

PROJET DE LOI

ENTITLED

The Pilotage (Guernsey) Law, 1966 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XX, p. 206; as amended by the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 340); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001 (No. XXI of 2001, Ordres en Conseil Vol. XLI, p. 681); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008).

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THE STATES, in pursuance of their Resolution of the twenty-fourth day of February, nineteen hundred and sixty-five, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

States to make provision for compulsory pilotage.

1. (1) Subject to the succeeding provisions of this Law, the States may, from time to time, by Ordinance make such provision as they may deem necessary or expedient for the compulsory pilotage of vessels in the territorial waters of the Islands and, without prejudice to the generality of the foregoing, they may, in particular, make provision in any such Ordinance for all or any of the following matters –

- (a) the establishment and constitution by the Board of a committee which shall be styled the Guernsey Pilotage Board with authority to exercise such powers and perform such duties as may be conferred or imposed upon it by any such Ordinance,
- (b) the licensing of persons as pilots for the general pilotage of vessels within the pilotage zone,
- (c) the licensing of persons who are the masters or mates of any vessels for the pilotage within the pilotage zone of

the vessels of which they are the masters or mates,

- (d) determining the qualification in respect of age, physical fitness, time of service, local knowledge, skill, character, and otherwise to be required from persons applying to be licensed as general or special pilots, for the examination of such persons and fixing the term for which a pilotage licence is to be in force and the conditions under which such a licence may be granted or renewed,
- (e) the suspension or revocation of pilotage licences,
- (f) prohibiting the renewal, without re-examination, of the pilotage licence of a special pilot unless he has made as master or mate of a vessel not less than a specified number of visits during a specified period to any port specified in the pilotage licence,
- (g) enabling any general or special pilot aggrieved by any decision of the Guernsey Pilotage Board to appeal from such decision to the Royal Court sitting as an Ordinary Court, the decision of which shall be final,
- (h) fixing the maximum number of general pilots to be licensed and the conditions under which the list of general pilots is to be filled up,
- (i) the provision and maintenance of vessels by the general pilots for the purposes of compulsory pilotage,

- (j) fixing the fees to be payable on the examination for a pilotage licence and on the grant or renewal of any such licence,
- (k) fixing the rates of payment to be made to the States in respect of the services of general and special pilots (hereinafter referred to as "**pilotage dues**") and defining the circumstances and conditions under which pilotage dues may be payable on different scales and for collecting, recovering and distributing pilotage dues,
- (l) the general good government of general pilots and for ensuring their good conduct and constant attendance to and effectual performance of their duties, whether at sea or on shore,
- (m) the giving of bonds (the amount of which shall not exceed one hundred pounds) by general pilots for the purposes of the provisions of this Law limiting pilots' liability,
- (n) a deduction being made by the Board from any sums received by way of pilotage dues of any sums which the Board considers to be required for meeting the administrative expenses of the States incurred under and for the purposes of this Law and any Ordinance made thereunder or any amount which the Board considers to be required for the purposes of any scheme, whether by way of assurance or otherwise, for the payment of pensions or other benefits to general

pilots, and provision may be made generally for the administration of, and participation in, such scheme,

- (o) such incidental and supplementary matters for which the States deem it necessary or expedient for the purposes of any such Ordinance to provide.

(2) An Ordinance made under the provisions of this section may make different provisions for different ports in the Islands and for different classes of pilots and different classes of vessels and may make different provisions for different categories of pilots and of vessels within those respective classes.

[(3) An Ordinance made under this section may provide that –

- (a) the fees to be payable on the examination for, and on the grant and renewal of, a pilotage licence, and
- (b) the rates of payment to be made to the States in respect of the services of general and special pilots ("**pilotage dues**"),

shall be such fees or such rates of payment as the States may, from time to time, by Resolution determine; and a Resolution passed under such an Ordinance may make different provision for different ports in the Islands, for different classes and categories of pilots and vessels and for different circumstances.]

[(4) A Resolution passed under an Ordinance made under this section determining the fees described in subsection (3)(a) or pilotage dues may, subject to such conditions as may be specified in the Resolution, authorise the Board to amend the amounts of those fees or dues in respect of any twelve month period or periods so specified by an amount not exceeding the change in the Guernsey Retail

Prices Index during such earlier twelve month period or periods as may be so specified.]

NOTES

In section 1,

subsection (3) was inserted by the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986, section 2, with effect from 29th January, 1987;

subsection (4) was inserted by the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001, section 3, with effect from 31st October, 2001.

The following Ordinances have been made under section 1:

*Pilotage Ordinance, 1967;
States Supervisor (Transfer of Functions) (No. 2) Ordinance, 1972;
Pilotage (Amendment) (No. 2) Ordinance, 1975;
Pilotage (Amendment) Ordinance, 1984;
Pilotage Dues and Fees Ordinance, 1987;
Pilotage (Amendment) Ordinance, 1992;
Pilotage (Amendment) Ordinance, 2012;
Pilotage (Amendment) Ordinance, 2015;
Pilotage (Amendment) Ordinance, 2020;
Pilotage (Amendment) Ordinance, 2022.*

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, the power to prescribe by Ordinance the fees therein referred to and payable under this Law may be exercised by Regulation, with effect from 19th May, 2008.

Responsibility for administration of Ordinances.

2. The Board shall, except where otherwise provided in an Ordinance made under the provisions of this Law, be responsible to the States for the administration of the provisions of any such Ordinance and shall exercise such powers and perform such duties as may be conferred or imposed upon it by any such Ordinance.

NOTE

The following Ordinance has been made under section 2:

Pilotage Ordinance, 1967.

Obligations of compulsory pilotage.

3. (1) Every vessel, other than an excepted vessel, while navigating in the pilotage zone for the purposes of entering, leaving or making use of any port in the Islands or the roadstead shall be either under the pilotage of a general or special pilot.

(2) Notwithstanding the provisions of the last preceding subsection, every vessel, other than an excepted vessel, of such class as may, from time to time, be specified by the States by Ordinance, while navigating as aforesaid in such part of the pilotage zone as may be prescribed in any such Ordinance shall be under the pilotage of a general pilot and any such Ordinance may make different provisions for different classes of vessels and for different parts of the pilotage zone.

(3) If any vessel, other than an excepted vessel, in circumstances in which pilotage is compulsory under this section, is not under pilotage as required by this section, after a pilot has offered to take charge of the vessel, the master of that vessel shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 3 on the uniform scale] and both the owner of the vessel and the master thereof shall be jointly and severally liable for the payment of the pilotage dues as if that vessel had been under pilotage.

(4) The States may, from time to time, by Ordinance provide that, for the purposes of this Law, any vessel or a vessel of any class specified therein shall be an excepted vessel.

NOTES

In section 3, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The following Ordinance has been made under section 3:

Pilotage (Amendment) Ordinance, 1992.

Liability of owner or master of a vessel under pilotage.

4. Notwithstanding anything in any enactment or any rule of law to the contrary, the owner or master of a vessel navigating under circumstances in which pilotage is compulsory under the provisions of this Law shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would be if pilotage were not compulsory.

Licensing of pilots by States not to involve any liability.

5. The grant or renewal of a pilotage licence to a general or special pilot by the Guernsey Pilotage Board in pursuance of the powers conferred upon it by an Ordinance made under the provisions of this Law shall not impose any liability on the States for any loss occasioned by an act or default of the pilot.

Limitation of pilots' liability when bond given.

6. A general pilot, who has given a bond in conformity with an Ordinance made under the provisions of section one of this Law, shall not be liable for neglect or want of skill beyond the amount of the bond and the amount payable on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

Limitation of liability of States.

7. (1) The States by reason of providing for the pilotage of vessels in the territorial waters of the Islands shall not, where without their actual fault or privity any loss or damage is caused to any vessel or to any goods, merchandise or other things whatsoever on board any vessel or to any other property or rights of any kind,

whether on land or sea or whether fixed or movable, by reason of a vessel navigating under circumstances in which pilotage is compulsory under the provisions of this Law, be liable to damages beyond the amount of one hundred pounds multiplied by the number of general pilots holding pilotage licences on the day when the loss or damage occurs.

(2) Nothing in this section shall impose any liability in respect of any such loss or damage as aforesaid on the States in any case where no such liability would have existed if this Law had not been passed.

Limitation of liability where several claims on one occasion.

8. The limitation of liability under the provisions of section six and of section seven of this Law shall relate to the whole of any losses or damages which may arise upon any one distinct occasion although such losses and damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any enactment for the time being in force and notwithstanding anything contained in such enactment.

Saving.

9. Any licence granted under or by virtue of the provisions of any enactment repealed by an Ordinance made in pursuance of the provisions of section one of this Law and valid immediately before the coming into force of this Law shall be deemed to have effect as though it were a licence granted under the provisions of an Ordinance made in pursuance of the provisions of this Law and any conditions attached thereto were conditions attached under the provisions of such Ordinance except in so far as any such conditions would be inconsistent with any such provisions.

Penalties to be prescribed by Ordinance.

10. The States may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person guilty of an offence under any

Ordinance made in pursuance of any of the provisions of this Law and different penalties may be so prescribed for different offences.

NOTE

The following Ordinance has been made under section 10:

Pilotage Ordinance, 1967.

Interpretation.

11. In this Law, unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Board" means the States [States' Trading Supervisory Board],

"general pilot" means a person licensed by the Guernsey Pilotage Board in pursuance of the provisions of an Ordinance made under the provisions of section one of this Law for the general pilotage of vessels within the pilotage zone,

"the Islands" means the Islands of Guernsey, Herm and Jethou,

"pilotage licence" means a licence granted by the Guernsey Pilotage Board in pursuance of the provisions of an Ordinance made under the provisions of section one of this Law for the pilotage of vessels within the pilotage zone,

"the pilotage zone" means such part of the territorial waters of the Islands as may, from time to time, be prescribed in that behalf by the States by Ordinance,

"the roadstead" means such part of the pilotage zone as may, from time to time, be prescribed in that behalf by the States by Ordinance,

"special pilot" means a person licensed by the Guernsey Pilotage Board in pursuance of the provisions of an Ordinance made under the provisions of section one of this Law for the pilotage within the pilotage zone of a vessel of which he is the master or mate.

NOTES

In section 11, the words in square brackets in the definition of the expression "the Board" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The following Ordinance has been made under section 11:

Pilotage (Amendment) Ordinance, 1992.

Repeal.

12. The Compulsory Pilotage (Abolition of Defence) Law, 1954, is hereby repealed.

Citation.

13. This Law may be cited as the Pilotage (Guernsey) Law, 1966.

Commencement.

14. This Law shall come into force on such date as the States may by

Ordinance appoint.

NOTE

The Law was brought into force on 1st April, 1967 by the Pilotage (Guernsey) Law, 1966 (Commencement) Ordinance, 1967, section 1.

1 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(b), Schedule 2, paragraph 2(b), with effect from 6th May, 2004.

2 The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them from, respectively, the Board of Administration and of its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(b), Schedule 2, paragraph 2(b), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.