

# THE MERCHANT SHIPPING ORDINANCE, 1960 (Ordinance No. 11 of 1960)

## THE MERCHANT SHIPPING (PILOTAGE) REGULATIONS, 1961

In exercise of the powers conferred upon him by section 277 of the Merchant Shipping Ordinance, 1960 [*Ord. No. 11 of 1960.*], and all other powers thereto him enabling, the Governor in Council has made the following regulations: -

### **Citation and commencement.**

1. These regulations may be cited as the Merchant Shipping (Pilotage) Regulations, 1961, and shall come into force on the first day of April, 1961.

### **Establishment of Pilotage areas and Pilotage authority.**

2. The areas specified in the Schedule are hereby established as optional pilotage areas and the Director of Marine is hereby established as the pilotage authority for all areas.

### **Licensing for pilots.**

3. No person other than a Director shall operate as a pilot save under and in accordance with the terms and conditions of a licence granted by the Director.

### **Application for pilots.**

4. The pilotage authority shall not be obliged to provide a pilot for any ship but shall endeavour to do so in all cases where reasonable notice has been given to him.

### **Liability of pilotage authorities.**

5. No action shall lie against any pilotage authority for failing to provide a pilot or for negligence or misconduct of any pilot unless the pilotage authority himself has been guilty of gross negligence or of wilful misconduct in the course of his employment or duties as such.

### **Liability of pilots.**

6. No action shall lie against any pilot unless he has been guilty of gross negligence or of wilful misconduct in the course of his duties as such.

### **Liability of owners and masters of ships carrying pilots.**

7. The owner or master of a ship carrying a pilot shall be answerable for any loss or damage caused by the ship or by any fault of the navigation thereof in the same manner as he would have been if no pilot was carried.

### **Pilot flags.**

8. (1) Every launch when on station and engaged on pilotage duty shall display a flag (in this regulation called a pilot flag) of large dimensions compared with the size of the pilot boat, and of two colours, the upper horizontal half

white, and the lower horizontal half red, to be placed at the mast head or in some equally conspicuous situation.

(2) When a ship is navigating in a pilotage district and has on board a pilot licensed for that district, the master of the ship shall cause the flag "H" of the International Code to be exhibited.

(3) A pilot flag or a flag so nearly resembling a pilot flag as to be likely to deceive, shall not be displayed on any ship or boat not having a licensed pilot.

#### **Ships having infectious diseases on board.**

9. (1) Every pilot shall, before boarding a ship, ascertain from the master whether there has been any infectious disease or any disease suspected of being infectious on board during the voyage, and whether the ship is from an infected port, and, in case there has been any such disease or the vessel is from an infected port shall direct the master to hoist the quarantine flag at the foremast and to proceed forthwith to the quarantine anchorage.

(2) A pilot may board any ship flying the quarantine flag for the purpose of piloting her to the quarantine anchorage but shall not allow any member of his crew to board her nor shall the pilot leave such a ship except with the permission of the Port Health Officer, and he shall submit to vaccination or such other quarantine precaution as the nature of the case may require.

#### **Ships carrying dangerous goods.**

10. Every pilot on boarding a ship shall ascertain from the master whether there are any dangerous goods on board, and the nature thereof; and, if there are such goods on board, he shall direct the master in the manner required by the Merchant Shipping (Dangerous Goods) Regulations, 1961 of Sarawak applied by the Merchant Shipping (Applied Subsidiary Legislation) Regulations, 1961 [*G.N. No. S 39 of 1961.*].

#### **Pilots to have knowledge of shipping laws.**

11. Every pilot shall make himself conversant with all written laws relating to merchant shipping in so far as the same shall apply to his duties.

#### **Duties of pilots when taking over ship.**

12. Every pilot on taking charge of a mechanically propelled ship shall forthwith ascertain whether the engines are in good working order and able to reverse quickly, and he shall also see that the anchors are clear and ready for immediate use and that the steering gear is clear and in good working order.

#### **Pilots to use care and diligence.**

13. Every pilot shall use his utmost care and diligence to avoid any accident or damage either to the ship he is piloting or to any other ship or property of whatsoever kind; and, if any accident or grounding happens while the ship is under his conduct, he shall report the same in writing to the Port Officer without delay.

#### **Pilot to report buoys which are out of position.**

14. If any pilot finds or has reason to suppose that any buoy is out of position, or has adrift or is injured or missing or if he has noticed anything wrong or defective with any light or beacon, he shall report the same in writing to the Port Officer without delay.

**Pilots to report alteration in channels, etc.**

15. Every pilot shall without delay report in writing to the Port Officer any impediment or alteration which he may have observed in any of the channels and, likewise any change, or apparent change, in any land mark.

**When pilots duties completed.**

16. Every pilot taking a ship outwards shall remain on board until the service for which he was engaged is completed and every pilot bringing a ship inwards shall remain on board until the ship has been anchored, moored or otherwise secured to the satisfaction of the master.

**Speed.**

17. Every pilot having the conduct of any ship in any optional pilotage area shall cause the speed of such ship to be kept as low as is consistent with the most prudent navigation; due regard being had to be sufficient steerage way and to the ship's safety.

**Restriction on firing signal rockets.**

18. No pilot shall send up or cause to be sent up any signal rocket from any ship except in case of accident or danger.

**Pilots to keep records of services performed.**

19. Every pilot shall keep written up to date a record of the ships piloted by him stating the names and tonnage of such ships and the date and nature of the services performed; and he shall on demand produce the same for inspection by the pilotage authority or by the Director.

**Fees.**

20. (1) Every owner, agent and master of a ship engaging a pilot shall be liable to pay the appropriate prescribed fees.

(2) Such fees shall, unless the pilotage authority otherwise directs, be payable to the pilotage authority on arrival, in the case of an incoming ship and prior to departure, in the case of any outgoing ship.

(3) Government ships and ships of Her Majesty's Navy shall be exempt from payment of such fees.

**Fee when pilot not used.**

21. When a request has been made for a pilot but his services are not used by a ship, the ship shall pay a charge of half the cost of the pilotage requested but not used in addition to any detention allowance and transportation charges which may be due.

**Pilotage fees in special circumstances.**

22. (1) When the master of a ship is unable to obtain the services of a pilot exclusively for his own ship through shortage, or otherwise, then he may request to follow another ship abroad of which a pilot has been engaged, in which

case full fees shall be paid by the ship following.

(2) If, for reasons of heavy weather or other particular circumstances, a pilot cannot board a ship, the ship may follow the lead of the pilot launch, and in such case the owner, agent and master shall be liable for any fees for the distance run as if the pilot had been on board and had actual charge of the ship.

### **Taking pilot to sea.**

**23.** (1) A pilot, except under circumstances of unavoidable necessity, shall not, without his consent, be taken to sea.

(2) If he is so taken under circumstances of unavoidable necessity, or without his consent, there shall be payable over and above the pilotage fees, such fee as may be prescribed by regulations made under section 277 of the Ordinance.

(3) Such fee shall be computed as from the time at which the pilot passed the normal pilotage limits until he has been returned to his station and shall be in addition to the reasonable travelling expenses incurred by the pilot in returning to his station.

### **SCHEDULE** **(Regulation 2)**

The coastal waters of Sabah from Datum Point, Coal Mine Reach, Pulau Sebatik, to Tanjong Mangalong, Brunei Bay, including all ports, harbours and channels

Dated at Jesselton, this 13th day of March, 1961.

**M. PIKE,**  
*Clerk of Executive Council.*

6<sup>th</sup> October 2008