

LEGISLATIVE COUNCIL BRIEF

Pilotage Ordinance (Chapter 84)

Pilotage (Amendment) Bill 2013

INTRODUCTION

A At the meeting of the Executive Council on 19 February 2013, the Council ADVISED and the Chief Executive ORDERED that the Pilotage (Amendment) Bill 2013 (the Bill), at **Annex A**, should be introduced into the Legislative Council.

JUSTIFICATIONS

2. For the purpose of ensuring the safe navigation of non-local vessels within Hong Kong waters, compulsory pilotage is required of all ships visiting Hong Kong that are of 3,000 gross tonnage or over, or as specified under the Pilotage Ordinance (Cap. 84) (the Ordinance). At present, there are 106 licensed pilots performing services for those ships. These pilots are licensed by the Director of Marine, in the Director's capacity as the Pilotage Authority, to provide services for specified lengths of vessels as prescribed by different classes of pilotage¹ in accordance with the qualifications and experience requirements laid down under the Ordinance.

3. The Ordinance also provides for the regulation of pilotage services in respect of the continued employment of licensed pilots beyond the age of 65, training requirements of an apprentice pilot, requirement of pilotage for specified categories of vessels under 3,000 gross tonnage, and location of the pilot boarding stations. After a review of the relevant statutory provisions governing the above matters, the Marine Department (MD) has drawn up improvement proposals in consultation with industry stakeholders in the light of past experience and changes in circumstances to better meet the industry's operational needs. The improvement proposals are set out in the following paragraphs.

¹ There are five classes of pilotage, namely Class I, IIA, IIB, IIC and IID as provided in Schedule 2 to the Pilotage Order (Cap. 84 sub. leg. C). The class of pilotage service is determined by the length of a vessel to which a licensed pilot could serve. A working pilot with a Class I licence could pilot a vessel of any length whereas a pilot with a Class IIA, IIB, IIC or IID licence could only pilot a vessel of length not exceeding 260 metres, 220 metres, 165 metres or 150 metres respectively.

(a) Licensing of Pilots

4. The Ordinance allows a licensed pilot who is about to reach or has reached the age of 65 to apply for permission to continue to work for any period not exceeding 12 months until he or she reaches 68, subject to re-examinations as to physical and mental fitness and eyesight. However, under the extended service period, the licensed pilot is only permitted to work in the lower Class IIC, which means the pilot can only pilot a vessel of length not exceeding 165 metres, despite the fact that he or she has had a long service as a Class I pilot.

5. We agree with MD that the existing requirement to downgrade the qualification of licensed pilots beyond the age of 65 (and up to 68) is not conducive to the preservation and effective use of valuable experience and expertise in handling the mega size vessels, or in training junior pilots. The industry proposed, and we agree, that amendments be made to allow working pilots beyond the age of 65 who have satisfactorily fulfilled the examination as to physical and mental fitness and eyesight, to retain the same class of licence, until the statutory limit of 68 years of age.

(b) Pilotage for Vessels

Vessels of gross tonnage $\geq 1,000$ and $< 3,000$

6. Under section 10C of the Ordinance, compulsory pilotage is a general requirement for all ships of 3,000 gross tonnage or over. However, specifically for Kwai Tsing container terminals, taking account of the busy traffic situation at and near to those terminals, the law further requires that compulsory pilotage apply to ships of 1,000 gross tonnage or over that are proceeding to or from the container terminals. This requirement mainly targets at river trade cargo vessels that are regularly plying between the Mainland and Hong Kong.

7. Over the years, MD has been monitoring the traffic conditions in and out of the container terminal area. MD has also reviewed the operational experience in traffic management for river trade cargo vessels of 1,000 – 3,000 tonnages, including the requirement for them to seek prior approval from its Kwai Chung Control Station before entering the container terminal basin, as well as the restriction on the maximum number of such vessels at berths at any one time. After review, MD concluded that with the implementation of traffic management measures that have been put in place since 1999 and with improved technology, such as the installation of Automatic Identification System (AIS), which is able to track the speed and routing of these vessels, there is no practical need for compulsory pilotage of vessels under 3,000 gross tonnage proceeding to or from the container terminals. We agree that, with MD's additional traffic control measures in place supplemented by AIS monitoring, the overall management mechanism of vessels between 1,000 – 3,000 gross tonnages is functioning effectively, and therefore the requirement for compulsory pilotage can be streamlined.

Location of the pilot boarding station near Lam Kok Tsui in Urmston Road

8. The Ordinance has specified a list of pilotage boarding stations within Hong Kong waters where pilots board or disembark the vessels on their inward voyage to, or outward voyage from, Hong Kong. To improve navigation safety, MD proposes to change the location of the existing pilotage station in Urmston Road to a position of about 1.5 nautical miles north. The change can shorten the distance that ships entering or leaving Hong Kong may navigate without pilots. A chart is attached at **Annex B** to show the original and new locations of the pilot boarding station.

(c) Miscellaneous Amendments

9. To improve the administration of the Ordinance, we also propose to make miscellaneous amendments to, amongst others, empower the Secretary for Transport and Housing to determine payment of remuneration which in the past has been done administratively to members of a board of investigation appointed under the Pilotage (Disciplinary Procedure) Regulations; provide for appointment of a representative from the shipping agencies to the Pilotage Advisory Committee (PAC) for better representativeness of the Committee; and provide that a prescribed fee must be paid where an officer of the Marine Department has visited a ship or other site in assessing an application for exemption from compulsory pilotage. The fee would be prescribed separately in an Amendment Regulation to be submitted to this Council for approval after the Bill is passed by the Legislative Council. In the Bill, we have also included amendments to revise and update the description of specified wharves/berths/docks listed in Schedule 1 to the Pilotage Order (Cap. 84 sub. leg. C) for the purpose of setting out training requirements for registered apprentice pilots.

THE BILL

10. The main provisions of the Bill are as follows–

- (a) Clause 1 sets out the short title and provides for commencement.
- (b) Clause 3 amends section 4 of the Ordinance to expand the representation of the Pilotage Advisory Committee by including a person who represents the interests of the shipping agencies.
- (c) Clause 4 amends section 9A(2) of the Ordinance so that the Pilotage Authority (the “Authority”) may renew a licence of any class held by a pilot who applies under section 9A(1) of the Ordinance. This refers to a pilot who is about to attain the age of 65 years or who has attained the age of 65 years but has not attained the age of 68 years.
- (d) Clause 5 amends section 10D(3) of the Ordinance to provide that the Authority may exempt a ship other than one referred to in subsection (1) or (2). It also adds a new subsection (5) to section 10D

of the Ordinance to provide that an applicant for an exemption under section 10D(2) or (3) of the Ordinance must pay a prescribed fee to the Authority if an officer of the Marine Department has visited a ship or other site for assisting the Authority in considering whether or not to grant the exemption.

- (e) Clauses 6, 7, 9(1), (2) and (4) and 13 amend the term “gross registered tonnage” to “gross tonnage”.
- (f) Clause 8 adds a new section 19A to the Ordinance to provide for remuneration of a member of the board of investigation.
- (g) Clause 9(3) amends item 2 of Schedule 1 to the Ordinance so that a ship of 1 000 gross tonnage or over proceeding to or from any container terminal specified in the Third Schedule to the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) is no longer subject to compulsory pilotage.
- (h) Clause 10 amends item 3 of Schedule 2 to the Ordinance to change the location of a pilot boarding station.
- (i) Clause 11 amends paragraph 9 of the Pilotage Order (Cap. 84 sub. leg. C) (the Order) so that a registered apprentice pilot’s remuneration is payable by the person who has recruited the apprentice pilot.
- (j) Clause 12 amends Tables 1 and 3 of Schedule 1 to the Order to revise the list of wharves, berths or docks that are relevant in ascertaining the appropriate experience required for an applicant for a licence under the Ordinance and to make related changes.

LEGISLATIVE TIMETABLE

11. The Bill will be published in the Gazette on 8 March 2013 and introduced into the Legislative Council on 20 March 2013.

IMPLICATIONS OF THE PROPOSAL

12. The Bill has no financial, civil service, productivity, environmental or sustainability implications. It is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of the Ordinance. As to economic implications, the proposals would help smoothen the operation of the shipping industry and the pilotage sector.

PUBLIC CONSULTATION

13. We consulted the Legislative Council Panel on Economic Development on the legislative proposals on 26 November 2012. Given the vessel collision incident off Lamma Island on 1 October 2012, a Member

considered that the Administration should take steps to tighten safety standards rather than proposing to waive pilotage requirement for vessels below 3,000 gross tonnage that are proceeding to or from the container terminals. We explained that the proposed change is made based on the fact that additional control measures have been adopted by MD for over 10 years which have been found effective in managing and regulating marine traffic to and from the container terminals, and with operational experience gained over time, the proposed change should not affect maritime safety in that location. Another Member was concerned about whether there was adequate supply of pilots to meet the service needs. In response, we have noted that as far as we know, the supply situation was normal, but to expand the pool of maritime talents, the Administration has since 2004 been running the Sea-going Training Incentive Scheme (the Scheme) to encourage more young people to receive maritime training and develop a career in the maritime industry. To date, over 200 people have participated in the Scheme and that three of them have acquired the qualification of Master Mariner. These trainees are potential new blood to the pilotage sector after gaining relevant experience and qualifications. After discussion, Panel Members raised no objection to the proposed introduction of the Bill into the Legislative Council.

14. We also consulted the PAC which supported the proposed amendments. PAC is a statutory advisory committee represented by different stakeholders in the shipping industry including licensed pilots, ship-owners, liner operators, container terminal operators, the dockyard industry, etc.

PUBLICITY

15. A press release will be issued on 6 March 2013. A spokesman will be available to handle enquires.

BACKGROUND

16. Pilotage services are provided to ships visiting Hong Kong to ensure their safe navigation within Hong Kong waters, reduce the risk of accidents and avoid damage to port facilities. The Ordinance and its subsidiary legislation provide for the regulation of pilotage services including the pilotage dues that may be charged by the pilots for the services rendered.

ENQUIRIES

17. Any enquiries on this brief can be addressed to Mr. Desmond Wong, Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8261) or Mr. W.H. Wong, Senior Marine Officer (Tel: 2233 7813).

***Transport and Housing Bureau
6 March 2013***

Pilotage (Amendment) Bill 2013

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A BILL To

Amend the Pilotage Ordinance and its subsidiary legislation to enable the renewal of certain classes of licences held by pilots about to attain or having attained the age of 65 but below the age of 68; to remove the requirement of compulsory pilotage for certain ships on certain routes; to change the location of a pilot boarding station; and to provide for miscellaneous amendments for improving the operation of the Ordinance, and for incidental and related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Pilotage (Amendment) Ordinance 2013.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Section 5 comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

Part 2**Amendments to Pilotage Ordinance (Cap. 84)****3. Section 4 amended (establishment of Pilotage Advisory Committee)**

(1) Section 4(3)(a) and (b), English text—

Repeal

“interest”

Substitute

“interests”.

(2) After section 4(3)(b)—

Add

“(ba) a person who, in the opinion of the Chief Executive, represents the interests of the shipping agencies;”.

(3) Section 4(3)(c) to (h), English text—

Repeal

“interest”

Substitute

“interests”.

4. Section 9A amended (extension of service beyond the age of 65)

Section 9A(2)—

Repeal

“issue or renew, as may be appropriate, to the applicant a Class IIC licence as prescribed in the Pilotage Order (Cap. 84 sub. leg.) valid”

Substitute

“renew the applicant’s licence”.

5. Section 10D amended (exemption from compulsory pilotage)

(1) Section 10D(3)—

Repeal

“from compulsory pilotage if he is”

Substitute

“other than one referred to in subsection (1) or (2) from compulsory pilotage if”.

(2) After section 10D(4)—

Add

“(5) If an officer of the Marine Department, on application for an exemption to be granted under subsection (2) or (3), has visited a ship or other site for assisting the Authority in considering whether or not to grant the exemption, the applicant for the exemption must pay the prescribed fee for the visit to the Authority.”.

6. Section 10E amended (duty to report to Authority)

Section 10E(1)(a)(ii) and (2)(b)—

Repeal

“registered”.

7. Section 12 amended (information and assistance to pilot)

Section 12(1)(a)—

Repeal

“registered”.

8. Section 19A added

After section 19—

Add**“19A. Remuneration of member of board of investigation**

- (1) A member of a board of investigation is to be remunerated at a rate that takes account of the amount of work done and time spent by the member on the business of the board.
- (2) The remuneration is to be determined by the Secretary for Transport and Housing either generally from time to time or specifically in a particular case.
- (3) Nothing in this section authorizes the payment of remuneration to any person employed full time in any office of emolument under the Government.”.

9. Schedule 1 amended (ships subject to compulsory pilotage)

- (1) Schedule 1, item 1—

Repeal

“registered”.

- (2) Schedule 1, item 2—

Repeal

“registered”.

- (3) Schedule 1, item 2—

Repeal

“, and any container terminal specified in the Third Schedule.”.

- (4) Schedule 1, items 3, 4 and 5—

Repeal

“registered”.

10. Schedule 2 amended (pilot boarding stations)

Schedule 2, item 3—

Repeal

“latitude	22°	23′	30″	north,
longitude	113°	53′	30″	east.”

Substitute

“latitude	22°	25′	01″	north,
longitude	113°	53′	12″	east.”.

Part 3**Amendments to Pilotage Order (Cap. 84 sub. leg. C)****11. Paragraph 9 amended (remuneration of apprentice pilots)**

Paragraph 9—

Repeal

“shall be not less than \$15,000 per month which shall be payable by the Hong Kong Pilots Association Limited”

Substitute

“must be not less than \$15,000 per month which is to be payable by the person who has recruited the registered apprentice pilot”.

12. First Schedule amended (appropriate experience of applicant)

(1) First Schedule, Table 1, item 1, second column—

Repeal

“North Berth—
(Inner)
(Outer)”

Substitute

“North Berth”.

(2) First Schedule, Table 1, item 1, third column—

Repeal

“or North (Inner) when another ship of any length was occupying South (Outer) or North (Outer)”

Substitute

“when another ship of any length was occupying South (Outer)”.

(3) First Schedule, Table 1, item 2, second column—

Repeal

“Berth No. 9”

Substitute

“Berth No. 9

Berth No. 15

Berth No. 16

Berth No. 17

Berth No. 18

Berth No. 19

Berth No. 20”.

(4) First Schedule, Table 1, item 2, third column—

Repeal

“3 berthings and 3 unberthings (of which 1 berthing and 1 unberthing must have commenced during the hours between sunset and sunrise) of a ship of any length”

Substitute

“2 berthings and 2 unberthings (of which 1 berthing and 1 unberthing must have commenced during the hours between sunset and sunrise) of a ship of any length”.

(5) First Schedule, Table 1, item 4, second column—

Repeal

“and west inner berth”

Substitute

“, west inner berth and No. 3 berth”.

- (6) First Schedule, Table 1, item 4, second column—
Repeal
 “(Shell inner LPG berth)”
Substitute
 “(Shell inner LPG berth)
 (Caltex LPG berth)”.
- (7) First Schedule, Table 1, item 4, second column—
Repeal
 “(Whampao)
 (Yiu Lian No. 1)”
Substitute
 “(United)
 (Yiu Lian No. 1)
 (Yiu Lian No. 3)”.
- (8) First Schedule, Table 1—
Repeal item 5.
- (9) First Schedule, Table 1, item 7—
Repeal

“China Cement Company Wharf	3 berthings and 3 unberthings of a ship exceeding 168 metres in length.”
Substitute	
“China Cement Company Wharf	3 berthings and 3 unberthings of a ship exceeding 168 metres in length.
Permanent Aviation Fuel Facility	3 berthings and 3 unberthings (of which 1 berthing and 1

- unberthing must have commenced during the hours between sunset and sunrise) of a ship of any length; and 1 berthing and 1 unberthing of a ship exceeding 168 metres in length when another ship of the same length or longer was occupying part of the berth.
- Shiu Wing Steel Wharf 2 berthings and 2 unberthings of a ship exceeding 168 metres in length.”.
- (10) First Schedule, Table 1, item 8, third column—
Repeal
 “of a ship exceeding 168 metres in length”
Substitute
 “(of which 1 berthing and 1 unberthing must have commenced during the hours between sunset and sunrise) of a ship exceeding 168 metres in length; and 1 berthing and 1 unberthing of a ship exceeding 168 metres in length when another ship of the same length or longer was occupying part of the berth”.
- (11) First Schedule, Table 1, item 8—
Repeal
 “Sok Kwu Wan—
 Cement Wharf 1 berthing and 1 unberthing of a ship of any length.”.
- (12) First Schedule, Table 3, item 1, second column—
Repeal

“North Berth—
(Inner)
(Outer)”

Substitute

“North Berth”.

- (13) First Schedule, Table 3, item 2, second column—

Repeal

“Berth No. 9”

Substitute

“Berth No. 9

Berth No. 15

Berth No. 16

Berth No. 17

Berth No. 18

Berth No. 19

Berth No. 20”.

- (14) First Schedule, Table 3, item 3—

Repeal

“H.K. United Dockyards Seawalls Wharf	2 berthings and 2 unberthings of a ship of any length.”
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Substitute

“H.K. United Dockyards Seawalls Wharf	}	2 berthings and 2 unberthings of a ship of any length at each wharf.”.
Yiu Lian Seawalls Wharf		

Part 4

**Consequential Amendments to Pilotage (Dues) Order
(Cap. 84 sub. leg. D)**

13. Schedule amended

- (1) The Schedule, Part 1, paragraph 1(a), (b), (c) and (d)—

Repeal

“registered” (wherever appearing).

- (2) The Schedule, Part 1, Notes, paragraph (c)—

Repeal

“registered”.

Explanatory Memorandum

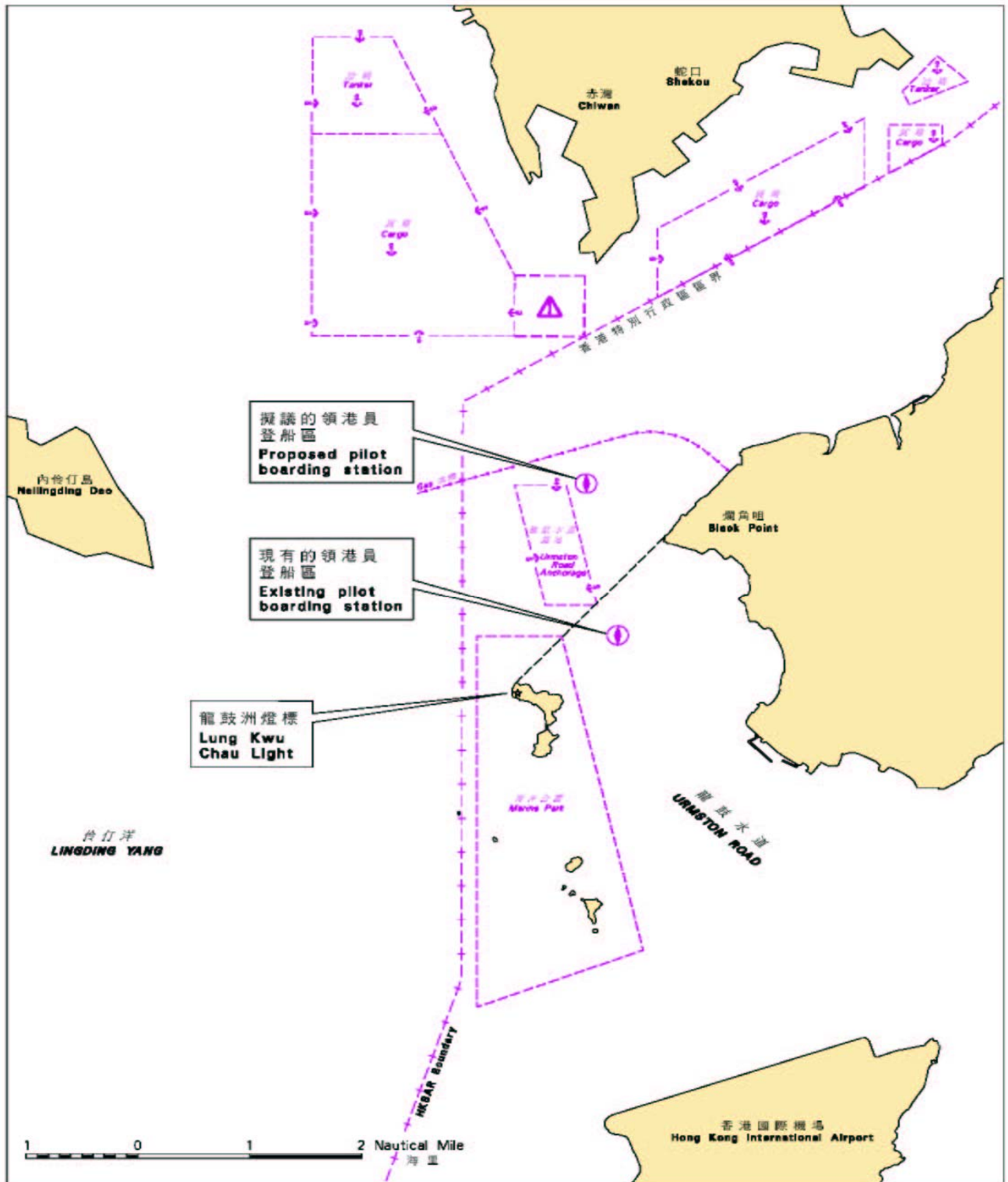
The object of this Bill is to improve the operation of the Pilotage Ordinance (Cap. 84) (*the Ordinance*) and its subsidiary legislation.

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 amends section 4 of the Ordinance to expand the representation of the Pilotage Advisory Committee by including a person who represents the interests of the shipping agencies.
4. Clause 4 amends section 9A(2) of the Ordinance so that the Pilotage Authority (*Authority*) may renew a licence of any class held by a pilot who applies under section 9A(1) of the Ordinance. This refers to a pilot who is about to attain the age of 65 years or who has attained the age of 65 years but has not attained the age of 68 years.
5. Clause 5 amends section 10D(3) of the Ordinance to provide that the Authority may exempt a ship other than one referred to in subsection (1) or (2). It also adds a new subsection (5) to section 10D of the Ordinance to provide that an applicant for an exemption under section 10D(2) or (3) of the Ordinance must pay a prescribed fee to the Authority if an officer of the Marine Department has visited a ship or other site for assisting the Authority in considering whether or not to grant the exemption.
6. Clauses 6, 7, 9(1), (2) and (4) and 13 amend the term “gross registered tonnage” to “gross tonnage”.
7. Clause 8 adds a new section 19A to the Ordinance to provide for remuneration of a member of the board of investigation.
8. Clause 9(3) amends item 2 of Schedule 1 to the Ordinance so that a ship of 1 000 gross tonnage or over proceeding to or from any container terminal specified in the Third Schedule to the Dangerous

Goods (Shipping) Regulations (Cap. 295 sub. leg. C) is no longer subject to compulsory pilotage.

9. Clause 10 amends item 3 of Schedule 2 to the Ordinance to change the location of a pilot boarding station.
10. Clause 11 amends paragraph 9 of the Pilotage Order (Cap. 84 sub. leg. C) (*the Order*) so that a registered apprentice pilot's remuneration is payable by the person who has recruited the apprentice pilot.
11. Clause 12 amends Tables 1 and 3 of Schedule 1 to the Order to revise the list of wharves, berths or docks that are relevant in ascertaining the appropriate experience required for an applicant for a licence under the Ordinance and to make related changes.

Annex B



海軍處海道測量部於2002年4月繪製
 Prepared by the Hydrographic Office,
 Marine Department. April 2002

基準 WGS84
 Datum WGS84

圖則編號
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