

Act relating to the Pilot Services

Ministry of Transport and Communications

Entry into force on 1 January 2015
Repealing Act No. 59 of 16 June 1989
Announced at 4:30 p.m. on 15 August 2014

§ 1. *Purpose of the Act*

The Act shall facilitate pilot services that, through ensuring sufficient knowledge of the waters on board, will contribute to safeguarding sea traffic based on societal considerations, as well as assist the Norwegian Armed Forces in carrying out their duties.

§ 2. *Scope*

This Act applies to territorial waters and the internal waters unless otherwise provided in the Act.

This Act applies to rivers and lakes that are navigable with vessels from the sea as determined by the Ministry.

The King will determine to what extent this Act applies to Svalbard and Jan Mayen. The King may grant exemptions from the Act and issue special rules as required by the local conditions.

The King may issue such amendments to the Act as are necessary in the event of contingency measures or war.

§ 3. *Relationship with international law*

This Act shall apply subject to such limitations as are recognised by international law, or which derive from any agreement made with a foreign state.

§ 4. *Definitions*

For the purposes of this Act, the following definitions shall apply:

- a) Pilotage: guidance to vessels in navigation and manoeuvring, which is performed by a pilot.
- b) Pilot: person employed by the pilot service that holds a pilot licence issued pursuant to this Act.
- c) Compulsory pilotage: duty to use a pilot or pilot exemption certificate.
- d) Vessel: Any floating installation that can be used as a means of transport, conveyance, lifting device, place of accommodation, or production or storage site, including submarine vessels of any type.
- e) e) Cadet pilot exemption certificate: temporary pilot exemption certificate issued to navigators who are under contractual on-board training in coastal sailing.

§ 5. *Organisation of the pilot service*

The pilot service shall be organised into an administrative section and an operative section, which are to be independent of each other.

The Ministry will determine who is the administrative section and who is the operative section.

Government supervision will be conducted pursuant to Section 15.

The Ministry may prescribe regulations for the pilot service in the event of contingency measures or war.

§ 6. *Compulsory pilotage*

Vessels subject to compulsory pilotage shall use navigators with pilot exemption certificates or a pilot holding a license for the relevant waters. If a pilot holding a license for the relevant waters cannot be assigned, another pilot who is familiar with the waters may be assigned.

If the master of the vessel or the shipowner finds that guidance in navigation and manoeuvring by navigators other than the vessel's permanent navigators is necessary, then a pilot shall be used. This does not apply to military vessels and other vessels under military command.

The Ministry issues regulations concerning:

- a) the geographic areas that shall be subject to compulsory pilotage, and

- b) the vessels that shall be subject to compulsory pilotage, including which vessels shall use a pilot and which vessels can use a pilot exemption certificate.

In determining compulsory pilotage, emphasis shall be placed on the nature of the waters and whether the vessel by virtue of its size, cargo or the number of passengers may represent a risk of loss of human life, damage to the environment or loss of property. The Ministry may issue regulations for booking pilots.

The King may issue regulations for compulsory pilotage on the grounds of concern for the security of the realm.

§ 7. *Duties of the master of the vessel during pilotage*

The master of the vessel, or whoever is in command in his place, is required to facilitate the pilotage.

The master of the vessel, or whoever is in command in his place, may surrender control of the vessel's propulsion, navigation and manoeuvring to the pilot. In such cases, the pilot shall not replace any of the vessel's navigators.

This Act does not entail any changes to the rules concerning the responsibility of the master of the vessel, or whoever is in command in his place.

The Ministry may by regulations issue further provisions concerning facilitation of the pilotage.

§ 8. *Duties of the pilot during pilotage*

The pilot shall guide the master of the vessel, or whoever is in command in his place, in the navigation and manoeuvring of the vessel.

The pilotage shall be carried out so that the navigation and manoeuvring of the vessel takes place in a safe manner.

During pilotage, the pilot shall be on the command bridge or at a location from which the pilotage can best be conducted.

For safety reasons, the pilot shall have at least 12 hours free of pilotage duties every day. This does not apply to military vessels and other vessels under military command in the event of contingency measures or war.

The Ministry may by regulations issue further provisions concerning the duties of the pilot during pilotage.

§ 9. *Right to deny pilotage to a vessel*

- a) The Ministry may make a decision to not assign a pilot, or to suspend ongoing pilotage if the voyage entails a wilful violation of national regulations set to safeguard sea traffic, or
- b) represents an obvious risk of loss of human life, damage to the environment or loss of property.

In such cases, the Ministry shall immediately notify the vessel of the reasons why pilotage has been denied to the vessel pursuant to the first paragraph.

The Ministry may by regulations issue further provisions concerning the cases for which decisions can be made to not assign a pilot to a vessel or to suspend ongoing pilotage, and on how such cases should be handled.

§ 10. *Liability for damages*

For the application of Section 2-1 of the Damages Act, the pilot is considered as being in the vessel's service during pilotage. This Act does not otherwise entail any changes to the current rules for damages.

The pilot is required to compensate any loss or damage that the pilot causes due to error or neglect of duty pursuant to the rules for damages, cf. Section 2-3 of the Damages Act.

§ 11. *Pilot exemption certificates*

Pilot exemption certificates can be issued to the master of the vessel or other navigators of the vessel. The pilot exemption certificate gives the right to navigate specified vessels in specified fairways or areas subject to compulsory pilotage without a pilot.

In order for the vessel's other navigators to be able to use their pilot exemption certificates, the master of the vessel must have a pilot exemption certificate for the relevant area.

When pilot exemption certificates are issued, emphasis shall be placed on the applicant's competence and knowledge of the waters, risk related to the vessel and risk related to the waters.

The Ministry issues regulations for the issuance and use of pilot exemption certificates, including the establishment of schemes involving the shipping companies' own verification of the applicants' competence and knowledge of the waters.

§ 12. *Requirements for the pilot*

A pilot shall have a valid pilot licence issued in accordance with the regulations established pursuant to this provision.

The Ministry issues regulations concerning:

- a) qualification requirements for the acceptance of pilot trainees, including health requirements and requirements for education, sea duty and certificates
- b) health requirements for and medical examination of pilots
- c) requirements for the training and examination of pilots
- d) conditions for receiving, expanding and maintaining pilot licences, including the requirements for knowledge of the waters
- e) requirements relating to the form, issuance and content of pilot licences

§ 13. *Fees*

Vessels subject to compulsory pilotage shall pay pilotage fees. The Ministry may issue regulations for:

- a) pilotage readiness fees and pilotage fees for vessels that use pilots
- b) pilotage readiness fees for vessels that use navigators with a pilot exemption certificate
- c) a requirement that pilot exemption certificate applicants shall pay a fee for the processing and issuance of pilot exemption certificates
- d) the composition of the fees

§ 14. *Securing and collection of fees*

Shipowners and agents are jointly and severally liable for the fees pursuant to this Act.

A vessel that has not paid the fees that have fallen due may be denied pilotage, unless adequate security for payment is furnished.

In the event of late payment of fees, penalty interest shall be paid pursuant to the Act relating to interest on overdue payments. The second paragraph applies correspondingly.

Any fees owed are enforceable by execution.

Claims for the fees listed in § 12 are collected by the National Collection Agency, unless the Ministry determines otherwise.

The Ministry may issue regulations for:

- a) issuance, control and collection
- b) additional charges for vessels that fail to pay the fees pursuant to this Act

§ 15. *Supervision and decisions*

The Ministry determines who is the supervisory authority pursuant to this Act. The supervisory authority shall supervise compliance with the provisions prescribed in and pursuant to this Act.

The Ministry may issue regulations regarding the organisation, implementation and limitation of the supervisory duties.

The Ministry may, by individual decision or regulations, issue further provisions concerning the duty to give notice and disclose information that is necessary in order to supervise compliance with the provisions prescribed in and pursuant to this Act.

§ 16. *Access to vessels and the duty of disclosure*

The supervisory authority pursuant to this Act shall have unrestricted access to vessels that are subject to compulsory pilotage pursuant to § 6 to the extent necessary in order to conduct supervision.

Vessels, shipping companies and holders of pilot exemption certificates shall, when requested by the supervisory authority, submit documentation that is relevant to supervising compliance with the provisions relating to the duty to use a pilot or a navigator with a pilot exemption certificate.

§ 17. *Loss of rights to a pilot exemption certificate*

The holder of a pilot exemption certificate or cadet pilot exemption certificate may lose the right to the pilot exemption certificate if:

- a) the holder violates provisions prescribed by law, regulations or individual decisions that concern safety at sea;
- b) the holder violates the conditions for holding a pilot exemption certificate or a cadet pilot exemption certificate; or
- c) the holder is involved in situations, or there exist circumstances entailing that he or she is clearly not fit to hold a pilot exemption certificate or a cadet pilot exemption certificate.

The supervisory authority may make decisions relating to the loss of rights for a period of up to two years. The loss of rights may be made conditional, or entail restrictions in the pilot exemption certificate. The loss of rights beyond two years shall be decided by a judgment.

The Ministry may issue regulations with further provisions concerning the loss of the right to a pilot exemption certificate or a cadet pilot exemption certificate.

Entry into force on 1 January 2015, see Section 21.

§ 18. *Violation fines*

The supervisory authority may impose violation fines on whomever wilfully or negligently violates the provisions stipulated in or pursuant to §§ 6, 7, 8, 11, 12, 16 or 19.

When a violation that may entail a violation fine has been committed by anyone acting on behalf of a shipping company, the violation fine may be imposed on the shipping company, even if the violation fine cannot be imposed on any individual person.

For the determination of whether a violation fine shall be imposed on a shipping company, and in assessing the amount of the fine, particular emphasis shall be placed on:

- a) the gravity of the violation
- b) whether the shipping company could have prevented the violation through guidelines, instructions, training, control or other measures
- c) whether the violation has been committed to promote the interests of the shipping company
- d) whether the shipping company has or could have benefited from the violation
- e) whether there has been any recurrence
- f) the shipping company's financial capacity

The deadline for the payment of imposed fines is four weeks from the date of the decision. Final decisions on violation fines may be recovered by execution proceedings.

§ 19. *Coercive measures*

If a violation of § 6 is suspected, the supervisory authority may order the vessel to stop and designate an anchoring site or port of call for further investigation.

§ 20. *Criminal liability*

Any person who materially violates §§ 6, 7, 8, 11 or 12 wilfully or negligently, or the regulations pursuant to these provisions when the regulations state that such a violation of the provision in question is punishable, shall be punished by fines or imprisonment for a term not exceeding 1 year.

For the assessment of whether a violation is significant, particular emphasis shall be placed on the extent and effects of the violation, and to the degree of guilt demonstrated.

§ 21. *Entry into force*

This Act enters into force on a date determined by the King.

Act no. 59 of 16 June 1989 relating to the Pilotage Service will be repealed on a date determined by the King.

From 1 January 2015 pursuant to Resolution no. 1082 of 15 Aug 2014.

§ 22. *Transitional provisions*

Regulations and individual decisions issued pursuant to Act no. 59 of 16 June 1989 and Act no. 2 of 9 April 1948 are also valid after this Act has entered into force.

The King may by regulations prescribe transitional provisions.

Not Official