

PILOTAGE ADVISORY COMMITTEE

**Proposed Amendments to the Pilotage Ordinance
and its Subsidiary Regulation and Order**

Purpose

The purpose of this paper is to seek members' comments and advices on the proposed legislative amendments to the Pilotage Ordinance and its subsidiary Regulation and Order for the better implementation of the Ordinance.

Background

2. An applicant for a pilot licence or registration as an apprentice pilot is required to be examined as to his physical and mental fitness, by a medical officer appointed by the Director of Health (DoH) and as to his eyesight, by an officer of the Marine Department (MD) appointed by the Authority. All licensed pilots are required to be re-examined at regular intervals i.e. at least once in every 2 years where he has not attained the age of 65 years and at least once every year where he has attained the age of 65 years. Such re-examination is also required to be carried out as to the physical and mental fitness by a medical officer appointed by the DoH and as to the eyesight by an officer of the MD appointed by the Authority.

3. Applicants' examination and licensed pilots' re-examination used to be conducted by the then Medical Examination Board under Department of Health (DH). In 1994, the Pilotage Advisory Committee (PAC) accepted a recommendation from the 1993 Pilotage Review that applicants' examination and licensed pilots' re-examination (collectively referred to as "medical examinations") should be delegated to the private medical practitioners. As a result, since 1 September 1997, medical examinations have been conducted by registered private medical practitioners in Hong Kong who are authorized by the Merchant Shipping (Seafarers) (Medical Examination) Regulation. However, MD was advised by legal advice recently that such arrangement may not fully comply with the legal requirement. For immediate rectification purpose, the DoH has agreed and appointed doctors of the Occupational Health Service Centre at Fanling to carry out physical and mental fitness re-examinations of licensed pilots and the Authority has appointed officers of the Seagoing

Examination and Mercantile Marine Office of MD to conduct eyesight examinations. Such arrangement as an interim measure was implemented on 11 May 2021.

Proposals

4. The previous medical examinations arrangement conducted by registered medical practitioners would be able to provide Hong Kong pilots with much desired flexibility. It has been conducted smoothly for decades. Having consulted the Hong Kong Pilots Association and DH, it is considered necessary to amend the Pilotage Ordinance, Cap.84, and its subsidiary legislation so as to allow the medical examinations could be conducted by registered medical practitioners lawfully. Opportunity is also taken to review and propose to amend some of the existing provisions in Cap.84, Cap.84A and Cap.84C for the better implementation of the Pilotage Ordinance.

5. Proposed legislative amendments are set out as follows:

(a) *Items related to medical examinations*

6. The relevant sections of the legislation requiring members' attention are detailed in *Annex I*.

(b) *Other related items*

Regulation 6(1), Cap.84A – fees

7. Applicants for licence are required to go through examination(s) in respects of his competence to pilot ships at three levels, i.e. from apprentice to Class IIF, from Class IID to Class IIC and from Class IIA to Class I. Fees for Class IIF and Class I licences are prescribed in Regulation 6 of Cap.84A. However, no fee is prescribed for the examination for the Class IIC licence. Hence, a fee of HK\$4,512 is proposed to be prescribed for Class IIC examination for cost recovery purpose.

Section 15(1)(b), Cap.84 – inspection of licence

8. Section 15(1)(b) of Cap.84 provides that a licenced pilot shall produce his licence for inspection whenever he is required to do so by the Authority, any officer of the MD not below the rank of marine officer (MO) or any person who has engaged, or intends to engage, him to pilot a ship. However, daily patrols are usually conducted by officers at Marine Inspector rank. Officers at the rank of MO seldom conduct onboard inspections. In order to improve the operational efficiency of this section, it was proposed that this section should be

amended to provide MD officers above the rank of Marine Inspector II, in addition to MOs, with the power to require a pilot to produce his licence for inspection.

Schedule 2, Cap.84 – Pilot Boarding Stations

9. Schedule 2 of Cap.84 specifies 8 numbers of Pilot Boarding Stations (PBS) and describes the PBS in general terms as an “area off” a geographical place and in specific term as a geographical co-ordinate in degrees and minutes (to 3 places after decimal) of Latitude and Longitude. These presentations of PBS are ambiguous and argumentative, and it also leads to divided interpretations of where the actual boarding /disembarkation location should be. It was therefore proposed to amend Schedule 2 of Cap 84 to clearly specify the areas of PBSs as an area of 0.4 or 0.5 nautical mile radius centered by their respective positions with the same co-ordinates given in that schedule as illustrated in Annex II.

Paragraph 3(2), Cap.84C – equivalent to Certificate of Competency

10. Paragraph 3(2) of Cap. 84C states that “a person applying for registration as an apprentice pilot shall hold a Certificate of Competency (Deck Officer) Class 1 (Master Mariner) issued or deemed to be issued under the relevant regulation made under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) or a certificate accepted as equivalent to that certificate by that regulation”. Foreign Certificates of Competency, such as those issued by the United Kingdom or Australian Government, have been accepted as “a certificate accepted as equivalent” for applying for registration as an apprentice pilot. However, there is no “certificate accepted as equivalent to that certificate by that regulation” in the regulations made under Cap. 478. Instead, a Licence (Deck Officer) Class 1 is accepted as equivalent to a Certificate of Competency (Deck Officer) Class 1 (Master Mariner) under section 9 of Cap. 478J. We propose to rectify the textual error in regulation 3(2) of Cap. 84C from “a certificate accepted as equivalent to that certificate by that regulation” to “a licence treated as equivalent to that certificate under part V of that regulation”

Paragraph 8A, Cap.84C – Obligation to be accompanied by an apprentice pilot

11. To make this law enforceable, it is proposed to include a penalty, by adding it as a misconduct under Section 17(3) of the Ordinance, for a licenced pilot who unreasonably refuses to be accompanied by a registered apprentice pilot undergoing training or gaining experience.

Schedule 2, Cap.84C – Classes of pilotage and pilotage service

12. Schedule 2 of Cap.84C provides for the classes of pilots and the pilotage service which may be carried out by each class. It is proposed to amend

the description of the pilotage service such that transit of ships is included in the pilotage service for corresponding classes of pilots.

Legislative Time Table

13. Subject to members' comments, MD would commence the administrative process for amending the Cap84, Cap84A and Cap84C. The legislative amendments are anticipated to be completed by Q4 of 2022.

Advice Sought

14. Members' comments and advices are sought for these proposed legislative amendments.

**Port Control Division
Marine Department
August 2021**

Items related to medical examination of applicants and licensed pilots

	Sections	Proposed revision
<i>Provisions under the Pilotage Ordinance (Cap. 84)</i>		
1.	S.7 (1)(b)	(i) To remove the role of DH in physical and mental examination of pilot license applicants; (ii) To allow the physical and mental fitness examination of applicants to be conducted by registered medical practitioners in Hong Kong.
2.	S.7(1)(c)	(i) To remove the role of MD officer in eyesight examination of pilot license applicants; (ii) To allow the eyesight examination of applicants to be conducted by registered medical practitioners in Hong Kong.
3.	S.7(1A)	To clearly specify that the Authority may exempt an applicant from the physical and mental fitness and eyesight examination if the applicant has within the previous 12 months submitted himself to a similar examination under a comparable standard, regardless of whether such examination is conducted in Hong Kong. Whether the similar examination is of a comparable standard shall be determined by the Authority.
4.	S.7(1B)	Since DH will no longer conduct physical and mental fitness examination, the power for DH to prescribe the fee payable can be removed.
5.	S.7(2)	To specify that an applicant shall be required to attain such standards of competence to pilot ships, of physical and mental fitness and of eyesight as may be determined by the Authority.

6.	S.10(2)	To remove the role of DH and officer of MD in the physical and mental fitness examination and eyesight examination;
7.	New section or amend S.10(2)	To specify that the physical and mental fitness and eyesight re-examination of pilots should be conducted in the same manner as the examination in S.7(1)(b) and (c), i.e. by a registered medical practitioner in Hong Kong.
8.	New section	<p>To specify that the Authority may exempt an applicant from the physical and mental fitness and eyesight re-examination if the applicant has within the previous 12 months submitted himself to a similar examination under a comparable standard, regardless of whether such examination is conducted in Hong Kong.</p> <p>Whether the similar examination is of a comparable standard shall be determined by the Authority.</p>
9.	S.10(3)	Since DH will no longer conduct physical and mental fitness re-examination, the power for DH to prescribe the fee payable can be removed.

<i>Provisions in the Pilotage Regulations (Cap. 84A) – To remove the prescribed fees for physical and mental fitness and eyesight examination and re-examination</i>		
10.	R.2(3)	To amend the provision such that the physical and mental fitness and eyesight examination of apprentice pilot shall be conducted in accordance with S.7(1)(b) and (c) of Cap. 84, i.e. by a registered medical practitioner in Hong Kong. No fees shall be paid to the Authority.
11.	R.6(1) and R.6(1A)	Since the physical and mental fitness and eyesight examination of pilots will be conducted by registered medical practitioners in Hong Kong, the fee payable for the examination should be amended.
12.	R.6(5)	Since the physical and mental fitness and eyesight re-examination of pilots will be conducted by registered medical practitioners in Hong Kong, the fee payable for the re-examination should be removed.
13.	R.6(6)	Since the physical and mental fitness and eyesight examination of apprentice pilots will be conducted by registered medical practitioners in Hong Kong, the fee payable for the examination should be removed.

Annex II

Proposed radius for specifying the area of pilot boarding stations

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| 1. Ha Mei Wan, west of Lamma Island | An area of 0.5 nautical mile radius centred by position
latitude 22°11.908' north,
longitude 114°05.447' east. |
| 2. Turning buoy in the Tathong Channel | An area of 0.4 nautical mile radius centred by position
latitude 22°15.908' north,
longitude 114°15.814' east. |
| 3. Lam Kok Tsui (Black Point) in Urmston Road | An area of 0.5 nautical mile radius centred by position
latitude 22°24.925' north,
longitude 113°53.347' east. |
| 4. Entrance to Tolo Channel | An area of 0.5 nautical mile radius centred by position
latitude 22°29.508' north,
longitude 114°19.848' east. |
| 5. Ngan Chau in East Lamma Channel | An area of 0.5 nautical mile radius centred by position
latitude 22°12.958' north,
longitude 114°09.847' east. |
| 6. Ping Chau in Mirs Bay | An area of 0.5 nautical mile radius centred by position
latitude 22°32.800' north,
longitude 114°23.600' east. |
| 7. Crooked Island in Mirs Bay | An area of 0.5 nautical mile radius centred by position
latitude 22°33.500' north,
longitude 114°20.200' east. |
| 8. Shek Ngau Chau in Mirs Bay | An area of 0.5 nautical mile radius centred by position
latitude 22°29.700' north,
longitude 114°26.540' east. |