

PROJET DE LOI

ENTITLED

The Pilotage (Alderney) Law, 1984 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXVIII, p. 515; as amended by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987 (Ordres en Conseil Vol. XXX, p. 172); the Uniform Scale of Fines (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 306); the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997 (Alderney Ordinance No. II of 1997).

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ARRANGEMENT OF SECTIONS

1. States to make provision for pilotage.
2. Responsibility for administration of Ordinances.
3. Obligations of compulsory pilotage.
4. Liability of owner or master of a vessel under pilotage.
5. Licensing of pilots by States not to involve any liability.
6. Limitation of pilots' liability when bond given.
7. Limitation of liability of States.
8. Limitation of liability where several claims on one occasion.
9. Penalties to be prescribed by Ordinance.
10. Interpretation.
11. Repeal.
12. Citation.
13. Commencement.

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THE STATES, in pursuance of their Resolutions of the sixteenth day of August, nineteen hundred and seventy-eight and of the nineteenth day of December, nineteen hundred and seventy-nine, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

States to make provision for 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 pilotage of vessels in the territorial waters adjacent to this Island including the compulsory pilotage of vessels within such area of the territorial waters adjacent to this Island as may be defined by any such Ordinance 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 Committee of a committee, which shall be styled the Alderney 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 definition of such area of the territorial waters adjacent to this Island within which the pilotage of

vessels shall not be compulsory (hereinafter referred to as "**the pilotage zone**"),

- (c) the definition of such area of the territorial waters adjacent to this Island within which the pilotage of vessels shall be compulsory, (hereinafter referred to as "**the compulsory pilotage zone**"),
- (d) the licensing of persons as general pilots for the general pilotage of vessels within the pilotage zone and the compulsory pilotage zone,
- (e) the licensing of persons who are the masters or mates of any vessels as special pilots for the pilotage within the compulsory pilotage zone of the vessels of which they are the masters or mates,
- (f) 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,
- (g) the suspension or revocation of pilotage licences,
- (h) enabling any general or special pilot aggrieved by any decision of the Alderney Pilotage Board to appeal

from such decision to the Court of Alderney, the decision of which shall be final,

- (i) fixing the maximum number of general and special pilots to be licensed and the conditions under which the lists of general and special pilots are to be filled up,
- (j) the provision and maintenance of vessels by the general pilots for the purposes of compulsory pilotage,
- (k) fixing the fees to be payable on examination for a pilotage licence and on the grant or renewal of any such licence,
- (l) 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,
- (m) the general good government of general and special pilots and for ensuring their good conduct and constant attendance to the effectual performance of their duties, whether at sea or on shore,
- (n) 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,

- (o) a deduction being made by the Committee from any sums received by way of pilotage dues of any sums which the Committee 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 Committee 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,
- (p) 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 provision for different classes of pilots and different classes of vessels and may make different provision 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 classes and categories of pilots and vessels and for different circumstances.]

NOTES

In section 1, subsection (3) was inserted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 2, with effect from 2nd March, 1988.

The following Ordinance has been made under section 1:

Alderney Pilotage Ordinance, 1988.

Responsibility for administration of Ordinances.

2. The Committee 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.

Obligations of compulsory pilotage.

3. (1) Every vessel, other than an excepted vessel, while navigating in the compulsory pilotage zone for the purposes of entering, leaving or making use of Braye Harbour shall be under the pilotage either of a general pilot or of a special pilot who is the master or a mate of that vessel.

(2) 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 general 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 4 on the Alderney 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.

(3) 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 in subsection (2) were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

The following Ordinance has been made under section 3:

Alderney Pilotage Ordinance, 1988.

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 Alderney 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 adjacent to this Island 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 moveable, 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.

Penalties to be prescribed by Ordinance.

9. 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 9:

Alderney Pilotage Ordinance, 1988.

Interpretation.

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

"**Braye Harbour**" means the area to the southward of a line drawn from the north-eastern end of the submerged portion of the Alderney Breakwater to the Outer Grois Rock,

"**the Committee**" means the [General Services] Committee of the States of Alderney,

"**general pilot**" means a person licensed, as a general pilot, by the Alderney 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 and the compulsory pilotage zone,

"special pilot" means a person licensed as a special pilot, by the Alderney 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 compulsory pilotage zone of a vessel of which he is the master or mate.

(2) The Interpretation (Guernsey) Law, 1948^a applies to the interpretation of this Law and of any Ordinance made under this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

NOTES

In section 10, the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 2, Schedule 2, Part I, paragraph 11, with effect from 2nd April, 1997.

The functions of the Transport and Harbour Committee under this Law were transferred to the General Services Committee by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 2, Schedule 2, Part I, paragraph 11, with effect from 2nd April, 1997, subject to the savings and transitional provisions in section 3 of the 1997 Ordinance.

In accordance with the provisions of the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 4, the words "the area to the southward of a line drawn from the north-eastern end of the submerged portion of the Alderney Breakwater to the Outer Grois Rock" in the definition of the expression "Braye Harbour" in subsection (1) mean, and shall be deemed always to have meant, "the area bounded by –

- (i) the Alderney Breakwater, including the submerged portion thereof,*
- (ii) a line drawn from the north-eastern end of the submerged*

^a Ordres en Conseil Vol. XIII, p. 355.

portion of the Alderney Breakwater to the Outer Grois Rock,

- (iii) *a line drawn due south of the Outer Grois Rock as far as the high water line of ordinary spring tides on the northern coast of Alderney, and*
 - (iv) *the high water line of ordinary spring tides on the northern coast of Alderney".*
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Repeal.

11. The Alderney Pilotage Law, 1955^b is hereby repealed.

Citation.

12. This Law may be cited as the Pilotage (Alderney) Law, 1984.

Commencement.

13. (1) This Law, other than section eleven and section twelve thereof, shall come into force on such date as the States may by Ordinance appoint, and different dates may be so appointed for different provisions of this Law and for different purposes.

(2) Section eleven and section twelve of this Law shall come into force on the date on which this Law is registered on the records of the Island of Guernsey.

NOTES

The Law, other than section eleven and section twelve thereof, was brought into force on 2nd March, 1988 by the Pilotage (Alderney) Law, 1984 (Commencement) Ordinance, 1988, section 1.

^b Ordres en Conseil Vol. XVI, p. 209.

The Law was registered on the Records of the Island of Guernsey on 1st October, 1984.
