

Pilotage Bulletin

May 2016

The Standard
for service and security

The Standard



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Introduction

Under English law, Section 742 of the Merchant Shipping Act 1894 defines a pilot as "any person not belonging to a ship who has the conduct thereof". In other words, a pilot is someone other than a member of the crew who is granted some level of control over the speed, direction and movement of the ship.

Pilots provide a crucial service to the marine industry; assisting ships to navigate through dangerous or congested waters. Most jurisdictions impose compulsory pilotage and while there are some generally applicable universal principles, there are significant variations in local regulations. This bulletin reviews the main features of pilotage in key maritime jurisdictions. The Standard Club's Loss Prevention team also reviews some recent research involving incidents of pilot error with a view to determining if any broad conclusions can be drawn.

Any claims handler will know that many allision, collision and wash damage claims occur while a ship is under pilotage. This is no coincidence since pilots are generally engaged in areas and situations involving an enhanced risk to a ship. In general, professional pilots will be compulsorily required by local authorities during the navigation of dangerous or congested waters and berthing/unberthing operations in ports and harbours.

Professional pilotage has been around almost as long as ships have been commercially transiting the seas. The importance of pilotage to the maritime industry has not diminished with time. This is demonstrated

by the fact that, unlike many other professions, modern technology has not threatened the pivotal role of the pilot with redundancy. The physical and economic realities of today's shipping industry make pilots more vital than ever for the delicate task of manoeuvring ships of increasing size and advancing technology through risky and ever-changing territorial waters. The International Maritime Organization (IMO) has acknowledged that as skills and labour shortages become more pronounced throughout the maritime industry, seafaring standards are slipping and existing crews are becoming more reliant on the experience and local knowledge that local pilots provide.

Pilotage, as a profession, was developed thousands of years ago. Earliest records of the use of locally experienced harbour captains to guide trading ships into port safely date back to Ancient Greek and Roman times.

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Engaging a pilot

Qualified pilots are usually employed by the local port or maritime administration and provide their services to ships for a fee, calculated in relation to the ship's tonnage,

Introduction continued

draught or other criteria. The IMO Assembly in 2003 adopted *resolution A.960(23) Recommendations on Training and Certification and Operational Procedures for Maritime Pilots other than Deep-sea Pilots*, which includes:

- *Recommendation on Training and Certification of Maritime Pilots other than Deep-sea Pilots* and
- *Recommendations on Operational Procedures for Maritime Pilots other than Deep-sea Pilots*.

However, binding legislation on pilotage remains the responsibility of individual countries. While there is some variation in protocol for pilots, the fundamentals are similar almost everywhere, with many countries following the legislation laid down by the UK. In general, the pilot will board the ship at sea as the ship is entering, leaving or manoeuvring within a port. The pilot acts in an advisory capacity, utilising his knowledge of the local environs to direct the ship safely to her destination. The ship remains subject to the master's ultimate command and, as such, a negligent act by the pilot will legally be deemed a negligent act by the ship.

Pilot liability and regulations

There are very few jurisdictions where it is possible to make significant recoveries from the relevant local port or maritime administration for loss, damage or liabilities incurred as a result of pilot error. The general principle is that while on board a ship, the pilot acts as a servant of the ship and its owner and operator, who therefore remain liable for damages arising as a result of

the pilot's negligence, notwithstanding that pilotage may be compulsory. Even where the regulations allow for pilot liability where gross negligence or wilful misconduct can be established, the same regulations often provide for very low limitation levels, very high burdens of proof and/or prohibitively restrictive forums within which to bring such a claim. The end result is that even where there may be grounds to allege pilot liability, it may not be worth the hassle and cost involved in trying the case against the local port or maritime administration.

In this pilotage bulletin, we have highlighted the pilotage regulations in various key maritime jurisdictions.

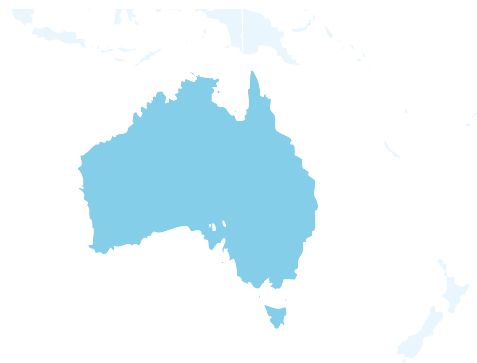
Pilot error

The varying standards of pilotage worldwide and the lack of standardised international requirements with regard to pilot qualifications, master-pilot relationships, passage planning and pilot immunity have caused concern amongst the shipping community. Partly due to these concerns, the International Group of P&I Clubs (the IG) undertook to pool information on 'pilot error' related claims exceeding \$100k from the IG entire membership between policy years 1999 and 2004. While the project resulted in some recommendations being made in relation to bridge team management, the study concluded that pilot error related claims are not increasing in frequency. The results of the IG project, along with the recommendations of The Standard Club's Loss Prevention department, are discussed in greater detail in the final article of this publication.

Australia



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Section 326 of the Navigation Act 2012 (Cth) sets out the position relating to pilots in Australia. It provides:

- '(1) A pilot who has the conduct of a vessel is subject to the authority of the Master of the vessel.
- (2) The Master of a vessel is not relieved of responsibility for the conduct and navigation of the vessel only because the vessel is under pilotage.
- (3) The liability of the Master or owner of the vessel in relation to loss or damage caused by the vessel or by a fault in the navigation of the vessel is not affected only because pilotage is compulsory under a law of the Commonwealth, a State or Territory.
- (4) Neither the pilot of a vessel, nor any pilotage provider responsible for providing the pilot, is liable in civil proceedings for loss or damage caused to or by the vessel because of an act done, an instruction given, or information or advice provided in good faith and in the course of the pilot's duty.'

Each state and territory also has its own legislation which *inter alia* provides regulations for pilotage.

Australia is a federation which comprises various states. Regulations relating to ships are contained in both federal and state legislation.

Categories of pilot

Pilots are required to be registered and to have Australian Maritime Safety Authority (AMSA) certification. The requirements and regulations relating to pilotage are included in both the Commonwealth Act and each state's Acts.

Compulsory/mandatory pilotage

Pilotage is compulsory in all ports and some coastal areas (e.g. Great Barrier Reef and Torres Strait), but exemptions can be obtained for regular users of the port and for ships under a certain length.

Pilotage charges

Pilotage charges vary from port to port.

Vessel Tracking Systems (VTS) or any other relevant systems

There is no uniformity in Australia for any such systems. However, in some states, there are specific systems for designated areas, including the movement of participating ships within the VTS area of Sydney Harbour and Botany Bay in New South Wales; Port Philip Heads, South Channels, Melbourne and Geelong in Victoria; and in some ports as well as the Great Barrier Reef and Torres Strait in Queensland.

Liability/exemptions from liability

In addition to the provisions in the Navigation Act 2012, and pursuant to local legislation, Australian states also provide exemption from liability for pilots.

Considerations for ships entering Australian waters in relation to pilotage/fines

Pursuant to the Navigation Act 2012, additional provisions apply for ships of a certain length or for loaded oil tankers, chemical carriers or liquefied gas carriers. Otherwise, there are no general considerations but individual ports may have their own specific requirements. Pilotage is arranged by the ship's agent and the agent will advise of any particular requirements.

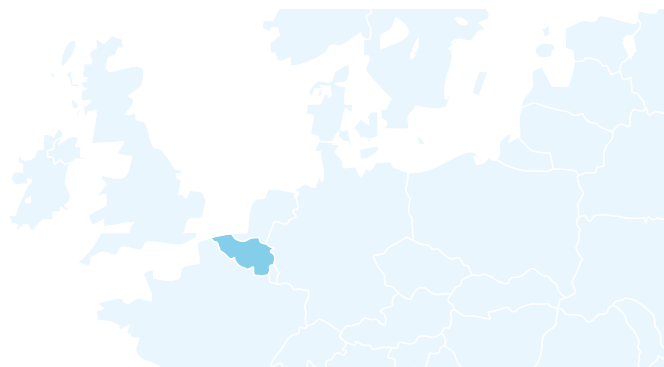
Fines apply where a ship navigates in a pilotage area without the required pilot.

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Belgium



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- 1) **The sea pilot** assists the ship from one of the two pilotage stations located at sea: Wandelaar pilot station located 10 miles off the Belgian coast of Ostend; or the Steenbank pilot station located close to the Dutch coast and the Scheldt river mouth/Flushing in the Netherlands.
- 2) **The coastal pilot** assists ships from one of the two pilot stations, Wandelaar or Steenbank, to one of the coastal ports, Zeebrugge or Ostend.
- 3) **The river pilot** assists the ship from the river mouth of Flushing Road to either the lock of Terneuzen for the ships bound for Ghent, or to the Antwerp locks, for the ships bound for Antwerp.
- 4) **The canal pilot** assists the ship on the canal from Terneuzen to Ghent for the ships calling at the port of Ghent.
- 5) **The dock pilot** assists the ship from one of the various Antwerp locks to their berth.

General information, pilot training and regulation, peculiarities

Pilotage in Belgium is available to assist ships calling at Belgian ports, of which the main ports are Antwerp and Ghent, located somewhat inland, and Zeebrugge and Ostend, located on the coastline.

As a general rule, pilots are holders of a master's or chief officer's licence. The pilots undertake a year of pilot training before becoming licensed pilots. It takes approximately a further nine to 12 years before the pilot can progress from the smaller ships to the biggest ships presently calling at the Belgian ports (ULCCs of +/- 400m in length).

The peculiarity of the port of Antwerp is that it can only be reached via the River Scheldt. The River Scheldt passes predominantly through Dutch territory and, shortly before Antwerp, it returns to Belgian territory. Similarly, the port of Ghent can only be reached via the Terneuzen lock, which is located on the Dutch part of the River Scheldt. As a result of these peculiarities, there are five categories of pilots in Belgium. These are explained in detail on the left.

- 1) The sea pilot or River Scheldt mouth pilot.
- 2) The coastal pilot.
- 3) The river pilot.
- 4) The canal pilot.
- 5) The dock pilot.

It is to be noted that the first four categories of pilots are state organised, whereas the dock pilots for Antwerp and the parts of the port of Zeebrugge behind the locks are managed by private organisations.

Compulsory/mandatory pilotage

As a general rule, all sea-going ships of more than 80m in length are compulsorily obliged to take a pilot on board. There are some exceptions to this rule, including in relation to inland crafts or ships specially designed for coastal traffic, dredgers working at sea in close vicinity of the ports and state-owned ships, such as pilot ships.

In addition, some exemptions can be granted to individual masters who are deemed to be sufficiently familiar with local circumstances, following regular pilot-assisted transits through the specific local area. These exemptions are generally granted to masters of ro-ro ships calling at Belgian ports at least daily (short sea traffic). The exemption will not be granted to masters of sea-going ships that only occasionally call at Belgian ports.

Pilotage charges

There is no simple answer to the question of pilotage charges. Based on available information, there are about 57 different categories of tariff applied in different circumstances.

The tariffs are based on a 'block formula', in consideration of the part of the passage where the ship has been assisted. The block formula is reached by multiplying the overall length of the ship with the greatest breadth and the maximum summer draft. Using this formula, one must consult the existing tables in order to calculate the correct tariff. In addition to the basic tariff, a bunker adjustment factor is applied along with a charge for the assistance provided by the shore stations.

Ships calling regularly in Belgian ports may be eligible for some tariff reductions. Owners should consult with local agents to see if they are entitled.

Liability/exemptions from liability

The pilot is considered as an advisor to the master, who retains ultimate responsibility and will be deemed liable for any damage caused by the ship notwithstanding the presence of the pilot. The latest regulations clearly authorise the pilot to carry out a large portion of the transit himself. Indeed, it is becoming more common for the pilot to steer the ship himself, compared to the practice in the past when a helmsman belonging to the crew steered the ship, only advised by the pilot.

However, it is clearly stipulated in the regulations that, even if the pilot manoeuvres the ship himself,

this is under the supervision and responsibility of the master. The effect is that where an incident occurs, irrespective of negligence, the pilot remains exempt from liability.

There are only a few exceptions to this rule, namely in situations of intentional fault or gross negligence. In such cases, a pilot could, in theory, be condemned to a very limited financial penalty. In practice, a shipowner would struggle to meet the burden of proof required to support an allegation against a pilot based on intentional fault or gross negligence. Even where there is a successful first instance ruling holding the pilot liable, it would almost certainly be appealed. It is likely therefore that, in practice, the costs of pursuing a claim against the pilotage authorities will quickly surpass any favourable award.

Vessel Tracking Systems (VTS) or any other relevant systems

The VTS is divided into various sections depending on the destination of the ship. The ship's guidance starts from the time it approaches the two outer pilotage stations, until a pilot is on board.

Once on board, the pilot will regularly report his position to the various traffic centres. The pilot may continue to request shore traffic information, including position/distance from particular objects, traffic conditions or other ships in the vicinity.

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Brazilian legislation defines pilotage as professional advisory activities provided to ships' masters, which are required in local areas whose peculiarities hinder the free and safe movement of the ship.

Pilotage in Brazilian waters is regulated by the Rules of Maritime Authority no. 12/2003 (NORMAM 12/2003) and monitored by the Navy.

In addition, Law no. 9.357/1997, commonly referred to as 'LESTA', provides for the security of maritime traffic in waters under national jurisdiction and also regulates some pilotage issues.

Conselho Nacional de Praticagem (CONAPRA) is the national pilotage counsel, responsible for the control and inspection of the execution of pilotage activities. CONAPRA also moderates price negotiations regarding pilotage services. The issue of pricing is controversial in Brazil.

Pilotage charges

The level of fees charged for pilotage services will take into consideration not only the execution of the service itself, but also the pilot's boat and the pilot look-out post (operational structure). The actual price is agreed between the parties involved. If agreement is not reached between the parties, the Public Administration may moderate over this negotiation. NORMAM 12/2003 provides under item 0501 that maximum pilotage rates shall be fixed in accordance with the resolutions enacted by the National Commission for Pilotage Matters (*Comissão Nacional de Assuntos de Praticagem – CNAP*). However, there has been resistance by the industry to what is viewed as state intervention influencing pricing in what is otherwise a private and independent service. For the time being, shipowners should anticipate high pilotage fees following negotiation with the pilot provider.

Categories of pilots

In Brazil, there are two categories of pilots: pilot practitioners and pilots.

The pilot practitioner, as defined in Chapter 2, Section I of NORMAM 12/2003, is the waterway professional who is not a crewmember and aspires to become a pilot. NORMAM 12/2003 sets out the requirements to qualify as a pilot practitioner, which involves passing a public examination and undergoing a 'qualification period'. In due course, the aspiring pilot will be eligible to apply for a pilot licence. The pilot certificate will expire if the

pilot cannot demonstrate a minimum frequency of pilotage engagements.

Law no. 9.357/1997, Article 13, states that pilotage will be executed by duly certified pilots, individually, organised in associations or hired by pilotage companies. The most common structure is pilots belonging to associations. Individual pilots are rarely encountered due to the high cost of pilotage equipment. The option to hire a pilot from a private company has been controversial, with some critics viewing this arrangement as being contrary to the nature of pilotage services.



Rio de Janeiro: Brazil

Brazil continued

Compulsory/mandatory pilotage

In respect to pilotage activities, it is important to bear in mind, first of all, that pilotage is considered to be an essential activity and must be permanently available in the designated pilotage zones, as per Article 14 of Law no. 9.357/1997.

The Maritime Authority sets the minimum necessary number of pilots per zone and is authorised to fix a price for the pilotage service. Additionally, pilots are not entitled to refuse to offer pilotage services, under the penalty of

suspension of their licence or, in case of recidivism, cancellation of their licence.

In Brazil, ports, terminals and waterway passages in which pilotage is considered to be obligatory are listed in NORMAM 12/2003, as well as the areas in which pilotage services are deemed optional, as per Annex 4-E.

As determined by item 0404 from NORMAM 12/2003, some types of ships are exempt from the obligation to engage pilotage services, as summarised in the pilotage chart below (Annex 4-E of NORMAM 12/2003):

Gross Tonnage	Type of Ship	Area	Flag ⁽¹⁾	
			Brazilian	Foreign
Up to 2,000	Any type	Any type	F ⁽²⁾	O ^{(3) (5)}
Over 2,000	Ships employed in maritime support navigation and with gross tonnage up to 3,000	Any type	F ^{(2) (4)}	O ^{(2) (3) (4)}
	Ships employed in drilling operations	Any type	F ^{(2) (6)}	O ^{(2) (3) (6)}
	Other ships	Rio Guaíba, Lagoa dos Patos and Bacia Amazônica (constituted by all its waterways and ports, including the tributaries and rivers confluent of the Amazonas and Solimões rivers, in national territory).	O (except ships engaged in fishing)	O
		Ports and terminals of mandatory pilotage zone (ANNEX 4-C).	O	O
		Facultative paths of mandatory pilotage zones of ZP (ANNEX 4-D).	F	F

O = OPTIONAL F = FACULTATIVE

Chart notes:

- (1) This chart is not applicable to Brazilian flagged ships classified for inland navigation.
- (2) In case of facultative pilotage, the pilotage station must be informed of every movement within the pilotage zone.
- (3) Except for ships hired by Brazilian companies headquartered in Brazil.
- (4) Ships that have auxiliary equipment for manoeuvre, such as bow thruster or stern thruster, and have active AIS.
- (5) Peruvian and Colombian ships.
- (6) The route is between the dredging and dumping area.

Vessel Tracking Systems (VTS) or any other relevant systems

Each pilotage zone has its own Vessel Tracking System. For instance, the pilotage zone of São Paulo operates a system called 'Centro de Coordenação, Comunicações e Operações de Tráfego' (C3OT) – *Centre for Coordination, Communication and Traffic Operations* – which monitors and provides live information and images concerning meteorological and oceanographic conditions, as well as information and images on ships in the port area indicating information such as location, dimensions, position, course, speed, final destination and type of cargo.

Liability/exemptions from liability

The NORMAM 12/2013 sets out the obligations applicable to pilots, including:

- (i) to promptly and efficiently provide advice on local pilotage issues to the master of the ship under pilotage;
- (ii) to be available to provide a pilotage service for any kind of ship through the entire pilotage zone; and
- (iii) to transmit and respond to the necessary safety signals with other ships, to communicate the conditions and to cooperate with rescuing and salvage operations.

Article 25 of Decree No. 2.596/98 provides that a pilot shall be deemed liable if he refuses to provide pilotage services or breaches one of the Maritime Authority's rules.

There is no specific regulation concerning the possible liability of pilots for accidents or navigational incidents. The only relevant instrument is the Brussels Collision Convention (1910), ratified by Brazil, which has been interpreted by the local courts as exonerating pilots from civil liability, but allowing for pilot liability in the administrative and criminal spheres.

Notwithstanding the above, pilots can be held liable in a redress lawsuit if it can be proven that the accident was caused due to a direct mistake of the pilot.

On the other hand, in respect of the obligations of the master of the ship towards the pilot, item 0230 from NORMAM 12/2003 highlights that:

- (i) The presence of a pilot on the ship does not relieve the master and his crew of their duties and obligations as to the safety of the ship, and the pilot's actions should be permanently monitored;
- (ii) The master of the ship, when using a pilotage service, has the following duties:
 - a. to inform the pilot about the manoeuvring conditions of the ship;
 - b. to provide the pilot with all the necessary material elements and information in order to execute his service;
 - c. to monitor the execution of the pilotage service;
 - d. to disregard the advice of the pilot if the master is convinced the pilot is executing his service in a dangerous manner;
 - e. to provide the pilot with similar conditions provided to the other crewmembers;
 - f. to comply with national and international safety rules; and
 - g. not to dispense with a pilot in circumstances in which pilotage is mandatory.

Canada



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Pilotage in Canadian territorial and inland waters is governed by the Pilotage Act, R.S.C. 1985, c. P-14, which establishes four independent regional pilotage authorities mandated to provide safe and efficient pilotage services in the areas under their respective jurisdictions.

Under the Pilotage Act, each of the four pilotage authorities may designate its own compulsory pilotage areas. When navigating in compulsory pilotage areas, Canadian ships may opt to be led either by a licensed pilot or by the holder of a relevant pilotage certificate issued by the pilotage authority for the region concerned. Licensed pilots may provide pilotage services to any ship within a designated area, while pilotage certificate holders are restricted to providing pilotage to the ships on which they are regular crewmembers. The four pilotage authorities have their own rules regarding qualifications for obtaining pilot licences and pilotage certificates, and the related examinations that must be passed to attain these documents.

Pilotage services are provided by licensed pilots employed by the pilotage authorities, but are often also rendered by pilots who belong to, and are shareholders of, a number of private pilotage corporations ('bodies corporate' as the Pilotage Act terms them) whose corporations contract with the regional pilotage

authority concerned. Examples are the Corporation of Mid St. Lawrence Pilots, the Corporation of the Lower St. Lawrence Pilots and the British Columbia Coast Pilots Ltd. The Pilotage Act governs the operations of both types of pilot, however.

Compulsory/mandatory pilotage

Each pilotage authority specifies the classes of ships to which compulsory pilotage applies and can waive that requirement, except under certain circumstances, for particular types of ship (e.g. Canadian government ships not engaged in commercial trade, passenger ferries plying their regular routes between two or more terminals, ships in distress or fishing vessels), as well as in certain situations (e.g. unavailability of licensed pilots provided or their refusal to perform, etc.). In some cases, the presence of deck watch officers having certain certification and experience will also permit the need for a licensed pilot to be waived. The pilotage regulations of each pilotage authority must be consulted for relevant details in this regard.

Liability/exemptions from liability

A licensed pilot who has the conduct of a ship is responsible to the master for that ship's safe navigation, although the pilotage authority is not liable for the negligent or wrongful acts of a pilot. The pilot's liability is limited to C\$1,000 for loss or damage

Thanks to the following contributors: Dionysios Rossi, Robert Wilkins and Robin Squires of Borden Ladner Gervais LLP

occasioned by his own fault, neglect or want of skill. Where the pilot is employed by a corporate body to provide the services of a licensed pilot, that body benefits from the same monetary limitation. The exemption also applies to the federal Crown, i.e. the Government of Canada, meaning that any potential claims against the Crown for bad pilotage causing harm are excluded from liability.

It is important to note, however, that the owner and the master of the ship are not exempt from liability for any loss or damage caused by licensed pilots to any third party or property, even if caused when their ship was under the conduct of a licensed pilot or the damage or loss was occasioned by the licensed pilot's fault, neglect, want of skill or wilful and wrongful act.

Proceeding without a pilot in a compulsory pilotage area may result in prosecution, by way of summary conviction, and imposition of a fine of up to C\$5,000, plus the unpaid pilotage charges.

Pilotage charges

Pilotage tariffs are fixed by each authority so as to be financially self-sustaining, but they are also required to be fair and reasonable. The owner, master and ship's agent are jointly and severally liable for the payment of pilotage charges. Clearance of the ship may be refused if pilotage charges are unpaid. It is impossible to summarise these tariffs for all four pilotage authorities, since there are many variables, but the table overleaf includes hyperlinks to tariff regulations of the four authorities.

Vessel Tracking Systems (VTS) or any other relevant systems

Certain waters off Canada's east and west coasts are located in Vessel Traffic Services Zones (VTS Zones). Before entering any VTS Zone, masters of ships of 20m or more in length must report certain information to a marine traffic regulator for VTS clearance

at certain times. As it proceeds on its voyage, the ship is required to maintain a listening watch on designated marine VHF radio channels and report at specific positions. In turn, the ship is provided with information, advice and sometimes directions pertaining to other marine traffic, as well as navigational safety and weather information¹.

The Eastern Canada Vessel Traffic Services Zone applies to Canadian waters on the east coast of Canada south of the 60th parallel of north latitude, and in the St. Lawrence River east of 66°00' west longitude, except the waters within Ungava Bay and the waters within the Vessel Traffic Services Zones referred to in the Vessel Traffic Services Zones Regulations. The Eastern Canada VTS Zone is separate from the normal Regulations because it specifically defines the limits of the Eastern Canada VTS Zone so as to exclude them from certain waters mentioned in the Regulations, SOR-89/98. The Eastern Canada zone has slightly different traffic service rules than for other areas.

VTS Zones in Western Canada include all Canadian waters on the west coast of Canada as described in the VTS Zone schedules and referred to in the Vessel Traffic Services Zones Regulations. There is also a Northern Canada VTS Zone (NORDREG), consisting of Canadian waters in the far north and Arctic Ocean.

At present, there is no pilotage authority for the waters of the Canadian Arctic. The Canadian Marine Pilots Association has made a request for such an Arctic Pilotage Authority to be established, but it is by no means clear that any such an organisation will be set up any time soon.

¹ For a listing of the information to be provided and the times for doing so, see the Vessel Traffic Services Zones Regulations, SOR 89/98, available at <http://laws-lois.justice.gc.ca/PDF/SOR-89-98.pdf>

Canada continued

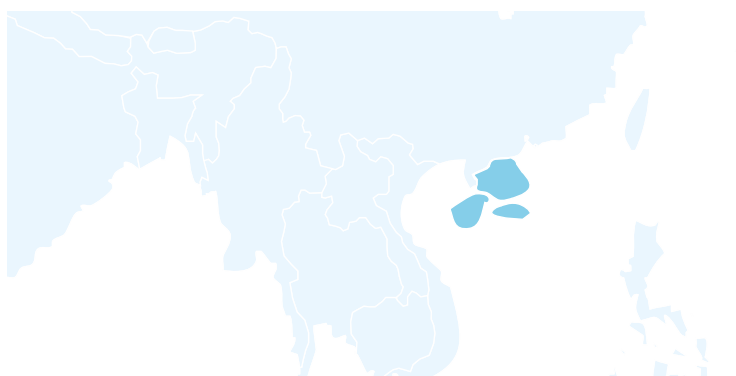
This table shows the key information for each pilotage authority.

	Atlantic Pilotage Authority (APA)	Laurentian Pilotage Authority (LPA)	Great Lakes Pilotage Authority (GLPA)	Pacific Pilotage Authority (PPA)
Compulsory pilotage areas include	Newfoundland and Labrador, Prince Edward Island, Nova Scotia and New Brunswick. 17 compulsory pilotage areas in total. Number of areas where pilots are not required by law, but can be provided on request.	All navigable waters of the St. Lawrence River and the Saguenay River.	Western part of the St. Lawrence River, the Welland Canal and the Great Lakes. Six compulsory pilotage areas in total.	British Columbia coast, waters around Vancouver Island and the Fraser River. Five compulsory pilotage areas in total.
Compulsory pilotage ship types			Pilotage is compulsory for any ship of more than 1,500gt and for any ship over 35m in length that is not registered in Canada.	Pilotage is compulsory for any ship of more than 350gt that is not a pleasure craft and for pleasure craft over 500gt.
Waivers	Governed by specific conditions set forth in the APA's Pilotage Regulations.	Authorised by LPA Pilotage Regulations under certain conditions and for certain ships (e.g. Canadian government non-commercial ships, fishing ships, passenger ferries on their regular routes).	Under certain conditions specified in the GLPA's Regulations.	The PPA may waive this requirement in certain situations (e.g. a ship in distress) or in respect of ships under 10,000gt that have previously completed a certain number of return voyages through that particular pilotage area with a licensed pilot.
Pilotage charges	http://laws-lois.justice.gc.ca/PDF/SOR-95-586.pdf	http://laws-lois.justice.gc.ca/PDF/SOR-2001-84.pdf	http://laws-lois.justice.gc.ca/PDF/SOR-84-253.pdf	http://laws-lois.justice.gc.ca/PDF/SOR-85-583.pdf
Pilotage Authority Regulations	http://laws-lois.justice.gc.ca/PDF/C.R.C., c. 1264.pdf	http://laws-lois.justice.gc.ca/PDF/C.R.C., c. 1268.pdf	http://laws-lois.justice.gc.ca/PDF/C.R.C., c. 1266.pdf	http://laws-lois.justice.gc.ca/PDF/C.R.C., c. 1270.pdf

Hong Kong



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General information

All of Hong Kong waters are a pilotage area. The five pilot boarding areas are at the entrances to Hong Kong's waterways. Pilotage activities are overseen by the Director of Marine in his capacity as the Pilotage Authority. A Pilotage Advisory Committee advises the Authority on general regulation and control of pilotage, which includes licensing, delineating boarding stations and defining the ships requiring pilotage. The Committee is made up of pilots, government officials, and individuals representing a cross-section of the local shipping community.

Compulsory/mandatory pilotage

Compulsory pilotage applies to all ships above 3,000gt and to ships of lower tonnage considered to have higher risk profiles. Certain classes of ships are exempt, either by default (by virtue of their being used by the government or local coastal ships) or on successful application to the Authority (e.g. passenger ferries travelling between Hong Kong and Macau/China, and ships engaged in salvage and cable-laying operations).

Liability/exemptions from liability

Section 24A of the Pilotage Ordinance limits a pilot's liability for neglect or want of skill to the aggregate of HK\$1,000 and the pilotage dues, as prescribed by the Pilotage

(Dues) Order. The Authority and the government are exempt from any liability arising out of the act or omission of a licensed pilot (section 23). Further, section 24 makes clear that the shipowner or master is responsible for any loss or damage caused by the ship even if the ship was under compulsory pilotage at the time. However, a pilot may have his licence downgraded, suspended or cancelled on recommendation of a board of discipline and/or investigation constituted under the Ordinance.

Vessel Tracking Systems (VTS)

The Marine Department employs a modern VTS, consolidating information from radar, AIS, CCTV and ship reports made by VHF. Ships' VHF reports must be made to the Authority not less than 12 hours before entry into Hong Kong waters and not less than three hours before commencing an outward voyage, failing which the master may be liable to a fine of up to HK\$10,000. Failure to employ pilotage as required also exposes the master to a fine of up to HK\$10,000 or double the pilotage dues that would have been payable, whichever is greater. Lastly, if the master fails to furnish information as requested, knowingly makes false representations or fails without reasonable excuse to render assistance to the pilot, he may be liable to a fine of up to HK\$10,000 and imprisonment for one year.

Japan



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General information, pilot training and regulation, peculiarities

The Pilotage Act was revised in 2007, modernising pilotage regulation in Japan. It provides for three grades of pilot licence, reflecting a shortage of pilot candidates with experience of commanding large ocean-going ships. Further, the control over each pilot has been intensified to ensure the quality of pilotage services.

35 regional associations across Japan coordinate the allocation of pilotage orders and pilot rosters, and the collection of pilotage fees. Pilotage fees in each region differ and are capped by the Ministry of Land, Infrastructure, Transport and Tourism.

Compulsory/mandatory pilotage

Different areas apply different criteria when it comes to compulsory pilotage. Considerations include: the ship's gross tonnage, flag of registration and type of cargo carried. Generally, ships of 10,000gt or more proceeding to areas in Tokyo Bay, Osaka Bay, Ise-Mikawa Bay, Kurushima Strait and Kanmon Channel require compulsory pilotage. In other ports, ships of lower gross tonnage that are carrying dangerous cargo must have pilots on board.

A ship may be exempt from compulsory pilotage if the master holds a pilotage certificate issued by the authorities – the principal requirements are that the ship is flagged in Japan or chartered

by persons entitled to own Japanese flagged ships, and the master is himself recognised as competent by the relevant District Transport Bureau. If a pilot is not engaged as required, a fine of up to ¥1m (approximately \$8,250) and an imprisonment term of one year may be imposed.

Liability/exemptions from liability

While the Pilotage Act makes no mention of exempting or limiting a pilot's liability, the standard form pilotage contract provides that a pilot's liability is limited to the amount of the pilotage fees, except for cases of wilful misconduct or gross negligence. Further, it provides that the master or the owner must indemnify the pilot if the pilot is sued by a third party, subject always to the owner enjoying the same limit of liability had the owner been directly sued by the third party.

In September 2015, the Kobe District Court ordered a pilot to pay more than \$2m for his gross negligence in causing a ship to run aground. However, the court further held that the pilot's association was not vicariously responsible. This case is being appealed to the Osaka High Court.

Norway



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General information, pilot training and regulation, peculiarities

The new Norwegian Pilotage Act was adopted on 15 August 2014 (the Pilot Act) and replaced the old Pilotage Act of 1989. The new Act addresses several of the lawmakers' concerns, such as the pilotage requirements under the old Act did not sufficiently consider the technological advances made in navigational equipment and the skill of the crew manning ships in Norwegian coastal waters. The economic viability of the pilot system was also a concern, with fees having risen out of step with the general price of such services elsewhere.

The pilotage requirements can be met either by employing a state pilot or by the use of a navigator holding a Pilot Exemption Certificate (PEC). The PEC, subject to a validity period, may be obtained by undergoing the necessary testing and through payment of a fee. There are three classes of PEC, with certain requirements and restrictions for each class.

All ships falling within the scope of the pilot requirements are subject to pilotage fees. Most importantly, these include the Pilotage Readiness fee and the Pilotage Service fee.

The Pilotage Readiness fee applies to all ships subject to compulsory pilotage and to ships voluntarily using a state pilot. Annual payments are

accepted and ships whose primary engagement is in Norwegian waters are obligated to disburse payment for the fee annually. For individual approaches and departures, the fee is calculated on the basis of NOK0.81 per gt for the first 3,000gt, and NOK0.71 per gt for any surplus tonnage. If the tonnage cannot be stated, the Norwegian Coastal Administration (NCA) will stipulate it. Ships sailing in for repairs, delivering slop oil, changing crew or requiring other necessary deliveries to the ship may apply for the fee to be halved. Ships registered on the Environmental Ship Index (ESI) with a total score of 50 points or more receive a rebate of 50%. The rebate is subject to the certificate's validity period and is accorded with the caveat that the NCA be informed of the ship being ESI-registered at the time of reporting the arrival/departure to the NCA's reporting service, SafeSeaNet Norway.

The Pilotage Service fee is charged when the ship uses a state pilot and applies in addition to the Pilotage Readiness fee. The fee does not apply when the ship is sailing with a navigator holding a PEC. The fee is charged on an hourly basis, with three hours being the minimum time charged. The fee is calculated using a size-differentiated price scale starting at NOK1,286/hour.

Breach of Norwegian pilotage regulations will initially be punished with heavy fines and possible

Norway continued

imprisonment. Should the supervisory authority have reason to believe that a ship is sailing in breach of the Pilot Act, the ship may also be ordered to stop for investigation. A negligent violation of the most important pilotage requirements, such as the obligation to employ a pilot, gives the supervisory authority the right to impose violation fines. Material breaches of the Pilot Act can lead to fines and imprisonment for a term not exceeding one year.

Compulsory/mandatory pilotage

All ships operating within the Norwegian baseline are subject to compulsory pilotage. The Ministry for Fisheries and Coastal Affairs also identifies the scope and applicability with respect to ship types, types of cargo and geographic areas in the Compulsory Pilotage Regulations, which have been in force as of 1 January 2015. The rules apply to ships with a length of more than 70m or breadth of 20m. A ship may be exempted when the NCA deems it justifiable based on there being a shortage or anticipated shortage of pilots and where there is no perceived threat to maritime safety. The NCA also has the option to allow exemptions where it would be 'unreasonable' to impose compulsory pilotage on a ship and it is 'obvious' that the exemption is justifiable considering maritime safety.

Liability/exemptions from liability **Shipowner's liability**

Norwegian pilots are employed by the NCA, which is the national agency for coastal management, maritime safety and communication. Pursuant to Section 151 of the Norwegian Maritime Code, the shipowner is liable for damages caused by the fault or neglect of a pilot performing work in the service of the ship. A state pilot is thus considered to be acting in the service of the shipowner, not the state. How the term 'in the service of the ship' is to be construed is not clear. Legal theory and practice consider that a negligent act must

have a reasonable connection with the tasks so designated to the pilot.

Guidance may be sought in the Norwegian Tort Act section 2-1, whereby an employer on specific conditions may be held liable for damage caused by an individual while exercising his tasks and duties as an employee. Pursuant to section 10 of the Pilotage Act, a pilot is, with regard to section 2-1 of the Tort Act, considered to be acting in the service of the ship during pilotage. Conversely, in the event of an employee acting outside his tasks and duties for the employer, he may be held personally liable for the damage caused, cf. the Tort Act section 2-3. The employee will in general only be held liable if the damage is caused by the employee wilfully violating instructions, laws and regulations, such as being under the influence of alcohol while on duty. The general view regarding liability per the Maritime Code remains, however, that the shipowner must bear the risk of any foreseeable consequences of the pilot's actions.

Pursuant to Section 151 paragraph 2 of *the Maritime Code*, a shipowner may, in theory at least, claim recourse from the pilot responsible for the damage so caused. However, according to section 2-3 of the Tort Act, the pilot may be exempt from liability, subject to an assessment of the culpability of his actions and his financial standing. Pursuant to Norwegian legal theory and practice, the threshold for holding an employee personally liable is high.

State liability

The NCA may only be held liable, as employer, for acts conducted by a pilot if they are causally linked to a deficiency on their part. Thus, the NCA may be held liable if its pilots have not been correctly trained or equipped, or if they have failed to update the pilots on new Notices to Mariners (*Etterretninger for sjøfarende*, EFS), updated maps, etc.

The Tort Act also applies to public authorities who may be held liable for their employees' negligent acts. According to the preparatory works to the Tort Act and recent judgments from the Norwegian Supreme Court, a moderate standard of 'duty of care' will apply for certain aspects of the public services sector, including the pilotage, lighthouse and marking authorities.

Vessel Tracking Systems (VTS) or any other relevant systems

SafeSeaNet Norway is the single window portal for ship reporting in Norway. Ships intending to cross the Norwegian baseline and/or arrive in a Norwegian port are required to report themselves using this portal. This applies for all ships of 300gt or more, ships with a length of 45m or more, and all ships regardless of size carrying dangerous or polluting cargo.

The portal also allows for customs declarations to be submitted electronically.

Through the navigational warning system NAVCO, the NCA provides notices of incidents and conditions that may prove hazardous to ships cruising Norwegian waters. This includes general navigational warnings that apply in specific areas and more acute conditions that may arise. The warnings are transmitted by coastal radio and NAVTEX. General navigational warnings may be found in the EFS, which is updated every fortnight. This publication includes reports on maps, nautical publications, permanent, temporary and provisional changes, warnings and other relevant information.

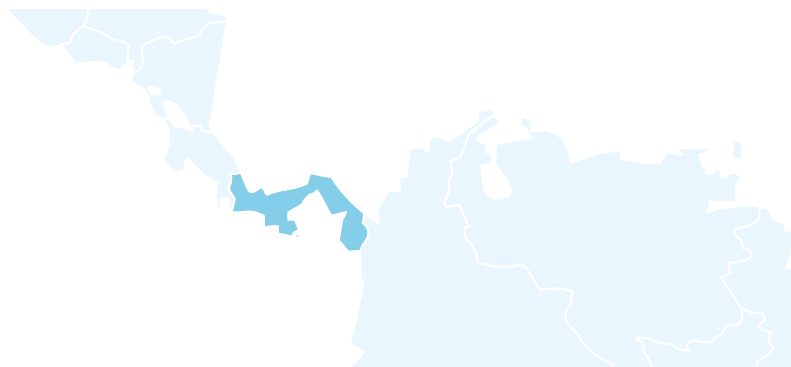


Trosø: Norway

Panama



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General information

The Panama Canal Authority (PCA) is responsible for employing and regulating pilots in the Panama Canal. The PCA sets the tariffs for pilotage during transit and harbour movements. For further detail, please refer to the PCA Maritime Services website www.pancanal.com.

Pilotage in the Panama Canal is different to pilot services in all other Panamanian ports, which are provided in the more usual advisory capacity, with cost being dependent on the particular port and pilot-providing company.

Compulsory/mandatory pilotage

Unlike most ports, where pilots act in an advisory capacity, at the Panama Canal, pilots effectively take command of the ship. Pilotage is compulsory during Panama Canal transit and for docking and undocking at the terminals of Cristobal and Balboa, and may be compulsory at Cristobal inner anchorage depending on the nature of cargo, draught or port conditions.

Liability/exemptions from liability

A unique feature of pilotage in the Panama Canal is the fact that it is possible to hold the PCA liable for damage caused while the ship is under pilotage. Where damage does occur, provided the PCA claims procedure is complied with, recovery is possible from the PCA if the pilot's fault is established.

Where liabilities arise as a result of an incident occurring while the ship is under the command of a PCA pilot, be it during canal transit or harbour movements, it is possible for ship interests to claim against the PCA for the actions or negligence of the pilot. The procedures require that the master of the ship request an Official Investigation of the Board of Inspectors. This investigation must be requested and carried out before the ship departs canal waters, failing which the ship loses the right to claim against the PCA in relation to the incident.

At the official investigation, all interested parties meet at the premises of the Board of Inspectors at La Boca, Balboa, to take sworn testimony and present documentary evidence. Attorneys are present to protect the interests of the PCA and the ship. The proceedings usually last around three to eight hours, after which the ship departs unless repairs are necessary. After approximately one or two months, the board issues the transcript of the investigation, which includes its expert opinion on liability. This may form the basis for the shipowner's claim against the PCA. More details on this process and claims procedures can be found on the PCA website (see above) or by liaising with the club's P&I correspondent.

The master and other ship personnel may prejudice their right to hold the pilot or PCA responsible for damage arising during the pilotage if they do not comply with the pilot's orders while he is on board.

Vessel Tracking Systems (VTS) or any other relevant systems

The Panama Canal operates an Enhanced Vessel Traffic Management System (EVTMS), which integrates the tracking of ships with maritime operations database information, offering a live representation of the canal resources and transiting ships at any specific moment in time.



Panama City: Panama

Singapore



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General information, pilot training and regulation, peculiarities

The Maritime and Port Authority (MPA) is empowered by legislation to regulate local pilotage activities. A ship requiring pilotage services must complete and furnish a checklist to the MPA, failing which the owner, agent, master or person in charge may be fined up to S\$10,000 (approximately \$7,150). Failure to employ a pilot where required may further expose the owner, agent or master of the ship to a fine of up to S\$5,000 and double the amount of pilotage dues that would have been payable had the ship been under pilotage. If an owner, agent or master knowingly employs an unauthorised pilot, he may be liable to a fine of up to S\$5,000.

Compulsory/mandatory pilotage

Most pilotage services are provided by commercial provider PSA Marine. The Pilotage District, as defined by the Maritime and Port Authority of Singapore (Pilotage District) Notification 2010, is divided into three areas, A, B and C. Generally, ships of 300gt or above must have a pilot, except for area B, where a 5,000gt threshold applies.

Ships may be exempted on application to the MPA, with the basic requirement that the master must have successfully completed a Pilotage Exemption Course for the relevant class of ship and that the ship is equipped with

VHF. Depending on the size of the ship and the pilotage area, the master may also be required to have had prior experience with bringing the ship in and out of the subject pilotage area.

Liability/exemptions from liability

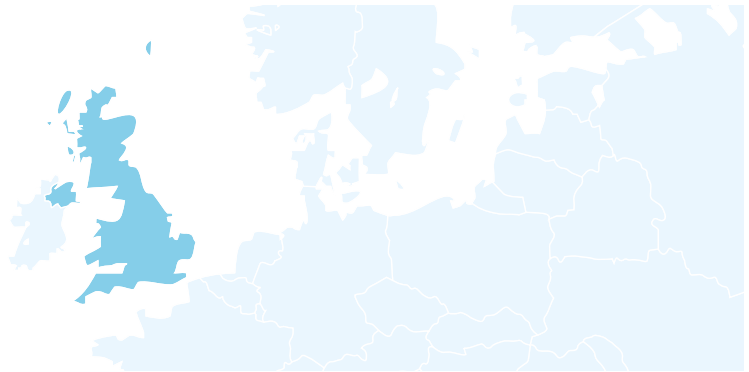
Legislation requires that a pilot must exercise care and diligence to prevent any accident or damage to the ship he is piloting, to any other ship or to any kind of property. However, the MPA Act stipulates that a pilot's liability is limited to S\$1,000 where the pilot has given a bond in favour of the MPA. The Act exempts the Pilotage Committee and the MPA from any liability as a result of their issuing pilot licences. In particular, an authorised pilot is deemed to be the employee only of the master/owner of the ship under pilotage. The Act further states that the master or owner of a ship navigating under compulsory pilotage is answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as he would if pilotage were not compulsory. These are reinforced in the General Operating Conditions of PSA Marine.

Vessel Tracking Systems (VTS) or any other relevant systems

The MPA has two Port Operations Control Centres, where a sophisticated Vessel Traffic Information Service (VTIS) is used to manage ship traffic within the port and with Malaysia in the Straits of Malacca.



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Competent Harbour Authority

The role of recruiting, authorising, examining and training pilots in the UK falls to the separate, local, Competent Harbour Authorities (CHAs), as part of their statutory requirement under the Pilotage Act 1987 (PA 1987) to provide a pilotage service where required. The requirement for and extent of pilotage services in any particular port is determined by the relevant CHA in accordance with the PA 1987 and guidance in the Port Marine Safety Code (and supporting Guide to Good Practice on Port Marine Operations). Most pilots are not employed directly by a CHA; many are self-employed and some work for companies which contract with the CHA.

Compulsory/mandatory pilotage and pilotage directions

If a CHA deems it necessary in the interest of safety, it will direct that pilotage shall be compulsory in the area under its control. The circumstances in which compulsory pilotage is required are set out by each CHA in its Pilotage Directions (as required by the PA 1987). The requirements may vary, for example, depending on the type or size of ships or the prevailing weather conditions. Certain ships may be exempt (for example, government-owned ships), although exempt ships may still request pilotage services. The Pilotage Directions will also set out the pilotage area for which the CHA is responsible, provide

pickup/drop-off points and contact information. Pilotage Directions are available on port websites or directly from the harbour authority. For example, see [here for Medway PDs](#) and [here for Port of London PDs](#). Most UK ports impose compulsory pilotage for non-exempt ships.

If a ship navigates in an area that is subject to a pilotage direction requiring compulsory pilotage and fails to employ a pilot, the master of the ship is guilty of an offence and is liable on conviction to pay a fine.

Compulsory pilotage cannot apply to ships of less than 20m LOA or fishing boats of less than 47.5m LOA.

NP 286(1) Admiralty List of Radio Signals Vol VI also contains information about pilot services for UK ports, including contact information.

Pilotage Exemption Certificate (PEC)

The CHAs have the power to exempt ships from the requirement to take an authorised pilot by awarding a Pilotage Exemption Certificate (PEC) to deck officers. They have formal (published) procedures for assessing PEC applicants, which usually involve an assessment and a written examination. PECs are common in ships that call regularly at the same port, for example, ferries.

UK continued

Categories of pilot

A particular port may require ships to use more than one category of pilot, depending on where they are navigating. For example, ships navigating in the area of the Port of London CHA require a pilot when using one of the four main approach channels and, if continuing further up the river, will require a river pilot. Beyond London Bridge, certain ships require a bridge pilot, who has particular expertise in navigating the shallower water and under the low bridges. Some ports require the use of a separate docking pilot to bring a ship alongside a berth.

Pilotage charges

Section 10 of the PA 1987 allows CHAs to make reasonable charges in respect of the pilotage services they provide. This includes charges for the services of a pilot, expenses incurred by a pilot, penalties for late notification of the requirement for pilotage and charges for a ship navigating under a holder of a PEC. These charges depend on the services provided in a particular area and may depend on, for example, which pilot pickup/drop-off position is used, where the ship is navigating and the size/draught of the ship. Ports are required to publish their latest charges, which are also usually displayed on their websites (for example, see the charges for [Southampton](#)).

Notifying the port

The method of notifying a port of the requirement for a pilot is usually set out within the Pilotage Directions and/or on the port's website. For example, the Port of London requires a ship to give 24 hours' advance notice (together with information about the services required and the ship) and to provide confirmation at set times ahead of the ship's ETA at the pilot station.

Liability/exemptions from liability

The liability of a pilot to a shipowner for any loss or damage caused by any act or omission, whilst carrying out pilotage duties, is limited under the PA 1987 to £1,000 plus the charges for the services so provided. Any potential liability faced by a pilot that is not limited under the PA 1987 may be limited in a particular port's Pilotage Directions. Claims against a pilot are therefore very rare.

The liability of a CHA is limited to £1,000 multiplied by the number of authorised pilots employed by it at the relevant time. Pilotage Directions often also limit the liability of a CHA for delay, damage or economic loss resulting from the non-availability of a pilot.



Liverpool: UK

United States of America



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General information

Pilotage in the USA is essentially a dual system, regulated either by the law of the state (or states) within which a port lies or regulated by federal law. Pilotage for ports on the Great Lakes is regulated exclusively by federal law. State pilotage law does not govern US flag ships in coastal trade, but state laws do apply to foreign flag ships and US flag ships in foreign trade, which are compelled to employ state-licensed pilots. Substantial penalties are imposed upon ships that ignore the obligation to employ a local pilot. Pilot regulation primarily involves licences, discipline and the setting of rates. It can also govern pilot liability.

Pilotage charges

Payment rates for Great Lakes pilots are established by the US government and administered by the US Coast Guard. Rates for federal pilots aboard US flag ships in coastal trade navigating in non-Great Lakes ports are market-based and often negotiated by the US flag operator with a specific pilot or group of pilots. Rates for state-licensed pilots are typically established either by a state legislature or by a commission or board appointed by and operating under a state's executive branch.

Licensure of pilots

Federal pilots are examined and licensed by the US Coast Guard. A federally licensed pilot need not hold a licence as either a deck officer or ship

operator. Obtaining a pilot licence or pilotage endorsement to an existing licence requires, among other things, proof of a minimum number of trips through the specific pilotage grounds and then successfully passing an examination which includes filling in a blank chart of the grounds with all of the existing shoal areas, channels courses, aids to navigation, etc. State licensure typically requires both a federal pilot licence and an extensive period of apprenticeship organised and run by a pilot association. Many state licences are graded (first class, second class, third class, etc.) in accordance with ship draught and/or length.

All pilots are subject to scrutiny and potential civil penalties by the US Coast Guard if they are involved in a casualty deemed to be caused by their negligence. Federally licensed pilots can have their licences suspended or revoked by the US Coast Guard. However, a state-licensed pilot who also has a federally issued licence cannot have that federally issued licence revoked or suspended if the casualty occurred while he was piloting a ship which employed him as a licensee of the state. If the ship being piloted was required to employ a state-licensed pilot, the pilot is deemed to have been working under his state licence, not under his federal licence. The state board or commission that issued the licence is responsible for overseeing the behaviour of its

United States of America continued

licensees and, within the bounds of the state's administrative procedures, can charge the pilot with negligence, incompetence, etc., and impose fines, periods of suspension or licence revocation, depending upon the circumstances of a given case.

The US Coast Guard has requirements for the reporting of marine casualties. Pilots, whether federal or state, do not typically fall into the category of persons who are required to make those reports. All state-licensed pilots are required to report casualties of certain types to their licensing board or commission.

Liability/exemptions from liability

The general maritime law of the USA holds pilots to a very high standard with respect to the performance of their duties. They are expected to be experts in handling ships and navigating within the geographic area for which they are licensed. The ship's master does not, however, have the right to simply turn complete control of the ship over to the pilot. The master remains in command of the ship. The master is therefore obligated to monitor the pilot's actions and to intervene and reassume control of the ship if the pilot is impaired or manifestly incompetent. However, since the pilot is employed because of a greater familiarity with local waters and conditions, the master who displaces him must be certain that that action is correct and proper under the circumstances.

The duty of the master and the crew is to bring to the pilot's attention things pertaining to the navigation of the ship, to maintain a lookout and to obey the pilot's orders scrupulously. It is very important in US waters that a meaningful master-pilot exchange of information takes place prior to the pilot assuming the conn. This should be a two-way flow of information so that the pilot is aware of the ship's characteristics and the crew of the ship understands the pilot's expectations, particularly with respect

to engine/helm orders, lookouts, radar watch and anchor readiness.

For all intents and purposes, the ship owner/operator will be liable for any negligent acts or omissions made by the pilot that result in personal injury, property damage to third parties, cargo loss or oil pollution. There is a legal distinction made in an old US Supreme Court case with respect to the difference between a so-called 'voluntary' and 'compulsory' pilot in order to accommodate the common law doctrines of 'borrowed servant' or 'respondeat superior', but in practical terms, such distinction is most often irrelevant. The US Supreme Court decided in the case of *The China* that although a ship's owners may not be liable for the negligent acts of a compulsorily imposed pilot, the ship itself is liable for such *in rem*. The ship can therefore be arrested by the victims of a compulsory pilot's negligence, which generally forces the owner to submit to the jurisdiction of the court and proffer security (such as a letter of undertaking) to get the ship released from arrest.

Pilots in the USA are theoretically liable for the consequences of their own negligence, but pilots are rarely sued by either shipowners or third parties. This is because pilots are usually uninsured and do not possess sufficient personal wealth to be worth pursuing. Moreover, pilots in many states enjoy protection from or limitation of liability under state statutes. Although most pilots are members of associations or partnerships, those associations or partnerships are not vicariously liable for the negligence of their individual members because it has been recognised that neither a pilot's association nor his fellow pilots have the requisite control over the behaviour of a pilot in the performance of his duties to justify liability.

Docking pilots

In some US ports, the state-licensed pilot does not dock or sail the ship

to/from the pier. That work, usually aided by one or more tugboats, is performed by a so-called 'docking pilot'. Traditionally, the docking pilot was the captain or mate of one of the assisting tugs, who came up to the bridge of the ship to assume control over both the ship and the tugs in getting to or from the pier. Even today, docking pilots are usually provided by, affiliated with or recommended by the tug company. No state or federal law compels the employment of a docking pilot; the employment of a docking pilot is therefore deemed to be voluntary, with the attendant consequences being the owner's liability. Moreover, the tug company typically requires the ship's master to sign a ticket containing a 'pilotage clause' by which the ship acknowledges that the docking pilot is the 'borrowed servant' of the ship. This pilotage clause holds the tug company harmless and indemnifies the tug company for harm done as a result of the docking pilot's negligence.

The master and crew of the ship have the same responsibilities vis-à-vis a docking pilot as they have with respect to the harbour or river pilot.

Vessel Tracking Systems (VTS) or any other relevant systems

There are several ports in the USA that have US Coast Guard-operated Vessel Traffic Systems (VTS), or Vessel Traffic Information Systems, in place. For the most part, but with important exceptions such as Valdez, Alaska, these systems are advisory in nature. They do not assume positive control over ships transiting their areas. Indeed, in the port of New York, the VTS watchstanding crew is augmented by a designated harbour pilot to assist in relaying relevant information to his fellow pilots aboard ships in order to minimise the risk of collision.



Great Lakes: USA

Pilotage: What we know



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"It is not the ship so much as the skillful sailing that assures the prosperous voyage."

– George William Curtis

When George Curtis expressed those words, he could well have been speaking about the pilotage phases of voyages, where the critical activities and decisions made in navigating bridges and in the engine rooms can determine the successful commencement or completion of the commercial venture.

The problem

Local pilots play a vital role in the safe conduct of the ship as it approaches or departs from a port. This is often the most hazardous part of a voyage and, despite the specialised knowledge of the pilot, no person, or indeed piece of equipment, is fool-proof.

A study carried out by the Pilotage Subcommittee of the International Group revealed that pilot errors caused some 260 claims with a value of over \$100,000 in the policy years 1999-2004, an average of 52 per year. The average cost of each claim was \$850,000, demonstrating the gravity of this issue. This study is being updated, but the casualty data still illustrates the magnitude of the problem facing the marine industry.

The cause

There are many reasons why these events continue to happen, but a recurring theme is complacency and the apparent lack of a safety culture on board. We see repeatedly that the combination of the presumed knowledge of the mariners and the commercial necessity of manoeuvring ships to and from their berths as quickly as possible results in risks being taken that are clearly, with hindsight, excessive and wrong.

A recent study conducted by The Standard Club's loss prevention department into the causes of navigation-based claims that occurred during the pilotage phase revealed a number of common themes, where claims could have been prevented by the application of the most basic bridge team management principles, including:

- close monitoring of the pilot's actions;
- proper, diligent master/pilot exchanges; and
- a willingness to challenge the pilot when it was evident that dangerous situations were evolving.

We have used this information to inform our navigation risk review process.

The report of the Pilotage Subcommittee corresponds with these conclusions. It recommends better or further training in bridge team management with a pilot on board, particularly in relation to passage planning, berth to berth and closer monitoring of a pilot's actions.

Potential solutions

Our research shows that a mixture of poor bridge team management and pilot error is often a toxic combination. Pilots are, after all, human and are quite capable of lapses of concentration and making errors during the execution of their duties. An effective bridge team can serve as a safety net in preventing those errors from escalating to a major casualty. Therefore, in order to monitor the pilot's actions, the master and crew should have a thorough understanding of the pilot's intentions and plans for the ship's movements. This is the principal reason for the need to have a comprehensive information exchange between the master and pilot when he first boards the ship. This activity should not be short-circuited; to do so would give all persons involved the illusion that they know more than they actually do, which can lead to complacency. Consequently, when serious difficulties arise, masters and watchkeeping officers often discover the deficiencies too late to challenge or aid the pilot.



This last point is another key finding of The Standard Club's recent study. Many of the casualties occurred because of the crew's unwillingness to challenge the actions of a pilot or because they waited too long before making such a challenge. Everyone is aware of the sensitivities when such an event occurs, but masters and their crew should still maintain a high alert level and ask themselves questions continuously, such as 'what am I expecting to happen next?' or 'why have we not slowed down as the pilot said we would during the master/pilot exchange?' Challenges do not always have to be aggressive or alienating;

the airline industry, for example, has developed challenge procedures to enable junior officers to confront the captain if they feel it is necessary for the safety of the aircraft. One example of such a system is P.A.C.E. (*Probe, Alert, Challenge, Emergency*).

Casualties can end careers, cause enormous financial loss and frequently result in severe reputational damage for the shipowners involved. More importantly, casualties can cost lives. Masters and their crews must always remain vigilant, professional and in control of their ship's progress during the critical phase of the voyage while under pilotage. The pilot may conduct the ship to and from the berth, but the master must always remain in command.

We are mindful of the advice given some years ago: *"A superior seaman uses his superior skills to avoid those situations where his superior skills are necessary."* Do not go blindly. Go knowledgeably and go safely.

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This Standard Bulletin is published on behalf of
The Standard Club Ltd by the managers' London agents:
Charles Taylor & Co. Limited Standard House,
12–13 Essex Street, London, WC2R 3AA, UK
Registered in England No. 2561548

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