

1990 - No. 144

PILOTAGE ACT 1971 - REGULATION

(Relating to qualifications and other matters)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pilotage Act 1971, has been pleased to approve the Regulation made by the Maritime Services Board and set forth hereunder.

BRUCE BAIRD
Minister for Transport.

The Maritime Services Board, in pursuance of the Pilotage Act 1971, hereby makes the following Regulation:

Commencement

1. This Regulation takes effect on 15 March, 1990.

Amendment

2. The Pilotage and Rates Regulations - N.S.W. are amended:
 - (a) by omitting all headings to Regulations;
 - (b) (i) by inserting in Regulation 2 (1) after the definition of "Board" the following definition:

"Chief officer on the bridge" means the chief officer on duty on the navigation bridge of the ship throughout the entire passage through pilotage waters.

(ii) by omitting from Regulation 2 (1) the definition of "Local ship" and by inserting instead the following definition:

"Local ship" means a ship registered in Australia.

(c) by omitting Regulation 14 and by inserting instead the following Regulation:

Determination of tonnage

14. (1) For the purposes of these Regulations, "tonnage" in relation to a ship, means the measure of total enclosed internal volume of the vessel, each gross ton representing 2.83 cubic metres of that volume.

(2) The tonnage of a ship, as defined in clause (1), is to be ascertained in accordance with this Regulation.

(3) Except where otherwise provided in this Regulation, the tonnage of a ship is either the highest gross tonnage stated in the ship's register or the highest gross tonnage stated in the latest publication of Lloyd's Register, as the Board may elect.

(4) If the tonnage of a ship cannot be ascertained in accordance with clause (3) or where, in the opinion of the Board, the tonnage of the ship as so ascertained is not the tonnage of the ship as defined in clause (1), the Board may estimate the tonnage.

(5) If the owner of a ship does not agree with the Board's estimate, the owner may have the tonnage of the ship determined (at the owner's expense) by a Lloyd's surveyor in accordance with the Navigation (Orders) Regulations Order No. 3 of 1985 published by the Australian Department of Transport as Marine Orders Part 19 Issue 2 (Tonnage Measurement - 1969 Convention).

(6) The tonnage of a ship as determined under clause (5) or, if no such determination is made, as estimated under clause (4) is, despite clause (3), the tonnage of the ship.

(d) (i) by omitting from Regulation 15 (1) the words "local ship of more than fifteen thousand tons" and by inserting instead the word "ship";

(ii) by omitting Regulation 15 (2) and by inserting instead the following clause:

(2) Clause (1) does not apply to:

- (a) a local ship of not more than 35,000 tons if the master of the ship is an exempt master; or
- (b) a ship registered in New Zealand of not more than 35,000 tons if the master of the ship is an exempt master and the ship is:
 - (i) moving within a port only;
 - (ii) employed on a voyage between Australian ports; or
 - (iii) employed on a voyage between a port in Australia and a port in New Zealand; or
- (c) an exempt ship; or
- (d) a local ship, or an unregistered ship eligible to be registered in Australia, if the master of the ship holds a certificate of local knowledge and the ship:
 - (i) operates solely within the port concerned and is the subject of a Class 1D, 1E, 2D or 2E vessel permit under the Commercial Vessels Act 1979; or
 - (ii) is less than 80 metres in length and is the subject of a Class 1B, 1C, 2B or 2C vessel permit under the Commercial Vessels Act 1979.

(e) by omitting Regulation 16;

(f) (i) by omitting Regulations 21 (1) and (2) and by inserting instead the following clauses:

- (1) Every applicant for a pilot's licence must:
 - (a) either hold a pilotage exemption certificate for an Australian port approved by the Board or have been issued with a certificate of capacity referred to in Regulation 35 (7) for the port in respect of which the application is made; and
 - (b) produce evidence satisfactory to the Board that the applicant is, having regard to the matters prescribed in the Eighth Schedule, in good health and is physically capable of the navigation of a

ship in the port in respect of which the application is made; and

- (c) produce evidence satisfactory to the Board that the applicant has passed the eyesight test prescribed in the Sixth Schedule and indicating whether the test was undertaken with any artificial aid; and
- (d) pay a fee of \$400.

(2) Every applicant for a first-class pilot's licence is required to satisfy the requirements of clause (1) and in addition must produce evidence satisfactory to the Board:

- (a) that the applicant has held a certificate as Master Class 1 (Unlimited) for a period of at least 5 years; and
- (b) that the applicant has fulfilled the requirements prescribed in the Fourth Schedule.

- (ii) by omitting Regulation 21 (3) (c);
- (iii) by omitting Regulation 21 (5);

(g) by omitting Part 6 and by inserting instead the following Part:

PART 6 - PILOTAGE EXEMPTION CERTIFICATES

Classes of certificate

33. For the purposes of this Part, a pilotage exemption certificate is:

- (a) a Class A certificate if it is not subject to any restriction as to the length of ship to which it applies; or
- (b) a Class B certificate if it is subject to a restriction imposed by the Board restricting the certificate's application to ships not exceeding 215 metres in length; or
- (c) a Class C certificate if it is subject to a restriction imposed by the Board restricting the certificate's application to ships not exceeding 155 metres in length; or
- (d) a Class D certificate if it is subject to a restriction imposed by the Board restricting the certificate's application to ships not exceeding 65 metres in length.

Application for certificate

34. Application for a pilotage exemption certificate must be made to the Board in writing and must be accompanied by a fee of \$400.

Requirements for issue of Certificate

35. (1) An applicant for a pilotage exemption certificate must satisfy the requirements of this Regulation.

(2) The applicant must hold a master's certificate authorising that person to take charge of a sea-going vessel.

(3) The applicant must provide evidence satisfactory to the Board of the applicant's experience and satisfactory performance in the navigation of ships.

(4) The applicant must establish to the Board's satisfaction that, during the 2 years immediately preceding the date of attendance before the Examining Authority referred to in clause (5), the applicant:

(a) has made either 4 voyages as master or 3 voyages as chief officer on the bridge and 3 voyages as master, each voyage being of a nature satisfactory to the Board into and out of each port for which application for the certificate is made; and

(b) has made at least 1 of the voyages referred to in paragraph (a) during the hours of darkness; and

(c) has made the voyages referred to in paragraph (a) on a ship or ships of not less than the length appropriate to the class of certificate applied for.

(5) The applicant must attend before an Examining Authority, consisting of one or more officers appointed by the Board, for each port for which a certificate is applied for.

(6) The applicant must produce such evidence and answer such questions as the Examining Authority considers appropriate.

(7) The applicant must have been issued by the Examining Authority with a certificate to the effect that it is satisfied that, subject to any restrictions specified in the certificate, the

applicant is capable of the navigation of ships not exceeding the length specified in the port concerned.

(8) The applicant must furnish evidence satisfactory to the Board:

- (a) of the applicant's sobriety and good conduct; and
- (b) that the applicant is, having regard to the matters prescribed in the Eighth Schedule, in good health and is physically capable of the navigation of a ship in the port in respect of which the application is made; and
- (c) certifying that the applicant has passed the eyesight test prescribed in the Sixth Schedule and indicating whether the test was undertaken with any artificial aid.

Certificate must be issued as Class A, B, C or D certificate

36. (1) When granting a pilotage exemption certificate, the Board must grant it as a certificate of Class A, B, C or D.

(2) This clause does not limit the power of the Board under section 8 of the Act to impose restrictions when granting a licence.

Imposition of class restrictions on existing certificates

37. Within 2 years after the commencement of this Regulation, the Board is to vary or impose restrictions on a pilotage exemption certificate issued before this Regulation commences so that the certificate is a Class A, B, C or D certificate.

Requirements for continuation of certificates

37A (1) In this Regulation, "renewal date" in relation to a pilotage exemption certificate, means:

- (a) any day on which the Board by notice in writing given to the holder of the certificate requires the holder to establish that the holder meets the requirements of this Regulation; and
- (b) for certificates in force at the commencement of this Regulation, the date of the first anniversary of the granting of the certificate that occurs following the expiration of 12 months from the commencement of this

Regulation, and thereafter each second anniversary of that date; and

(c) for certificates granted after the commencement of this Regulation, each second anniversary of the granting of the certificate.

(2) Within 2 months after each renewal date, the holder of a pilotage exemption certificate must establish to the satisfaction of the Board that the holder has made:

(a) at least 1 voyage into and out of each port to which the certificate applies (either as master or chief officer on the bridge, whether or not under pilotage):

(i) during the 6 months immediately preceding the renewal date in the case of a Class A, B or C certificate; or

(ii) during the 12 months immediately preceding the renewal date in the case of a Class D certificate; and

(b) at least 1 voyage into or out of each port to which the certificate applies during the hours of darkness (either as master or chief officer on the bridge) during the 12 months immediately preceding the renewal date.

(3) Within 2 months after each renewal date, the holder of a pilotage exemption certificate must produce evidence satisfactory to the Board:

(a) that the holder is, having regard to the matters prescribed in the Eighth Schedule, in good health and is physically capable of the navigation of a ship in each port to which the certificate applies; and

(b) that the applicant has passed the eyesight test prescribed in the Seventh Schedule and indicating whether the test was undertaken with any artificial aid.

Fees for continuance of certificates

37B. The holder of a pilotage exemption certificate must pay to the Board a fee of \$200 for the certificate within 2 months after each second anniversary of the granting of the certificate.

Alteration of certificate - ports and class of certificate

37C. (1) On application and payment of a fee of \$200 by the holder of a pilotage exemption certificate, the Board may:

- (a) alter the ports to which it applies; or
- (b) impose, vary or revoke any restriction on the application of the certificate so as to alter the class of the certificate.

(2) The Board is not to grant such an application unless satisfied:

- (a) in the case of an application under clause (1) (a) - that the applicant has been issued with a certificate referred to in Regulation 35 (7) in respect of the port (or each of the ports) to which the application relates; or
- (b) in the case of an application under clause (1) (b) - that the applicant has been issued with a certificate referred to in Regulation 35 (7) in respect of each of the ports to which the certificate relates and the length of ship appropriate to the Class of certificate.

(h) by omitting Regulation 38 and by inserting instead the following Regulation:

Application for certificate

38. Application for a certificate of local knowledge must be made to the Board in writing and must be accompanied by a fee of \$60 for each port or part of a port in respect of which the application is made.

- (i) (i) by omitting from Regulation 39 (1) the words "of that length";
- (ii) by omitting Regulation 39 (2) (a) and by inserting instead the following paragraph:
 - (a) must hold a certificate of competency under the Commercial Vessels Act 1979;
- (iii) by omitting from Regulation 39 (2) (b) the words "a harbour and river ship" and by inserting instead the words "a ship of the kind referred to in Regulation 15 (2) (d) (i) or (ii) of at least 15.24 metres in length";
- (iv) by omitting from Regulation 39 (2) (c) the words "in that port of ships of the length set out in that certificate; and" and by inserting instead the words "of ships in that port";

- (v) by omitting Regulation 39 (2) (d) and by inserting instead the following paragraphs:
 - (d) produce evidence satisfactory to the Board that the applicant is, having regard to the matters prescribed in the Eighth Schedule, in good health and is physically capable of the navigation of a ship in the port in respect of which the application is made; and
 - (e) produce evidence satisfactory to the Board that the applicant has passed the eyesight test prescribed in the Sixth Schedule and indicating whether the test was undertaken with any artificial aid.
- (vi) by omitting Regulation 39 (3);

(j) by omitting Regulation 40 and by inserting instead the following Regulations:

Requirements for continuation of certificates

40. (1) In this Regulation, "renewal date", in relation to a certificate of local knowledge, means:

- (a) any day on which the Board by notice in writing given to the holder of the certificate requires the holder to establish that the holder meets the requirements of this Regulation; and
- (b) for certificates in force at the commencement of this Regulation, the date of the first anniversary of the granting of the certificate that occurs following the expiration of 12 months from the commencement of this Regulation, and thereafter each second anniversary of that date; and
- (c) for certificates granted after the commencement of this Regulation, each second anniversary of the granting of the certificate.

(2) Within 2 months after each renewal date, the holder of a certificate of local knowledge must establish to the satisfaction of the Board that the holder:

- (a) has been employed for a total period of at least 6 months in the 2 years prior to the renewal date (at least 1 month of which must have been in the 6 months immediately preceding that date) in deck service on a ship of the kind

referred to in Regulation 15 (2) (d) (i) or (ii) of at least 15.24 metres in length in the relevant port; or

(b) has had other experience of navigation in that port accepted by the Board as equivalent.

(3) Within 2 months after each renewal date, the holder of a certificate of local knowledge must produce evidence satisfactory to the Board:

(a) that the applicant is, having regard to the matters prescribed in the Eighth Schedule, in good health and is physically capable of the navigation of a ship in the relevant port; and

(b) that the applicant has passed the eyesight test prescribed in the Seventh Schedule and indicating whether the test was undertaken with any artificial aid.

Fees for continuation of certificates

40A. The holder of a certificate of local knowledge must pay to the Board a fee of \$30 for the certificate within 2 months after each second anniversary of the granting of the certificate.

(k) by omitting Regulation 42 and by inserting instead the following Regulation:

Alteration of certificate – ports

42. (1) On application and payment of a fee of \$60 by the holder of a certificate of local knowledge, the Board may alter the ports to which it applies.

(2) The Board is not to grant such an application unless satisfied that the applicant has been issued a certificate referred to in Regulation 39 (2) (c) in respect of the port (or each of the ports) to which the application relates.

(1) by inserting after Regulation 42 the following Regulations:

Use and possession of artificial aids

42A. (1) The holder of a pilotage exemption certificate or a certificate of local knowledge who has used an artificial aid to pass an eyesight test for the purposes of Regulation 35 (8) (c), 37A (3) (b), 39 (2) (e) or 40 (3) (b) must at all times while navigating a ship in the exercise of the authority conferred by the certificate:

- (a) make use of; and
- (b) carry on his or her person a duplicate replacement of, the artificial aid, which may be either a tested aid or a substitute aid.

(2) In this Regulation:

"tested aid" means the artificial aid used by the holder of the certificate to pass the test concerned;

"substitute aid" means an artificial aid prescribed for the holder of the certificate by a qualified ophthalmologist as a substitute for the tested aid, with the use of which the holder has familiarised himself or herself to the satisfaction of a qualified ophthalmologist.

Keeping records

42B. (1) An exempt master is to maintain and provide on request to an authorised officer of the Board an accurate written record of the date and particulars of service of every occasion that a vessel of which he or she is master or chief officer on the bridge makes a voyage into or out of the port to which his or her pilotage exemption certificate applies.

(2) The holder of a certificate of local knowledge is to maintain and provide on request to an authorised officer of the Board such record of his or her employment as the Board may require and notify in writing to the holder.

- (m) by omitting from Regulation 44(1)(a) the words "five dollars" and by inserting instead the matter "\$10.00";
- (n) (i) by omitting the Third Schedule;
- (ii) by omitting the Fourth Schedule and by inserting instead the following Schedule:

FOURTH SCHEDULE - SERVICE REQUIREMENTS FOR A FIRST-CLASS PILOT'S LICENCE

(Reg. 21 (2) (b))

1. An applicant for a first-class pilot's licence must, during the 4 years immediately preceding the application, have served as either:

- (a) master of a sea-going trading vessel (required to carry at least 1 mate) for a total period of at least 12 months; or
- (b) master of a sea-going trading vessel (required to carry at least 1 mate) for a total of at least 6 months and chief mate of a sea-going trading vessel (required to carry at least 3 mates) for a total of at least 12 months.

2. If the applicant has served as master for more than 6 months but less than 12 months, the balance of the service required under clause 1 (b) may be rendered as chief mate accruable at half the rate of time served as master.

(iii) by omitting the Sixth, Seventh and Eighth Schedules and by inserting instead the following Schedules:

SIXTH SCHEDULE - INITIAL EYESIGHT TEST

(Regs. 21 (1) (c), 35 (8) (c), 39 (2) (e))

1. The initial eyesight test for the issue of:
 - (a) a pilot's licence under Regulation 21 (1) (c); or
 - (b) a pilotage exemption certificate under Regulation 35 (8) (c); or
 - (c) a certificate of local knowledge under Regulation 39 (2) (e),consists of a colour test and a letter test.
2. (1) The colour test requires the applicant to satisfactorily complete:
 - (a) the lantern test, as conducted in the examination for the Certificate of Competency as a Master or a Mate; or
 - (b) another test approved by the Board.(2) An artificial aid may be used when the colour test is undertaken.
3. The letter test requires the applicant to:
 - (a) obtain a recording of 6/6 in the better eye and 6/9 in the other eye, with or without the use of an artificial aid; and

(b) obtain a recording of 6/30 in either eye, without the use of an artificial aid.

4. The applicant must provide a certificate from an ophthalmologist indicating that the applicant is not suffering from any progressive eye disease.

**SEVENTH SCHEDULE - FURTHER
EYESIGHT TESTS**

(Regs. 25 (2) (b), 25 (3) (b), 25 (4),
37A(3) (b), 40 (3) (b))

1. The eyesight test for further examination of the physical fitness:

(a) of a pilot under Regulation 25; or
(b) the holder of a pilotage exemption certificate under Regulation 37A; or
(c) the holder of a certificate of local knowledge under Regulation 40,

consists of a colour test and a letter test.

2. The colour test requires the applicant to satisfactorily complete the colour test prescribed in clause 2 of the Sixth Schedule.

3. The letter test requires the applicant to obtain a recording of 6/9 in the better eye and 6/12 in the other eye with or without the use of an artificial aid.

4. If over 40 years of age, the person must provide a certificate from an ophthalmologist indicating that the applicant is not suffering from any progressive eye disease.

EIGHTH SCHEDULE – MEDICAL FITNESS
STANDARD

(Regs. 21 (1) (b), 35 (8) (b), 37A (3) (a),
39 (2) (d), 40 (3) (a))

Hernia

1. No condition of hernia (including umbilical hernia) is to exist unless satisfactorily corrected by a curative operation.

Speech

2. Speech must be clear and without hesitation.

Hearing

3. (1) Hearing ability is to be tested by the whispered voice, watch or other test approved by the Board.

(2) If the test is for the purposes of an appeal the test should be conducted by means of an audiogram to the standard of:

- (a) in the case of the testing of an applicant for a pilot's licence, pilotage exemption certificate or certificate of local knowledge - hearing loss in each ear no greater than 20 decibels for the frequencies 500Hz, 1,000Hz and 2,000Hz; or
- (b) in any other case - hearing loss in the better ear no greater than 30 decibels for those frequencies.

(3) A hearing test can be completed using a hearing aid if the Board is satisfied the duties of the person can be adequately performed while using the aid.

Tuberculosis

4. Pulmonary tuberculosis is not acceptable unless there is evidence satisfactory to the Board of inactivity of the disease for at least 6 months.

Artificial limbs

5. Artificial limbs are not acceptable unless the Board otherwise determines in a particular case taking into

account the person's specific duties at sea and the results of a probationary period at sea.

Diabetes

6. Diabetes mellitus is not acceptable (even if controlled by insulin injection).

Pacemaker

7. A cardiac pacemaker is not acceptable.

Epilepsy

8. Epilepsy is not acceptable except in a case where the Board otherwise determines on the basis that the person has been free from attack without the use of drugs for at least 2 years.

EXPLANATORY NOTE

The object of this Regulation is to amend provisions applicable to pilots' licences, pilotage exemption certificates and certificates of local knowledge under the Pilotage and Rates Regulations - N.S.W. The requirements for the issue and continuance of these qualifications are revised (including medical fitness standards) and the fees payable are increased.

The Regulation also amends the method for ascertaining the gross tonnage of vessels to bring it into line with that used for the purposes of the registration of vessels in Australia.
