

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4,231 of 14th January, 2016

B. 02/16

GIBRALTAR PILOTAGE ACT 2016

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**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

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BILL

FOR

AN ACT to make provision for, and to consolidate, revise and re-enact the laws on pilotage; and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Short title and commencement.

1. This Act may be cited as the Gibraltar Pilotage Act 2016 and comes into operation on the day of publication.

Interpretation.

2.(1) In this Act, unless the context otherwise requires—

“authorised” means authorised by way of licence or authorisation by the Captain of the Port;

“authorisation” means an authorisation in writing to a pilot by the Captain of the Port as referred to in section 9(1);

“authorised pilot” means a person authorised under section 9(1) in relation to the compulsory pilotage area, and includes, in relation to any ship, a person so authorised in respect of ships of that description;

“bay of Gibraltar” shall have the meaning assigned to it by section 2 of the Port Act;

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the

territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“Captain of the Port” means–

- (a) the person appointed to be the Captain of the Port under section 4 of the Port Act; or
- (b) any person appointed by the Government to act in the place of the Captain of the Port;

“Chief mate” means the officer next in rank to the master and upon whom the command of the ship will fall in the event of the incapacity of the master;

“committee” means the pilotage committee appointed under section 12;

“compulsory pilotage” means the requirement that a ship shall be operated by a licensed pilot or authorised pilot in carrying out pilotage service unless that ship falls into the category of an excepted ship;

“compulsory pilotage area” means the area designated by the Government in accordance with the Regulations made under section 3 of this Act;

“excepted ship” means a ship–

- (a) classified as excepted ship by section 4; or
- (b) attached with a pilot who holds an exemption certificate granted by the Captain of the Port under section 5;

“licensed pilot” means a pilot to whom a licence has been issued under section 10(1);

“Gibraltar Port Authority” means the Authority established by section 3 of the Gibraltar Port Authority Act 2005;

“master” includes every person (except a pilot) having command or charge of any ship;

“Minister” means the Minister with responsibility for the Port;

“pilot” means any person not belonging to a ship who has the conduct of the ship in process of pilotage or responsibility for the safe navigation thereof;

“pilotage” means an act of guiding or assisting a ship by an authorised pilot or licensed pilot by-

- (a) use of fixed visual references on the ground or sea; and
- (c) means of sight or radar to a destination,

when the ship enters into any compulsory pilotage area;

“pilotage service” means an act, carried out by a licensed pilot or an authorised pilot, of assisting the master of a ship in navigation and manoeuvring when entering, leaving or shifting in the Port or the approaches thereto;

“Port Waters” shall have the meaning assigned to it by section 2(1) of the Port Act;

“prescribed” means prescribed by Regulations;

“Regulations” mean the Regulations made under any provision of this Act;

“ship” includes every description of-

- (a) vessel used in navigation which is not propelled by oars; and
- (b) lighter, barge or other vessel howsoever or whether or not propelled.

(2) In this Act references to a ship navigating or being navigated include references to its moving or being moved within the Port for the purpose of changing from one mooring to another or of being taken into or out of any dock.

Designation of compulsory pilotage area.

3.(1) The Minister may by Regulations made under this Act designate any area of BGTW as an area within which pilotage service must be compulsory.

(2) An area designated under subsection (1)–

- (a) shall be known as a compulsory pilotage area; and
- (b) may be enlarged by addition, changed or modified as may be prescribed.

Excepted ships.

4. For the purposes of this Act the following ships are classified as excepted ships–

- (a) any yachts of less than 100 metres;
- (b) non-commercial fishing vessels;
- (c) tugs, dredgers, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the port; and
- (d) any ship attached with a pilot exempted by the Captain of the Port under section 5.

Pilotage exemption certificates.

5.(1) The Captain of the Port may, on application by any person who is bona fide the master or Chief mate of any ship, grant him a pilotage exemption certificate if the Captain of the Port is satisfied (by any examination conducted by the pilotage committee or by reference to such other requirements as he may reasonably impose)–

- (a) that the applicant's skill, experience and local knowledge are sufficient for him to be capable of piloting the ship of which he is master or Chief mate (or that and any other ships specified in the certificate) within BGTW or such part of the Port as may be so specified; and

- (b) in any case where it appears to the Captain of the Port to be necessary in the interests of safety, that his knowledge of English is sufficient for that purpose.

(2) A pilotage exemption certificate shall not remain in force for more than one year from the date on which it is granted, but—

- (a) if the holder continues to be the master or Chief mate of a ship, may be renewed annually by the Captain of the Port on application by the holder if the Captain of the Port continues to be satisfied as mentioned in subsection (1); and
- (b) on the application of the holder may be altered so as to refer to different ships from those to which it previously referred if the Captain of the Port is so satisfied as respects those ships.

(3) The Captain of the Port may suspend or revoke a certificate granted by him under this section if it appears to him that the holder has been guilty of any incompetence or misconduct affecting his capability to pilot the ship of which he is master or first mate or any other ships specified in the certificate.

(4) Before refusing an application by any person under this section for the grant, renewal or alteration of a certificate or suspending or revoking a certificate held by any person, the Captain of the Port shall give him—

- (a) written notice of his intention to do so, stating the reasons for which it proposes to act; and
- (b) a reasonable opportunity of making representations.

(5) The Captain of the Port in granting any pilot exemption certificate under this section must follow the procedure prescribed by the Regulations made under this Act.

Pilot boats.

6.(1) Ships regularly employed in pilotage services provided by or on behalf of the Government or the Gibraltar Port Authority (in this Act referred to as “pilot boats”) shall—

- (a) if they are operated by the Gibraltar Pilot Boat Company, be approved by the Gibraltar Port Authority; and

(b) otherwise be licensed by the Captain of the Port.

(2) The Captain of the Port shall not approve or license any ship under subsection (1) unless he is satisfied that it is suitable for use as a pilot boat.

(3) The Gibraltar Port Authority may make such other provision as it considers necessary for the operation of pilot boats.

Captain of the Port may require ships to be under compulsory pilotage.

7.(1) The Captain of the Port may require that every ship while navigating in any compulsory pilotage area or part thereof for any of the purposes referred to in subsection (2) shall be under compulsory pilotage and each of the owner, agent or master of the ship shall comply with that requirement.

(2) Subject to subsection (3), ships, other than excepted ships, navigating for the purpose of—

- (a) anchoring;
- (b) entering;
- (c) leaving the bay of Gibraltar (from alongside);
- (d) moving;
- (e) mooring; or
- (f) berthing

within a compulsory pilotage area shall be under the pilotage service of a pilot.

(3) Notwithstanding anything contained in subsection (2), any provisions of the Regulations designating a compulsory pilotage area may provide that in such area ships shall only be required to be under pilotage service of a pilot if they are navigating for certain of the purposes specified in subsection (2).

(4) A ship while being moved within any area of the Port Waters which is, or which forms part of a compulsory pilotage area shall be deemed to be a ship navigating in a compulsory pilotage area.

Failure to employ pilot under certain circumstances.

8. Where a ship navigates in circumstances in which the ship is required by the Captain of the Port to be under compulsory pilotage in accordance with section 7 but the master of that ship fails to employ an authorised pilot or licensed pilot for the purposes referred to in section 7(2), then, each of the owner, agent and the master of the ship commits an offence and—

- (a) is liable on summary conviction to a fine at level 5 on the standard scale; and
- (b) shall, in addition, be liable to pay to the Gibraltar Port Authority as penalty double the amount of pilotage dues and rates which would have been payable if the ship had been under pilotage as required under that section.

Authorised pilot.

9.(1) The Captain of the Port—

- (a) may grant authorisation to such number of pilots as he may consider necessary or expedient, in accordance with the Regulations for the purpose of providing an adequate and efficient pilotage service in BGTW; or
- (b) may, if he considers expedient, grant authorisation to any person who holds any of the qualifications referred to in subsection (2) for the purpose of providing pilotage service to ships in the compulsory pilotage area subject to such conditions as he thinks fit.

(2) The qualifications required by subsection 1(b) shall be the holding of one of the following certificates in the following order of priority—

- (a) a certificate of competency of Master of a ship of 3000 GT or more (STCW Regulation II/2) issued by the Administration in terms of the Gibraltar Merchant Shipping (Manning, Training and Certification for Seafarers) Regulations 2006 (as amended from time to time) to a person who has minimum 3 years' of command experience in a ship over 10,000 GT; or
- (b) an equivalent certificate referred to in paragraph (a) issued by the relevant Authority of a flag state that is party to the

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (as amended from time to time) to a person who has at least 3 years' of command experience in a ship over 10,000 GT.

(3) No person shall be granted authorisation under this section unless that person applies to the Captain of the Port in accordance with any requirement prescribed by the Regulations made under this Act.

(4) No ship shall be—

- (a) piloted; or
- (b) provided with pilotage service

in the compulsory pilotage area by any person other than an authorised pilot or a licensed pilot.

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine on level 4 on the standard scale.

(6) In this section, “Administration” means the Maritime Administrator in the case of Gibraltar and in other cases the person in the relevant flag State holding equivalent responsibilities.

Licensed pilots.

10.(1) Subject to subsection (2), the Captain of the Port may grant licence to any person to act as a pilot for the purpose of providing pilotage service to ships within BGTW if that person has obtained the qualification to be an authorised pilot under section 9(2) and such licence may contain such conditions as the Captain of the Port may think fit.

(2) No person shall be licensed as a pilot unless that person shall, after due examination, have been recommended by the pilotage committee about his general fitness and competency in accordance with section 13.

(3) In granting a licence under this section, the procedure set out by Regulations must be followed.

Employment of pilots.

11.(1) No person shall be employed as an authorised pilot or licensed pilot in a compulsory pilotage area unless that person is in possession of a valid authorisation or a valid licence issued under this Act or the Regulations to act as a pilot in any compulsory pilotage area within BGTW.

(2) Where an owner, agent or master of a ship fails to comply with subsection (1), each of them commits an offence and is liable on summary conviction to a fine on level 5 on the standard scale.

(3) If any person, not being an authorised pilot or licensed pilot, engages himself in any act of pilotage services or attempts to obtain employment as a pilot of a ship by entering into or being within the compulsory pilotage area, commits an offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

(4) Except as provided for in subsection (5), a person authorised under section 9(1) or licensed under section 10(1) acting beyond the limits for which he is authorised or licensed to act or acting in contravention of any of the conditions imposed under section 9(1) or section 10(1) shall be deemed not to be an authorised pilot or licensed pilot and that person shall accordingly be liable for an offence committed under section 9(4).

(5) Notwithstanding the provisions of this Act, any person may, without subjecting himself or his employer to any penalty, act as the pilot of a ship entering or leaving the compulsory pilotage area, when such ship is in distress or under circumstances making it necessary for the master to avail himself of the best assistance that can be found at the time.

Pilotage committee.

12.(1) The Captain of the Port shall appoint a committee to be called the pilotage committee for the purposes of—

- (a) holding inquiries into the conduct of authorised pilots and licensed pilots in the discharge of their duties;
- (b) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service;
- (c) investigating and advising on such matters as may be referred to the committee by the Captain of the Port; and

(d) carrying out such other functions as are conferred on the committee by this Act.

(2) The pilotage committee shall consist of–

(a) the Deputy Captain of the Port who shall be the chairman of the committee; and

(b) not less than 3 other persons including a pilot serving in the port and 2 other persons must have, in the opinion of the Captain of the Port, knowledge of or experience in nautical matters.

(3) A member of the pilotage committee shall hold office for such term, not exceeding 3 years, as the Captain of the Port may specify in his appointment and that person shall be eligible for re-appointment.

(4) At any meeting of the committee, 3 members of the pilotage committee shall form a quorum.

(5) The chairman of the pilotage committee shall preside at all meetings thereof.

(6) If the chairman is absent from a meeting or any part thereof, such member, as the members of the pilotage committee present shall elect, must preside in his place.

(7) The chairman or a member presiding at any meeting of the pilotage committee shall have a vote and, in the case of an equality of votes, a second or casting vote.

(8) Subject to the provisions of this Act, the Minister may, from time to time, make Regulations for the purpose of regulating the meetings and proceedings of the pilotage committee.

Examination of candidates for licences, etc.

13.(1) The pilotage committee shall examine candidates for employment as a licensed pilot or being referred to by the Captain of the Port in connection with granting a pilotage exemption certificate under section 5 and on being satisfied as to a candidate's general fitness and competency, including

physical fitness, to act as a licensed pilot, shall send its report in writing to the Captain of the Port about the outcome of such examination.

(2) Every licensed pilot shall, whenever the pilotage committee considers that owing to changed conditions or for any other sufficient reason the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself for further examination, and shall in every such case first deposit with the committee his licence issued by the Captain of the Port to be returned or cancelled by the committee on behalf of the Captain of the Port as a result of such test or examination.

(3) No person shall continue to employ any person as a licensed pilot whose licence to act as such is cancelled as a result of any test or examination carried out or held under subsection (2).

(4) Where a person fails to comply with subsection (3), commits an offence and is liable on summary conviction to a fine on level 4 on the standard scale.

Inquiries by pilotage committee.

14.(1) The pilotage committee may, and when directed by the Captain of the Port shall, hold an inquiry into the conduct of an authorised pilot or licensed pilot where it appears that he has been guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot.

(2) For the purposes of the inquiry referred to in subsection (1), the pilotage committee may summon any person to attend any meeting of the committee to give evidence on oath or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relating to the matters which are the subject matter of such inquiry.

(3) Any person who—

- (a) being summoned to attend any inquiry under this section, fails to do so;
- (b) offers any act of disrespect or any insult or threat to the pilotage committee or any member thereof during an inquiry;
or

- (c) being required by the pilotage committee to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so,

commits an offence and is liable on conviction to a fine on level 3 on the standard scale.

Submission of pilotage committee's finding and recommendation to the Captain of the Port.

15.(1) Where the pilotage committee, after due inquiry in accordance with section 14(2) and after hearing any statement that may be offered in defence, finds that a licensed pilot has been guilty of misconduct or indiscipline affecting his capability or duties as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot, the committee shall submit a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry to the Captain of the Port.

(2) The Captain of the Port may, after considering the findings and recommendations of the pilotage committee, make a decision to suspend or cancel the authorisation or the licence of such pilot or to impose such other penalty as he may think fit.

(3) Any authorised pilot or licensed pilot who is aggrieved by any decision of the Captain of the Port made under subsection (2) may, within 14 days from the date of the decision, appeal to the Minister whose decision shall be final.

Pilotage committee and the Captain of the Port not liable for loss or damage caused by pilot.

16.(1) The authorisation granted by the Captain of the Port to any person to pilot ships in the compulsory pilotage area under section 9(1) or the grant of a licence to a pilot by the Captain of the Port under section 10(1) shall not impose any liability on the pilotage committee or the Captain of the Port for any loss or damage caused by any act, omission or default of such pilot.

(2) Any authorised pilot or licensed pilot while engaged in any pilotage act shall be deemed to be the employee only of the master or owner of the ship under pilotage and the Captain of the Port shall not be liable for any loss or damage caused by any act, omission or default of such pilot.

General liability for loss or damage.

17.(1) The Government and the Gibraltar Port Authority shall not be responsible for any loss or damage caused through any act, omission, neglect or default of any pilot.

(2) The owner or master of a ship navigating under circumstances in which pilotage is compulsory shall be liable for any loss or damage caused by the ship or by any fault in the navigation of the ship in the same manner as he would if pilotage were not compulsory.

(3) If, after a pilot has offered his services, a ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the pilotage of an authorised pilot or licensed pilot, the master of the ship commits an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

(4) The grant or renewal of a licence to a pilot, granting authorisation to a pilot or the conclusion of a pilotage agreement with any service provider by the Captain of the Port, in accordance with the provisions of the Act or with the Regulations shall not place or imply any liability on the Captain of the Port, Gibraltar Port Authority or the Government of Gibraltar for any loss or damage occasioned by an act or default of any pilot or the service provider, whether the employment of a pilot is compulsory or not.

Pilots' register.

18.(1) The Captain of the Port shall keep a register in which shall be entered the name of every licensed pilot and authorised pilot under the provisions of this Act.

(2) The Captain of Port shall remove from the register the name of every authorised pilot and licensed pilot –

- (a) who has died;
- (b) who has been absent from Gibraltar for more than three years;
and
- (c) whose authorisation or licence has been suspended or revoked.

Suspension or revocation of a pilot's authorisation or licence.

19.(1) The Captain of the Port may suspend or revoke any pilot's authorisation or licence issued by him if it appears to him, after giving the holder thereof an opportunity of being heard, that the pilot—

- (a) has been guilty of any offence under this Act or of the Regulations;
- (b) is liable for misconduct affecting his capability as a pilot;
- (c) has failed to comply with the conditions of the licence;
- (d) has failed in or neglected his duty as a pilot; or
- (e) has become incompetent to act as pilot.

(2) A licence or authorisation, if so revoked, shall cease to have effect, and, if so suspended, shall cease to have effect for the period for which it is suspended.

(3) If a pilot is aggrieved by—

- (a) the suspension or revocation by the Captain of the Port of his authorisation or licence;
- (b) the refusal or failure of the Captain of the Port to renew his authorisation or licence; or
- (c) the refusal or failure of the Captain of the Port or the pilotage committee who has obtained possession of his licence to return it to him,

that pilot may appeal to the magistrates' court.

(4) For the purpose of hearing the appeal, the magistrates' court shall sit with an assessor of nautical and pilotage experience selected and summoned by the court.

(5) Objection may be taken to any person to be summoned as an assessor, either personally or in respect of his qualification, and by either party to the appeal.

(6) The court may confirm or reverse the suspension or revocation of the licence, or make such order in the case as may seem just, and such decision shall be final, unless special leave to appeal from the same to the Supreme Court on a question of law or a question of mixed law and fact is given by the court, or by the Supreme Court, and in such case the decision of the Supreme Court shall be final.

(7) The costs incurred by the Captain of the Port under this section shall be paid out of the Consolidated Fund upon a warrant of the Minister.

(6) Regulations with respect to the procedure under this section (including costs and the remuneration of assessors) may be made by the Minister.

Declaration as to particulars of ship.

20.(1) An authorised pilot or a licensed pilot may request, either orally or in writing, the master of any ship which he is piloting to declare her relevant particulars, such as, draught of water, length and beam, and the master shall comply with any such request.

(2) The master of a ship who refuses to comply with any request made under subsection (1), or makes or is privy to any other person making any false statement to such authorised pilot or licensed pilot in answer to the request, commits an offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

Characteristics of pilot boats.

21.(1) Every pilot shall provide himself with a boat which is certified by the Captain of the Port as fit for the purpose for which it is to be used.

(2) Every boat as referred to in subsection (1) shall be distinguished by the following characteristics when engaged in pilotage duties-

- (a) the word 'PILOT' shall be prominently displayed in a conspicuous location;
- (b) a flag (in this section referred to as a pilot flag) of two colours, the upper horizontal half being white and the lower half being red to be placed at the mast head; and

- (c) at night, lights to be displayed in accordance with the Convention on the International Regulations for Preventing of Collision at Sea, 1972.

(3) Every pilot shall ensure that—

- (a) his boat possesses all the characteristics referred to in subsection (2); and
- (b) the pilot flag is kept clean and distinct, so as to be easily discerned at a reasonable distance.

(4) Where a pilot, who fails to comply with the requirements of subsection (3), without reasonable cause, commits an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Pilotage rate for leading ships.

22. If any boat or ship, having on board an authorised pilot or licensed pilot, leads any ship which has not such authorised pilot or licensed pilot on board when the ship to be led cannot, from particular circumstances, be boarded, the pilot so leading that ship shall be entitled to the full pilotage rate for the distance run as if he had actually been on board and had charge of that ship.

Receiving or offering improper rates of pilotage.

23.(1) No authorised pilot or licensed pilot shall demand or receive, dues in respect of pilotage services at any other rates—

- (a) whether greater or less, than the rates which may be demanded by law; and
- (b) any dues in respect of pilotage services, whether greater or less, than the rates which may be demanded by law.

(2) No master of a ship or pilot shall offer to pay to any authorised pilot or licensed pilot, dues in respect of pilotage services at any other rates, whether greater or less, than the rates which may be demanded by law.

(3) A pilot or master who contravenes subsection (1) or (2), commits an offence and is liable on summary conviction to a fine at level 2 on the standard scale.

Recovery of pilotage dues.

24.(1) The following persons shall be liable to pay pilotage dues for any ship for which the services of an authorised pilot or a licensed pilot are obtained—

- (a) the owner or master of the ship; or
- (b) any consignee or agent who has paid or made himself liable to pay any other charge on account of the ship in the port as to pilotage inwards or as to pilotage outwards,

and those dues may be recovered in the same manner as debt by proceedings in the court, but that recovery shall not take place until a previous demand has been made in writing.

(2) Any consignee or agent (not being the owner or master of the ship) who is made liable for the payment of pilotage dues under subsection (1) in respect of any ship may, out of any moneys received by him on account of that ship or belonging to the owner thereof, retain the amount of all dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

Offences by pilot.

25.(1) A licensed pilot or an authorised pilot who—

- (a) has an interest directly or indirectly in the business of a ship chandler or water boat owner;
- (b) takes part in any fraud or offence against the revenue of Gibraltar or the laws relating thereto;
- (c) is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, furniture, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels;
- (d) lends his licence to another person;
- (e) acts as pilot whilst suspended;
- (f) acts as pilot when in a state of intoxication;

- (g) employs, or causes to be employed, on board any ship which he is piloting any boat, anchor, cable, or other store, matter or thing beyond what is necessary for the service of that ship, with intent to enhance the expenses of pilotage for his own gain or for the gain of any other person;
- (h) refuses or willfully delays, when not prevented by illness or other reasonable cause, to pilot any ship within the limits for which he is licensed, upon the signal for a pilot being made by that ship, or upon being required to do so by the master, owner, agent or consignee thereof, or by the Captain of the Port or any boarding officer of the Gibraltar Port Authority, or by any naval officer acting in the discharge of his duties;
- (i) unnecessarily cuts or slips, or causes to be cut or slipped, any cable belonging to any ship;
- (j) refuses, otherwise than on reasonable ground of danger to the ship, when requested by the master, to conduct the ship which he is piloting into BGTW;
- (k) quits the ship, which he is piloting, before the service for which he was engaged has been performed and without the consent of the master of the ship;
- (l) wilfully or by neglect disobeys any lawful orders of the Captain of the Port made or given for the control of authorised pilots or licensed pilots in the exercise of their duties; or
- (m) whilst in the exercise of his duties as pilot, canvasses, solicits or procures from any ship or vessel any business for himself or for any other individual whatsoever, or carries on, or undertakes, directly or indirectly, any trade or business other than that of a pilot,

commits an offence and is, in addition to any liability for damages, liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who procures aids, abets or connives at the commission of any offence under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Penalty on fraudulent use of licence.

26. A person who, not being an authorised pilot or licensed pilot, falsely represents himself to be an authorised pilot or licensed pilot, either by means of using an authorisation or a licence which he is not entitled to use or by any other means, commits an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

Penalty on ordinary boat displaying pilot flag or marking.

27. A pilot flag, or a flag so nearly resembling a pilot flag or pilot marking as to be likely to deceive, shall not be displayed on any ship or boat not having an authorised pilot or a licensed pilot on board, and, if any such flag is displayed on any such ship or boat, the master of that ship, unless in the case of the display of a flag likely to deceive he proves that he had no intention to deceive, commits an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Penalty on pilot endangering ship, life or limb.

28. A pilot who, when piloting a ship, by wilful breach of duty or by neglect of duty, or by reason of drunkenness—

- (a) does any act tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of any person on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from danger to life or limb,

commits an offence and is liable on summary conviction to a fine at level 5 on the standard scale or on conviction to imprisonment.

Penalty on person obtaining charge of ship by misrepresentation.

29. If any person, by wilful misrepresentation of circumstances upon which the safety of a ship may depend, obtains, or endeavours to obtain, the charge of that ship, that person and every person procuring, abetting or conniving at the commission of the offence commits an offence and, in addition to any liability for damages, are each liable on summary conviction to a fine at level 5 on the standard scale.

Power to make Regulations.

30.(1) The Minister may make Regulations for regulating pilotage in any compulsory pilotage area and for the maintenance of good conduct and discipline of authorised pilots and licensed pilot and for matters relating to their duties.

(2) The Minister may make Regulations to–

- (a) determine additional 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 by the Captain of the Port as pilots, provide for the examination of such persons, and fix the term for which a licence is to be in force, and the conditions under which a licence may be renewed;
- (b) fix the limit, if any, on the number of pilots to be licensed or authorised, and provide for the method in which and the conditions under which the list of pilots is to be filled up;
- (c) provide that any contravention of or failure to comply with any of the Regulations shall be an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding level 5 on the standard scale;
- (d) fix the rates of payments or charges to be made in respect of the services of a licensed pilot and authorised pilots and provide for the collection of pilotage dues;
- (e) regulate the amount payable to any company engaged in pilotage as pilotage fees; and
- (f) provide for the manner in which the amounts payable in respect of pilotage fees are accounted for and their annual review and increase.

(3) The Minister may make Regulations for the purposes of carrying out the general objectives of this Act.

Amendments to the Merchant Shipping Act and repeal of the Pilot Rules.

31.(1) PART IX of the Merchant Shipping Act (sections 180 to 203) is repealed.

(2) Section 221A of the Merchant Shipping Act is repealed.

(3) Pilot Rules ((1935.06.27-1) are repealed.

Amendment to the Port Act and the Port Rules.

32.(1) Section 7 of the Port Act is repealed.

(2) Rule 4 of the Port Rules is amended by substituting “excepted” for “exempted” and “section 4 of the Gibraltar Pilotage Act 2016” for “section 7 of the Act” in lines 1 and 2.

Savings and transitional provisions.

33. Notwithstanding the repeal by sections 31 and 32 (repealed provisions), any action taken, proceedings started, authorisations or licences granted or any other proceedings or actions pending before any authority, committee, the Captain of the Port or any court under those repealed provisions shall be valid and continue as such until finally concluded as if the repeal provisions have not come into force.

EXPLANATORY MEMORANDUM

This Bill provides for a comprehensive legislation for pilotage services in Gibraltar. The existing provisions under Part IX of the Merchant Shipping Act (sections 180 to 203) being currently insufficient and obsolete have been proposed to be repealed and re-enacted by this Act.

The provisions of the repealed section 7 of the Port Act have been repatriated in section 3 to 5 of the Bill by way of modification and consolidation as they are most relevant in this Act.

This Bill introduces two types of pilots, namely authorised pilots and licence pilots in order to provide pilotage services in Gibraltar.