

**IMO INTERNATIONAL MARITIME LAW
INSTITUTE**

Legislation drafting project

**PILOTAGE ACT
OF
IRAN**

2003 / 2004

Supervisor: Mr. Norman Martinez

Submitted by: Seyed Saeid Razavi Khosrowshahi

(I.R.IRAN)

Preface

Pilotage is one of the most important maritime affairs relating to safety of ships, navigation, crew and port. Obviously where safety of life or property is discussed, whether at sea or otherwise, it is essential that there should be some degree of governmental control.

In Iran, such control has been exercised for many years by PSO (Ports and Shipping Organization of Iran which is national authority of Iran in maritime and ports affairs) through port offices and pilots who were employed by PSO.

However, except for some articles in 'Regulation of Iran's ports, 1938' that have clarified some aspects of pilotage in Iran, there is not any particular Act which exclusively regulates pilotage.

On the other hand, if it is intended to arrange pilotage services to be performed by the private sector (rather than the public sector) it will be necessary to enact the 'Pilotage Act of Iran' which addresses all aspects of pilotage and includes, *inter alia*, compulsory pilotage, licensing of pilots, duties and liabilities of pilot and master, limitation of liability.

Therefore, the 'Pilotage Act of Iran' is hereby submitted which has been prepared after considering other countries pilotage legislation like U.K, Canada etc, and on the basis of particular circumstances and needs of Iran.

It should be noted that in preparing this draft, the previous legislation of Iran and the duties and functions of the 'Ports and Shipping Organization' have been entirely considered and the present draft is in conformity with other Acts and regulations of Iran.

It is also important to point out for readers who are not familiar with Iranian legislation that 'Notes' which are cited under some articles of an Act, are part of the Act and therefore 'notes' like 'articles' are binding and, in respect of the creation of obligations and rights, there is no difference between 'article' and 'note' in an Act under Iranian legislation.

Similarly, although reader may look for an entry into force provision, this has not been included according to article 2 of the "Civil Act" of Iran which provides: *The legislative enactments come into force throughout the country 15 days after their publication [in the Official Gazette mentioned in article 1] unless a specific arrangement has been prescribed in the given legislation itself to the timing of its enforcement.*

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Pilotage Act of Iran

Chapter I General

Article 1 – Definitions

For the purposes of this Act:

1. “Organization: means Ports and Shipping Organization of Iran.”
2. “Port office” means an office established in a port of Iran and that acts as a bureau of the Organization under its orders.
3. “Pilot” means any person not belonging to a ship who has the conduct thereof and “Pilotage” shall be construed accordingly.
4. “Licensed pilot” means in relation to any port, a pilot authorised by the organization for that port and in relation to any ship, a pilot so authorised in respect of ships of that description.
5. “Pilotage corporation” means an established legal person that is authorised by the Organization to provide pilotage services under provisions of this Act and other related provisions.
6. “Ship” means any description of vessel or boat used or designed for use in navigation, without regard to methods of or lack of propulsion.
7. “Master” means the person having command or charge of a ship other than a pilot.

Article 2 – Pilotage Service

Pilotage service can be rendered only by pilotage corporations through the use of licensed pilots.

Chapter II **Responsibilities and duties of the Organization**

Article 3 – Organization

The Organization is the national organization with authority to regulate pilotage affairs in Iran and in this regard shall:

1. Establish pilotage districts in any port, the approaches to any port or the territorial waters.
2. Define the limits of any pilotage district, and determine where and when pilotage is compulsory in a part of such district from time to time.
3. Designate the area of the district in which pilotage is compulsory.
4. Determine the qualifications in respect of age, physical fitness, time of service, local knowledge, skill, character and otherwise to be required from persons who want to be a licensed pilot.
5. Examine and license competent pilots for a pilotage district and do all such other things in relation to pilots as are necessary or expedient for carrying into effect the Organization functions under this Act.
6. Prescribe classes of licences that may be issued on the basis of pilots knowledge, skill and experience.
7. Prescribe the circumstances under which a licensed pilot shall be required to take further training to be enabled to meet any new qualifications since the pilot's licence was issued.
8. Provide conditions and qualification in respect of experience, building, equipment (including boat, radio and other communication equipment) necessary number of employed licensed pilots and other corporal things necessary for the rendering of pilotage services to be required from any corporation works as a pilotage corporation.
9. Determine the pilotage charges subject to the provisions of article 16.
10. Prescribe the fees, which shall be payable upon the grant or renewal of the licence, as well as fees for the examination.
11. Generally regulate any other things necessary in a pilotage district.

Note 1:

Until further provision is made, ports defined by regulations in force immediately before the commencement of this Act shall be deemed to be pilotage districts and every area in which pilotage was made compulsory under such regulations shall be deemed to have been defined as a compulsory pilotage area under this Act.

Note 2:

The Organization may delegate the executive affairs of 'examining and licensing the pilots, examining the nominated corporation and authorising the competent corporation for rendering the pilotage service', to port offices.

Article 4 – Port Office

1. The port office shall consider:
 - a) Whether any and, if so, what pilotage service needs to be provided to secure the safety of ships navigation in or in the approaches to their areas; and
 - b) Whether in the interests of safety, pilotage should be compulsory in any part of related area or its approaches and, if so, for which ships and in which circumstances and what pilotage services need to be provided for those ships.
2. Without prejudice to the generality of paragraph 1 above, port offices shall in performing their functions under that paragraph have regard in particular to the hazards involved in the carriage of dangerous goods or harmful substances by ships.
3. Port offices shall hold inquiries concerning the conduct of pilots and pilotage corporations in respect of their duties under this Act.
4. Port offices shall regularly submit their reports and suggestions related to above paragraphs 1 to 3, to the Organization.

Chapter III
Duties and liabilities of pilotage corporations, pilots and masters

Article 5 – Duties of pilotage corporations

Each pilotage corporation, shall:

1. Have an appropriate number of licensed pilots under contract of employment in order to render pilotage services in a pilotage district.
2. Have appropriate buildings and equipment including: boat, radio and other communication equipment in a port.
3. Consider the competence of and supervise pilots employed by it.
4. Obey the orders and regulations approved by organization concerning pilotage.
5. After receiving the message of any ship requiring to pilotage, send a licensed pilot to such a ship.
6. Try to develop and increase employed licensed pilots knowledge in the affairs relating to pilotage and safety at sea.

Article 6 – Liability of pilotage corporations

Subject to article 15, a pilotage corporation shall be liable for any loss or damage caused by fault of employed licensed pilot carrying out pilotage service.

Article 7 – Duties of pilots

1. A pilot has the exclusive conduct of the vessel and is thereby charged with its safety. He is bound to exercise due care and skill in the performance of his functions.
2. Every pilot shall try to develop and increase his knowledge about affairs relating to pilotage and safety at sea.
3. A pilot may require the master of any ship which he is piloting to declare its draught of water length and beam and to provide him with such other information

relating to the ship or its cargo as the pilot specifies and is necessary to enable him to carry out his duties as the pilot of the ship.

Note:

The master of a ship shall bring to the notice of any person who pilots the ship any defects in, and any matter peculiar to the ship and its machinery and equipment of which the master knows and which might materially affect the navigation of the ship.

Article 8 – Liability of masters and operators.

- 1 – The master shall be personally liable for his acts and omissions.
- 2 – The master shall not be personally liable for any loss or damage covered by the negligence of the pilot in which he did not participate or could not have prevented.
- 3 - The ships operator shall be liable for any loss or damage caused by the pilot during the rendering of a pilot service, in the same way as for any loss or damage caused by a member of the ship's crew.

Note 1:

The case mentioned in article 20 is excluded from the application of this article.

Note 2:

- 1 – Notwithstanding any provision of this Act, where the master of a ship believes on reasonable grounds that the actions of a licensed pilot on board a ship, are, in any way, endangering the safety of the ship, take the conduct of the ship from the licensed pilot or relieve the licensed pilot from duty on board ship.
- 2 – Where the master of a ship takes the conduct of a ship from a licensed pilot pursuant to paragraph 1 hereof, the master shall file, within 3 days of taking the conduct of the ship, a written report setting out the master's reasons therefor with the relative port office.

Chapter IV **Compulsory Pilotage**

Article 9 – Piloting by licensed pilot

Every ship other than excepted ships under article 11 while navigating in a pilotage district in which pilotage is compulsory for the purpose of entering, leaving or making use of the port in the district shall be under the pilotage of a licensed pilot of the district employed by a pilotage corporation.

Article 10 – Liability of the owner or master

The fact that a ship is being navigated in a district where pilotage is compulsory shall not affect any liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated.

Article 11 – Excepted Ships

For the purpose of this chapter, the following ships are excepted ships:

- 1 - Ships of war
- 2 - Ships owned or operated by the Organization.
- 3 - Ships of less than 20 meters in length or fishing boats of which the registered length is less than 47.5 meters.
- 4 - Pleasure yachts.
- 5 - Ferry boats plying as such exclusively within the limits of port.
- 6 - Tugs, dredges barges, or similar vessels whose ordinary course or navigation does not extend beyond the limits of a port.
- 7 - Ships not exceeding 200 tons gross tonnage.

Chapter V **Revocation or Suspension**

Article 12 – Conditions of revocation or suspension.

- 1 - The Organization may, subject to evidenced report and recommendation of port office, suspend or revoke an authorisation granted to a pilotage corporation pilot, if it appears:
 - a) That the authorised pilotage corporation has been guilty of any incompetence or misconduct affecting its capability as a pilotage corporation.
 - b) That the authorised pilotage corporation has ceased to have the qualifications required from persons applying for being authorised by the Organization or has failed to provide evidence that it continues to have those qualifications.
- 2 - Before suspending or revoking an authorisation under paragraph 1 hereof, the Organization shall give written notice of its intention to do so to the authorised pilotage corporation stating the reasons for which the Organization proposes to act, and shall give it a reasonable opportunity of making representations.
- 3 - An authorisation if so revoked shall cease to have effect, and, if so suspended shall cease to have effect for the period during which it is suspended.

Note 1:

This article shall be applied *mutatis mutandis* to the licence granted to a pilot.

Note2:

The period of suspension and the period during which the Heads and directors of revoked pilotage corporation shall not be legally able to render pilotage services, shall be determined in the regulations mentioned in article 21.

Article 13 – Appeal

- 1 - A pilotage corporation whose authorisation has been suspended or revoked by the Organization can appeal to a court of first instance which is located in the port city it was piloting, up to 20 days after the date of being notified of the decision of the Organization to it.

Note:

This paragraph shall be applied *mutatis mutandis* to a pilot whose licence is suspended or revoked by the Organization.

2 - The court after considering the appeal may:

- a) Confirm or reverse the suspension or revocation of the authorisation or license; or
- b) Make such order in the case as may seem just;

And in any such case its decision shall be final.

Article 14 – Taking effect of the organizations decision

An authorisation of a pilotage corporation or the license of a pilot shall be revoked or suspended under article 12, if:

- 1 - No appeal has been made by any interested person to the competent court within the time mentioned in article 13; or
- 2 -The concerned person has informed the Organization in writing that he does not want to exercise his right of appeal ; or
- 3 - An appeal has been made to the competent court and is confirmed as having full and binding effect.

Chapter VI
Limitation of Liability

Article 15 – Limitation of Liability

- 1 - The liability of a pilotage corporation for any loss or damage to any ship, to any property on board any ship or to any property or rights of any kind caused by a licensed pilot whom it employs, shall not exceed an amount equivalent to 20 times the pilotage charges for the piloting service during which the loss or damage arose.
- 2 - The limit of liability under this article, shall apply to the whole of any losses and damages, which may arise upon any one distinct occasion although such losses and damages may be sustained by more than one person.
- 3 - Where any proceedings are taken against any person (“the defendant”) for any act or omission in respect of which liability is limited as provided by this article and other claims are or appear likely to be made in respect of the same act or omission, the court in which the proceedings are taken may:
 - a) Determine the amount of the liability;
 - b) Upon payment by the defendant of that amount into court, distribute that amount ratably amongst the claimants.
- 4 - The Organization or port offices shall not be liable for any loss or damage caused by any act or omission of a pilot licensed by it under this Act by virtue only of that licensing.

Chapter VII **Pilotage Charges**

Article 16 – Determination

The Organization shall, by considering port offices reports, determine pilotage charges in each district on the basis of:

- 1 - Charges for the services of a licensed pilot employed by a pilotage corporation.
- 2 - Charges in respect of any expenses reasonably incurred by pilotage corporations.
- 3 - Charges in respect of the cost of providing, maintaining and operating pilot boats for the area and other equipment.
- 4 - The inflation rate from time to time announced by Central Bank of Iran.
- 5 - Charges in respect of any other costs involved in providing and maintaining the pilotage.

Note 1:

Pilotage charges shall be announced in the first month of each year for one year.

Note 2:

Different amounts for pilotage charges, may be determined for different circumstances and different districts.

Article 17 – Payment

- 1 - Pilotage charges shall be paid to the pilotage corporation rendering pilotage service, in full.
- 2 - The owner, master and agent of a ship are jointly and severally liable to pay any pilotage charges.
- 3 - No port clearance may be granted to a ship if the relative port office is informed that pilotage charges in respect of the ship are outstanding and unpaid.

Chapter VIII **Offences**

Article 18 – Unauthorised pilotage

- 1 - If any person who is not a licensed pilot for an area, describes himself whilst he is in that area as being such a pilot or so hold himself out as to indicate or be reasonably understood to indicate that he is such a pilot, he commits an offence and is liable to a fine from 5,000,000 to 20,000,000 Rials.
The said fine shall also be applied against the head of a pilotage corporation that employed knowingly such person, additionally shall be to suspend authorization of such pilotage corporation for 1 to 3 years.

- 2 - If the master of a ship navigates the ship in a district or in circumstances in which pilotage is compulsory without the use of a licensed pilot for mentioned district commits an offence and is liable to a fine from 3,000,000 to 6,000,000 Rials.

Article 19 – Information to the pilot

Any master who:

- 1 - Refuses to comply with a request made to him in pursuance of the note of article 7; or

- 2 - Makes a statement which is false in a material particular in answer to such a request, knowing it to be false or being reckless as to whether it is false, or fails without reasonable excuse to correct such a statement made by another person in answer to such a request, although himself knowing it to be false; or

- 3 - Without reasonable excuse contravenes the Note of article 7

commits an offence and is liable to a fine from 5,000,000 to 15,000,000 Rials.

Article 20 – Misconduct by pilot endangering ship or persons on board ship.

If a pilot:

- 1 - Does any act, which causes or is likely to cause the loss or destruction of, or serious damage to, the ship or its machinery, navigational equipment or safety equipment or the death of, or serious injury to, a person on board the ship; or
- 2 - Omits to do anything required to preserve the ship or its machinery, navigational equipment or safety equipment from loss, destruction or serious damage

and the act or omission is deliberate or amounts to a breach or neglect of duty or he is under the influence of drink or a drug at the time of the act or omission, he commits an offence and is liable to imprisonment from 6 months to 2 years or a fine from 10,000,000 to 50,000,000 Rials or both, in addition to sentences mentioned in 'Islamic Punishment Act' for killing, wounding, drinking and using drug, if any of those crimes happened as the case may be.

Chapter IX
Final Provisions

Article 21 – Executive Regulations.

The detailed rules for the examining and licensing of pilots and the authorising pilotage corporations and other necessary details for exercising of this Act shall be approved, as the executive regulations of this Act, by the organization within one year after the approval of this act.

Article 22 – Time Bar

Claims arising from pilotage services shall be barred by the lapse of 2 years from the day of the termination of such services.

Article 23 – Present pilots and pilotage corporations

Pilots and pilotage corporations rendering pilotage services at the time of the entry into force of this Act shall be obliged to fulfill the requirements of this Act within 3 months from the date the Act comes into force.

Article 24 – Abrogation

All laws and regulations contrary to the present Act are hereby abrogated.