



Australian Government

Australian Maritime Safety Authority

AMSA MO 2014/8

Marine Order 54 (Coastal pilotage) 2014

I, Graham Peachey, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 342(1) of the *Navigation Act 2012*.

21 May 2014

Graham Peachey
Chief Executive Officer

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Division 1 General

1 Name of Order

This Order is *Marine Order 54 (Coastal pilotage) 2014*.

1A Commencement

This Order commences on 1 July 2014.

1B Repeal of *Marine Order 54 (Coastal pilotage) 2011*

Marine Order 54 (Coastal Pilotage) 2011 is repealed.

2 Purpose

This Order:

- (a) provides for licensing of pilotage providers and pilotage provider operations; and
- (b) provides for licensing of pilots and the performance of pilot duties; and
- (c) prescribes compulsory pilotage areas for Part 2 of Chapter 6 of the Navigation Act and for compulsory pilotage in those areas; and
- (d) prescribes required information for applications for an exemption from the requirement to navigate with a pilot.

3 Power

- (1) The following provisions of the Navigation Act provide for this Order to be made:
 - (a) section 163 which provides that regulations may prescribe waters that are compulsory pilotage areas for Part 2 of Chapter 6;
 - (b) section 164 which provides that regulations may provide for the licensing of pilots and pilotage providers;
 - (c) subsection 165(1) which provides that regulations may provide for the operations of licensed pilots and pilotage;
 - (d) subsection 165(2) which provides that regulations may provide for the duties of a licensed pilot and pilotage provider and the manner in which they discharge their duties;
 - (e) subsection 172(2) which provides that an application for an exemption from the requirement to navigate with a pilot must contain the prescribed information;
 - (f) section 314 which provides that regulations may provide for matters relating to certificates.
- (2) Subsection 339(1) of the Navigation Act provides a general regulation making power for matters required or permitted to be prescribed by the Navigation Act, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- (3) Subsection 342(1) of the Navigation Act provides for the making of Marine Orders for any matter for which provisions must or may be made by the regulations.

Section 4**4 Definitions**

(1) In this Order:

approved auditor — see section 21.

approved bridge simulator means a bridge simulator that AMSA has approved as meeting the performance standards mentioned in STCW Code Section A-1/12 for bridge simulators.

approved fatigue risk management plan means a plan approved under section 39.

approved pilotage training course, for an approved pilotage training provider, means a training course, which may involve use of an approved bridge simulator, for which the pilotage training provider holds a pilotage training course approval under section 73.

approved pilotage training provider means a person that holds a pilotage training course approval under section 73.

Certificate of Medical Fitness — see *Marine Order 9 (Health — medical fitness) 2010*, section 2, meaning of **Certificate of Medical Fitness**.

check pilot means a person who holds a check pilot licence.

check pilot licence means a pilot licence that permits the person holding the licence to perform check pilot duties for a stated pilotage area.

check pilot voyage means a voyage on which a pilot's competency is being assessed by a check pilot.

competency assessment means a process of checking the competency of a pilot, that may include:

- (a) use of an approved bridge simulator;
- (b) observation of operations at sea;
- (c) oral or written examination.

compliance audit, for a pilotage provider, means an audit conducted under Subdivision 2.4 by or for AMSA to establish whether the pilotage provider complies with this Order, including the requirements for a fatigue risk management system and a safety management plan.

compliance period, for a person holding a pilotage provider licence, means each period of 1 year beginning on 1 July.

cruise ship anchorage means:

- (a) for the Whitsundays Plan of Management 1998 — an anchorage specified in the *Great Barrier Reef Marine Park Regulations 1983*; and
- (b) for a cruise ship anchorage in the Great Barrier Reef Marine Park — see the *Great Barrier Reef Marine Park Regulations 1983*, regulation 3.

demerit infringement, for a person holding a pilotage provider licence, means the contravention of a licence condition that is mentioned in Schedule 2.

demerit points register means the register under section 37.

designated anchorage means a point or an area described in the *Great Barrier Reef Marine Park Regulations 1983*, Schedule 1.

designated person — see clause 4 of Schedule 1.

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draught, for a vessel, means the vertical distance between the waterline and the lowest part of the vessel, as measured when the vessel is stopped in the water and not making way.

fatigue risk management plan (or ***FRMP***) means:

- (a) if a fatigue risk management plan is approved under section 39 — the approved fatigue risk management plan; or
- (b) in any other case — the default fatigue risk management plan published by AMSA.

Great North East Channel pilotage area means the area bounded by a line that progressively joins, on geodesic lines, the following points:

Point	Latitude	Longitude
1	10° 41.0S	141° 50.0E
2	10° 28.0S	141° 50.0E
3	10° 28.0S	142° 27.0E
4	10° 18.0S	142° 48.0E
5	9° 48.0S	143° 08.0E
6	9° 30.0S	143° 24.0E
7	9° 45.0S	143° 24.0E
8	10° 20.0S	143° 00.0E
9	10° 41.0S	141° 50.0E

Hydrographers Passage pilotage area means the area defined as the Hydrographers Passage under subregulation 118(3) of the *Great Barrier Reef Marine Park Regulation 1983*.

incident means an incident, other than a regulatory incident, that:

- (a) involves a pilot launch or a vessel piloted by a person contracted or employed by a pilotage provider; and
- (b) is any of the following:
 - (i) a marine incident;
 - (ii) the illness of a person that may affect the safe operation of the vessel;
 - (iii) a close quarters situation;
 - (iv) machinery or equipment failure on board the launch or vessel that may affect the safe operation of the vessel;
 - (v) pollution from the launch or vessel, including pollution from sewage or garbage.

inner route pilotage area means:

- (a) the waters bounded by:
 - (i) the Australian mainland; and
 - (ii) the outer eastern edge of the REEFREP area; and
 - (iii) the northern boundary of the Great Barrier Reef Region that is latitude 10° 41.00'S; and

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(iv) latitude 16°39.91'S; and

- (b) the Torres Strait, excluding the waters north of latitude 10° 28.00'S and east of longitude 142° 39.00'E.

Note 1 For subparagraph (a)(ii), the outer eastern edge of the REEFREP area is depicted on official nautical charts produced by the Australian Hydrographic Service. Those charts refer to this area as the REEFREP Reporting Area.

Note 2 For subparagraph (a)(iii), the Great Barrier Reef Region is defined in the *Great Barrier Reef Marine Park Act 1975*.

internal audit means an examination of the measures and procedures of a pilotage provider carried out by or for the pilotage provider to verify if the measures and procedures mentioned in this Order have been implemented correctly.

MSLS means a maritime survivor locating system.

National Regulator — see section 6 of the national law.

on duty, for a pilot on board a piloted vessel in a pilotage area, means the period from when the pilot commences pilotage duties to when the pilot ceases pilotage duties, including any period when the pilot is not on the bridge.

operational safety meeting means a meeting conducted by a pilotage provider with the following persons to discuss operational safety issues:

- (a) the designated person or a representative of the designated person;
- (b) a representative of the pilotage crew of the pilotage provider;
- (c) representatives of employees of the pilotage provider.

passage plan model means the model for detailed passage plans for pilotages in the Great Barrier Reef and Torres Strait approved by AMSA for clause 2 of Schedule 3 or for section 93 of *Marine Order 54 (Coastal Pilotage) 2011*.

Note: Passage plan models for the Great Barrier Reef and Torres Strait are available on AMSA's website at <http://www.amsa.gov.au>.

pilot launch means a vessel that is being operated to transfer a pilot to or from a vessel for the purpose of pilotage.

pilot licence — see section 46.

pilotage area means an area mentioned in section 6.

pilotage crew, of a pilotage provider, means:

- (a) each pilot contracted or employed by the pilotage provider, including trainee pilots; and
- (b) each seafarer of each pilot launch operated by the pilotage provider.

pilotage provider licence means a licence issued under Division 2 to a person to conduct business as a pilotage provider.

REEFREP means the reporting system provided for in *Marine Order 56 (REEFREP) 2004*.

REEFREP area — see *Marine Order 56 (REEFREP) 2004*, section 2, definition of **REEFREP area**.

REEFVTS — see *Marine Order 56 (REEFREP) 2004*, section 2, definition of **REEFVTS**.

regulatory action:

- (a) for regulatory action against a pilotage provider — see Subdivision 2.5; and

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(b) for regulatory action against a licensed pilot — see Subdivision 6.5.

regulatory incident, for a person holding a pilotage provider licence, means the action or inaction that gives rise to a demerit infringement.

restricted pilot licence means a pilot licence that permits the licensee to pilot a vessel in a stated pilotage area other than piloting any of the following vessels:

- (a) a loaded oil tanker;
- (b) a loaded chemical carrier;
- (c) a loaded liquefied gas carrier;
- (d) for a pilotage area other than the Hydrographers Passage pilotage area — a vessel with draught exceeding the draught endorsed on the pilot licence under section 58.

reviewable decision means a decision mentioned in Schedule 6.

safety management system, for a pilotage provider, means a system for coordinating and managing the pilotage provider's operations that minimises the risk of personal injury and environmental damage.

State includes the Northern Territory.

Torres Strait means the waters bounded:

- (a) on the south by latitude 10° 41.00' S; and
- (b) on the east:
 - (i) for a vessel moving eastward — by longitude 143° 22.00' E; or
 - (ii) for any other vessel — by longitude 143° 24.00' E; and
- (c) on the north by the line of Australia's exclusive economic zone; and
- (d) on the west:
 - (i) for a vessel of less than 8 m draught — by longitude 142° 05.00' E; or
 - (ii) for a vessel of 8 m draught or more moving eastward — by longitude 141° 50.00' E; or
 - (iii) for a vessel of 8 m draught or more moving westward — by longitude 141° 51.70' E.

trainee pilot licence means a pilot licence that permits the licensee to undertake training activities for the purpose of obtaining a restricted pilot licence.

UKCM system means the underkeel clearance management system implemented by AMSA.

unrestricted pilot licence means a pilot licence that permits the licensee to pilot any vessel in a stated pilotage area.

vary, for a licence, includes the following:

- (a) vary an existing licence condition;
- (b) impose a new licence condition;
- (c) remove an existing licence condition.

Whitsundays pilotage area means the area defined as the **Whitsundays compulsory pilotage area** by the *Great Barrier Reef Marine Park Regulation 1983*, regulation 118(4).

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- (2) A pilot:
- (a) ***commences pilotage duties*** when the vessel on which the pilot is on board as pilot enters the compulsory pilotage area in which the pilotage is to be conducted; and
 - (b) ***ceases pilotage duties*** when the vessel on which the pilot is on board as pilot leaves the compulsory pilotage area in which the pilotage was conducted.

Note 1 Some terms used in this Order are defined in *Marine Order 1 (Administration) 2013*, including:

- AMSA Act
- national law
- National Standard for Commercial Vessels (or *NSCV*)
- Navigation Act.

Note 2 Other terms used in this Order are defined in the Navigation Act, including:

- AMSA
- coastal sea of Australia
- licensed pilot
- marine incident
- pilot
- pilotage provider
- recognised organisation
- seafarer
- STCW Convention
- vessel.

Note 3 For delegation of AMSA's powers under this Order — see the AMSA website at <http://www.amsa.gov.au>.

5 Interpretation

In this Order, the position of a meridian of longitude or a parallel of latitude is with reference to the World Geodetic System 1984.

6 Application

- (1) For paragraph 162(2)(a) of the Navigation Act, this Order applies to pilots and pilotage of vessels that are in, or in transit to or from waters in:
 - (a) the Great North East Channel pilotage area;
 - (b) the inner route pilotage area;
 - (c) the Torres Strait;
 - (d) the Whitsundays pilotage area.
- (2) For paragraph 162(2)(b) of the Navigation Act, this Order applies to pilots and pilotage of vessels in any waters of the Hydrographers Passage compulsory pilotage area.

Note 1 All the areas mentioned in this section are in the coastal sea of Australia other than the Hydrographers Passage pilotage area that is outside the territorial sea of Australia and within the exclusive economic zone of Australia.

Note 2 The *Great Barrier Reef Marine Park Regulations 1983* prescribe the Hydrographers Passage, the inner route and the Whitsundays pilotage area to be compulsory pilotage areas for the *Great Barrier Reef Marine Park Act 1975* — see *Great Barrier Reef Marine Park Regulation 1983*, r 118.

Note 3 For the kinds of vessels to which this Order applies — see subsection 162(1) and Part 3 of Chapter 1 of the Navigation Act.

7 Compulsory pilotage areas — Navigation Act, s 163(1)

For subsection 163(1) of the Navigation Act, the following waters are compulsory pilotage areas:

- (a) the Great North East Channel pilotage area;
- (b) the Hydrographers Passage pilotage area;
- (c) the inner route pilotage area;
- (d) the Torres Strait;
- (e) the Whitsundays pilotage area.

8 Duties of licensed pilot and licensed pilotage provider — Navigation Act, s 169(1)

For paragraph 169(1)(a) of the Navigation Act:

- (a) a duty of a licensed pilot is to provide information and advice while on a vessel to the master of the vessel to assist the safe navigation of the vessel in a compulsory pilotage area; and
- (b) a duty of a licensed pilotage provider is to provide pilots and pilot transfers to a vessel and maintain a safety management system to ensure the safe navigation of the vessel in a compulsory pilotage area.

Note 1 It is an offence for a person to perform duties of a licensed pilot or a licensed pilotage provider if the person is not a licensed pilot or a licensed pilotage provider — see section 169 of the Navigation Act.

Note 2 It is an offence for a person to engage a person to perform duties of a licensed pilot if the person engaged is not a licensed pilot — see section 171 of the Navigation Act.

Division 2 Pilotage providers

Subdivision 2.1 Application, decision etc

9 Application

- (1) A person (the *applicant*) may apply to AMSA for a pilotage provider licence.

Note 1 Giving false or misleading information is an offence against the Criminal Code, sections 136.1 and 137.1.

Note 2 A fee may be determined for this section — see the AMSA Act, s 47.

- (2) The application must:

- (a) be in writing; and
- (b) include the applicant's proposed safety management system.

Note 1 For the mandatory requirements for a safety management system — see section 43.

Note 2 If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA may, in writing, require the applicant to give AMSA additional information or documents that AMSA reasonably needs to decide the application.

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- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.
- (5) AMSA must, within 60 days after AMSA receives the application, conduct a compliance audit of the applicant under section 20.

10 Decision on application

- (1) This section applies if AMSA receives an application for a pilotage provider licence under section 9.
 - (2) AMSA must, within 90 days after AMSA receives the application:
 - (a) decide the application; and
 - (b) tell the applicant, in writing, about the decision on the application.
 - (3) AMSA must:
 - (a) issue the licence; or
 - (b) refuse to issue the licence.
- Note* A decision under this section is a reviewable decision — see section 83.
- (4) If AMSA does not issue a pilotage provider licence to the applicant within 90 days after receiving the application, AMSA is taken to have refused to issue the licence.
 - (5) AMSA may issue a pilotage provider licence to the applicant only if AMSA is satisfied that:
 - (a) a compliance audit has been conducted under Subdivision 2.4 for the application and AMSA is satisfied with the systems of the pilotage provider mentioned in subsection 22(3); and
 - (b) the applicant can comply with the Navigation Act and this Order.
 - (6) Subsection (5) does not limit the matters AMSA may consider in making a decision under this section.
 - (7) When AMSA issues a pilotage provider licence to the applicant under this section, it is taken to have approved the applicant's proposed safety management system.
 - (8) AMSA may revoke in writing the approval of a safety management system at any time if AMSA considers that the system no longer complies with the mandatory requirements for a safety management system.

Note For the mandatory requirements for a safety management system — see section 43.

11 Form of licence

- (1) A licence issued under section 10 must:
 - (a) be in writing; and
 - (b) state the following:
 - (i) the name of the pilotage provider;
 - (ii) the pilotage provider's ABN;
 - (iii) if the pilotage provider is a corporation — the pilotage provider's ACN;
 - (iv) the address of the principal place of business for the pilotage provider;
 - (v) when the licence comes into force;
 - (vi) when the licence expires;

- (vii) any other conditions on the licence imposed by AMSA under paragraph 12(1)(c).
- (2) AMSA may include anything else in the licence AMSA considers relevant.

12 Licence conditions

- (1) A pilotage provider licence is subject to the following conditions:
 - (a) that the pilotage provider comply with this Order;
 - (b) each condition set out in Schedule 1;
 - (c) any other condition imposed by AMSA when the licence is issued, renewed or varied.
- (2) A person holding a pilotage provider licence must comply with each condition of the licence.

Note Failure to comply with a condition of a pilotage provider licence may result in regulatory action against the pilotage provider under Subdivision 2.5, or in the pilotage provider incurring demerit points under Division 3.

13 Licence term

- (1) A pilotage provider licence:
 - (a) comes into force on the day it is issued; and
 - (b) expires:
 - (i) 5 years after the day when the licence is issued; or
 - (ii) if AMSA determines an earlier expiry day — on that day.
- (2) However, the licence may remain in force in accordance with subsection 16(5).

Subdivision 2.2 Variation and renewal

14 Variation initiated by AMSA

- (1) AMSA may, by written notice (a **variation notice**) given to a person holding a pilotage provider licence, vary the licence.

Note **vary** includes vary, impose or remove a licence condition — see section 4.
- (2) However, AMSA may vary the pilotage provider licence only if:
 - (a) AMSA has given the pilotage provider written notice (a **proposal notice**) of the proposed variation; and
 - (b) the proposal notice states that written comments on the proposal may be made to AMSA before the end of a stated period of at least 30 days after the proposal notice is given to the provider; and
 - (c) after the end of the stated period, AMSA has considered any comments made in response to the notice.
- (3) Subsection (2) does not apply if the pilotage provider applied for, or agreed in writing to, the variation.
- (4) The variation takes effect on the day the variation notice is given to the pilotage provider or a later day stated in the notice.

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15 Variation initiated by pilotage provider

- (1) A person holding a pilotage provider licence may apply to AMSA to vary the licence.

Note 1 A fee may be determined for this section — see the *AMSA Act*, s 47.

Note 2 **vary** includes vary, impose or remove a licence condition — see section 4.

Note 3 A pilotage provider must apply to AMSA to vary the licence if the pilotage provider proposes to vary the pilotage provider's safety management system — see section 41.

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) state the way the licence is proposed to be varied.

Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA may, in writing, require the pilotage provider to give AMSA additional information or documents that AMSA reasonably needs to decide the application.
- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.
- (5) AMSA must, within 30 days after AMSA receives the application:
 - (a) decide the application for variation; and
 - (b) tell the pilotage provider, in writing, about the decision on the application.
- (6) AMSA must:
 - (a) vary the licence; or
 - (b) refuse to vary the licence.

Note A decision under this subsection is a reviewable decision — see section 83.

- (7) If the pilotage provider does not comply with a requirement under Subdivision 2.4, AMSA may refuse to vary the licence.
- (8) If AMSA does not vary the licence within 30 days after receiving the application, AMSA is taken to have refused to vary the licence.

16 Application for renewal

- (1) A person holding a pilotage provider licence may apply to AMSA for renewal of the licence.

Note 1 If the person does not apply for renewal of the licence the licence will expire — see section 15. The person may then apply for a new licence under section 9.

Note 2 A fee may be determined for this section — see the *AMSA Act*, s 47.

- (2) An application must be in writing.

Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA may, in writing, require the applicant to give AMSA additional information or documents that AMSA reasonably needs to decide the application.
- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.

- (5) If a pilotage provider applies for renewal of a licence under this section, the licence remains in force until the application is decided.

17 Decision on application for renewal

- (1) This section applies if AMSA receives an application for renewal of a pilotage provider licence under section 16.
- (2) AMSA must not later than 90 days after AMSA receives the application:
- (a) decide the application for renewal; and
 - (b) tell the pilotage provider, in writing, about the decision on the application.
- (3) AMSA must:
- (a) renew the licence; or
 - (b) refuse to renew the licence.
- Note* A decision under this section is a reviewable decision — see section 83.
- (4) If AMSA does not renew the pilotage provider licence of the pilotage provider within 90 days after receiving the application, AMSA is taken to have refused to renew the licence.
- (5) AMSA may renew a pilotage provider licence only if it is satisfied that:
- (a) a compliance audit has been conducted under Subdivision 2.4 for the application which shows the systems of the pilotage provider comply with this Order; and
 - (b) the pilotage provider can comply with the Navigation Act and this Order.
- (6) Subsection (5) does not limit the matters AMSA may consider in making a decision under this section.

Subdivision 2.3 Surrender and return of licences

18 Surrender of licence

- (1) A pilotage provider may surrender a pilotage provider licence issued to the provider, that is in force or not in force, by giving written notice (a **surrender notice**) of the surrender to AMSA.
- (2) The surrender notice must be accompanied by:
- (a) the licence; or
 - (b) if the licence has been lost, stolen or destroyed — a statutory declaration signed by the pilotage provider stating that the licence has been lost, stolen or destroyed.

Note 1 If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

Note 2 The *Statutory Declarations Act 1959* applies to the making of statutory declarations.

19 Return of licence

If a person ceases to be a licensed pilotage provider before the person's licence expires under section 13, the person must return the licence to AMSA no later than 14 days after the person ceases to be a licensed pilotage provider.

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Subdivision 2.4 Compliance audits

20 When compliance audit may be conducted

- (1) AMSA, or an approved auditor of behalf of AMSA, may conduct a compliance audit of a person in any of the following circumstances:
 - (a) the person applies for a pilotage provider licence under section 9;
 - (b) AMSA decides to vary the person's pilotage provider licence under section 14;
 - (c) the person applies for a variation of the person's pilotage provider licence under section 15;
 - (d) it is within 90 days before or after the anniversary of the date of issue of the person's pilotage provider licence that was issued for a term of at least 12 months;
 - (e) the person applies for a renewal of the person's pilotage provider licence under section 16;
 - (f) AMSA determines that a pilotage provider may not be complying with provisions of this Order other than for conduct that is the subject of a suspension of a pilotage provider under Division 3;
 - (g) AMSA determines it is necessary to conduct an audit of a pilotage provider at any time other than a time mentioned in paragraphs (a) to (f).

Note 1 **approved auditor** — see section 21.

Note 2 For reasons for auditing — see section 22.

Note 3 A fee may be determined for this section — see the *AMSA Act*, s 47.

- (2) An approved auditor must conduct an audit in accordance with the directions of AMSA.

21 Persons approved to conduct audits

- (1) For an audit required by AMSA, AMSA may approve a person (an **approved auditor**) to conduct the audit on behalf of AMSA.
- (2) This section does not prevent AMSA from conducting an audit itself.

22 Reason for audit

- (1) A compliance audit may be conducted for the purpose of:
 - (a) substantiating information provided to AMSA; or
 - (b) deciding whether a person has complied with the Act or the conditions of the person's pilotage provider licence or proposed pilotage provider licence.
- (2) A compliance audit may be conducted for the purpose of identifying:
 - (a) compliance with provisions of this Order; or
 - (b) the effectiveness of the pilotage provider's safety management system; or
 - (c) eligibility of a person to hold a pilotage provider licence; or
 - (d) compliance with any conditions on holding a pilotage provider licence.

- (3) A compliance audit may review all aspects of a person's systems that are relevant to this Order.

23 Requirement to comply

A person who is the subject of a compliance audit under this Subdivision must comply with the reasonable requirements of the person conducting the audit.

24 Powers not limited by compliance audit provisions

- (1) This Subdivision does not limit the power of AMSA to inquire into the activities of a pilotage provider.
- (2) If AMSA inquires into the activities of a pilotage provider, the provider must respond to the satisfaction of AMSA to any request made by AMSA for the inquiry.

Subdivision 2.5 Regulatory action

25 Grounds for regulatory action

Each of the following is a *ground for regulatory action* against a person who holds a pilotage provider licence:

- (a) the person gave information to AMSA for the application for, or an application for variation or renewal of, the provider's licence that was false or misleading;
- (b) the person has contravened, or is contravening, the Navigation Act or this Order;
- (c) the person has contravened, or is contravening, any other law of the Commonwealth or a State or Territory.

Note for paragraph (a) Giving false or misleading information is an offence against the Criminal Code, sections 136.1 and 137.1.

26 Forms of regulatory action

- (1) Each of the following is *regulatory action* when taken against a person who holds a pilotage provider licence:
- (a) reprimanding the person;
- (b) directing the person to do a stated thing;
- (c) varying the pilotage provider licence, including by imposing a condition on the licence or varying an existing condition of the licence;
- (d) suspending the pilotage provider licence:
- (i) for a stated period; or
- (ii) until a stated event happens;
- (e) cancelling the pilotage provider licence;
- (f) disqualifying the person from applying for a pilotage provider licence:
- (i) for a stated period; or
- (ii) until a stated event happens.
- (2) A person must comply with a direction by AMSA to do a stated thing.

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27 Taking regulatory action

- (1) If AMSA proposes to take regulatory action in relation to a person holding a pilotage provider licence, AMSA must give the person a written notice (a **regulatory notice**) that:
 - (a) states the proposed regulatory action, including any proposed disqualification period, suspension period or variation of a pilotage provider licence; and
 - (b) states the ground for the proposed regulatory action; and
 - (c) tells the person that the person may, within 30 days after the person receives the notice, give a written response to AMSA about the notice.
- (2) In deciding whether to take regulatory action, AMSA must consider any response given to AMSA by the person in accordance with the regulatory notice.
- (3) AMSA may take the proposed regulatory action against the person if satisfied that:
 - (a) a ground for regulatory action has been established for a person; and
 - (b) if the ground is a ground mentioned in paragraph 25(c) — it is in the public interest for the proposed regulatory action to be taken against the person.

Note A decision under this subsection is a reviewable decision — see section 83.
- (4) AMSA must give the person written notice of AMSA's decision and the reasons for decision.
- (5) Regulatory action under subsection (3) takes effect when the notice of the decision is given to the person or, if the notice states a later date of effect, that date.

28 Immediate suspension of licence

- (1) AMSA may give a person holding a pilotage provider licence a written notice (an **immediate suspension notice**) immediately suspending the pilotage provider licence if AMSA reasonably considers that there is a ground for regulatory action and it is in the public interest that the licence be suspended before a decision is made whether to take regulatory action under subsection 27(3) on the regulatory ground.
- (2) If an immediate suspension notice is given to the person:
 - (a) the suspension takes effect when the notice is given to the person; and
 - (b) the person must surrender the licence to AMSA.
- (3) AMSA must, within 14 days after giving a person an immediate suspension notice:
 - (a) give the person a regulatory notice in accordance with section 27; or
 - (b) tell the person in writing that regulatory action will not be taken against the person for the same circumstances.
- (4) The immediate suspension of the licence ends when the earliest of the following happens:
 - (a) if the person is told in writing under paragraph (3)(b) that regulatory action will not be taken against the person for the same circumstances — the day AMSA tells the person;
 - (b) if the person is given a regulatory notice under paragraph (3)(a) — the day the regulatory action proposed in the notice takes effect;

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- (c) if the person is not given either notice under subsection (3) within 14 days after the immediate suspension notice was given to the person — 14 days after the suspension had effect;
- (d) AMSA revokes the immediate suspension notice.

29 Effect of suspension of licence

If a pilotage provider licence is suspended, the licence does not authorise the pilotage provider to carry on any activity authorised by the pilotage provider licence during the suspension.

Note It is an offence to perform prescribed duties of a licensed pilotage provider without a pilotage provider licence — see section 169 of the Navigation Act.

30 Taking regulatory action generally subject to demerit points system

AMSA may take regulatory action against a pilotage provider for a regulatory incident if the pilotage provider incurs at least 40 demerit points within 12 months after the first demerit point incurred after 30 June in any year.

Note 1 A pilotage provider may incur demerit points only for a regulatory incident — see section 31. For the definition of **regulatory incident** — see section 4.

Note 2 This provision does not prevent AMSA from taking regulatory action against a pilotage provider for a regulatory incident before 40 points are accrued in the period. Any regulatory action may only be taken if AMSA is satisfied that there is a ground for regulatory action — see s 27(3).

Division 3 Demerit points and register**31 Demerit infringements and points**

- (1) A pilotage provider may incur demerit points if the pilotage provider is responsible for a demerit infringement.

Note For the definition of **demerit infringement** — see section 4.

- (2) If the demerit infringement relates to the action or inaction of a pilot during conduct of pilotage for a pilotage provider by whom the pilot is not usually contracted or employed, the pilotage provider that engaged the pilot to conduct the pilotage is responsible for the infringement.
- (3) A pilotage provider may incur 18 demerit points for failure to comply with a direction under section 27 that is regulatory action.
- (4) The number of demerit points that may be incurred for a demerit infringement is the number mentioned in Schedule 2 for the infringement or in subsection (3).

32 Recording demerit points

- (1) If AMSA decides that a pilotage provider is to incur demerit points for a demerit infringement, AMSA must:
 - (a) record the points in the demerit points register; and
 - (b) tell the pilotage provider, in writing:
 - (i) the number of demerit points the pilotage provider has incurred for the demerit infringement or failure to comply with a direction under section 27; and

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- (ii) the number of demerit points the pilotage provider may incur before regulatory action may be taken against the pilotage provider under section 27.

Note For the demerits point register — see s 37.

- (2) Failure to comply with subsection (1) does not affect the validity of anything done by AMSA.

33 When demerit points incurred

A demerit point is taken to have been *incurred* on the day AMSA records the points in the register.

34 Clearing demerit points

- (1) AMSA must:
 - (a) delete demerit points incurred by a pilotage provider from the register 12 months after those demerit points are incurred; or
 - (b) if a pilotage provider licence is suspended — delete all demerit points for the licence from the register.
- (2) This section does not prevent AMSA keeping a record of cleared demerit points.

35 Regulatory action after 40 demerit points incurred

- (1) If a pilotage provider incurs at least 40 demerit points, AMSA may take regulatory action under section 27.
- (2) When considering what regulatory action to take if subsection (1) applies, AMSA:
 - (a) must take into account the following matters:
 - (i) the need to protect public safety;
 - (ii) the need to protect the marine environment;
 - (iii) the regularity of the regulatory incidents to which the demerit points relate;
 - (iv) the seriousness of the regulatory incidents to which the demerit points relate;
 - (v) the likelihood of further regulatory incidents relating to the pilotage provider; and
 - (b) may take into account any other matter it considers relevant.

36 Suspension notice

A regulatory notice mentioned in section 27 for the proposed regulatory action of suspending the pilotage provider licence, or an immediate suspension notice mentioned in section 28, that is given by AMSA to a pilotage provider because subsection 35(1) applies, must state the following:

- (a) the date of the notice;
- (b) the demerit infringements that have occurred;
- (c) the demerit points incurred for each demerit infringement;
- (d) that AMSA may:
 - (i) cancel the suspension by written notice to the pilotage provider if AMSA is satisfied with the outcome of a compliance audit of the pilotage provider; and

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- (ii) impose further conditions on the licence if the suspension is cancelled.

37 The register

- (1) AMSA must keep a register of demerit points for each pilotage provider licence (the *demerit points register*).
- (2) The register may include licence information given to AMSA under this Order other than information relating to demerit points.
- (3) The register may be kept in any form, including electronically, that AMSA decides.
- (4) The register may be kept in 1 or more parts, as AMSA considers appropriate.

38 Correction of register

AMSA may:

- (a) correct a mistake, error or omission in the demerit points register; and
- (b) change a detail included in the register to keep the register up to date.

Division 4 Fatigue risk management plan

Note It is a condition of a pilotage provider licence that the pilotage provider ensure that the pilotage crew of the pilotage provider comply with the default fatigue management plan published by AMSA or with an AMSA approved fatigue management plan — see Schedule 1. For the definition of *fatigue management plan* — see section 4.

39 Pilotage provider's plan

- (1) A pilotage provider may apply to AMSA for approval of a fatigue risk management plan.

Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (2) The application must include the proposed fatigue risk management plan.
- (3) AMSA must, within 90 days after receiving the application:
 - (a) approve the application; or
 - (b) reject the application.

Note A decision under this subsection is a reviewable decision — see section 83.

- (4) AMSA may approve the application only if AMSA is:
 - (a) satisfied that the pilotage provider's fatigue risk management plan differs from the default risk management plan; and
 - (b) satisfied that the pilotage provider's fatigue management plan adequately manages the risks caused by fatigue of pilots who are employed or contracted by the pilotage provider.

Note A fee may be determined for this section — see the AMSA Act, s 47.

- (5) If AMSA does not approve the application within 90 days after receiving the application, AMSA is taken to have refused to approve the proposed risk management plan.
- (6) A fatigue risk management plan approval is subject to any condition imposed by AMSA.
- (7) AMSA may revoke the approval of a pilotage provider's fatigue risk management plan at any time if it is no longer satisfied with the plan.

Note Decisions under this section are reviewable decisions — see section 83.

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40 Variation of fatigue risk management plan

- (1) A pilotage provider may apply to AMSA for approval to vary the pilotage provider's approved fatigue risk management plan.

Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (2) The application must include details of the proposed variation.
- (3) AMSA must:
- (a) approve the application; or
 - (b) reject the application.

Note A decision under this subsection is a reviewable decision — see section 83.

- (4) AMSA may approve the application only if AMSA is satisfied that the variation of the approved fatigue risk management plan does not prevent the plan from adequately managing the risks caused by fatigue of pilots who are employed or contracted by the pilotage provider.

Division 5 Safety management system

Note 1 It is a condition of a pilotage provider licence that the pilotage provider must have a safety management system — see Schedule 1. For the definition of *safety management system* — see section 4.

Note 2 An application for a pilotage provider licence must include the applicant's proposed safety management system — see subsection 9(2). A safety management system is approved by AMSA when AMSA issues a pilotage provider licence — see subsection 10(7).

41 Variation of safety management system

- (1) A pilotage provider may apply to AMSA under section 15 for a variation of the pilotage provider licence held by the pilotage provider to vary the pilotage provider's safety management system.
- (2) The application must include details of the proposed variation to the safety management system.
- (3) AMSA is taken to have approved the variation of the applicant's safety management system if it varies the pilotage provider licence for the variation.

Note *vary* includes vary, impose or remove a licence condition — see section 4.

42 Designated person duties

A person appointed by a pilotage provider as a designated person for the pilotage provider's safety management system is responsible for the following:

- (a) monitoring the safety and pollution prevention aspects of the operation of each pilotage;
- (b) ensuring that there are adequate resources and shore based support when required;
- (c) maintaining the pilotage provider's system, in particular:
 - (i) verifying the effectiveness and implementation of the system; and
 - (ii) reporting any deficiencies to the responsible level of management of the pilotage provider; and
 - (iii) identifying 1 or more persons responsible for rectifying deficiencies;
- (d) being fully conversant with the pilotage provider's system and safety and environmental protection policies;

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- (e) organising internal audits of the pilotage provider's system and ensuring appropriate corrective action is taken after an audit.

Note It is a condition of a pilotage provider licence that the pilotage provider appoint a person as a designated person for the safety management system of the pilotage provider — see Schedule 1.

43 Mandatory requirements

- (1) A safety management system for a pilotage provider must describe the following to the satisfaction of AMSA:
 - (a) how the pilotage provider's work practices are conducted safely;
 - (b) how the pilotage provider complies with the applicable fatigue risk management plan;
 - (c) how risks associated with all operations of the pilotage crew of the pilotage provider are identified and minimised;
 - (d) how the pilotage provider complies with this Order;
 - (e) how the pilotage provider ensures that all licensed pilots, including trainee pilots, are trained to comply with this Order;
 - (f) how the pilotage provider ensures compliance with the under keel clearance requirements.
- (2) The safety management system must include the following information:
 - (a) the standard operating procedures of the pilotage provider;
 - (b) requirements for internal audits;
 - (c) how the system is revised and kept up to date;
 - (d) a statement of the procedures for carrying out corrective actions;
 - (e) incident reporting and investigation methods;
 - (f) a drug and alcohol policy for staff of the pilotage provider and people employed or contracted by the pilotage provider;
 - (g) if the pilotage provider conducts pilot transfers by helicopter — the procedures for the training, induction and familiarisation of pilots, including its frequency, mentioned in Schedule 5.

44 Requirements for pilots

A safety management system for a pilotage provider must include provisions that, to the satisfaction of AMSA, ensure that licensed pilots employed or contracted by the pilotage provider do the following:

- (a) understand the safety management system;
- (b) conduct pilotages in accordance with this Order;
- (c) have appropriate accessible resources, including up to date nautical charts, to undertake pilotages under this Order.

Note Nautical charts may be kept in paper or electronic form.

45 Provider to ensure pilot compliance

The pilotage provider, in implementing a safety management system, must ensure that licensed pilots employed or contracted by the pilotage provider:

- (a) are trained to identify and minimise risks; and
- (b) comply with the Navigation Act and this Order.

Division 6 Licensed pilots

Subdivision 6.1 Classes of pilot licences

46 Meaning of *pilot licence*

In this Division:

pilot licence means a licence of any of the following classes of licence:

- (a) a check pilot licence;
- (b) a unrestricted pilot licence;
- (c) a restricted pilot licence;
- (d) a trainee pilot licence.

Note For definitions of the licences mentioned in this section — see section 4.

Subdivision 6.2 Application, decision etc

47 Application

- (1) A person (the ***applicant***) may apply to AMSA for a pilot licence.

Note 1 Giving false or misleading information is an offence against the Criminal Code, sections 136.1 and 137.1.

Note 2 A fee may be determined for this section — see the AMSA Act, s 47.

- (2) The application must:
 - (a) be in writing; and
 - (b) state the class of pilot licence applied for; and
 - (c) if the class of pilot licence applied for is a pilot licence other than a trainee pilot licence — state the pilotage area applied for.

Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA may, in writing, require the applicant to give AMSA additional information or documents that AMSA reasonably needs to decide the application.
- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.

48 Decision on application

- (1) This section applies if AMSA receives an application for a pilot licence under section 47.
- (2) AMSA must, within 30 days after AMSA receives the application:
 - (a) decide the application; and
 - (b) tell the applicant, in writing, about the decision on the application.
- (3) AMSA must:
 - (a) issue the licence; or
 - (b) refuse to issue the licence.

Note A decision under this section is a reviewable decision — see section 83.

- (4) AMSA may issue the pilot licence to the applicant only if satisfied that the criteria mentioned in Subdivision 6.4 for the issue of the licence are met.

- (5) If AMSA does not issue a pilot licence to the applicant within 30 days after receiving the application, AMSA is taken to have refused to issue the licence.

49 Form of licence

- (1) A pilot licence must:
- (a) be in writing; and
 - (b) include the following information:
 - (i) the name of the licensee;
 - (ii) the licence's number;
 - (iii) the class of the licence;
 - (iv) for a licence other than a trainee pilot licence — the pilotage area within which the licence permits the licensee to pilot;
 - (v) for a restricted pilot licence for pilotage in a pilotage area other than the Hydrographers Passage pilotage area — the endorsed draught of vessel the licensee is permitted to pilot;
 - (vi) the conditions on the licence.
- (2) A pilot licence may include anything else AMSA considers relevant.
- (3) In this section:

endorsed draught means the draught limit endorsed on a restricted pilot licence in accordance with section 58.

50 Licence conditions

- (1) A pilot licence is subject to the following conditions:
- (a) that the licensee must comply with the Navigation Act and this Order;
 - (b) each condition of the pilot licence set out in Schedules 3 and 4;
 - (c) any other condition imposed by AMSA when the licence is issued, renewed or varied.
- (2) A person holding a pilot licence must comply with each condition of the pilot licence.

Note Failure to comply with a condition of a pilot licence may result in regulatory action against the pilot under Subdivision 6.5.

51 Licence term

- (1) A pilot licence comes into force on the day it is issued.
- (2) A pilot licence other than a check pilot licence ceases to be in force:
- (a) 2 years after the day the licence is issued; or
 - (b) a day determined by AMSA that is earlier than the date mentioned in paragraph (a); or
 - (c) a later date in accordance with subsection 53(5).
- (3) A check pilot licence ceases to be in force:
- (a) on the expiry of the unrestricted pilot licence to which the check pilot licence is related; or
 - (b) a day determined by AMSA that is earlier than the date mentioned in paragraph (a).

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Subdivision 6.3 Variation and renewal

52 Variation

- (1) AMSA may, by written notice (a ***variation notice***) given to a licensee, vary the pilot licence.
Note ***vary*** includes vary, impose or remove a licence condition — see section 4.
- (2) However, AMSA may vary the pilot licence only if:
 - (a) AMSA has given the licensee written notice (a ***proposal notice***) of the proposed variation; and
 - (b) the proposal notice states that written comments on the proposal may be made to AMSA before the end of a stated period of at least 30 days after the proposal notice is given to the licensed pilot; and
 - (c) after the end of the stated period, AMSA has considered any comments made in response to the notice.
- (3) Subsection (2) does not apply if the licensee agrees in writing to the variation.
- (4) The variation takes effect on the day the variation notice is given to the licensee or a later day stated in the notice.

53 Application for renewal

- (1) A person holding a pilot licence that is in force may apply to AMSA for renewal of the licence.
Note If a licensee does not apply for renewal of the licence, the licence will expire — see section 51. The person may then apply for a new licence under section 47.
Note A fee may be determined for this section — see the *AMSA Act*, s 47.
- (2) An application under this section must be in writing.
Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.
- (3) AMSA may, in writing, require the applicant to give AMSA additional information or documents that AMSA reasonably needs to decide the application.
- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.
- (5) If a licensee applies for renewal of a licence under this section, the licence remains in force until the application is decided.

54 Decision on application for renewal

- (1) This section applies if AMSA receives an application for renewal of a pilot licence under section 53.
- (2) AMSA must, within 30 days after receiving the application:
 - (a) decide the application; and
 - (b) tell the applicant, in writing, about the decision.
- (3) AMSA must
 - (a) renew the licence; or
 - (b) refuse to renew the licence.

Note A decision under this subsection is a reviewable decision — see section 83.

- (4) AMSA may renew the licence only if satisfied that the applicant meets the criteria for renewal of the licence.

Note For eligibility — see Division 6.4.

- (5) Subsection (4) does not limit the matters AMSA may consider.
- (6) If AMSA does not renew a licence within 30 days after receiving the application, AMSA is taken to have decided to refuse to renew the licence.

55 Replacing when lost, stolen or destroyed

- (1) AMSA may issue a replacement pilot licence to a licensee if satisfied that the licensee's original licence has been lost, stolen or destroyed.
- (2) For subsection (1), AMSA may require the licensee to give AMSA a statutory declaration signed by the licensee, stating that the original licence has been lost, stolen or destroyed.

Note 1 A fee may be determined for this subsection — see the AMSA Act, s 47.

Note 2 The *Statutory Declarations Act 1959* applies to the making of statutory declarations.

Subdivision 6.4 Pilot licence criteria

56 Trainee pilot licence criteria

- (1) The criteria for the issue to a person of a trainee pilot licence are that the person:
- (a) is entitled to work in Australia; and
 - (b) holds:
 - (i) any of the following certificates issued by AMSA under the Navigation Act or under *Marine Order 3 (Seagoing qualifications) 2004*:
 - (A) a certificate of competency as master of vessels of at least 3000 GT;
 - (B) a certificate of recognition of a similar foreign certificate; or
 - (C) a restricted certificate of recognition of a certificate or qualifications that was issued because AMSA was satisfied the certificate or qualification was adequate for the duties or functions to be performed by a master of vessels of at least 3000 GT; or
 - (ii) Royal Australian Navy qualifications in pilotage, navigation and seamanship that AMSA determines are a satisfactory equivalent; and
 - (c) holds a Certificate of Medical Fitness; and
 - (d) has satisfactorily completed an approved pilotage training course for trainee pilot induction within the 4 years before the application; and
 - (e) has completed, while holding a certificate mentioned in paragraph (b), at least 36 months of qualifying sea service as master, navigating officer in charge of a watch or pilot on vessels of at least 500 GT; and
 - (f) for the qualifying sea service mentioned in paragraph (e) — has completed 18 months of the service in the 5 years immediately before the person is being considered for eligibility to hold the licence.

Note for paragraph (e) Information about approved pilotage training courses is available on AMSA's website at <http://www.amsa.gov.au>.

- (2) For paragraphs (1)(e) and (f), qualifying sea service is to be calculated in accordance with the rules for calculating qualifying sea service set out in *Marine*

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Order 70 (Seafarer certification) 2014, including the rules for discounting all or part of sea service.

57 Restricted pilot licence criteria

The criteria for issue to a person of a restricted pilot licence, for a stated pilotage area and a stated draught limit, are that the person:

- (a) holds a trainee pilot licence; and
- (b) holds a Certificate of Medical Fitness; and
- (c) has satisfactorily completed all of the following:
 - (i) an approved pilotage training course;
 - (ii) a competency assessment;
 - (iii) a written examination conducted by AMSA;
 - (iv) a fatigue management training course approved by AMSA;
 - (v) if required by AMSA — an oral examination approved by AMSA.

Note 1 Information about approved programs of training, competency assessments and fatigue management training courses is available on AMSA's website at <http://www.amsa.gov.au>.

58 Draught limit for restricted pilot licence

- (1) The following draught limits apply to a restricted pilot licence issued for piloting in the inner route pilotage area:
 - (a) for a person who holds a restricted licence for the area who has not completed 12 inner route transits with vessels of 10 m draught or less — 10 m;
 - (b) for a person who holds a restricted licence for the area and has completed 12 inner route transits with vessels of 10 m draught or less — 10.5 m;
 - (c) for a person mentioned in paragraph (b) who has completed an additional 6 inner route transits with vessels of 10.5 m draught or less — 11 m;
 - (d) for a person mentioned in paragraph (c) who has completed an additional 6 inner route transits with vessels of 11 m draught or less — 11.5 m.
- (2) The following draught limits apply to a restricted pilot licence issued for piloting in Great North East Channel pilotage area:
 - (a) for a person who holds a restricted licence for the area who has not completed 12 transits west of Alert Patches with vessels of 10 m draught or less — 10 m;
 - (b) for a person who holds a restricted licence and has completed 12 transits west of Alert Patches with vessels of 10 m draught or less — 10.5 m;
 - (c) for a person mentioned in paragraph (b) who has completed an additional 6 transits west of Alert Patches, with vessels of 10.5 m draught or less — 11 m;
 - (d) for a person mentioned in paragraph (c) who has completed an additional 6 transits west of Alert Patches, with vessels of 11 m draught or less — 11.5 m.
- (3) In this section:

Alert Patches means the area of Torres Strait centred on 10°29.8'S, 142°21.2'E.

inner route transit means a transit of Torres Strait north of latitude 16° 39.91'S.

59 Unrestricted pilot licence criteria

- (1) The criteria for issue to a person of an unrestricted pilot licence, for a stated pilotage area, are that the person:
 - (a) holds a restricted pilot licence for the pilotage area; and
 - (b) holds a Certificate of Medical Fitness; and
 - (c) has, while performing the duties of a pilot holding a restricted pilot licence, completed the required number of transits to the satisfaction of AMSA.
- (2) The criteria for issue to a person of an unrestricted pilot licence for the Whitsundays pilotage area are that the person:
 - (a) holds an unrestricted pilot licence for:
 - (i) the inner route pilotage area; or
 - (ii) the Hydrographers Passage pilotage area; and
 - (b) has completed, within the 5 years before the application, at least 2 transits in the Whitsundays pilotage area as a trainee pilot or an observer of the piloting of the vessel; and
 - (c) holds a Certificate of Medical Fitness; and
 - (d) for a licence in the area permitting anchorage of passenger vessels in cruise ship anchorages:
 - (i) has proceeded to anchor and weighed anchor at least 2 times at 1 or more cruise ship anchorages that are designated anchorages in the Whitsundays pilotage area within the 5 years before the application; and
 - (ii) has completed the approved pilotage training course for Whitsunday Anchoring.
- (3) In this section:
required number of transits means:
 - (a) for eligibility to hold an unrestricted pilot licence for the inner route pilotage area:
 - (i) 6 transits of the inner route pilotage area while holding a restricted licence with a draught limit of 11.5 m for the area; and
 - (ii) at least 1 transit mentioned in subparagraph (i) being an assessment transit on a vessel with a draught of at least 11 m with a check pilot nominated by AMSA; and
 - (b) for eligibility to hold an unrestricted pilot licence for the Hydrographers Passage pilotage area:
 - (i) 20 transits of the area while holding a restricted pilot licence for the area; and
 - (ii) at least 1 transit mentioned in subparagraph (i) being a check pilot voyage with a check pilot nominated by AMSA; and
 - (c) for eligibility to hold an unrestricted pilot licence for the Great North East Channel pilotage area:
 - (i) 6 transits of Torres Strait west of Alert Patches while holding a restricted licence for the area permitting piloting of vessels up to 11.5 m draught; and

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- (ii) at least 1 transit mentioned in subparagraph (i) being a check pilot voyage on a vessel with a draught of at least 11 m with a check pilot nominated by AMSA; and
- (iii) 2 transits of the full extent of Great North East Channel pilotage area.

60 Check pilot licence criteria

- (1) The criteria for the issue of a check pilot licence to a person are that the person:
 - (a) holds an unrestricted pilot licence for the pilotage area; and
 - (b) while holding the unrestricted pilot licence — has not been the subject of a suspension of more than 7 days in the 5 years before eligibility is being determined; and
 - (c) holds a Certificate of Medical Fitness; and
 - (d) has satisfactorily:
 - (i) completed an approved workplace assessment training course conducted by an approved training provider; and
 - (ii) undertaken a psychometric assessment approved by AMSA; and
 - (iii) completed an oral examination approved by AMSA; and
 - (e) has, while performing the duties of a licensed pilot, completed the required number of transits to the satisfaction of AMSA.

Note Information about approved workplace assessment training courses, psychometric assessments and oral examinations is available on AMSA's website at <http://www.amsa.gov.au>.

- (2) In this section:

required number of transits means:

- (a) for eligibility to hold a check pilot licence for the inner route pilotage area:
 - (i) 20 transits of the area within 12 months before the determination of eligibility; and
 - (ii) 200 transits of the area; and
- (b) for eligibility to hold a check pilot licence for the Hydrographers Passage pilotage area:
 - (i) 6 transits of the area within 12 months before the determination of eligibility; and
 - (ii) 50 transits of the area; and
- (c) for eligibility to hold a check pilot licence for the Great North East Channel pilotage area:
 - (i) 200 transits west of Alert Patches; and
 - (ii) 50 transits of the Great North East Channel (east of Alert Patches) — 6 of which are to have occurred within the 12 months before the determination of eligibility.

61 Licence renewal criteria

- (1) The criteria for renewal of a pilot licence are that the person holding the licence:
 - (a) holds a pilot licence other than a trainee pilot licence; and
 - (b) has completed an approved training course within the 4 years before applying for renewal; and

- (c) has completed continuing professional development to the satisfaction of AMSA within the 4 years before applying for renewal; and
- (d) holds a Certificate of Medical Fitness; and
- (e) for a pilot licence other than a check pilot licence — meets the requirements of subsection (2); and
- (f) for a check pilot licence — meets the requirements for the unrestricted licence for the pilotage area mentioned in subsection (2) to which the licence is related and has conducted 4 competency assessments in the last 2 years.

Note for paragraph (b) Information about approved training courses is available on AMSA's website at <http://www.amsa.gov.au>.

- (2) The criteria for renewal of a restricted pilot licence or unrestricted pilot licence held by a person are that:
 - (a) for a licence to pilot in the Hydrographers Passage pilotage area — the person has performed pilotage duties on at least 8 transits of the area during the 2 years before the application is made, of which:
 - (i) at least 4 transits have been completed within the 12 months before the renewal; and
 - (ii) 1 transit is a check pilot voyage; or
 - (b) for a licence to pilot in the inner route pilotage area — the person has performed pilotage duties on no less than 8 transits of the area during the 2 years before the application is made, of which:
 - (i) at least 4 transits have been completed in the 12 months before the renewal; and
 - (ii) 1 transit is a check pilot voyage; or
 - (c) for a licence to pilot in the Great North East Channel pilotage area — the person has performed pilotage duties on at least 4 transits of the area within the 2 years before the application is made, of which:
 - (i) at least 2 transits have been completed within the 12 months before the renewal; and
 - (ii) 1 transit is a check pilot voyage; or
 - (d) for a licence to pilot in the Whitsundays pilotage area — the person has performed pilotage duties in the area within the 2 years before the application is made; or
 - (e) for a licence to pilot in the Whitsundays pilotage area permitting anchorage of passenger vessels in cruise ship anchorages — the person has performed pilotage duties of pilot anchoring passenger vessels in cruise ship anchorages in the area within the 2 years before the renewal.
- (3) If a person is, under subsection (2), required to undertake a check pilot voyage for eligibility to renew the person's restricted or unrestricted licence to pilot in a stated pilotage area, the person is taken to have completed the voyage if the person successfully completes a competency assessment for the area on an approved bridge simulator.

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- (4) If AMSA is satisfied that circumstances exist in which it would be unreasonable or impracticable for a licensed pilot to meet the requirements of subsection (2), AMSA may renew the pilot's unrestricted licence or restricted licence:
- (a) for a stated period; or
 - (b) for a specified number of transits in 1 or more specified pilotage areas; or
 - (c) following completion of a specified number of transits in specified pilotage areas as an observer.

Subdivision 6.5 Regulatory action

62 Grounds for regulatory action

Each of the following is a **ground for regulatory action** against a licensed pilot:

- (a) the person gave information to AMSA for the application for, or an application for renewal of, the pilot's licence that was false or misleading in a material particular;
- (b) the person has contravened, or is contravening, the Navigation Act or this Order;
- (c) the person has contravened, or is contravening, any other law of the Commonwealth or a State or Territory.

63 Forms of regulatory action

Each of the following is **regulatory action** when taken against a licensed pilot:

- (a) reprimanding the person;
- (b) directing the person to do a stated thing;
- (c) requiring the person to complete a stated course of training to the satisfaction of AMSA or another stated person;
- (d) varying the pilot licence, including by imposing a condition on the licence or varying an existing condition of the licence;
- (e) suspending the licence:
 - (i) for a stated period; or
 - (ii) until the pilot completes a stated course of training to the satisfaction of AMSA or someone else; or
 - (iii) until a stated event happens;
- (f) cancelling the licence;
- (g) disqualifying the person from applying for a pilot licence:
 - (i) for a stated period; or
 - (ii) until a stated event happens.

64 Taking regulatory action

- (1) If AMSA proposes to take regulatory action against a licensed pilot, AMSA must give the person a written notice (a **regulatory notice**) that:
- (a) states the proposed action, including any proposed disqualification period, suspension period or variation of a pilot licence; and
 - (b) states the grounds for the proposed action; and
 - (c) tells the person that the person may, within 30 days after the person receives the notice, give a written response to AMSA about the notice.

- (2) In deciding whether to take regulatory action, AMSA must consider any response given to AMSA by the person in response to the notice.
- (3) AMSA may take the proposed regulatory action against the person if satisfied that a ground for regulatory action has been established for a person.
Note A decision under this subsection is a reviewable decision — see section 83.
- (4) AMSA must give the person written notice of AMSA's decision and the reasons for decision.
- (5) Regulatory action under subsection (3) takes effect on the day when the notice of the decision is given to the person or, if the notice states a later date of effect, that date.

65 Emergency regulatory action

- (1) If a vessel that is being piloted is involved in a collision with another vessel, or runs aground, AMSA must immediately suspend the licence of the pilot who is piloting the vessel for 7 days after the day of the collision or grounding.
- (2) AMSA must, as soon as practicable, give a notice (an ***emergency suspension notice***) to the pilot.
- (3) The emergency suspension notice must:
 - (a) be in writing; and
 - (b) state:
 - (i) the date of issue of the notice; and
 - (ii) when the suspension starts; and
 - (iii) when the suspension ends; and
 - (iv) the circumstances causing the emergency suspension of the licence.
- (4) AMSA must also keep a record of the emergency suspension notice.
- (5) AMSA must investigate the circumstances of the collision or grounding to determine whether the pilot's conduct contributed to the collision or grounding.
- (6) If AMSA requires further time to review the circumstances of the collision or grounding, AMSA may, before the licence suspension ends, extend the term of the suspension for a period no longer than 180 days after the collision or grounding.
- (7) If AMSA extends the term of a licence suspension under subsection (6), AMSA must as soon as practicable give notice, in writing, of the extension to the pilot.

Note AMSA may also advise the pilot provider who employs or contracts the pilot of the suspension and any extension of its term — see Schedule 3, licence condition 7.

66 Effect of suspension of licence

If a pilot licence is suspended, the licence does not authorise the licensee to carry on any activity under the licence during the suspension.

Note It is an offence to perform prescribed duties of a licensed pilot without a pilot licence — see section 169 of the Navigation Act.

Section 72**Division 7 Check pilot arrangements****67 Check pilot licence conditions**

A check pilot licence is subject to each condition mentioned in Schedule 4.

Note A check pilot licence is also subject to conditions mentioned in Schedule 3 and any other conditions imposed by AMSA — see s 50.

68 Check pilot voyage considered voyage

A check pilot voyage counts as a transit of the pilotage area where it occurred for both the pilot and the check pilot.

69 Pilot responsible for conduct of voyage

During a check pilot voyage, the pilot must be responsible for the conduct of the voyage at all times.

70 Assessment review

If a check pilot tells AMSA of an unsatisfactory finding for a pilot on a check pilot voyage under clause 7 of Schedule 4, AMSA may:

- (a) separately interview the check pilot and the pilot about the assessment; and
- (b) arrange for another competency assessment to be undertaken by the pilot with a different check pilot nominated by AMSA; and
- (c) after the assessment mentioned in paragraph (b) — determine whether further action is necessary; and
- (d) tell the pilot and the pilot provider of the outcome.

71 Consistency in assessment

To ensure consistency in the assessment of pilots, AMSA may review assessments conducted by a check pilot or be present during the conduct of an assessment on a check pilotage voyage or through a competency assessment.

Division 8 Approved pilotage training courses**Subdivision 8.1 Application, decision etc****72 Application**

- (1) A person (the *applicant*) may apply to AMSA for approval to provide a stated pilotage training course for a stated pilotage area.

Note A fee may be determined for this section — see the AMSA Act, s 47.

- (2) The application must be in writing.

Note If a form is approved for the application, the approved form must be used and is *available on the AMSA website at <http://www.amsa.gov.au>* — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA may, in writing, require the applicant to give AMSA additional information or documents that AMSA reasonably needs to decide the application.
- (4) If AMSA requires additional information or documents of an applicant under subsection (3), AMSA is taken to have received the application only when AMSA receives the additional information or documents.
- (5) AMSA must, after receiving the application, conduct a training course audit of the applicant under Subdivision 8.2.

73 Decision on application

- (1) This section applies if AMSA receives an application for approval under section 72.
- (2) AMSA must, within 90 days after AMSA receives the application:
 - (a) decide the application for approval; and
 - (b) tell the applicant, in writing, about the decision on the application.
- (3) AMSA must:
 - (a) approve the application; or
 - (b) refuse the application.

Note A decision under this subsection is a reviewable decision — see section 83.
- (4) AMSA may approve the application only if satisfied that the applicant has the expertise, resources and procedures necessary to conduct and achieve the objectives of the pilotage training course.
- (5) If AMSA does not approve the application within 90 days after receiving the application, AMSA is taken to have refused to approve the provision of the training course.
- (5) A pilotage training course approval is subject to any condition imposed by AMSA when the approval is issued or renewed.

74 Form of approval

A pilotage training course approval must:

- (a) be in writing; and
- (b) state the name of the person to which it is issued; and
- (c) identify the training course to which it applies; and
- (d) if the approval is conditional — state the conditions to which the approval is subject; and
- (e) state when the approval was issued; and
- (f) state when the approval expires; and
- (g) include anything AMSA considers necessary.

75 Approval term

A pilotage training course approval:

- (a) comes into force on the day it is issued; and
- (b) expires:
 - (i) 4 years after it is issued; or
 - (ii) if AMSA determines an earlier expiry day — on that day.

76 Application for renewal

- (1) A person holding an approval to conduct an approved pilotage training course may apply to AMSA to renew the approval.

Note A fee may be determined for this section — see the AMSA Act, s 47.

- (2) The application must be:
 - (a) in writing; and
 - (b) received by AMSA no later than 90 days before the approval expires.

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Note If a form is approved for the application, the approved form must be used and is available on the AMSA website at <http://www.amsa.gov.au> — see *Marine Order 1 (Administration) 2013*.

- (3) AMSA must conduct a training course audit of the applicant under Subdivision 8.2:
 - (a) within 30 days after AMSA receives the application; or
 - (b) if there is no training course that can be audited within that time — when the next available training course can be audited.
- (4) If an approved pilotage training provider applies to renew an approval under this section, the approval remains in force until the application is decided.
- (5) If the applicant does not comply with a requirement under Subdivision 8.2, AMSA must refuse to consider the application.

77 Decision on application for renewal

- (1) This section applies if AMSA receives an application for renewal of a pilotage training course approval under section 76.
 - (2) AMSA must, not later than 90 days after AMSA receives the application:
 - (a) decide the application for renewal; and
 - (b) tell the approved pilotage training provider, in writing, about the decision on the application.
 - (3) AMSA must:
 - (a) renew the approval; or
 - (b) refuse to renew the approval.
- Note* A decision under this subsection is a reviewable decision — see section 83.
- (4) AMSA may renew a pilotage training course approval only if the training course audit has been conducted for the application shows:
 - (a) that all aspects of the training course are satisfactory; and
 - (b) the approved pilotage training provider complies with this Division; and
 - (c) the approved pilotage training provider has complied with any conditions imposed on the approval.
 - (5) Subsection (4) does not limit the matters AMSA may consider.
 - (6) If AMSA does not renew the pilotage training course approval of the applicant within 90 days after receiving the application, AMSA is taken to have refused to renew the approval.

Subdivision 8.2 Auditing

78 When training course audit conducted

AMSA, or a person approved by AMSA to conduct the audit on behalf of AMSA, may conduct a training course audit of a person if:

- (a) the person applies for approval to provide a pilotage training course under section 72; or
- (b) the person applies for a renewal of an approved pilotage training course approval under section 76; or
- (c) AMSA determines it necessary to conduct a training course audit.

Section 79**79 Reason for auditing**

- (1) An audit under this Subdivision may be conducted for any of the following purposes:
 - (a) deciding whether the person has complied with the Navigation Act or this Order;
 - (b) substantiating information provided to AMSA;
 - (c) for a training course audit of a person who holds an approved pilotage training course approval — deciding whether the person has complied with any conditions to which the approval is subject.
- (2) An audit under this Subdivision may review all aspects of the training course that are relevant to this Order, including the following:
 - (a) adequacy of any bridge simulator training that is part of the course;
 - (b) qualifications of persons teaching the course;
 - (c) course material;
 - (d) facilities used by the training course provider for the course.

80 Requirement to comply

A person who is the subject of an audit under this Subdivision must comply with the reasonable requirements of the person undertaking the audit.

81 Powers not limited by training course audit provisions

- (1) This Subdivision does not limit the power of AMSA to inquire into the activities of an approved pilotage training provider.
- (2) If AMSA inquires into the activities of an approved training provider, the provider must respond to the satisfaction of AMSA to any request made by AMSA for the inquiry.

Division 9 Administration of Order**82 Prescribed information for application for exemption from requirement to navigate with a pilot — Navigation Act, s 172(2)(b)**

- (1) For paragraph 172(2)(b) of the Navigation Act, the following information is prescribed:
 - (a) the name of the compulsory pilotage area for which the exemption is proposed;
 - (b) the name and address of the applicant;
 - (c) the name and address of the owner;
 - (d) vessel name, IMO number and flag;
 - (e) vessel type (bulk carrier, general cargo vessel, oil tanker, chemical carrier, liquefied gas carrier and others);
 - (f) principal dimensions (length overall, breadth extreme, maximum depth, maximum draught, etc);
 - (g) loaded draught during navigation in the compulsory pilotage area;
 - (h) hull material;
 - (i) the vessel's general arrangement and tank capacity plans;

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- (j) details of navigational and communication equipment;
 - (k) name of the master and navigational watch-keepers who will be on watch at any time during which the vessel is in a compulsory pilotage area;
 - (l) qualifications of the master and navigational watch-keepers and details of his or her recent navigational experience in the compulsory pilotage area;
 - (m) details of the bunkers that the vessel is to carry during the vessel's navigation in the compulsory pilotage area;
 - (n) details of cargo that the vessel is to carry during the vessel's navigation in the compulsory pilotage area;
 - (o) details of ballast that the vessel is to carry during the vessel's navigation of the compulsory pilotage area;
 - (p) details of any previous incident, marine incident or prescribed incident involving the vessel or the master of the vessel.
- (2) In this section:
prescribed incident has the same meaning as in the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

83 Review of decisions

A decision mentioned in Schedule 6 is taken to be a reviewable decision for *Marine Order 1 (Administration) 2013*.

84 Power to extend time when decision making

- (1) If a time limit applies for doing something under this Order, a person other than AMSA may apply to AMSA for an extension of time regardless of whether the time limit has passed.
- (2) AMSA may give an extension of time even if the time limit has passed.

Division 10 Transitional provisions**85 Pilotage provider licences**

A pilotage provider licence issued under *Marine Order 54 (Coastal pilotage) 2011* that is in force on 30 June 2014 is taken to have been issued under this Order.

86 Pilot licences

A pilot licence issued under *Marine Order 54 (Coastal pilotage) 2011* that is in force on 30 June 2014 is taken to have been issued under this Order.

87 Training

A person approved to provide training under *Marine Order 54 (Coastal pilotage) 2011* or *Marine Order Part 54, issue 4*, whose approval was in force on 30 June 2014, is taken to hold an approval under Division 8 and is taken to have been approved to provide the training under Division 8.

88 Fatigue risk management plan

A pilotage provider's fatigue risk management plan approved under *Marine Order 54 (Coastal pilotage) 2011* that has not been revoked before 1 July 2014 is taken to have been approved under this Order.

Schedule 1 Pilotage provider licence conditions

(section 14)

1 Notification of change of name or address

If the pilotage provider changes name or address, the pilotage provider must, within 30 days after the change happens, tell AMSA, in writing, about the change.

2 Fatigue risk management plan

A pilotage provider must ensure that each pilot contracted or employed by the pilotage provider complies with:

- (a) the approved fatigue risk management plan of the pilotage provider; or
- (b) if the pilotage provider does not have an approved fatigue risk management plan — the default fatigue risk management plan published by AMSA.

Note As at 1 July 2014 the default fatigue risk management plan is the *Fatigue Risk Management Plan The Default Plan* and is available on AMSA's website at <http://www.amsa.gov.au>.

3 Safety management system

A pilotage provider must:

- (a) have a safety management system that is approved by AMSA and comply with the system; and
- (b) monitor the implementation, operation and effectiveness of the pilotage provider's safety management system; and
- (c) conduct internal audits of the safety management system at least once in each calendar year; and
- (d) ensure that each licensed pilot whom the pilotage provider assigns to the transit of a vessel through a pilotage area, whether as employee of the provider or otherwise, complies with the safety management system; and
- (e) make the safety management system available in a place where licensed pilots whom the pilotage provider assigns to the transit of vessels have access.

Note 1 For compliance with the safety management system by licensed pilots — see Division 5.

Note 2 A safety management system for a vessel and its operation that complies with the operation requirements of NSCV Part E may be part of the safety management system of the pilotage provider.

4 Designated person

A pilotage provider must designate a stated individual (the *designated person*) to have responsibilities under Division 5.

Note For designated person duties — see section 42.

5 Pilots to hold Certificate of Medical Fitness

A pilotage provider may assign a pilot to the transit of a vessel through a pilotage area only if the pilot holds a Certificate of Medical Fitness.

6 Pilot to remain on duty when in pilotage area

If a pilotage provider assigns a pilot to the transit of a vessel (the *piloted vessel*) through a pilotage area, the pilotage provider must ensure a licensed pilot employed or contracted by the pilotage provider is on duty on the piloted vessel at all times when it is in the pilotage area unless otherwise authorised by AMSA.

7 Under keel clearance requirements — including use of UKCM system

If a pilotage provider assigns a licensed pilot to the transit of a vessel through the Prince of Wales Channel, the Gannet Passage or the Varzin Passage, the provider must ensure the pilot complies with clause 5 of Schedule 3.

8 Pilot transfer arrangements

If a pilot transfer is conducted by the pilotage provider:

- (a) each pilot transfer involving the use of a pilot launch must use a launch that complies with the pilot launch requirements in Schedule 5; and
- (b) each member of the pilotage crew working on the deck of a pilot launch involved in a pilot transfer must be provided with personal protective equipment that meets the personal protective equipment requirements in Schedule 5; and
- (c) each pilot transfer involving the use of a helicopter must comply with the helicopter transfer requirements in Schedule 5.

9 Record keeping

The pilotage provider must keep each record required by the Safety Management System for at least 5 years after the record was made.

10 Requirement to produce records and information

- (1) The pilotage provider must, on a request from AMSA, produce:
 - (a) for each member of the pilotage crew of the pilotage provider, details of the following:
 - (i) qualifications including a Certificate of Medical Fitness or, for a licence issued by a State or other country, a medical certificate issued by the authority issuing the licence;
 - (ii) training courses, professional development courses and drills undertaken;
 - (iii) records created for the fatigue risk management plan with which the pilotage crew of the pilotage provider is to comply;
 - (iv) the service date of each personal flotation device used by each member of the pilotage crew of the pilotage provider;
 - (v) for a pilot — the number of check pilot voyages undertaken for the purpose of renewing the pilot's licence or restricted pilot licence; and
 - (b) for each pilot launch owned or operated by the pilotage provider — survey details of the launch and certification details for all safety equipment required to be on the launch; and
 - (c) details of internal audits conducted by or on behalf of the pilotage provider; and

- (d) the agenda and minutes of any operational safety meeting conducted by the pilotage provider.

Note 1 For the definition of **operational safety meeting** — see section 4.

Note 2 For information about the fatigue risk management plans and the need for licensed pilots to comply with the plan — see Division 4 and clause 2 of Schedule 3.

Note 3 Records required by the Safety Management System must be kept for at least 5 years after the records were made — see clause 9.

- (2) In this clause:

operate, for a pilot launch, includes chartering the launch.

11 Reporting for compulsory pilotage areas

- (1) If the pilotage provider assigns, or intends to assign, a pilot to the transit of a vessel through a compulsory pilotage area, the pilotage provider must tell AMSA the pilotage detail:
 - (a) if the pilotage provider receives the request for a pilot within 48 hours before the pilot is needed — as soon as practicable; or
 - (b) in any other case — no later than 48 hours before the pilotage commences.
- (2) In this clause:

pilotage detail, for a pilotage of a compulsory pilotage area, means the following:

- (a) the name of the proposed pilot;
- (b) the booking number for the pilotage;
- (c) the name of the vessel that is to be piloted;
- (d) the call sign of the vessel that is to be piloted;
- (e) the IMO number of the vessel that is to be piloted;
- (f) when the pilot will board the vessel;
- (g) where the pilot will board the vessel.

12 REEFREP reporting

If the pilotage provider assigns, or intends to assign, a pilot to the transit of a vessel through the REEFREP area, the pilotage provider must ensure that the pilot employed or contracted by the pilotage provider to pilot the vessel report to REEFVTS in accordance with clause 6 of Schedule 3.

13 Incident reporting

- (1) The pilotage provider must tell AMSA, in writing, of any incident involving a vessel piloted or operated by a member of the pilotage crew of the pilotage provider, as follows:
 - (a) after an incident involving a pilot launch — within 4 hours after the incident occurred; and
 - (b) after an incident involving a vessel piloted by a person contracted or employed by the pilotage provider — within 4 hours after the incident; and

-
- (c) if requested by AMSA, give AMSA, in writing, more detailed information about the incident within 72 hours after the request is made.

Example for paragraph (a) An incident resulting from the transfer of a pilot to or from another vessel.

Note 1 It is an offence for the owner or master of a vessel not to report to AMSA a **marine incident** involving the vessel — see sections 185 and 186 of the *Navigation Act 2012*.

Section 13A of *Marine Order 31 (Ship surveys and certification) 2006* prescribes matters for these reports.

Note 2 It is an offence for a master or owner not to report to the National Regulator (AMSA) certain **marine incidents** involving domestic commercial vessels under sections 88 and 89 of the national law.

- (2) An incident report by a pilot employed or contracted by the pilotage provider that meets the requirements of subsection (1) is taken to be a report by a pilotage provider that meets those requirements.
- (3) An incident that is reported to REEFVTS is taken to have been reported to AMSA in accordance with subsection (1).
- (4) If the pilotage provider is also the owner of a pilot launch involved in an incident that is a marine incident under the national law, a report to the National Regulator of the marine incident under section 88 of the national law, made within the time limits mentioned in subclause (1), complies with the reporting requirements of this clause.

14 Pilot training

The pilotage provider must provide the training that a pilot must undertake for clause 4 of Schedule 3.

15 Operational safety meeting

The pilotage provider must conduct an operational safety meeting at least every 60 days.

Schedule 2 Demerit infringements and points

(section 31)

Item	Licence condition	Description	Demerit points
1	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for annual leave and periods without a leave break — first infringement in a compliance period	5
2	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for annual leave and periods without a leave break — second infringement in the compliance period	10
3	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for annual leave and periods without a leave break — third or subsequent infringement in the compliance period	15
4	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for rest periods (severity of incident < 60 minutes) — first infringement in a compliance period	4
5	2	Fail to ensure pilot complies with the pilotage provider's FRMP's arrangements for rest periods (severity of incident < 60 minutes) — second infringement in the compliance period	8
6	2	Fail to ensure pilot complies with the pilotage provider's FRMP's arrangements for rest periods (severity of incident < 60 minutes) — third or subsequent infringement in the compliance period	12
7	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for rest periods (severity of incident ≥ 60 minutes and < 120 minutes) — first infringement in a compliance period	8
8	2	Fail to ensure pilot complies with pilotage provider's arrangements for rest periods (severity of incident ≥ 60 minutes and < 120 minutes) — second infringement in the compliance period	12
9	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for rest periods (severity of incident ≥ 60 minutes and < 120 minutes) — third or subsequent infringement in the compliance period	16
10	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for rest periods (severity of incident > 120 minutes) — first infringement in a compliance period	12
11	2	Fail to ensure pilot complies with pilotage provider's FRMP's arrangements for rest periods (severity of incident > 120 minutes) — second infringement in the compliance period	16
12	2	Fail to ensure pilot complies with pilotage provider's	20

Item	Licence condition	Description	Demerit points
		FRMP's arrangements for rest periods (severity of incident > 120 minutes) — third or subsequent infringement in the compliance period	
13	5	Fail to ensure that pilot holds Certificate of Medical Fitness	10
14	6	Fail to ensure that pilot remains on duty on piloted vessel in pilotage area — first infringement in a compliance period	5
15	6	Fail to ensure that pilot remains on duty on piloted vessel in pilotage area — second infringement in the compliance period	10
16	6	Fail to ensure that pilot remains on duty on piloted vessel in pilotage area — third or subsequent infringement in the compliance period	15
17	7	Fail to ensure pilot complies with requirements for pilotage through certain areas using UKCM system — first infringement in a compliance period	5
18	7	Fail to ensure pilot complies with requirements for pilotage through certain areas using UKCM system — second infringement in the compliance period	10
19	7	Fail to ensure pilot complies with requirements for pilotage through certain areas using UKCM system — third or subsequent infringement in the compliance period	15
20	7	Fail to ensure pilot using the UKCM system has completed training and a competency assessment to the satisfaction of AMSA	5
21	10	Fail to produce records or information	5
22	13	Fail to report incident involving a vessel that is not a pilot launch but is piloted by a person contracted or employed by the pilotage provider — within 4 hours after the incident occurred	2
23	13	Fail to provide further information re incident within 72 hours after the incident occurred if requested by AMSA	5

Schedule 3 Pilot licence conditions

(section 50)

Note Failure to comply with a licence condition mentioned in this Schedule is a ground for regulatory action — see subsection 50(2) and section 62.

1 Notification of change of name or address

If a pilot changes name or address, the pilot must, within 30 days after the change happens, tell AMSA, in writing, about the change.

2 Restricted and unrestricted pilot licence requirements

- (1) If the pilot holds a restricted pilot licence or an unrestricted pilot licence, the pilot must:
 - (a) give information and advice to the master of the vessel to assist the master and the vessel's navigating officers to make safe passage through the pilotage area;
 - (b) remain on duty on a vessel whenever the vessel is in the pilotage area unless otherwise authorised by AMSA;
 - (c) comply with the Navigation Act and this Order;
 - (d) consider and take into account the pilot advisory notes;
 - (e) prepare a detailed passage plan for the pilotage of a vessel that:
 - (i) uses the approved passage plan model, specific to the vessel being piloted; and
 - (ii) is agreed with the master of the vessel;
 - (f) take into account relevant information regarding the vessel including information provided by onboard systems and external aids to navigation;
 - (g) confirm with the master all emergency plans relevant to the vessel and the pilot's role in the plans;
 - (h) ensure correct communications procedures are used for VHF radio and any other equipment that may be used during the pilotage;
 - (i) ensure that watchkeeping arrangements are in accordance with the guidance on keeping a navigational watch set out in STCW Code Section A-VIII/2 Part 3;
 - (j) when piloting a vessel — ensure that the vessel is operated in accordance with the *International Regulations for Preventing Collisions at Sea, 1972* as in force from time to time;
 - (k) comply with the Safety Management System of the pilotage provider engaging the pilot to conduct the pilotage;
 - (l) comply, as much as practicable, with the Safety Management System of the vessel being piloted;
 - (m) comply with the applicable fatigue risk management plan;
 - (n) use a personal flotation device that complies with any Australian Standard that applies to it;

- (o) if the pilot holds an unrestricted pilot licence for the Whitsundays pilotage area and is permitted to anchor in the area — anchor in the area in accordance with the conditions of anchoring in the area;
- (p) tell the pilotage provider and REEFVTS of any incident involving the vessel being piloted, no later than 2 hours after the incident occurs.

Examples for paragraph (f)

- malfunctioning onboard equipment
- aids to navigation such as buoys

Note for paragraph (i) **STCW Code** is defined in *Marine Order 1 (Administration) 2013*.

Note for paragraph (n) It is a condition of a pilotage provider licence that the pilotage provider must produce records of service dates of personal flotation devices used by pilots or pilot launch crew engaged by the pilotage provider — see subparagraph 10(1)(a)(iv) of Schedule 1.

- (2) If the pilot holds a restricted pilot licence or an unrestricted pilot licence, the pilot must perform the duties mentioned in this section with the appropriate skill, care and attention to ensure the safe passage of the vessel the pilot is piloting.
- (3) In this clause:

applicable fatigue risk management plan means:

- (a) if the pilot is contracted or employed by a pilotage provider for whom a fatigue risk management plan has been approved under section 39 — the approved fatigue risk management plan for the pilotage provider; or
- (b) if the pilot is contracted or employed by a pilotage provider for whom a fatigue risk management plan has not been approved under section 39 — the fatigue risk management plan published by AMSA.

pilot advisory note means a note made and published by AMSA.

Note For pilot advisory notes — see the AMSA website at <http://www.amsa.gov.au>.

3 Compliance with safety management system

The pilot must comply with the safety management system of the pilotage provider who employs or engages the pilot.

4 Training and continuing professional development

The pilot must undertake approved pilotage training courses published by AMSA and complete continuing professional development to the satisfaction of AMSA.

Note A list of approved pilotage training courses and information about continuing professional development for pilots is available on the AMSA website at <http://www.amsa.gov.au>.

5 Requirements for pilotage through certain areas using UKCM system

- (1) The pilot may pilot a vessel through the Prince of Wales Channel, the Gannet or the Varzin Passages only if the vessel:
 - (a) has a draught of 12.20 m or less; and
 - (b) has a net under keel clearance of:
 - (i) if the vessel has a draught of less than 11.90 m — at least 1 m; or
 - (ii) if the vessel has a draught of 11.90 m or more — at least 10% of the draught of the vessel; or

- (iii) for a vessel piloted through the Gannet or Varzin Passages — at least 1 m.
- (2) The pilot must use the UKCM system to pilot a vessel through the areas mentioned in subsection (1) if the vessel has a draught of at least 8 m.
- (3) The pilot may only use the UKCM system if the pilot has completed to the satisfaction of AMSA:
 - (a) training in the use of the UKCM system; and
 - (b) a competency assessment in the use of the UKCM system.

Note Information about the UKCM system and a related e-learning course is available on AMSA's website at <http://www.amsa.gov.au>.

6 REEFREP reporting

- (1) This clause applies to the pilot if the pilot conducts or intends to conduct a pilotage in a compulsory pilotage area in the REEFREP area.
- (2) The pilot of a vessel to which *Marine Order 56 (REEFREP) 2004* applies must make a report to REEFVTS, when commencing and ceasing pilotage duties, of the following:
 - (a) vessel name, call sign, GBRMPA permit number (if any) and IMO number;
 - (b) name of mandatory reporting point, pilot boarding ground or position (latitude and longitude);
 - (c) name and Pilot/Seafarer ID of the pilot;
 - (d) the name and Pilot/Seafarer ID of any check pilot or trainee pilot accompanying the pilot;
 - (e) the time the compulsory pilotage area was entered or left, whichever is applicable.

Note The methods of communication with REEFVTS are set out in the User Guide for the Great Barrier Reef and Torres Strait Ship Traffic Service (REEFVTS).

- (3) A pilot reporting the information mentioned in subsection (2) to REEFVTS must make the report:
 - (a) if safe to make the report:
 - (i) no later than 30 minutes after the pilot commences pilotage duties; and
 - (ii) no later than 15 minutes after the pilot ceases pilotage duties; or
 - (b) if it is unsafe to make the report in accordance with paragraph (a) — as soon as it is safe to make the report.

- (4) For this clause:

Pilot/Seafarer ID means the identification number of that name included on the Coastal Pilot Licence issued to each pilot by AMSA.

7 AMSA may notify certain information to pilotage providers

- (1) AMSA may tell a pilotage provider that employs or contracts a pilot details of the following:
 - (a) any pilot licence held by the pilot;
 - (b) the results of any check pilot interview of the pilot;
 - (c) approved pilotage training courses completed by the pilot;
 - (d) any regulatory action taken by AMSA against the pilot;

(e) any incident in which the pilot has been involved.

Example for paragraph (a)

The class of licence or its expiry date.

Example for paragraph (d)

The suspension of a pilot licence.

- (2) AMSA must tell the pilot each time it tells the pilotage provider information about the pilot under subsection (1).

Schedule 4 Check pilot licences — further conditions

(sections 50 and 67)

Note Failure to comply with a licence condition mentioned in this Schedule is a ground for regulatory action — see subsection 50(2) and section 62.

1 Check pilot voyages – general responsibilities

The check pilot must:

- (a) undertake check voyages with a person holding an unrestricted pilot or restricted pilot licence in accordance with the other requirements of this Schedule; and
- (b) assess trainee pilots in accordance with requirements for check pilot assessment voyages approved in writing by AMSA.

Note The requirements for check pilot assessment voyages are available on the AMSA website at <http://www.amsa.gov.au>.

2 Planning check pilot voyage

Before embarking on a check pilot voyage, the check pilot must:

- (a) plan the assessment so that the pilot is assessed in accordance with the performance criteria approved by AMSA; and
- (b) make records of the planning mentioned in paragraph (a).

Note The performance criteria are available on AMSA's website at <http://www.amsa.gov.au>.

3 Check pilot must advise performance criteria

Before embarking on a check pilot voyage, the check pilot must tell the pilot what the performance criteria are.

4 Checklist

The check pilot must use a checklist approved by AMSA to assess the pilot against the performance criteria determined by AMSA.

Note The checklist approved by AMSA includes the performance criteria and is available on AMSA's website at <http://www.amsa.gov.au>.

5 Check pilot to be on bridge

The check pilot must be on the bridge at all times that the pilot is on the bridge during the check pilot voyage.

6 Conclusion of assessment

At the conclusion of a check pilot voyage:

- (a) the check pilot and pilot must sign the checklist used on the voyage; and
- (b) the check pilot must give the completed checklist and completed pre-assessment plan to AMSA within 14 days after the completion of the voyage; and
- (c) the check pilot must de-brief the pilot and, if necessary, discuss remedial action with the pilot.

7 Unsatisfactory assessment to be reported

If the check pilot makes an unsatisfactory finding of a pilot because of an assessment, the check pilot must tell the pilot, the pilot provider and AMSA within 5 days after the assessment.

Schedule 5 Pilot transfer requirements

(subsection 43(2) and clause 8 of Schedule 1)

1 Pilot launch requirements

- (1) The pilot launch must comply with the National Standard for Commercial Vessels.

Note 1 This requirement applies if the pilot launch is a domestic commercial vessel or a regulated Australian vessel (eg if there is an opt-in declaration for the vessel under section 25 of the *Navigation Act 2012*).

Note 2 For design and construction, fitting and equipment requirements for pilot launches — see Part C1 of the NSCV. For other vessel construction requirements — see Part C3 of the NSCV. For engineering requirements — see Part C5 of the NSCV. For operation requirements including crewing requirements — see Part E of the NSCV.

- (2) Until 31 December 2014, if the pilot launch complied with *Marine Order 54 (Coastal pilotage) 2011* on 30 June 2014 other than paragraph 1.4(b) of Schedule 1, the deck that is used for access to the pilot transfer position is taken to comply with the National Standard for Commercial Vessels if it:
- (i) is clear and free of obstructions; and
 - (ii) has a width of at least 600 mm between the gunwale and the deckhouse or superstructure.
- (3) After 31 December 2014, the deck that is used for access to the pilot transfer position must be clear and free of obstructions with a width of at least 750mm between the gunwale and the deckhouse or superstructure.

2 Additional equipment requirement — maritime survivor locating system

The pilot launch must be fitted with the following equipment:

- (a) an MSLS operating on 121.5 MHz (that complies with AS/NZS 4869.1:2006 *Maritime Survivor Locating Systems (MSLS) – Operating on 121.5 MHz*) or operating on frequencies other than 121.5 MHz (that complies with AS/NZS 4869.2:2010 *Stand alone maritime survivor locating systems (MSLS) – Operating on frequencies other than 121.5 MHz*);
- (b) a registered 406 MHz EPIRB.

3 Personal protective equipment requirements

Each pilot and crew member working on the deck of the pilot launch must be provided with:

- (a) a personal floatation device (a **PFD**) that is equipped with:
 - (i) a self-activating light, whistle and strobe light; and
 - (ii) an MSLS transmitter operating on 121.5 MHz (that complies with AS/NZS 4869.1:2006 *Maritime Survivor Locating Systems (MSLS) – Operating on 121.5 MHz*) or operating on frequencies other than 121.5 MHz (that complies with AS/NZS 4869.2:2010 *Stand alone maritime survivor locating systems (MSLS) – Operating on frequencies other than 121.5 MHz*); and

- (iii) a 406 MHz personal locator beacon with GPS capability; and
- (iv) a stainless steel ring or other arrangement, for clipping onto the safety rail system of the pilot launch; and
- (b) a lanyard or webbing strap capable of withstanding a load of 1.2 kN and capable of securely clipping on to the PFD and the safety rail system.

Note for paragraph (a) An MSLS transmitter is a portable transmitting device that sends an alert signal to an MSLS receiver.

Note 1 Part C1 of the NSCV sets out requirements for the safety rail system.

Note 2 Pilots and pilot launch seafarers must wear any additional personal protective equipment specified in the Pilotage Provider Safety Management System.

4 Helicopter transfer requirements

- (1) The helicopter must be licensed, operated and maintained in accordance with the requirements for the helicopter under the *Civil Aviation Act 1988*.
- (2) The pilotage provider's safety management system must document:
 - (a) the training licensed pilots must undergo before commencing transfers by helicopter; and
 - (b) the frequency of refresher training required for licensed pilots.
- (3) Each pilot carried by helicopter during pilot transfer must be provided with an inflatable lifejacket that is:
 - (a) fitted with a 406 MHz personal locator beacon with GPS capability; and
 - (b) complies with paragraph 5.1.6 of *Civil Aviation Order 20.11 (Emergency and life saving equipment and passenger control in emergencies)*.

Note For further information about Civil Aviation Order 20.11 — see CASA's website at <http://www.casa.gov.au>.

- (4) A pilot may be transferred by helicopter to or from a vessel only if the pilot has undertaken helicopter escape training in accordance with the pilotage provider's safety management system.
- (5) A pilot must undergo a safety briefing conducted by the helicopter pilot before each flight.

Schedule 6 Reviewable decisions

(section 83)

Item	Subsection	Decision	Person affected
1	10(3)	refuse to issue pilotage provider licence	applicant for licence
2	15(6)	refuse to vary pilotage provider licence	pilotage provider applying to vary licence
3	17(3)	refuse to renew pilotage provider licence	person applying to renew pilotage provider licence
4	27(3)	take regulatory action against a person holding a pilotage provider licence	person holding pilotage provider licence
5	39(3)	reject application to approve a pilotage provider's fatigue risk management plan	applicant for approval
6	39(7)	revoke approval of fatigue risk management plan	person holding the approval
7	40(3)	reject application for variation of fatigue risk management plan	applicant for approval
8	48(3)	refuse to issue pilot licence	applicant for licence
9	54(3)	refuse to renew pilot licence	licensee
10	64(3)	take regulatory action against a licensed pilot	licensee
11	73(3)	refuse to approve provision of pilotage training course	applicant
12	77(3)	refuse to renew pilotage training course approval	person applying to renew pilotage training course approval

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.