

ORDER IN COUNCIL

XVIII

ratifying a Projet de Loi

1955

ENTITLED

The Alderney Pilotage Law, 1955.

(Registered on the Records of the Island of Guernsey
on the 30th day of July, 1955.)



1955.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of July, 1955, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present : Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Osmond Priaulx, Stephen James Falla, Esquires, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 21st day of June, 1955, ratifying a *Projet de Loi* of the States of Alderney entitled "The Alderney Pilotage Law, 1955",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace,

The 21st day of June, 1955.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT

MR. SECRETARY LLOYD-GEORGE

MR. SANDYS

SIR WALTER MONCKTON

MR. LOW

MR. NUTTING

MR. BROOKE

MR. TURTON

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 16th day of June, 1955, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee a humble Petition of Sydney Peck Herivel, Esquire, President of the States of the Island of Alderney, setting forth:—

‘That at a Meeting of the States of Alderney held on the thirtieth day of April, 1955, the States adopted a Resolution that a *Projet de Loi* entitled “The Alderney Pilotage Law, 1955” be approved: That at the meeting of the States aforesaid, Your Humble Petitioner was author-

ised to present to Your Majesty in Council a Petition that the said Projet de Loi be sanctioned. That the said Projet de Loi is set forth in the words and figures of the Schedule annexed hereto. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Projet de Loi entitled "The Alderney Pilotage Law, 1955" and to order that the same shall have the force of Law within the Island of Alderney.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition, and the Projet de Loi annexed thereto, into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of law within the Island of Alderney.

AND HER MAJESTY doth hereby further direct that this Order and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being, of the said Island of Guernsey, and also

the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Alderney Pilotage Law, 1955.

ARRANGEMENT OF SECTIONS

PART I

Section

1. General prohibition.
2. General Licences.
3. Constitution and duties of the Pilotage Board and the Pilotage Examination Committee.
4. Conditions of admission into the Pilotage Service.
5. Application for admission into the Pilotage Service.
6. Suspension of Licence, and appeal.
7. Medical examination.
8. Control of Pilots.
9. Duty of Pilots to report irregularities in navigational aids.

PART II

10. Pilot boats.
11. Duties of Pilots on boarding.

PART III

Section

12. Vessels liable to take a Pilot.
13. The Pilotage Zone, and area of roadstead.
14. Duty of the Master of a vessel to heave-to or follow a Pilot.
15. Duty of the Master of a vessel to fly a Pilot's flag.
16. Duty of the Master of a vessel when sickness aboard.
17. Pilotage fees.

PART IV

18. Abolition of defence of compulsory pilotage.
19. Duty of Harbour Master to supply Pilots with information.
20. Liability of owner.
21. } Penalties.
22. }
23. Saving of existing licences.
24. Repeal of previous Law.
25. Short title.

The Alderney Pilotage Law, 1955.

THE STATES, in pursuance of their Resolution of the 22nd day of November, 1950, 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.

PART I

1.—(1) Subject to the provisions of this Law a person shall not act as a pilot in the Pilotage Zone unless— General prohibition.

- (a) he is a British subject aged 21 years or more, and
- (b) he is the holder of a valid Pilotage Certificate issued to him by the Pilotage Examination Committee, and
- (c) he has been sworn as a pilot by the Court, and
- (d) he is the holder of a valid Licence issued to him by the Pilotage Board in accordance with the provisions of this Law.

(2) A person who contravenes the provisions of this section shall be liable, on conviction, to a fine not exceeding ten pounds or to imprisonment not exceeding one month, or to both such fine and such imprisonment, and the revocation or suspension of his Licence.

2.—(1) There shall be a Licence for general pilotage in the Pilotage Zone (hereinafter referred to as a "Licence"). General Licences.

(2) The number of pilots who may hold Licences shall be such as the States may, from time to time, by Ordinance provide.

(3) The Pilotage Board shall keep a register of all Licences issued.

Constitution and duties of the Pilotage Board and the Pilotage Examination Committee.

3.—(1) For the purposes of this Law the expression “Pilotage Board” shall mean the States Committee for Harbour and Transport.

(2) The Pilotage Examination Committee (hereinafter referred to as “the Committee”) shall be composed of the Harbour Master or in his absence the Deputy Harbour Master and two marine assessors appointed for the purpose by the Pilotage Board. The Harbour Master or his Deputy shall be President of the Committee. In the deliberations of the Committee the President shall have a casting vote only. At every examination of a Candidate in pilotage the Committee shall be assisted by one Pilot, holding a Licence, co-opted for the purpose by the Harbour Master. Such Pilot shall effectively examine every candidate in pilotage and shall make recommendations to the Committee. He shall have no vote but his recommendations shall be recorded as part of the proceedings of the Committee.

(3) For the purposes of this section the expression “marine assessors” shall mean those persons whose profession is or has been the sea and who hold or have held an office of rank indicative of knowledge and experience in seamanship and navigation in Her Majesty’s Royal Navy or in the Merchant Navy.

Conditions of admission into the Pilotage Service.

4. The conditions of admission into the Pilotage Service shall be as follows:—

- (i) that the Committee shall have issued to the applicant a certificate of competency after examination in pilotage in the Pilotage Zone and in seamanship;
- (ii) evidence to the satisfaction of the Pilotage Board that the candidate has served as a

mate in the coasting or deep sea trade for a period of not less than six months.

5.—(1) A candidate for the post of Pilot shall address a written and signed application to the Pilotage Board and the application shall include the following:—

Application
for admission
into the
Pilotage
Service.

- (a) the full name and address of the candidate,
- (b) the date and place of birth of the candidate,
- (c) a declaration that to the best of the candidate's knowledge he is then in good health and not suffering from any physical defect which is likely to impede his efficiency as a licensed Pilot, and
- (d) such further particulars, including a Medical Certificate, as the Pilotage Board may from time to time require.

(2) Any person who in connection with any such application as aforesaid wilfully withholds any material particular or knowingly or recklessly makes any statement or furnishes any information which is false in a material particular, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding fifty pounds or to imprisonment not exceeding three months, or to both such fine and such imprisonment, and if a Licence has been issued to any such person that Licence shall be deemed to have been revoked and shall be surrendered immediately.

(3) Upon receipt of an application as aforesaid the Pilotage Board, if satisfied as to the particulars thereof, shall inform the Committee of their desire to have the candidate examined with a view to the issue to him of a Licence and thereupon the Committee shall proceed to an effective examination of the knowledge of that candidate in Pilotage in the Pilotage Zone and in seamanship.

(4) It shall be the duty of the Harbour Master to notify the candidate of the time and place appointed for his examination, but no such examination shall be held unless and until the candidate shall have deposited with the Committee the sum of ten pounds by way of examination fee. The candidate shall at his own cost provide a boat suitable, in the opinion of the Committee, for the purposes of the examination. The amount so deposited shall be paid to those members and assessors who conduct the examination, in such proportions as they shall agree among themselves.

(5)—(i) The Committee shall issue gratis to every candidate who by examination satisfies the requirements of the Committee, a certificate of competency which shall be entitled "Pilotage Certificate", and shall notify the Pilotage Board upon the issue of every such certificate.

(ii) It shall be the duty of the Harbour Master to keep a register in which shall be entered the particulars of every Pilotage Certificate issued by the Committee.

(iii) The Pilotage Board may, upon notification as aforesaid, and provided that the number of Licences issued will not exceed that fixed by Law, request the Clerk of the Court that the candidate be presented to the Court, to be sworn as a Pilot; if the candidate is so sworn the Pilotage Board shall forthwith deliver to the Pilot a licence.

Suspension
of Licence,
and appeal.

6.—(1) A licence shall be deemed to be suspended as from the date:—

- (a) when in the opinion of the Pilotage Board a Pilot ceases to be adequately fitted to discharge with efficiency all the duties of a Licensed Pilot; or

- (b) when he last performed an authorised act of Pilotage if, thereafter and without the permission of the Harbour Master, he has absented himself from duty for fourteen days or more; or
- (c) when, upon the complaint of the Master or the owner of a vessel, or of the Harbour Master, the Pilotage Board, after due enquiry, is satisfied that the Pilot against whom the complaint is made has :—
 - (i) committed an offence punishable under the provisions of this Law; or
 - (ii) committed an infringement of the Harbour Regulations; or
 - (iii) been guilty of gross misconduct either by wilful disobedience of the orders of the Harbour Master or of the Pilotage Board, or of conduct of such a nature that, in the opinion of the Pilotage Board, he has failed to discharge efficiently the duties of a Pilot.

(2) A person who acts as a Pilot in the Pilotage Zone and whose Licence at the time of so acting is in suspense shall be deemed to have so acted without a Licence and shall on conviction be punishable as if he had committed an offence against section one of this Law.

(3) Where a Licence has been suspended in accordance with the provisions of paragraphs (a), (b) or (c) of the preceding subsection and, in the opinion of the Pilotage Board the facts are of insufficient gravity to warrant the revocation of the Licence, the Pilotage Board shall determine the period, not exceeding three months, during which such suspension shall operate, and shall inform the Pilot concerned, in writing, of their decision :

PROVIDED that where the period of suspension shall exceed one month the Pilot concerned may appeal to the Court, against the decision of that Board; such appeal shall be made by way of Petition and the appellant shall cause the President of the Pilotage Board to be served with a summons (with a copy of the Petition annexed) to be present at the hearing of the appeal to show cause why the decision of that Board shall not be set aside, and thereupon the Court whose decision shall be final may allow the appeal, or may disallow the appeal and increase or decrease the period of suspension, or may revoke the Licence.

(4) Where in the opinion of the Pilotage Board there exist facts of such gravity as to warrant the revocation of a Pilot's Licence, that Board shall show cause, by way of Petition to the Court why, upon the facts set out in the Petition, the Licence of that Pilot should be revoked and the Court may upon the hearing thereof impose a term of suspension or revoke the Licence. A copy of the Petition, annexed to the summons to appear, shall be served upon the Pilot concerned, and the decision of the Court shall be final.

Medical
Examination.

7. At any time during the currency of a Licence the Pilotage Board may require a Pilot to produce a certificate by a Medical Practitioner previously approved by the Pilotage Board, as to the physical condition of that Pilot and such certificate may be required to relate generally to the health and physique of the Pilot or specifically to the state and condition of his sight, and if a Pilot, having being so required, fails or refuses to produce the required certificate either within the time stated in the requirement or otherwise within a reasonable time after the day when he receives such requirement, then the

Pilotage Board may proceed to the consideration of his case as provided in paragraph (b) of subsection (1) of the last preceding section.

8. Pilots who hold Licences shall be subject to the orders and disciplinary control of the Harbour Master and the Pilotage Board. Control of Pilots.

9. It shall be the duty of every Pilot to report to the Harbour Master without delay any information coming to his knowledge concerning:— Duty of Pilots to report irregularities in navigational aids.

- (i) any fixed or moored beacon, buoy or navigational mark which is not in its correct position, and
- (ii) any damage to or defects in any beacon, buoy, navigational mark, and any irregularity in any light or fog signal, and
- (iii) all damage caused by or caused to, or sustained by a vessel under his charge or being piloted by him.

PART II

10.—(1) For the purpose of performing the Pilotage service, the Pilots shall supply and maintain, in serviceable condition, and at their expense, two Pilot boats to be approved by the Pilotage Board. Pilot boats.

(2) At least one Pilot boat shall be maintained at all times in a state of readiness to be used for Pilotage purposes.

(3) A Pilot boat when on duty at sea shall fly continuously a flag of large dimensions compared with the size of the boat, rectangular in shape and coloured half red and half white, the white part of which shall be above the red.

(4) Every Pilot when on duty shall observe, as if they were incorporated in the present Law, the

regulations of the appropriate United Kingdom Authority from time to time in force concerning day and night signals for piloting.

Duties of
Pilots on
boarding.

11.—(1) On boarding a vessel for the purpose of piloting that vessel it shall be the duty of the Pilot:—

- (i) to exhibit his Licence, if required so to do by the Master or other officer in charge of that vessel; and
- (ii) to hoist a flag not less than three feet six inches long and four feet three inches wide, the base in red and the top in white; that flag shall remain hoisted until the pilotage of that vessel has been completed; and
- (iii) to put to the Master or other officer in charge of that vessel, the following questions:—
 - “(a) Where are you from?
 - (b) Has there been disease, sickness or death among the crew or passengers during the voyage?
 - (c) Are the crew and passengers now in good health? ”;
- (iv) to deliver to the Master or other officer in charge of that vessel, a Pilot Boarding Note in the appropriate form set out in the Schedule to this Law. The Master or other officer shall complete and sign that form and return it to the Pilot before the Pilot leaves the ship and the Pilot shall on landing deliver that form immediately to the Harbour Master.

(2) Any Pilot who fails to exhibit his Licence when required, or to hoist his flag on boarding, or to put the statutory questions or deliver the statutory

Boarding Note as required by this section, and any Master or other officer as aforesaid who fails or refuses to answer the questions or to complete and sign and return the Boarding Note, or who withholds any information or makes any answer or statement whether oral or written which to his knowledge is false in a material particular shall on conviction be liable to a fine not exceeding one hundred pounds.

PART III

12.—(1) Every vessel except:—

Vessels liable
to take a
Pilot.

- (i) Her Majesty's ships and ships belonging to the Armed Forces of a Foreign Government;
- (ii) a vessel, if not engaged in trade, belonging to or under the control of a department of Her Majesty's Government;
- (iii) a vessel belonging to or under the control of the Elder Brethren of the Corporation of Trinity House;
- (iv) a trading vessel of less than forty tons, gross tonnage, if not carrying passengers for hire or reward;
- (v) pleasure yachts;

shall, upon arriving at the limits of the Pilotage Zone fly the distinctive flag calling for a Pilot and that vessel, shall take on board the first Pilot who meets that vessel and offers pilotage services and in default thereof the Master of that vessel shall, on conviction, be liable to a fine not exceeding one hundred pounds sterling and both the owner and the Master of that vessel shall be jointly and severally liable for the payment of the Pilotage fee payable under this Law in respect of the Pilotage of that vessel into Braye Harbour.

(2) Every vessel liable to take a Pilot on its arrival may on leaving Braye Harbour demand the services of a Pilot, and shall take the first Pilot who offers his services; if such offer is not accepted the Master and the owner of that vessel shall be liable as provided in the preceding subsection of this section. If no such services are supplied when so demanded then no Pilotage fees shall be payable.

The Pilotage Zone, and area of roadstead.

13. The Pilotage Zone is 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.

Duty of the Master of a vessel to heave-to or follow a Pilot.

14.—(1) The Master of every vessel under way and liable under this Law to take a Pilot shall heave-to on the approach of a Pilot and take him on board and in default thereof shall be liable, on conviction, as if he had committed an offence under section twelve of this Law.

(2) If by stress of weather a Pilot cannot board a vessel at sea, the Master of that vessel and the Pilot shall arrange that the Pilot-boat shall lead and serve as guide to a safe anchorage or to a berth in port, and the owner and the Master of that vessel shall be jointly and severally liable for payment of the Pilotage fees payable under this Law.

(3) The Pilotage of a vessel liable under this Law to take a Pilot shall not cease until the vessel is moored to the quay or safely anchored.

Duty of the Master of a vessel to fly a Pilot's flag.

15. The Master of a vessel who shall have taken a Pilot on board shall fly at the masthead the Pilot's flag so long as that vessel is under way in the Pilotage Zone, with a Pilot on board, and the Master of any vessel that flies a Pilot's flag when a Pilot whose duty is to pilot that vessel is not on board, shall be liable

on conviction, to a fine not exceeding one hundred pounds sterling.

16. Upon arriving in the Pilotage Zone, the Master of a ship on which there is or has been during the voyage, infectious sickness or disease among the crew or passengers shall fly at the masthead the international three-flag signal L.I.M. and no person shall leave or give any other person permission to leave that ship, and the flag shall not be lowered until the Harbour Master or his Deputy or appointee authorised for the purpose has visited her and given her permission in that behalf. Any person convicted of an offence under this section shall be liable on conviction, to a fine not exceeding one hundred pounds sterling or to six months imprisonment, or to both such fine and imprisonment.

Duty of the Master of a vessel when sickness aboard.

17. The pilotage fee for piloting a vessel from or to the limit of the Pilotage Zone to or from its place of berthing or anchorage shall be payable in accordance with a fee which shall, from time to time, be prescribed by the States by Ordinance:

Pilotage fees.

PROVIDED that the fee for either of the aforesaid acts of pilotage shall not at any time exceed the maximum fee payable, in respect of a vessel of similar tonnage, for a single act of pilotage under the provisions of any Ordinance for the time being in force in the Island of Guernsey.

PART IV

18. Notwithstanding anything in this Law contained or any rule of law to the contrary, the owner or Master of a vessel navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by

Abolition of defence of compulsory pilotage.

any fault of navigation of the vessel in the same manner as he would if pilotage were not compulsory.

Duty of
Harbour
Master to
supply Pilots
with
information.

19. It shall be the duty of the Harbour Master to deliver to every Pilot, a copy of the Present Law and every amending Law and every Ordinance made under this Law and under every Law amending this Law that may be passed from time to time; a copy of all regulations from time to time made concerning the Harbour of this Island, and a copy of the Regulations of the appropriate United Kingdom Authority from time to time in force concerning day and night signals for Piloting.

Liability
of owner.

20. Where it appears that the owner of a vessel has committed an infraction of this Law and is not within the jurisdiction, then proceedings may be instituted against the Master of that vessel or against the local Agent of the owner and a conviction recorded in those proceedings shall be deemed to be a conviction of the owner in respect of that infraction and any fine thus imposed against, and any costs ordered to be paid by the defendant, shall be discharged by the Master or the local Agent as the case may be, out of funds in their hands belonging to the owner, so however, without making the Master or local Agent personally liable.

Penalties.

21.—(1) Where it appears in this Law that a fine may be imposed upon a Pilot convicted of an offence the Court may, in addition to or in lieu of such fine, order that the Licence held by that Pilot shall be suspended for such time, not exceeding twelve months, as the Court shall decide, or may order the revocation of that Licence.

(2) Where an order of suspension is made, the Pilot shall immediately surrender his Licence to the

Pilotage Board who shall endorse the same with particulars of the order and shall hold that Licence until the expiration of the period of suspension. Where a Licence is ordered to be revoked, the Pilot shall surrender the same immediately to the Pilotage Board.

(3) It shall be the duty of the Pilotage Board to enter in the register of Pilots the fact of every such suspension or revocation.

22. Save where it is otherwise expressly provided for, a person convicted of an offence against this Law shall be liable, on conviction, to a fine not exceeding fifty pounds sterling with or without imprisonment not exceeding six months and, in the case of a Pilot, to have his Licence suspended or revoked in accordance with the provisions of the last preceding section. Penalties.

23. For the avoidance of doubt it is hereby declared that any Licence which is in force at the date of the coming into force of this Law shall continue in force subject to the provisions of this Law. Saving of existing Licences.

24. The Law entitled "Loi relative au pilotage d'Ile d'Auregny" registered on the Records of the Island of Guernsey on the 19th day of August, 1896, is hereby repealed. Repeal of previous Law.

25. This Law may be cited as the Alderney Pilotage Law, 1955. Short title.

JAMES E. LE PAGE,

Her Majesty's Greffier.

SCHEDULE
(referred to in Section eleven)

STATES OF ALDERNEY

PILOT BOARDING NOTE

INWARDS

Name of Ship
 Port of Registration
 Gross Tonnage
 Name of Master
 Where from
 Particulars of disease, death or sickness
 during the voyage
 Name of Pilot
 Where boarded
 Where Pilot left
 Name of Owner
 Name of Agent
 Signed
 Date

STATES OF ALDERNEY

OUTWARDS

Name of Ship
 Port of Registration
 Gross Tonnage
 Name of Master
 Name of Pilot
 To
 Where Pilot left
 Name of Owner
 Name of Agent
 Signed
 Date