

## MARINE AND HARBOURS

MH301

### SHIPPING AND PILOTAGE ACT 1967

#### PORTS AND HARBOURS AMENDMENT REGULATIONS 1991

Made by His Excellency the Governor in Executive Council.

#### Citation

1. These regulations may be cited as the *Ports and Harbours Amendment Regulations 1991*.

#### Principal regulations

2. In these regulations, the *Ports and Harbours Regulations\** are referred to as the principal regulations.

[\*Published in the Gazette on 3 February 1966 at pp. 277-92. For amendments to 17 April 1991 see pp. 344-46 of 1989 Index to Legislation of Western Australia and Gazette of 1 August 1990.]

#### Regulation 4 amended

3. Regulation 4 of the principal regulations is amended—

(a) in the definition of “the Department” by deleting “Harbour and Light Department” and substituting the following—

“ Department of Marine and Harbours ”; and

(b) by inserting in the correct alphabetical positions, the following definitions—

“ “certificate” means a pilotage exemption certificate issued under regulation 16;

“certificate of health” means a certificate of health referred to in regulation 16 (c);

“exempt master”, in relation to a vessel, means a master who holds a valid pilotage exemption certificate for a port;

“subject port”, in relation to an application for a pilotage exemption certificate, means a port for which the certificate is sought ”.

#### Regulation 9 amended

4. Regulation 9 of the principal regulations is amended—

(a) by deleting paragraph (g) and substituting the following paragraph—

“ (g) a vessel under the command of a master who holds a valid certificate in respect of the port concerned, ”;

and

(b) by inserting after “any port” the following—

“ or prescribed pilotage area outside the port ”.

#### Regulation 10 amended

5. Regulation 10 of the principal regulations is amended by inserting after “port” everywhere it occurs the following—

“ or prescribed pilotage area outside the port ”.

#### Regulation 14 amended

6. Regulation 14 of the principal regulations is amended in subregulation (1) by inserting after “and shall,” the following—

“ unless he is an exempt master in respect of the port, ”.

#### Regulation 15B amended

7. Regulation 15B of the principal regulations is amended by deleting “a master holding a pilotage exemption certificate” and substituting the following—

“ an exempt master ”.

#### Regulation 16 repealed and regulations substituted

8. Regulation 16 of the principal regulations is repealed and the following regulations are substituted—

##### Entitlement to pilotage exemption certificate

“ 16. The chief executive officer shall issue a pilotage exemption certificate, valid for use in respect of the ports (and any prescribed pilotage areas outside those ports) specified in the certificate, to a person who—

(a) is entitled to reside permanently in Australia under an Act of the Commonwealth;

(b) has met the requirements of regulation 16B;

- (c) has submitted, in accordance with regulation 16C, a certificate of health showing, to the satisfaction of the chief executive officer, that he does not suffer from any disability that is likely to affect his ability to do what the certificate will entitle him to do; and
- (d) has paid a fee of \$450 in respect of each subject port.

#### Eligibility to attempt examination

16A. (1) A person is not eligible to be examined under regulation 16B unless—

(a) he holds—

- (i) a Master Class 1 Certificate of Competency issued under the *Navigation Act 1912* of the Commonwealth;
- (ii) a Foreign Going Masters Certificate of Competency issued under the *Navigation Act 1912* of the Commonwealth;
- (iii) a Certificate of Service as Master issued under the *Navigation Act 1912* of the Commonwealth; or
- (iv) a certificate issued outside Australia that is recognized by the Department or the Commonwealth Department of Transport as being equivalent to one of those certificates;

and

(b) he has made in the 2 years immediately before the examination—

- (i) 3 trips into and 3 trips out of the subject port in command of a vessel; or
- (ii) 2 trips into and 2 trips out of the subject port in command of a vessel and 2 trips into and 2 trips out of the subject port as first mate on duty on the bridge throughout the period of pilotage or, where the vessel was under the command of an exempt master, throughout what would otherwise have been the period of compulsory pilotage.

(2) Where a person is seeking to obtain a certificate that is valid for use during hours of daylight and hours of darkness, at least one trip into and one trip out of the subject port in command of a vessel as referred to in subregulation (1) (b) must have been made during hours of darkness.

(3) The trips as first mate referred to in subregulation (1) (b) (ii) have to be verified in writing by the master or exempt master in command of the vessel.

#### Examination

16B. (1) An applicant for a certificate has to demonstrate, on written or oral examination—

- (a) adequate general knowledge of the subject port, particularly the soundings, minimum keel clearances, tides, currents, buoys, beacons and lights within the subject port and its approaches;
- (b) ability to satisfactorily complete blank charts of the subject port by marking soundings and characteristics of the buoys, beacons, lights, signals and other aids to navigation;
- (c) thorough knowledge of control requirements, traffic patterns, separation lanes and the special signals, communications and rules applicable to the subject port; and
- (d) a reasonable knowledge of—
  - (i) these regulations;
  - (ii) the *Shipping and Pilotage Act 1967*;
  - (iii) the *Western Australian Marine Act 1982*;
  - (iv) the *Prevention of Pollution of Waters by Oil Act 1960*; and
  - (v) any written law applying specifically in respect of the subject port.

(2) An applicant for a certificate has to demonstrate by practical examination safe ship handling ability within the limits of the subject port.

#### Standard of health

16C. (1) A certificate of health is to be in a form approved by the Minister.

(2) An exempt master shall submit a certificate of health to the Department not later than 2 years after the date on which the previous certificate of health was submitted.

(3) Where a medical practitioner has recommended that an exempt master undergo a medical examination for the purposes of this regulation after a nominated period that is less than 2 years after the date of the

previous medical examination for the purposes of this regulation, the exempt master shall—

- (a) undergo a medical examination in accordance with that recommendation; and
- (b) submit to the Department immediately after the examination—
  - (i) a certificate of health; or
  - (ii) written notification that a certificate of health was not issued.

#### Maximum length of vessel

16D. (1) Subject to regulation 16E (1), the maximum length of a vessel in respect of which a certificate may be used in a port shall be determined by the Harbour Master for the port having regard to—

- (a) the depth and width of channel entrances;
- (b) available deep water manoeuvring space;
- (c) local tidal conditions;
- (d) local current conditions; and
- (e) proximity of other vessels and berthing facilities.

(2) The chief executive officer shall cause to be recorded in each certificate the maximum length of a vessel in respect of which the certificate may be used.

#### Conditions

16E. (1) The chief executive officer shall not issue a certificate for use in respect of a vessel that is longer than the longest vessel in which the exempt master made a trip into or out of the subject port in command of a vessel as referred to in regulation 16A (1) (b).

(2) The chief executive officer may, on the written recommendation of the Harbour Master for a port, issue all certificates in respect of that port for use only in respect of specified areas of the port.

(3) Where a person who is otherwise entitled to a certificate has not met the requirements of regulation 16A (2), the chief executive officer shall issue a certificate for use by the person during hours of daylight only.

(4) An exempt master shall comply with all conditions attaching to his certificate.

#### Limited to Australian crewed vessels

16F. A certificate may be used only in respect of a vessel that is crewed in accordance with the requirements of an award or agreement registered under—

- (a) the *Industrial Relations Act 1979*; or
- (b) the *Industrial Relations Act 1988* of the Commonwealth.

#### Use of certificate may be prohibited

16G. Notwithstanding any other regulation, where—

- (a) major works are being carried out in the port;
- (b) the vessel of an exempt master is carrying cargo that is noxious or otherwise hazardous; or
- (c) there are any other circumstances that may impair the ability of the exempt master to navigate the vessel safely,

the Harbour Master for the port may direct the exempt master to use the services of a pilot to navigate the vessel into or out of the port or in the whole or a specified part of the port or any prescribed pilotage area outside the port, and the exempt master shall comply with such a direction.

#### Contents of certificate

16H (1) The chief executive officer shall issue a certificate in accordance with Form 1 in the Sixth Schedule to a person who becomes entitled to a certificate.

(2) The chief executive officer shall cause a certificate to be suitably amended where there is any change in the entitlements of the exempt master under the certificate.

#### Register

16I. (1) The chief executive officer shall cause to be established and maintained a register containing particulars of all persons holding certificates and their entitlements under the certificates.

(2) The chief executive officer shall cause the register to be noted where the certificate of a person is cancelled or suspended.

**Pilotage exemption record book**

16J. (1) The chief executive officer shall issue to each exempt master a book containing pages in accordance with Form 2 in the Sixth Schedule and the book is to be known as the "pilotage exemption record book".

(2) An exempt master shall enter in the pilotage exemption record book, in respect of each trip into or out of a port—

- (a) the name of the port;
- (b) the date and time of commencement of the trip; and
- (c) the name of the vessel.

(3) After making a trip into or out of a port and entering the particulars prescribed by subregulation (2) into the pilotage exemption record book, an exempt master shall present the book to the Harbour Master of the port concerned or another officer of the Department, who shall read and endorse the entry made by the exempt master.

(4) An officer of the Department to whom a certificate of health is submitted shall record the date on which the certificate was submitted in the pilotage exemption record book of the exempt master concerned and the exempt master shall produce the book to the officer for this purpose.

**Invalidation of certificate**

16K. A certificate that has not been used in respect of a port for one year or longer is invalid in respect of that port.

**Revalidation of certificate**

16L. A certificate that is invalid in respect of a port under regulation 16K is revalidated in respect of that port if the holder of the certificate makes, under pilotage, at least one trip into and one trip out of the port in command of a vessel within one year of the certificate becoming invalid in respect of that port.

**Cancellation or suspension of certificate**

16M. (1) The chief executive officer may cancel or suspend the certificate of an exempt master if—

- (a) the exempt master is convicted of contravening regulation 9, 16E (4), 16G or 16J (2) or (3); or
- (b) the chief executive officer believes on reasonable grounds that the exempt master has contravened any of those provisions.

(2) The chief executive officer shall cancel a certificate that has become wholly invalid under regulation 16K and has not been wholly or partly revalidated under regulation 16L.

(3) The chief executive officer shall cancel a certificate if its holder does not submit a certificate of health in accordance with regulation 16C (2) or (3).

(4) The chief executive officer shall cancel or suspend a certificate in respect of a port if he believes on reasonable grounds that the holder of the certificate is no longer competent to navigate a vessel into and out of the port.

(5) Where the chief executive officer cancels or suspends a certificate, he shall in writing notify the person concerned of the cancellation or suspension and the reason for it, including, in the case of a cancellation or suspension under subregulation (1) (b) or (4), particulars of the reasons for the belief held by the chief executive officer.

(6) The chief executive officer shall, in a notification of a cancellation or suspension under subregulation (1) (b) or (4), inform the person concerned of the right of appeal under regulation 16N.

(7) A cancellation or suspension takes effect on the service of a notice under subregulation (5).

**Right of appeal**

16N. (1) An exempt master whose certificate is cancelled or suspended under regulation 16M (1) (b) or (4) may, in writing, within 21 days of the day on which he received notice of the cancellation or suspension, appeal to the Minister against the decision of the chief executive officer.

(2) The Minister shall determine an appeal without delay and may confirm the decision of the chief executive officer or direct the chief executive officer to reverse his decision or modify it in the manner specified by the Minister.

(3) The chief executive officer shall give effect to a direction under subregulation (2). "



## FORM 2

(Reg. 16J (1))

## PILOTAGE EXEMPTION RECORD BOOK

Port Visits					Medical Certificates	
Port	Date & Time In	Date & Time Out	Name of Vessel	Pilot/Harbour Master Initials	Received	Next Due

By His Excellency's Command,

L. M. AULD, Clerk of the Council.