

Act 1992 No. 41

PILOTAGE (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Pilotage Act 1971 and the Marine Port Charges Act 1989:

- (a) to enable the Maritime Services Board (the MSB) and MSB Port Authorities to contract out the operation of port pilotage services; and
- (b) to provide for the fixing and payment of fees for pilotage services under the Marine Port Charges Act 1989 instead of under the Pilotage Act 1971; and
- (c) to transfer responsibility for the licensing of pilots (and associated regulatory functions) from the MSB to the Director-General of the Department of Transport; and
- (d) to make other related and consequential changes.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 gives effect to the Schedule of amendments to the Pilotage Act 1971.

Clause 4 gives effect to the Schedule of amendments to the Marine Port Charges Act 1989.

Clause 5 repeals sections 21A and 21B of the Maritime Services Act 1935 (relating to liability in connection with pilotage) as a consequence of the transfer of those provisions to the Pilotage Act 1971 and their extension to pilots employed by contractors to the MSB.

SCHEDULE 1—AMENDMENT OF PILOTAGE ACT 1971

Schedule 1 (1)–(3) make consequential changes.

Schedule 1 (4)–(8) transfer responsibility for the licensing of pilots (and associated regulatory functions) from the MSB to the Director-General of the Department of Transport.

Schedule 1 (9) and (10) increase the maximum penalties for offences against the Act. The maximum penalties for offences currently subject to a \$200 penalty are to be increased to \$1,000 and those currently subject to a \$300 or \$400 penalty are to be increased to \$2,000.

Under Schedule 1 (16) the penalty for a master of a ship breaching a safety direction of a pilot is to be increased from \$400 to \$10,000.

Schedule 1 (11)–(13) extend the provisions relating to compulsory pilotage by pilots employed by the MSB to pilots employed by approved contractors to the MSB in respect of those pilotage ports in which pilotage services have been contracted out.

Schedule 1 (14)–(16) extend the provisions relating to deferment of pilotage for a ship leaving a port or its berth to a ship entering the port. Accordingly, pilotage charges will also be payable if pilotage is deferred because the master of the ship has delayed entering port for more than 1 hour after requesting a pilot.

Schedule 1 (17) and (18) transfer from the Maritime Services Act 1935 provisions relating to liability in respect of ships under pilotage. At present, the master and owner of a ship remain liable even though the ship is under pilotage and the Crown, MSB and pilot are not liable. The provisions are to be extended to approved contractors of the MSB and their pilots. Accordingly, a person who suffers any loss or damage from a ship under pilotage will continue to have an action against the master and owner of the ship and not against the pilot or the pilot's employer (whether the MSB or its contractor).

Schedule 1 (19) repeals provisions relating to pilotage charges as a consequence of the transfer of those provisions to the Marine Port Charges Act 1989 (see Schedule 2).

Schedule 1 (20) inserts provisions to enable the MSB to contract out the operation of port pilotage services. In those pilotage ports where the relevant functions of the MSB have been delegated to an MSB port authority under the Marine Administration Act 1988 the port authority will be authorised to enter into the relevant contract. The MSB will be required to call public tenders for a contract. A contract will be required to deal with a number of matters, including the level of pilotage services to be provided, the amount payable to the MSB by the contractor and the limiting of pilotage charges to those fixed under the Marine Port Charges Act 1989. A contract will be required to be approved by the Minister.

Schedule 1 (21), (23)–(26) contain consequential and ancillary provisions.

Schedule 1 (22) authorises the Director-General to delegate his or her functions under the Act.

SCHEDULE 2—AMENDMENT OF MARINE PORT CHARGES ACT 1989

Schedule 2 (1) inserts into the Marine Port Charges Act 1989 provision for the fixing by the MSB of pilotage charges. At present the relevant charges are fixed by regulation under the Pilotage Act 1971. Pilotage charges will be subject to the same legislative requirements as apply to other port charges. Special provision is made in the case of pilotage services provided by an approved contractor of the Board. In that case the contractor will be authorised to collect the charges but those charges may not exceed those fixed by the MSB under the Act.

Schedule 2 (2) enacts transitional provisions. In particular, the existing pilotage charges are continued until new charges are fixed under the Marine Port Charges Act 1989.
