"certificate" means a pilotage exemption certificate or a certificate of local knowledge, granted under section seven of this Act;

"certificate holder" means the holder of a certificate of local knowledge granted under section seven of this Act;

"exempt

Pilotage.

“exempt master” means the holder of a pilotage exemption certificate granted under section seven of this Act;

“harbour-master” means any duly appointed harbour-master or assistant harbour-master, and includes any person appointed under section 36A of the Maritime Services Act, 1935, to exercise or perform any of the powers, authorities, duties or functions of a harbour-master;

“length” means length overall;

“licence” means a licence granted under section seven of this Act;

“master” includes every person having lawfully, or de facto, the command, charge, or management of a vessel for the time being;

“owner” includes any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge, any of the powers or duties of the owner of a ship, whether on his own behalf or on behalf of another;

“pilot” means a person licensed under section seven of this Act to conduct ships to which he does not belong;

“pilotage port” means a port within the jurisdiction declared by the Board by order published in the Gazette to be a pilotage port;

“regulations” means regulations made under this Act;

“secretary” means the secretary of the Board and includes any person for the time being acting as such;

“ship”

Pilotage.

"ship" means a vessel not ordinarily propelled by oars only;

"the jurisdiction" means the navigable waters lying within one nautical league of the coast and the inland navigable waters of New South Wales;

"vessel" includes any lighter, barge, boat, raft, craft and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatsoever description and howsoever navigated, and includes amphibious vehicles, hydroplanes, hydrofoils and hovercraft.

(2) Where under this Act the Board is required to give written notice to any person the notice may be given either by—

(a) leaving the notice with the person or, if he does not accept the notice, by putting the notice down in his presence and telling him the nature of the notice;

(b) leaving the notice at the proper address of the person; or

(c) sending the notice by pre-paid post addressed to the proper address of the person.

(3) For the purposes of paragraphs (b) and (c) of subsection two of this section the proper address of a person shall be his usual or last known place of business or of abode.

(4) A certificate purporting to be under the hand of the secretary stating that written notice was given to any person on a date specified in the certificate shall be received in any proceedings as prima facie evidence that written notice was given to that person on that date.

Pilotage.

Meaning
of
"exempt
ship".

5. (1) For the purposes of this Act, each of the following ships is an exempt ship—

- (a) a harbour and river ship the master of which is a certificate holder;
- (b) a pleasure vessel;
- (c) a ship of less than one hundred feet in length engaged in fishing or whaling for the purpose of trade in Australia or New Zealand;
- (d) a ship of less than fifty feet in length; and
- (e) any ship, or ship of any class, declared by the Board by order published in the Gazette to be an exempt ship.

(2) The Board may attach conditions to any exemption declared under paragraph (e) of subsection one of this section, and if it does so the exemption shall have effect only when the conditions are complied with.

(3) In this section—

"harbour and river ship" means a ship which may not lawfully be used for profit or reward on any voyage or excursion to sea;

"pleasure vessel" means a ship used solely for pleasure and which is not used or allowed or authorised to be used in the course of any business or in connection with any commercial transaction.

Person
not to be
deemed a
pilot, etc.,
in certain
instances.

6. (1) A person shall be deemed not to be a pilot, an exempt master or a certificate holder—

(a) when acting—

- (i) in any port, or portion thereof, to which his licence or certificate does not apply;
- (ii)

Pilotage.

(ii) otherwise than in accordance with any other restriction on the application of his licence or certificate imposed by the Board under section eight of this Act or by a Board of Review under section forty-six of this Act; or

(b) subject to the provisions of subsection two of this section, during any period when his licence or certificate is suspended, or is deemed to have been suspended as provided in subsection two of section forty-one of this Act.

(2) Any reference in Part V of this Act to a pilot, an exempt master or a certificate holder includes a reference to a pilot, an exempt master or a certificate holder whose licence or certificate has been suspended.

PART II.

**LICENCES, PILOTAGE EXEMPTION CERTIFICATES AND
CERTIFICATES OF LOCAL KNOWLEDGE.**

7. (1) The Board may, subject to such limitations and restrictions as may be prescribed, grant—

Granting
of
licences
and
certificates.

(a) a licence to any person to conduct ships to which he does not belong; and

(b) a pilotage exemption certificate or a certificate of local knowledge to any person.

(2) A licence or a certificate shall—

(a) be in such form as the Board may determine and be signed by the secretary;

(b)

Pilotage.

- (b) state the port or ports, or portions thereof, to which it applies; and
- (c) state or have endorsed thereon any other restriction on its application imposed by the Board under section eight of this Act.

Imposition,
etc., of
restrictions
on
application
of
licence
or
certificate.

8. (1) When granting a licence or certificate the Board may impose restrictions on its application.

(2) If, subsequent to the granting of a licence or certificate, the Board decides that it is necessary to do so, it may impose restrictions on its application.

(3) The power of the Board under subsection two of this section to impose restrictions shall be deemed to include a power to vary restrictions imposed.

(4) The Board may revoke restrictions imposed by it.

(5) The Board shall—

- (a) exercise its power under subsection two of this section subject to such limitations and restrictions as may be prescribed; and
- (b) give written notice to the pilot, exempt master or certificate holder when it imposes or revokes any restriction under subsection two or four of this section.

Duration
of licence
or
certificate.

9. Subject to the provisions of section six of this Act, a licence or certificate shall be in force until withdrawn.

Suspension
and with-
drawal of
licence or
certificate.

10. (1) The Board may suspend or withdraw a licence or certificate if it decides that a pilot, exempt master or certificate holder has failed to take or satisfy such tests or examinations, or to meet such requirements, as may be prescribed.

(2)

Pilotage.

(2) The Board may withdraw the licence or certificate of a pilot, exempt master or certificate holder if he has held a licence or certificate, as the case may be, for under one year.

(3) In determining the period for which a pilot has held a licence or an exempt master or certificate holder has held a certificate there shall be—

(a) included any period during which—

(i) the pilot held a licence as a pilot;

(ii) the exempt master held a pilotage certificate,

under the Navigation Act, 1901; and

(b) excluded any period during which the licence or certificate was suspended, or a licence or pilotage certificate granted under the Navigation Act, 1901, was suspended or revoked under that Act or suspended under this Act.

(4) The Board shall give written notice to the person concerned of any suspension or withdrawal of his licence or certificate under this section.

11. The Board may at any time remove the suspension of a licence or certificate. Removal
of
suspension.

12. (1) A person undertaking or proposing to undertake the conduct of a ship to which he does not belong shall produce his licence to the master of the ship if required by the master to do so. Production
and
delivery
of licences
and
certificates.

Penalty : Two hundred dollars.

(2) An exempt master or a certificate holder shall produce his certificate on such occasions and to such persons as may be prescribed.

Penalty : Two hundred dollars.

(3)

Pilotage.

(3) A person whose licence or certificate is suspended or withdrawn under section ten, thirty-six, or forty, of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the suspension or withdrawal.

Penalty : Two hundred dollars.

(4) A pilot, exempt master or certificate holder whose licence or certificate has been restricted in its application by the Board under subsection two of section eight of this Act shall deliver it to the secretary within seven days of being given written notice by the Board of the imposition of the restriction.

Penalty : Two hundred dollars.

(5) The person into whose hands a licence or certificate comes after the death of a pilot, exempt master or certificate holder shall, on demand by the Board, deliver it to an officer of the Board.

Penalty : Two hundred dollars.

Offence
to alter,
etc.,
licence or
certificate.

13. No person shall—

- (a) alter, add to, endorse or mark in any way a licence or certificate, except by direction of the Board; or
- (b) damage, deface or destroy a licence or certificate.

Penalty : Four hundred dollars.

Prohibition
against
acting as
pilot.

14. (1) No person, other than a pilot, shall undertake the conduct of a ship to which he does not belong in any port within the jurisdiction.

Penalty : Four hundred dollars.

(2)

Pilotage.

(2) No person shall act as pilot for a ship entering into, departing from, or moving within, a pilotage port unless he—

- (a) is in the employ of the Board; and
- (b) has been assigned by the Board to act as a pilot in that pilotage port.

Penalty : Four hundred dollars.

PART III.

PILOTAGE.

15. (1) In every pilotage port pilotage shall be Compulsory
compulsory as provided in this section. pilotage.

(2) The master of a ship entering into a pilotage port shall take on board the pilot presenting himself to conduct the ship on its movement into the pilotage port.

Penalty : Four hundred dollars.

(3) The master of a ship shall not depart from, or move within, a pilotage port before taking on board the pilot made available by the Board to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

(4) If a pilot defers pilotage under section twenty-five or twenty-six of this Act the master of the ship concerned shall not depart from, or move within, the pilotage port before taking on board the pilot made available by the Board, subsequent to the deferment, to conduct the ship on its movement to sea or within the pilotage port.

Penalty : Four hundred dollars.

(5)

Pilotage.

(5) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of this section shall not apply to an exempt ship or a ship in charge of an exempt master.

Require-
ment of
harbour-
master.

16. (1) The harbour-master of a pilotage port may, as a condition of allowing a ship to be secured to or remain at a berth or place of anchorage, require that a pilot remain on board the ship while so berthed or anchored.

(2) If the master of a ship refuses or neglects or is unable, to comply with the requirement of a harbour-master under subsection one of this section the harbour-master may exercise all or any of the powers conferred by section 13w of the Maritime Services Act, 1935, on the harbour-master of a port mentioned in subsection one of that section.

(3) The master of a ship shall comply with any direction given by a harbour-master in pursuance of the provisions of subsection two of this section.

Penalty : Four hundred dollars.

(4) The provisions of this section apply to a ship whether or not it is a ship required by section fifteen of this Act to be under pilotage.

Inward
pilotage.

17. (1) The pilotage of a ship entering into a pilotage port (hereinafter in this Act referred to as "inward pilotage") shall commence when a pilot first gives assistance to the ship when it is entering into the pilotage port.

(2) Inward pilotage shall end—

- (a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored;
or

(b)

Pilotage.

- (b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

- 18.** When inward pilotage has ended the master shall—
- (a) on a form provided by the Board for the purpose—
 - (i) certify that the inward pilotage has ended;
 - (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and
 - (b) give the completed form to the pilot.

Duties of master when inward pilotage ends.

Penalty : Two hundred dollars.

- 19.** (1) The pilotage of a ship departing from a pilotage port (hereinafter in this Act referred to as “outward pilotage”) shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

Outward pilotage.

- (2) Outward pilotage shall end when the master informs the pilot that he is satisfied that the ship has been placed in a safe position to proceed on its voyage.

- (3) If a pilot is of opinion that a master is in error in being satisfied that a ship has been placed in a safe position to proceed on its voyage he may so inform the master.

- 20.** When outward pilotage has ended the master shall—
- (a) on a form provided by the Board for the purpose—
 - (i) certify that the outward pilotage has ended;

Duties of master when outward pilotage ends.

(ii)

Pilotage.

(ii) if the pilot stated his opinion, as provided in subsection three of section nineteen of this Act, that the ship was not in a safe position to proceed on its voyage, record such opinion;

(iii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

(b) give the completed form to the pilot.

Penalty : Two hundred dollars.

Harbour
pilotage.

21. (1) The pilotage of a ship being moved within a pilotage port (hereinafter in this Act referred to as "harbour pilotage") shall commence when a pilot first gives assistance to the ship in preparing to move from its berth or place of anchorage.

(2) Harbour pilotage shall end—

(a) when the ship has been brought to its allotted berth or place of anchorage and been securely moored; or

(b) if the movement of the ship to its allotted berth or place of anchorage is delayed or postponed, when the master informs the pilot that the ship has been safely anchored in a position acceptable to the master.

(3) A pilot shall not commence harbour pilotage until the name and signature of the master of the ship concerned have been endorsed on the form referred to in section twenty-two of this Act.

Duties of
master
when
harbour
pilotage
ends.

22. When harbour pilotage has ended the master shall—

(a) on a form provided by the Board for the purpose—

(i) certify that the harbour pilotage has ended;

(ii)

Pilotage.

- (ii) indicate whether or not he is satisfied with the performance by the pilot of his duties; and

- (b) give the completed form to the pilot.

Penalty : Two hundred dollars.

23. A master who indicates that he is not satisfied with the performance by a pilot of his duties on any inward pilotage, outward pilotage or harbour pilotage may furnish the Board, in such manner as is prescribed, with his reasons for not being satisfied, and in the event that he fails to do so the Board shall treat the pilotage concerned as having been satisfactory.

Master may furnish reasons if not satisfied with pilotage.

24. (1) A master of a ship under inward pilotage, outward pilotage or harbour pilotage, who causes his ship to be navigated in any way which is contrary to the directions of the pilot shall forthwith—

Master to inform Board, etc., when departing from directions of pilot.

- (a) by the most rapid means of communication available to him, inform the Board that he has done so; and
- (b) furnish the pilot with written confirmation that he has so informed the Board.

Penalty : Four hundred dollars.

(2) When a pilot is on board a ship in pursuance of the provisions of section sixteen of this Act, the ship shall, whether or not it is required by section fifteen of this Act to be under the pilotage of a pilot, for the purposes of subsection one of this section, be deemed to be under harbour pilotage, and if the master does not comply with a direction of the pilot concerning or relating to the safety of the ship he shall be deemed to have navigated the ship in a way contrary to the direction of the pilot.

Pilotage.

Deferment
of
pilotage.

25. When a ship is unable, or will in the opinion of the master of the ship be unable, to leave its berth or place of anchorage in a pilotage port within one hour of the time stated for so leaving in the application by the owner or master for a pilot, the pilot attending may defer pilotage and cease attendance.

Duty of
master
when
advised
against
leaving
berth, etc.

26. (1) If, having been advised by the pilot made available for outward pilotage or harbour pilotage that a ship cannot leave its berth or place of anchorage in a pilotage port without undue risk, the master decides that the ship should so leave, he shall forthwith give written confirmation to the pilot that he has been so advised.

(2) If a master fails to give written confirmation as required by subsection one of this section the pilot may defer pilotage and cease attendance.

Leaving
berth or
anchorage
contrary to
prohibition.

27. (1) If a pilot made available for outward pilotage or harbour pilotage considers that a ship should not leave its berth or place of anchorage because of the danger which would be involved, he shall—

- (a) if he is not the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be, pending the decision of the harbour-master; or
- (b) if he is the harbour-master for the port, direct the master of the ship that the ship is to remain at its berth or place of anchorage, as the case may be.

(2) The master of a ship shall comply with any direction given under subsection one of this section.

Penalty : Four hundred dollars.

(3) If a pilot gives the direction referred to in paragraph (a) or (b) of subsection one of this section he may defer the pilotage and cease attendance.

Pilotage.

28. (1) The owner of a ship shall, on such occasions and at such times, as may be prescribed, give to the Board such particulars of any certificate held by the master of the ship as may be prescribed.

Duties of owner and master in connection with pilotage.

Penalty : Three hundred dollars.

(2) The master of a ship required to be under pilotage shall, before the commencement of the pilotage, check the efficiency and accuracy of the steering and propulsive machinery, and the instruments and means of communication, used in the navigation of the ship.

Penalty : Three hundred dollars.

(3) The master of a ship under pilotage shall—

- (a) give the pilot such particulars concerning the ship as may be prescribed;
- (b) ensure that any order given with his authority by the pilot is carried out; and
- (c) give the pilot such information as he may require for the navigation of the ship.

Penalty : Three hundred dollars.

(4) If the master of a ship gives false or misleading information to a pilot requiring information for the navigation of the ship he shall be deemed not to have complied with the provisions of paragraph (c) of subsection three of this section.

29. If a ship, not required to be under pilotage by section fifteen of this Act, is at the request of its owner, under pilotage, the provisions of sections seventeen to twenty-eight of this Act, both inclusive, shall apply mutatis mutandis to that ship and its master and owner for the purposes of such pilotage.

Provisions to apply when ship under pilotage at request of owner.

PART

Pilotage.

PART IV.**PILOTAGE AND OTHER RATES.**

Pilotage
rates.

30. (1) Subject to the provisions of this section, there shall be payable to the Board in respect of a ship on each occasion that it enters into, departs from, or moves within, a pilotage port such pilotage rates as may be prescribed.

(2) Subject to the provisions of any regulation made under paragraph (b) of subsection one of section fifty-two of this Act, the provisions of subsection one of this section shall not apply to—

(a) an exempt ship; or

(b) a ship—

(i) which is registered at a port in or subject to the Commonwealth or in New Zealand;

(ii) which is moving within a port only, or which is employed in trading or going between a port in the jurisdiction and a port in or subject to the Commonwealth or in New Zealand; and

(iii) the master of which is an exempt master,

except on any occasion when the exempt ship or ship enters into, departs from, or moves within, a pilotage port under the pilotage of a pilot at the request of the owner of the ship.

Harbour
and light
rates.

31. There shall be payable to the Board harbour and light rates of a prescribed amount in the circumstances and at the times prescribed.

Duties of
owner in
respect of
pilotage
rates, etc.

32. If pilotage rates or harbour and light rates are payable in respect of a ship the owner of the ship shall—

(a) so inform the Board; and

(b)

Pilotage.

- (b) furnish the Board with such particulars relating to the ship as may be prescribed,

within one month of the date when the rates became payable.

Penalty : Two hundred dollars.

33. (1) Whenever a pilot, who has attended a ship at the time stated by the owner or master in his application for a pilot— Charges, etc., payable in certain cases.

- (a) is unable thereupon to conduct the ship to sea or to another place within the port by reason of the ship's unreadiness for departure or for other cause not occasioned by any act or omission of the pilot, there shall be payable to the Board in respect of the period of delay a charge calculated in such manner as may be prescribed; or
- (b) defers the pilotage of the ship at the request of the owner or master or in pursuance of the provisions of section twenty-five, twenty-six or twenty-seven of this Act, there shall be payable to the Board such portion of the pilotage rates prescribed for the pilotage of the ship as may be prescribed.

(2) Whenever the master of a ship lying at a berth or anchorage in a pilotage port has requested, whether or not as the result of a requirement by a harbour-master, that a pilot remain on board such ship there shall be payable to the Board a charge, calculated in such manner as may be prescribed, for the period during which the pilot remains on board the ship.

(3) Whenever at the end of an outward pilotage a pilot is unable to leave the ship by reason of adverse conditions there shall be payable to the Board for the period elapsing between the end of the outward pilotage and the pilot's return to his pilot station such charge as may be prescribed, together with all travelling expenses reasonably incurred by the Board in respect of his return.

34.

Pilotage.

Recovery of
rates and
charges.

34. (1) Any pilotage rates, harbour and light rates or charge or travelling expenses payable under section thirty-three of this Act may be demanded and recovered by the Board as a debt in any court of competent jurisdiction from the owner of the ship concerned.

(2) A certificate purporting to be under the hand of the secretary stating that a specified amount is the amount—

- (a) of any pilotage rates or harbour and light rates payable;
- (b) of any charge payable under section thirty-three of this Act; or
- (c) payable in respect of any travelling expenses incurred,

shall be received in any proceedings as prima facie evidence that the specified amount is payable.

PART V.

INVESTIGATIONS AND APPEALS.

Meaning of
"certificated
person" and
"default".

35. In this Part of this Act—

"certificated person" means an exempt master or a certificate holder;

"default" means incompetence, misconduct or negligence in or in relation to the navigation of a ship.

Investigation
by the
Board of
default.

36. (1) If it comes to the knowledge of the Board that a pilot or a certificated person, when acting as a pilot or a master, may have been guilty of any default, the Board may investigate the matter.

(2)

Pilotage.

(2) If the Board begins an investigation it—

- (a) may suspend the pilot's licence or the certificated person's certificate; and
- (b) shall give written notice to the pilot or certificated person concerning the investigation and any suspension of his licence or certificate.

37. (1) In making an investigation the Board—

- (a) shall not be bound by the rules of evidence;
- (b) may conduct the investigation without regard to legal forms; and
- (c) shall not, except as provided in section forty of this Act, be obliged to hear the pilot or certificated person concerned.

Provisions relating to investigation of default.

(2) The evidence to be required in connection with the determination of any matter under investigation shall be such as the Board may determine.

38. If, in pursuance of the provisions of an Act or of an Act of the Commonwealth, a competent authority convenes a Court of Marine Inquiry to inquire into any matter relevant to an investigation being made by the Board, the Board shall not, after the convening of such Court, make a finding under section thirty-nine or forty of this Act without first having regard to the findings of that Court.

Board to have regard to findings of Court of Marine Inquiry.

39. The Board may, at any stage in an investigation, if in its opinion the facts so warrant, find a pilot or a certificated person not guilty of any default, in which event it shall inform the pilot or certificated person of its finding and remove any suspension of his licence or certificate imposed under section thirty-six of this Act.

Procedure if Board finds pilot, etc., not guilty of a default.

Pilotage.

Procedure if
Board finds
pilot, etc.,
guilty of a
default.

40. (1) The Board shall not find a pilot or a certificated person guilty of any default unless it has—

- (a) provided him with a statement of the evidence considered by the Board in the course of the investigation; and
- (b) afforded him an opportunity, within such reasonable time as it shall specify in a written notice given to him, to make written submissions to the Board.

(2) The Board may make any further investigation it deems necessary as a result of written submissions made by a pilot or a certificated person, but shall not be required to provide the pilot or certificated person with a statement of any evidence obtained in the course of the further investigation.

(3) If, after it has considered the written submissions, if any, made by a pilot or a certificated person, the Board decides that the pilot or certificated person has been guilty of any default, it shall so find and—

- (a) may take no action against the pilot or certificated person; or

(b) may—

- (i) withdraw the pilot's licence or the certificated person's certificate;
- (ii) suspend, or continue the suspension of, the pilot's licence or the certificated person's certificate; or
- (iii) reprimand the pilot or certificated person,

and

Pilotage.

and shall—

- (c) give written notice to the pilot or certificated person of its finding and of any action taken under paragraph (b) of this subsection; and
- (d) remove any suspension of the pilot's licence or the certificated person's certificate if it acts as provided in paragraph (a) or subparagraph (iii) of paragraph (b), of this subsection.

(4) The Board may provide a pilot or a certificated person with a statement of evidence in any way in which it may give written notice under subsection two of section four of this Act, and the provisions of subsection four of that section shall apply where a statement of evidence is provided as they apply where written notice is given.

41. (1) The withdrawal of—

- (a) a certificated person's certificate under subsection one of section ten of this Act; or
- (b) a pilot's licence or a certificated person's certificate under paragraph (b) of subsection three of section forty of this Act,

Withdrawal
of licence
or certificate
deemed
to be
suspension.

shall not take effect—

- (c) until one month after the pilot or authorised person is given written notice of the withdrawal; and
- (d) if the pilot or authorised person appeals to a Board of Review under section forty-two of this Act, unless the Board of Review confirms the action taken by the Board.

(2)

Pilotage.

(2) During the period of one month referred to in paragraph (c) of subsection one of this section and, if the pilot or certificated person appeals to a Board of Review, pending the decision of that Board, a licence or certificate which has been withdrawn shall be deemed to have been suspended.

Right of
appeal to
Board of
Review.

42. (1) Subject to the provisions of subsection four of this section, a pilot whose licence has been restricted in its application by the Board, under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (a) the decision to impose the restriction; or
- (b) the nature and extent of the restriction imposed,

or against both those matters.

(2) A certificated person whose certificate—

- (a) has been restricted in its application by the Board under subsection two of section eight of this Act, may appeal to a Board of Review against—

- (i) the decision to impose the restriction; or
- (ii) the nature and extent of the restriction imposed,

or against both those matters; or

- (b) has been suspended or withdrawn under subsection one of section ten of this Act may appeal to a Board of Review against the decision to suspend or withdraw the certificate.

(3) A pilot or a certificated person found guilty of any default under section forty of this Act may appeal to a Board of Review against—

- (a) the finding of the Board; or

(b)

Pilotage.

- (b) the action taken by the Board under paragraph (b) of subsection three of that section,

or against both these matters.

(4) No appeal shall lie under subsection one of this section where the decision or restriction concerned relates to the port or ports, or portions thereof, to which a licence is to apply.

43. (1) A pilot or a certificated person having a right of appeal and wishing to appeal shall notify the Board in writing, stating in the notification the nature of his appeal and setting out such further particulars as may be prescribed. ^{Procedure for making appeal.}

(2) A notification under subsection one of this section shall be given within one month, or within such extended period as the Board may allow, of the date on which written notice is given by the Board to the pilot or certificated person of the matter against which he wishes to appeal.

(3) On receipt of a notification—

(a) the Board shall take steps to cause a Board of Review to be appointed;

(b) the secretary shall—

- (i) in the case of an appeal under subsection one or subsection two of section forty-two of this Act, prepare a statement containing the Board's decision, the reasons therefor, and, except in the case of an appeal under paragraph (b) of subsection three of that section, particulars of the restriction imposed; and

(ii)

Pilotage.

- (ii) in the case of an appeal under subsection three of section forty-two of this Act, prepare a record of evidence containing the evidence which was before the Board as a result of the investigation, any written submission made by the pilot or certificated person, the Board's finding and particulars of the action taken.

(4) The secretary shall make available to the pilot or certificated person concerned a copy of the statement or record of evidence referred to in subsection three of this section.

Appoint-
ment of
Board of
Review.

44. (1) A Board of Review shall, when required, be appointed by the Governor and shall consist of—

- (a) a District Court Judge (hereinafter in this Act referred to as "the Chairman") ;
- (b) a member nominated by the Board; and
- (c) a member nominated by an organisation entitled to represent the pilot or certificated person concerned in industrial proceedings, or, if there is more than one such organisation, the organisation so entitled which is selected by the pilot or certificated person.

(2) No person shall be appointed in pursuance of a nomination under paragraph (b) or (c) of subsection one of this section unless the Governor is satisfied that the person nominated is sufficiently experienced in the navigation of ports in the jurisdiction to warrant his being appointed.

Procedure
before and
powers of
Board of
Review.

45. (1) The Chairman shall fix a date and place for the hearing of an appeal and shall give seven days' notice thereof to the pilot or certificated person concerned.

(2) A Board of Review shall receive and admit on production the statement or the record of evidence referred to in subsection three of section forty-three of this Act if it is duly certified by the secretary as correct.

(3)

Pilotage.

(3) The pilot or certificated person either in person or by his solicitor or counsel shall be afforded an opportunity of showing cause why any decision or finding of the Board, or any restriction imposed or action taken by the Board, which is the subject of appeal, should not be upheld or confirmed by a Board of Review.

(4) The decision of the Chairman upon any question of law or procedure which may arise before a Board of Review shall be the decision of the Board of Review.

(5) A Board of Review in dealing with any appeal—

- (a) shall consider any statement or record of evidence received and admitted by it under subsection two of this section and such other evidence and submissions as may be given before or made to it; and
- (b) may require that further or better evidence, and in particular oral evidence where a witness able to give such evidence can in its opinion reasonably be made available, be tendered in respect of any matter which is bona fide disputed by the pilot or certificated person, or, in the case of evidence submitted by the pilot or certificated person, bona fide disputed by the Board.

(6) For the purpose of any appeal a Board of Review shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness summoned by or appearing before a Board of Review.

(7) A Board of Review may make such order as it thinks fit respecting the costs of any appeal, and the costs awarded against any party to the proceedings may be recovered by the party in whose favour the order is made, in any court of competent jurisdiction.

Pilotage.

Decision
of Board
of Review.

46. (1) A Board of Review may by order—

- (a) uphold or quash a decision or finding of the Board;
and
- (b) confirm, vary or quash any restriction imposed or
action taken by the Board,

which is the subject of appeal.

(2) For the purpose of varying any restriction imposed or action taken by the Board, a Board of Review shall have the powers of the Board under this Act.

(3) If a Board of Review quashes a decision or finding of the Board it shall, by order, quash any restriction imposed or action taken by the Board consequent on such decision or finding, whether or not the restriction or action is the subject of appeal.

Effect and
implementa-
tion of
decision of
Board of
Review.

47. (1) An order of a Board of Review under section forty-six of this Act shall have effect from the date thereof.

(2) The Board shall take all such steps as may be necessary to implement an order of a Board of Review.

(3) A pilot or a certificated person shall deliver his licence or certificate on demand made by the Board for the purpose of implementing an order of a Board of Review.

Penalty : Two hundred dollars.

PART VI.

MISCELLANEOUS.

Board may
hear pilot,
etc., before
making
certain
decisions.

48. The Board may, but shall not be required to, hear the pilot, exempt master or certificate holder concerned before making a decision under subsection two of section eight or subsection one of section ten, of this Act, and such a decision of the Board shall not be challenged in any proceedings by reason only of the Board's failure to hear the pilot, exempt master or certificate holder.

49.

Pilotage.

49. No proceedings, civil or criminal, shall be brought against the Board or any person who has given or supplied any evidence or information to the Board in connection with an investigation under section thirty-six of this Act, in respect of any matter contained in that evidence or information which is or is alleged to be defamatory.

No proceedings against Board, etc., in connection with an investigation.

50. (1) No person shall give any confidential report or disclose any information contained therein to any person other than a prescribed person.

Disclosure of confidential information.

Penalty : Four hundred dollars.

(2) In this section—

“confidential report” means any report made by a pilot to the Board relating to or in connection with the navigation, management or condition of a ship when he was pilot of that ship;

“prescribed person” means—

- (a) a commissioner or an officer of the Board;
- (b) a chairman or member of a Board of Review;
- (c) a court;
- (d) a person acting in a professional capacity or expert capacity before a Board of Review or a court, when the confidential report or any of the contents thereof are relevant to the proceedings before the Board of Review or court;
- (e) the owner of the ship concerned or a person designated by him in writing; or
- (f) any person designated by the Board in writing.

51. (1) All penalties recovered for offences against this Act or the regulations shall be paid to the Board.

Recovery of penalties.

(2)

Pilotage.

(2) All proceedings in respect of offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

Regulations. **52.** (1) The Board, with the approval of the Governor, may make regulations for or with respect to—

- (a) any matter which is required or permitted to be prescribed under this Act, or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (b) the application, in relation to any ship of a specified tonnage, length or draught, or of any other specified class, whether or not that ship is in charge of an exempt master or certificate holder, of the provisions of subsections one, two, three and four of section fifteen and subsection one of section thirty, of this Act;
- (c) the qualifications with regard to age, physical fitness, experience, local knowledge, skill, character, citizenship, or otherwise, to be required from persons applying for a licence or certificate, and the testing and examination, whether as to health, knowledge, ability, or otherwise, of those persons;
- (d) the testing or examination, whether as to health, knowledge, ability or otherwise, of the holder of a licence or certificate;
- (e) the administration of the Board's pilotage service and the duties of pilots and other officers appointed to that service, and for the proper supervision by the Board of the navigation of pilotage ports by exempt masters or certificate holders;
- (f) the payment of fees for licences and certificates, or for services rendered by officers or employees of the Board; and
- (g) the forms to be used for the purposes of this Act.

(2)

Pilotage.

(2) The regulations prescribing pilotage rates or harbour and light rates may prescribe—

- (a) different rates for inward pilotage, outward pilotage or harbour pilotage;
- (b) different rates for different ports or classes of ports, or for different areas within ports or classes of ports; and
- (c) different rates for different classes of ships distinguished in such manner as may be specified.

(3) The regulations may—

- (a) provide for the calculation of pilotage rates or harbour and light rates on tonnage, length or draught;
- (b) prescribe a fixed rate for any ship of not more than a specified tonnage or length or a minimum rate for all ships or for any class of ship; and
- (c) define tonnage, provide for the manner in which it shall be ascertained, whether by way of reference to any specified record or publication, or by way of measurement or estimation, and provide for the settlement or resolution of any dispute concerning tonnage and for the payment of rates pending any such settlement.

(4) The regulations may—

- (a) be of general application or limited by reference to time, place or circumstances;
- (b) be restricted to any specified class of subject-matter or restricted to all subject-matter other than any specified class or classes; and
- (c) impose a penalty not exceeding four hundred dollars for any offence against the regulations.

(5) For the purposes of any regulation the draught of a ship shall be—

- (a) in the case of a sea-going ship, the greatest depth below the waterline at which the ship may lawfully be navigated on the high seas;

(b)

Pilotage.

(b) in any other case, the greatest depth below the waterline at which the ship may lawfully be navigated.

Exemption
from
compliance
with
regulations.

53. (1) If it appears to the Board, on the application of any person affected by any regulation, that compliance with all or any part of the regulation is impracticable or unnecessary, the Board may direct that compliance with that regulation or part thereof may be dispensed with, and may, by the same direction, direct that some other requirement be substituted for the requirement of the regulation or part thereof.

(2) A breach of any requirement directed by the Board to be substituted for any regulation or part of a regulation shall be deemed to be a breach of that regulation.

(3) Any direction under this subsection may be given under the hand of an officer or employee of the Board authorised by the Board in that behalf.

Sec. 3 (1).

SCHEDULE.

AMENDMENTS TO NAVIGATION ACT, 1901.

In section 1 omit the matter relating to Part V.

In section 3 omit the definitions of "pilot" and "qualified pilot".

In section 7 omit paragraph (c).

Omit Part V.

Omit section 149.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 14th December, 1971.