



**The Marine Navigation Bill 2012 (2) – a PMB Sponsored by Sheryll Murray MP**

**Comments on the Proposal to Deregulate Pilotage Exemption Certificates**

By

**The United Kingdom Maritime Pilots' Association**

***Executive Summary***

UK Pilotage is governed under the 1987 Pilotage Act as amended. A pilot's legal status was defined under the Merchant Shipping Act of 1894 and still stands today under current legislation as “*any person not belonging to a ship who has the conduct thereof.*”

Compulsory Pilotage in port areas is the principal risk mitigation measure available to ensure the safety of navigation of visiting ships; the safety of passengers and crews; the protection of the various environments: port, marine, riparian and littoral; the safety of other vessels navigating in the same waters and the overall efficiency and commercial success of the port. Additionally in the UK, a pilot is bound by statute to perform other roles relating to reporting of ship defects including vessel condition and operational practises, reporting health concerns and to participate as a “vanguard” element in the system of UK border protection.

Thus the pilot is not simply a navigation adviser. In law the pilot has conduct of the navigation of the ship which involves a multitude of tasks and responsibilities. His / hers is a senior managerial role whilst on board the ship as both servant of the owner for navigational purposes and as a servant of the crown and society for the other wider responsibilities.

There is provision in the 1987 Act for Pilotage Exemption Certificates (PECs), based on centuries of experience which limits the holders of PEC's to the bona-fide Master or Mate (aka First Mate / Chief Officer). The PEC system has evolved significantly since 1987, not least in reaction to the many recorded instances of abuse of the system (and many more unrecorded). The concept of PECs is to provide an alternative to the employment of a compulsory pilot for vessels in frequent, regular trade to a port without compromising in any way the level of safety provided by the pilot replaced. Thus the standard of training and examination of the PEC holder shall be no more (nor less) onerous than that of the pilot that is replaced. The practical application of this provision is covered in the Port Marine Safety Code (PMSC) and detailed in its associated Guide to Good Practise (GTGP) which clearly stipulates the minimum standards that ports should aspire to in granting PECs, the standards being based on the holders being Master or Chief Officer.

It follows therefore that the holder of a PEC is entrusted with high level on-board managerial responsibilities as well as having overall conduct of the vessel's navigation.

The proposal to de-regulate the existing system by permitting “any person”, understood (from though not confirmed in writing by the Dft) to actually mean junior deck officers has no safety or port efficiency case attached to it, neither is there any perceived and substantiated argument to support the proposal. The proposal is based on purely commercial profiteering grounds by a small sector of the UK fleet.

***The proposal to deregulate PECs is potentially in contravention of the requirements of the Standards of Training and Certification of Watch-keepers (STCW) regulations and will directly act against the agreed and developed practises of bridge team manning and operational practises which lie at the core of safe onboard navigational safety procedures whether in confined or open waters.***



### ***Motivation for the proposal to deregulate PECs***

The Chamber of Shipping has admitted that the desire to see de-regulatory change is limited to one part of the marine aggregate dredging sector. This was first lobbied for prior to publication of the Draft Marine Navigation Bill in 2008. It was purely commercially driven and was and remains as a result of the operational practises on board the vessels concerned.

There is history attached to their desire to see change:

Prior to the 1987 Pilotage Act, the British aggregate fleet in common with other coastal vessels were issued with exemptions for the vessel not individual ship's officers. In the period up to STCW 1978 implementation, vessels of 99 metres were even allowed to be navigated in and out of major ports, including London and Southampton by officers with no formal nautical education or training.

Dredgers were working at various locations within the limited European trading area. When operating on the Continent the service of local Pilots was always employed. Attempts were made by dredging companies to exploit local rules allowing exemptions for dredgers operating in continental estuarial clearance work, but this was generally not allowed due to language issues.

Within the UK the situation varied from port to port. Generally for the major ports including Southampton, London, the Medway and the Humber the previously mentioned system prevailed whereby the vessels and not officers were exempt and could in theory be operated and navigated by personnel with no local knowledge or experience.

It is worthy of note that some of these vessels were loading and discharging 2 cargoes per day with crews of 6 men in total, this included manned engine rooms.

The 1987 Pilotage Act changed the situation completely and ship exemptions were replaced by the current system whereby individuals obtain PECs. The requirements for obtaining PEC's varied (and in some respects continue to) from port to port at the discretion of the CHA's – a provision of the Pilotage Act and the PMSC. One common factor is that for all PEC's the holder is still required to be "the bona-fide Master or Mate".

Since the ship-owners first lobbied for change over 5 years ago, there have been significant changes in shipping operations affecting all sectors. Notwithstanding the lack of the safety case for change, it is questionable whether the original commercial argument is still relevant.

### ***Why the PEC is currently limited to the Bona-Fide Master or Mate***

Traditionally, pilotage has been and still is regarded as the pinnacle of practical maritime expertise.

Maritime pilots are globally acknowledged as being expert closed waters and close quarters navigators and ship handlers based on decades of maritime experience and significant daily on-going practical experience, training and continuous professional development processes.

The underlying foundation of the basic elements of the pre-pilotage training requirements is extensive experience in navigation and managerial processes in order to be able to make highly complex decisions in a confident manner with minimal negative results whilst under extreme stress and often working for extended periods.

It has thus long been recognised that in order to ensure that an applicant for a pilotage position has a proper portfolio of relevant expertise and experience, the ideal basic requirements for the candidate are a senior ship management qualification (Masters certificate – Now STCW II/2) and a determined period of service in preferably command position or at the very least as Chief Officer.



One reason for the relevant experience requirement is that this ensures that the candidate has a proven ability to make high level decisions independently with confidence and without having to refer to a “higher authority” to determine if the decision is acceptable.

Thus the purpose of the present restriction on the issue of a PEC is to ensure that exemption is granted only to those who hold bona fide authority in the conduct of a particular vessel or specific vessels; particularly in the light of the specific proviso in Section 8 (2) of the 1987 Pilotage Act. In circumstances where the bona fide master or first mate of a vessel holds a PEC in respect of that vessel but is nevertheless unable through any cause to undertake the pilotage, the maintenance of the highest possible standards requires that a duly authorised pilot should be engaged. It is contrary to the public interest and the entire purpose of the Pilotage Act that pilotage in a compulsory pilotage area should be entrusted to anybody of any lesser qualification.

### ***STCW 95 (Amended 2010)***

The Merchant Shipping (Training and Certification) Regulations 1997 implement in the United Kingdom some of the requirements of the International Convention on Standards of Training, Certification and Watch-keeping 1978 as amended in 1995 and 2010 (aka the Manila Amendments) and its associated Code (STCW Code). The STCW Code details the levels of knowledge, understanding and proficiency and the methods which may be used to determine candidates’ competence to undertake different functions associated with different levels of responsibility.

The Regulations provide for the certification of masters and deck department personnel involved in bridge watch keeping and navigational duties at levels of responsibility: Management - (master, chief mate) and Operational - (watch-keeping officers).

The STCW code states that:

*1.2 Management level means the level of responsibility associated with:*

- .2.1 serving as master, chief mate, ... on board a seagoing ship, and*
- .2.2 ensuring that all functions within the designated area of responsibility are properly performed;*

*1.3 Operational level means the level of responsibility associated with:*

- .3.1 serving as officer in charge of a navigational or engineering watch ... on board a seagoing ship, and*
- .3.2 maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedures and under the direction of an individual serving in the management level for that area of responsibility...*

Thus it can be seen that if a PEC is granted to a junior officer, regardless of the level of STCW qualification that he holds, the compliance with the STCW regulatory manning requirements would be in question.

### ***Bridge Teams and Bridge Resource Management***

The importance of a ship’s bridge team and the effective implementation of Bridge Resource Management principles is acknowledged and required by the IMO, all its member states and all NGO observers as being fundamental to the safe and efficient operation of shipping. The team itself will have a different composition depending on a variety of influences including but not limited to the vessel’s size, trade, location, traffic density etc. Passages through port approaches and within harbour waters are recognised as being the most hazardous and critical stages of a voyage for any vessel. The bridge team therefore needs to be at its highest level of composition and operation during this period. The pilot is the additional element of specialist expertise provided to work with the bridge team to ensure the team’s essential effectiveness.



In the event that a PEC is granted to the master or chief officer then the composition of the bridge team will still require the same additional personnel in the form of junior officers (if available on board) as if the pilot was on board.

If the PEC were to be granted to a junior officer on the same ship, then it has to be questioned where the additional personnel to make up the team would come from.

It has to be remembered that underpinning all operations on board a ship are the ILC and STCW hours of work regulations whose provisions can not be exceeded or contravened.

### ***Conclusion***

The comments submitted herein give but a brief outline of the serious implications of the proposal to deregulate the current long established and proven system of PEC management within the UK. There are many more implications of the proposal which need to be fully considered including the current poor standards of training, qualifications and experience of junior (and senior) officers; the lack of a formal English language standard for PEC holders etc. This in addition to the implications within the on-board command structure whereby granting a PEC to a junior officer would mean that the junior officer would be expected to give orders to the master, clearly a ludicrous situation.

The UK system is highly respected around the world as being a fair, equitable and robust process which does not undermine or compromise the safe and efficient operation of UK ports yet acknowledges the sensible needs of efficient and cost effective frequent, regular trades to specific ports.

The UK system is in full compliance of the policies of the European Maritime Pilots' Association and the International Maritime Pilots' Association. The current system is also fully supported by the United Kingdom Harbour Masters' Association.

Commercial shipping and port operations are dynamic, progressive industries, facing operational and competitive challenges daily. In meeting these challenges, the maintenance of public safety, the protection from harm of ships crews, passengers and the environment along with ensuring the integrity of ports' infrastructures from accidental physical damage by ships to facilitate the economic efficiency and growth of ports and thus the nation's trade can not be over emphasised.

The proposed deregulation of PECs is thus unacceptable. It should be removed from the Bill and furthermore dropped as current government policy as being not in the public interest.

For and on behalf of the UKMPA

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