



THE
SARAWAK GOVERNMENT GAZETTE
PART II

Published by Authority

Vol. LXXIII

22nd February, 2018

No. 12

Swk. L. N. 34

PORT AUTHORITIES ORDINANCE, 1961

TANJUNG MANIS PORT AUTHORITY (PILOTAGE) REGULATIONS, 2018

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PORT AUTHORITIES ORDINANCE, 1961

TANJUNG MANIS PORT AUTHORITY (PILOTAGE) REGULATIONS, 2018

(Made under section 64(1)(j))

In exercise of the powers conferred upon the Tanjung Manis Port Authority by section 64(1)(j) of the Port Authority Ordinance, 1961 [*Ord. No. 1/61*], and with the approval of the Majlis Mesyuarat Kerajaan Negeri, the following Regulations have been made:

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the **Tanjung Manis Port Authority (Pilotage) Regulations, 2018**, and shall be deemed to come into force on the 1st day of April, 2013.

Interpretation

2. In these Regulations—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Tanjung Manis Port Authority established under section 3(1) of the Ordinance;

“contractor” means an individual or company engaged by the Authority or the approved port operator and licensed by the Pilotage Committee to provide pilotage service;

“marine manager” means the officer appointed by the Authority or the approved port operator to be in charge of the marine traffic and safety navigation and includes his assistants and any other officer acting under or with his authority;

“Pilot Boarding Ground A” means the point where a pilot embarks a vessel for the purpose of piloting a vessel at Latitude 03° 37.0’ North, Longitude 113° 16.4’ East or at any point as determined by the Authority;

“Pilot Boarding Ground B” means the point where a pilot embarks a small coastal vessel for the purpose of piloting such vessel at Latitude 03° 34.7’ North, Longitude 113° 18.3’ East or at any point determined by the Authority;

“licensed pilot” means a qualified person from the Authority or the approved port operator who is duly licensed by the Pilotage Committee including a pilot duly licensed under regulation 10;

“Ordinance” means the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*];

“Pilotage Committee” means the Tanjung Manis Port Authority’s Pilotage Committee having jurisdiction to examine, regulate the conduct and discipline of the licensed pilots of the Authority or the approved port operator and issuance of the licence;

“pilotage district” means any area in the port or the approaches to the port that has been defined therein the limits to be the pilotage district of the Tanjung Manis Port;

“port” means the Tanjung Manis Port within the limits declared under the Ordinance.

PART II PILOTAGE DISTRICT

Declaration of pilotage district

3. The Minister may from time to time by notification in the *Gazette* declare an area in the port or the approaches to the port to be a pilotage district and shall define therein the limits of the pilotage district.

Type and class of vessels to be under pilotage

4.—(1) The Authority or the approved port operator may require type or class of vessels as it may from time to time specify be under pilotage while navigating in a pilotage district and the master or owner of every vessel or type and class of such vessel shall comply with such requirement.

(2) A vessel while being moved within any area of the port which is or forms part of a pilotage district shall be deemed to be a vessel navigating in a pilotage district.

Authority to employ pilots

5.—(1) Subject to this regulation, the Authority or the approved port operator may employ such number of pilots as it deems necessary or expedient for the purpose of providing an adequate and efficient pilotage service.

(2) No person shall be employed as a licensed pilot in a pilotage district unless he is in possession of a valid licence to act as a pilot in the pilotage district issued under regulation 10.

Vessel to be piloted by a licensed pilot

6. No vessel shall be piloted in a pilotage district by any person other than a person licensed under regulation 10.

PART III
PILOTAGE COMMITTEE

Rules in relation to Pilotage Committee

7. The Minister may make rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Appointment and functions of Pilotage Committee

8. The Authority shall with the approval of the Minister appoint a Pilotage Committee for the purpose of—

- (a) holding examinations and issuing on behalf of the Authority, licences to act as the approved port operator's pilots or as pilots employed by a licensed contractor;
- (b) holding inquiries concerning the conduct of port pilots or persons licensed under regulation 10 in the discharge of their duties as directed by the Authority and making recommendations to the Authority;
- (c) investigating and advising on such matters as may be referred to the Pilotage Committee by the Authority or the approved port operator; and
- (d) carrying out such other functions as are conferred on the Pilotage Committee by this regulation.

Constitution of Pilotage Committee

9.—(1) The Pilotage Committee shall consist of a chairman and four other persons who, by reason of their knowledge of or experience in shipping, nautical or port matters are, in the opinion of the Authority, fit and proper persons to be members of the Pilotage Committee; and the Chairman of the Pilotage Committee shall be the General Manager of the Authority.

(2) The appointment of a member of the Pilotage Committee shall be for a period of not exceeding three years but the member shall be eligible for reappointment on completion of every such period.

(3) Three members of the Pilotage Committee shall form a quorum at a meeting of that Committee.

(4) The Chairman of the Pilotage Committee shall preside at all of its meetings:

Provided that in the absence of the Chairman, the members present shall choose one of their number to preside in his place.

(5) If on any question to be determined there is an equality of votes, the chairman or member presiding shall have the casting vote in addition to his original vote.

(6) Members of the Pilotage Committee who are not officers or servants of the Authority shall be paid such fees and allowances out of the funds of the Authority as the Authority may determine.

Power of Pilotage Committee to issue licence as pilot

10.—(1) The Pilotage Committee shall have power to issue a licence to any employee of the approved port operator or its contractor (including candidates for employment by the Authority or approved port operator) to pilot vessels in a pilotage district of the port subject to such terms and conditions as the Authority or the approved port operator deems fit:

Provided that no such licence shall be issued to any such employee or person unless the Pilotage Committee has examined him and be satisfied as to the his general fitness and competency, including his physical fitness, to act as a pilot for the approved port operator or its contractor.

(2) Notwithstanding sub-regulation (1), every pilot holding immediately prior to the coming into force of this regulation a licence to act as a pilot issued under any written law shall be deemed to be qualified for employment by the Authority or the approved port operator as a pilot, and the Pilotage Committee may, on behalf of the Authority or the approved port operator, issue to such pilot when employed by the Authority or the approved port operator a licence to act as an Authority's or the approved port operator's pilot in a pilotage district, subject to such conditions as the Pilotage Committee may impose.

(3) A licence issued under this regulation shall cease to be valid if the person to whom it was issued ceases to be employed by the approved port operator or its contractor.

Further examination to act as pilot

11.—(1) Every licensed pilot shall whenever the Pilotage Committee considers that, owing to change of conditions or for any other sufficient reason, the further testing of the general fitness (including physical fitness) and competency of any such pilot is necessary, be present or further examination, and shall in every such case first deposit with the Pilotage Committee the licence issued by that

Committee on behalf of the Authority or the approved port operator to be returned or cancelled by the Committee as the result of such test or examination.

(2) The Authority or the approved port operator shall not continue to employ as a pilot any person whose licence to act as a pilot is cancelled pursuant to sub-regulation (1).

Issuance of licence shall not implicate the Pilotage Committee and the Authority

12. The issuance of a licence to a pilot by the Pilotage Committee on behalf of the Authority or the approved port operator under regulation 10 shall not implicate or impose any liability on the Pilotage Committee and the Authority for any loss or damage occasioned by an act, omission or default of such pilot.

Inquiries by Pilotage Committee

13.—(1) The Pilotage Committee may, and when directed by the Authority or the approved port operator shall, hold an inquiry into the conduct of an Authority's pilot or the approved port operator's pilot or a person licensed under regulation 10 where it appears that he has been guilty of misconduct affecting his capability, or has failed in or neglected his duty, or has become incompetent to act as such pilot.

(2) For the purposes of the inquiry, the Pilotage Committee may summon any person to attend any of its meetings to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relating to the matters which are the subject matter of such inquiry.

(3) Any person who—

(a) being summoned to attend any such inquiry, fails so to do; or

(b) being required by the Pilotage Committee to give evidence or affirmation or to produce a document or other thing, refuses so to do,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding five thousand ringgit.

Submission of Pilotage Committee's findings and recommendations to the Authority

14.—(1) Where the Pilotage Committee, after due inquiry in accordance with this regulation and after hearing any statement that maybe offered in defence, finds that an Authority's pilot or the approved port operator's pilot or a person licensed under regulation 10 has been guilty of misconduct affecting his capability, or has failed in or neglected his duty, or has become incompetent to act as a pilot, it

shall submit to the Authority or the approved port operator a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

(2) The Authority or approved port operator may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of the licensed pilot or person licensed under regulation 10 or impose such other punishment as the Authority or the approved port operator may deem fit.

(3) Any Authority's pilot or the approved port operator's pilot or any person licensed under regulation 10 who is aggrieved by a decision of the Authority or the approved port operator made under this regulation may, within fourteen days from the date of such decision, appeal to the Minister whose decision thereon shall be final.

PART IV PILOTAGE REGULATIONS

Pilot deemed to be the servant of the master

15. A licensed pilot whilst engaged in an act of pilotage shall, notwithstanding being employed by the Authority or the approved port operator or its contractor, be deemed to be the servant only of the master or owner of the vessel under pilotage and the Authority or the approved port operator or its contractor shall not be liable for any loss or damage occasioned by any act, omission or default of such pilot.

Training

16. All licensed pilots shall be required to undergo training in accordance with the training schedule as approved by the Pilotage Committee from time to time.

Compliance with requirement while under pilotage restriction

17. A pilot whilst under pilotage restriction shall comply with the requirements in the training schedule as may be authorised by the Pilotage Committee from time to time.

Liability of master or owner in cases of vessel under pilotage

18. The master or owner of a vessel navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would be if pilotage were not compulsory.

Limitation of licensed pilot's liability when bond is given

19.—(1) All licensed pilot who has given a bond in accordance with sub-regulation (2) shall not be liable for neglect, want of skill or incapacity in office

beyond the penalty of the bond and the amount payable to the Authority or the approved port operator on account of pilotage in respect of the vessel in which he was engaged when he became so liable.

(2) Every licensed pilot shall undertake to give a bond in favour of the Authority or the approved port operator in the sum of not exceeding five thousand ringgit for the proper performance of duties under these Regulations and any rules or by-laws made under the Ordinance.

(3) Any bond given by a licensed pilot in accordance with this regulation shall not be liable to stamp duty.

(4) Where any proceedings are taken against a licensed pilot for any neglect, want of skill or incapacity of employment in respect of which his liability is limited as provided by this regulation, and other claims are made in respect of the same neglect, want of skill or incapacity of employment, the court in which such proceedings are taken may—

(a) determine the amount of the pilot's liability and, upon payment by him of the amount to court, distribute the amount rateably among the several claimants;

(b) stay any proceedings pending in any other court in relation to the same matter; and

(c) proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimant who has not submitted his claim within a certain time, and as to requiring security from the pilot and as to payment of any costs as the court deems fit.

Summary proceedings

20. A court may, if it deems fit, call upon two members of the Pilotage Committee to sit with it as assessors in any proceedings affecting licensed pilots under these Regulations or any rules or by-laws made thereunder.

Pilotage service charges

21.—(1) When a pilot boards a vessel and finds the vessel is not ready to move, he shall wait on board for a maximum period of one hour.

(2) The first half-hour of detention is not chargeable; however, the next half-hour shall be chargeable.

(3) If the vessel is not ready at the end of one hour period, the pilot shall return to the pilotage office and the order to be considered as cancelled and a cancellation charge shall apply.

(4) The agent of the vessel shall obtain a fresh time from the pilotage office and request for a fresh pilot service.

Pilot waiting time

22.—(1) A pilot waiting for incoming vessel whose estimated time of arrival is confirmed shall wait for a maximum period of half hour at the Pilot Boarding Ground A or B as the case may be.

(2) Where a pilot is requested and his services not used, the full charge shall be imposed as if services had been rendered.

Exception for pilotage service

23. All vessels navigating within the pilotage district are required to be under pilotage except —

- (a) vessels owned by the Malaysian Government;
- (b) locally registered small craft of less than 25m length overall; or
- (c) any other vessel as may be determined by the Pilotage Committee from time to time.

PART V

PILOT'S CONDUCT

Pilot to be conversant and compliant with all written laws

24. A pilot shall be conversant and comply with all written laws and directives relating to his duties.

Pilot to attend frequently at the pilotage office

25. A pilot shall attend frequently at the pilotage office to examine the latest plans and charts of the port and other information concerning the port.

Pilot to be in uniform

26. A pilot when on duty either ashore or afloat, shall wear such uniform as prescribed by the Authority or the approved port operator.

Pilot to carry licence and other documents

27. A pilot shall carry his licence and other documents at all times when on duty and shall make the documents available for inspection by the master of any vessel employing him.

Pilot to behave in a civil manner

28. A pilot shall behave in a civil manner towards the owner, master and officers of any vessel under his charge.

Pilot to board a vessel upon request

29. A pilot shall upon request punctually board the vessel at a given time when the owner, master or agent of a vessel requires the services of a pilot for moving a vessel.

Pilot to use care and diligence to prevent any accident or damage while piloting a vessel

30. A pilot shall use care and diligence to prevent any accident or damage either to the vessel he is piloting or to properties of any kind whatsoever and shall not cause obstruction or interference to the navigation of other vessels in any navigable channel or anchorage.

Pilot to board any vessel displaying international quarantine signal

31. A pilot may board any vessel displaying international quarantine signal for the purpose of piloting it.

Pilot refused to conduct any vessel

32. A pilot who has refused to conduct any vessel shall immediately notify the marine manager and submit his reasons for doing so in writing within twenty-four hours of such refusal.

Pilot to obtain written statement from master

33. A pilot on board a vessel the conduct of which has been assumed by the master for whatever reason shall obtain a written statement to that effect from the master of the vessel.

Pilot to report any vessel with unsafe manoeuvring

34. A pilot who having the conduct of a vessel discovers conditions which may be detrimental to the safe manoeuvring of the vessel shall notify the marine manager immediately of such conditions.

Pilot to immediately report any accident

35. A pilot shall immediately notify the marine manager of any accident that occurs whilst the vessel is being piloted and submit a report to the marine manager within twenty-four hours of the accident.

Pilot to report any overloaded vessel

36.—(1) A pilot shall if he finds that a vessel to which he has to conduct appears to be overloaded, immediately report the overloading to the marine manager, and shall not undertake the conduct of the vessel unless instructed to do so or otherwise.

(2) The marine manager having received the report of the overloading shall take immediate steps as he may deem fit.

Pilot to report any malfunctioning navigation aid

37. A pilot shall if he finds or has any reason to believe that any navigation aid has malfunctioned, including being out of its proper position or has broken adrift or is damaged or missing or defective, as soon as is practicable make a report to the port control tower and the marine manager.

Pilot to report any impediment, obstruction or alteration within pilotage district

38. A pilot who finds any impediment, obstruction or alteration within the pilotage district (including any change or apparent change in any landmark) which may pose a risk to navigation, shall forthwith report such impediment, obstruction, alteration or change to the marine manager.

Pilot to have the conduct of an outward and inward bound vessel

39.—(1) A pilot having the conduct of an outward-bound vessel shall remain on board the vessel until the service for which he has been engaged is completed and the master has agreed to resume the conduct thereof.

(2) A pilot having the conduct of an inward-bound vessel shall remain on board the vessel until the vessel has anchored, moored or otherwise secured to the satisfaction of the master.

Pilot to obtain certificate signed by the master before leaving the vessel

40. A pilot shall obtain a certificate signed by the master which shall contain such particulars as may be required by the Authority or the approved port operator before leaving a piloted vessel, and shall deliver such certificate to the marine manager upon completion of the move.

Pilot to keep record of the vessel piloted

41. A pilot shall keep a record of the vessels being piloted which contain information as the marine manager may from time to time direct and shall be submitted to the marine manager for inspection as and when required.

Pilot to report any contravention

42.—(1) A pilot shall report any contravention of the Ordinance or its regulations, orders or any laws to the marine manager.

(2) All reports under this regulation shall be in such a form as may be required to be by the marine manager.

Pilot not to permit unauthorised company when boarding any vessel

43. A pilot shall not permit or be accompanied by any unauthorised person when boarding any vessel.

Pilot to ensure all communication equipment or other equipment in good working condition

44. A pilot shall ensure that all communication equipment or other equipment issued to him is maintained in good working condition and the instructions given for the use thereof shall be complied with.

Pilot to undergo annual medical examination, eyesight and audiometric test

45. A pilot shall undergo a medical examination, eyesight and audiometric test once a year or whenever deemed necessary by the Pilotage Committee.

Pilot absence from duty

46. A pilot shall not be absence from duty unless permitted to do so by the marine manager.

Pilot to attend before the Pilotage Committee

47. A pilot shall attend before the Pilotage Committee upon being summoned to do so by the chairman of the Pilotage Committee.

Suspension of pilots

48.—(1) A pilot who is unable to discharge duties efficiently due to sickness, or any defect to eyesight or hearing or intoxication shall be liable to immediate suspension from duty until certified fit to resume duty.

(2) A pilot who is found to be involved in fraud, bribery, act of corruption, false claims or testimony shall be liable to immediate suspension from duty; and the marine manager shall decide on the duration of suspension as he may deem fit.

Suspension of pilot on duty involved in serious incident or accident

49. A pilot shall be immediately suspended from duty if the piloted vessel is, in the opinion of the marine manager, involved in a serious incident or accident which is caused by the negligence of the pilot; and the marine manager shall decide on the duration of suspension as he may deem fit.

Marine manager to refer to Pilotage Committee

50. The marine manager shall refer any events or reports of misconduct and actions taken under this Part to the Pilotage Committee for its further action under these Regulations.

Pilot to surrender licence upon termination

51. A pilot shall surrender his licence to the Pilotage Committee upon termination of employment with the Authority or the approved port operator.

Made this 20th day of July, 2017.

ABDULLAH BIN HAJI SAIDOL,
Chairman
Tanjung Manis Port Authority

Approved this 20th day of July, 2017.

HAJAH SUTIN BINTI SAHMAT,
Clerk to Majlis Mesyuarat Kerajaan Negeri

[To be laid upon the table of the Dewan Undangan Negeri at its next meeting under section 64(2) of the Port Authorities Ordinance, 1961].