Marine (Amendment) Act 1999
Act No. 28/1999

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The Parliament of Victoria enacts as follows:

1. **Purpose**

The purpose of this Act is to amend the *Marine Act 1988*—

(a) with respect to the provision of pilotage services in port waters, including setting safety standards for the provision of those services; and

(b) to extend the Marine Board of Victoria's powers to investigate and prosecute offences against that Act and the regulations.
2. **Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

3. **Principal Act**

In this Act, the *Marine Act 1988* is called the Principal Act.

4. **New definitions inserted**

In section 3(1) of the Principal Act **insert**—

'"pilotage services"' means—

(a) the service of providing a pilot to navigate a vessel within, or into or out of, port waters; or

(b) the service of providing transport and transfer of a pilot to and from a vessel for which services under paragraph (a) are required; or

(c) both of the services referred to in paragraphs (a) and (b);

'"pilotage services provider"' means a person registered by the Board under Part 3B to provide pilotage services;'.

5. **New Part 3B inserted**

After section 26I of the Principal Act **insert**—
"PART 3B—PILOTAGE SERVICES

Division 1—Registration of pilotage services providers

26J. Notification of pilotage services provider

(1) A person who proposes to provide pilotage services must, not less than 30 days before commencing to provide those services, give a notice to the Board of the intention to provide those services.

(2) A notice under sub-section (1) must—

(a) be in writing; and

(b) be in a form approved by the Board; and

(c) be accompanied by a fee of $135.

(3) A person lawfully providing pilotage services before the commencement of the Marine (Amendment) Act 1999 and who intends to continue to provide those services after that commencement may give a notice in accordance with sub-section (2) to the Board not less than 30 days after that commencement.

26K. Registration as a pilotage service provider

The Board, on receiving a notice from a person under section 26J and the fee specified in that section, must register the person as a pilotage services provider.

26L. Duration of registration

The registration of a pilotage services provider—

(a) takes effect at the time of issue of a certificate under section 26N; and
(b) is valid for one year unless suspended or cancelled sooner.

26M. **Application for renewal of registration**

(1) A pilotage services provider may apply to the Board for renewal of registration as a pilotage services provider before the existing registration of the provider expires.

(2) An application for renewal of registration must—

   (a) be in writing; and

   (b) be in a form approved by the Board; and

   (c) be accompanied by a fee of $90.

(3) The Board, on receiving from a person an application under sub-section (2) and the fee specified in that sub-section, must renew the registration of the person as a pilotage services provider.

26N. **Certificates of registration**

(1) The Board on—

   (a) registering a person under this Part; or

   (b) renewing the registration of a person under this Part—

must issue a certificate of registration to that person.

(2) The following particulars must be included on a certificate of registration—

   (a) any alternative safety standards approved by the Board under section 26S; and

   (b) any other information determined by the Board.
26O. The Register

(1) The Board must cause to be kept a register of all pilotage services providers.

(2) The register is to be called the Register of Pilotage Services Providers.

(3) The register must contain the following information—

(a) the name and address of the pilotage services provider; and

(b) the name and identification number of any vessel to be used in connection with the provision of pilotage services; and

(c) the date of commencement of provision of pilotage services by the provider; and

(d) the name and licence number of each pilot employed or engaged by the provider, or if the provider holds a pilot licence, the number of that licence; and

(e) details of arrangements by the provider to transport pilots other than by vessel; and

(f) any other information determined by the Board to be included in the register.

(4) The register may be inspected at the office of the Board by any person during ordinary office hours without charge.

(5) A person may obtain a copy of, or an extract from, the register on payment of a fee of $20.

26P. Requirement to notify the Board of changes to registration information
A pilotage services provider must notify the Board within 14 days after any change to information recorded in a certificate of registration.

Penalty: 5 penalty units.

26Q. Records to be kept

A pilotage services provider must keep records containing the following information—

(a) the name and licence number of each pilot employed or engaged by the provider, or if the provider holds a pilot licence, the number of that licence; and

(b) the number of hours worked by each pilot in any period of 24 hours, indicating the starting and finishing times for work and rest; and

(c) the annual recreation leave taken by each pilot.

Penalty: 20 penalty units.

26R. Offence to provide pilotage services without registration

(1) A person must not provide pilotage services unless that person is, or is employed or engaged by, a registered pilotage services provider under this Part.

Penalty: In the case of a natural person: 20 penalty units.

In the case of a body corporate: 60 penalty units.

(2) A person referred to in section 26J(3) who—

(a) continues to provide pilotage services in the 30 day period after the
commencement of the *Marine (Amendment) Act 1999*; and

(b) has given a notice to the Board in accordance with section 26J(2) within that period—

is not guilty of an offence under this section in respect of the provision of pilotage services at any time before the issue of a certificate of registration in response to that notice.

**Division 2—Safety standards for provision of pilotage services**

**26S. Compliance with safety standards**

(1) The safety standards for pilotage services providers are set out in Schedule 6.

(2) The Board, on the application of a person registered or seeking to be registered as a pilotage services provider, may approve appropriate alternative safety standards for the provider if the Board decides that—

(a) the alternative safety standards substantially comply with the corresponding standards in Schedule 6; or

(b) the alternative safety standards adequately achieve the purpose of the corresponding standards in Schedule 6; or

(c) compliance with the safety standards in Schedule 6 would, in particular circumstances, be impracticable, unnecessary or inappropriate.

(3) Alternative safety standards may—
(a) modify the application to a pilotage services provider of the standards in Schedule 6; or

(b) exempt a provider from any one or more of the standards in Schedule 6; or

(c) specify a standard in substitution for a standard in Schedule 6.

(4) If the Board approves alternative safety standards, it may limit the port waters within which the pilotage services provider to whom the standards apply may operate.

(5) The following are conditions of the registration of the pilotage services provider—

(a) the standards set out in Schedule 6; and

(b) any alternative safety standards approved by the Board under this section; and

(c) any limitation imposed by the Board under sub-section (4).

(6) Nothing in this section derogates from any requirement imposed on a pilotage services provider to comply with any obligations or duties imposed under this Act, the regulations or any other standards in relation to vessels, equipment or any other matter.

26T. Offence to fail to comply with safety standards
A pilotage services provider must comply with the safety standards applicable to the provider.

Penalty: 60 penalty units.”.

6. Functions of the Board

After section 65(g) of the Principal Act insert—

"(ga) to register pilotage services providers; and

(gb) to approve appropriate alternative safety standards for the provision of pilotage services by pilotage services providers;".

7. Powers of inspectors

(1) In section 82(2)(b) of the Principal Act insert "or registration granted".

(2) In section 83 of the Principal Act, at the end of paragraph (b) insert—

"; and

(c) request a person to give any information or require a person to produce any document in relation to a matter referred to in section 82(2)."

8. New section 83A inserted

After section 83 of the Principal Act insert—

"83A. Offence to fail to comply with request of inspector

(1) A person must not—

(a) without reasonable excuse, refuse or fail to comply with a request or requirement made by an inspector in the course of conducting an investigation under section 82; or

(b) give information to an inspector under section 83 that the person knows to be
false or misleading in a material particular.

Penalty: 10 penalty units.

(2) It is a reasonable excuse for a natural person to refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under section 83 if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.".

9. Investigations

(1) In section 84(1)(b) of the Principal Act, after "harbour master" insert "pilotage services provider".

(2) After section 84(1) of the Principal Act insert—

"(1A) The Board, for the purposes of conducting an investigation, may require—

(a) a vessel to remain in port waters for a period not exceeding 24 hours; and

(b) a person to give written or oral information to the Board; and

(c) a person to produce to the Board any documents relevant to the investigation.

(1B) If the Board commences an investigation under this section, the Board—

(a) may suspend a licence or certificate issued or registration granted under this Act for a period not exceeding 72 hours; and

(b) must notify the person holding the licence or certificate or registered under this Act that the licence, certificate or
registration has been suspended for the period specified in the notice."

(3) In section 84(2) of the Principal Act, for "certificate or licence" substitute "certificate, licence or registration".

10. Cancellation or suspension of certificates, etc.

In section 85 of the Principal Act—

(a) in sub-section (2), after "issued" insert "or registration granted";

(b) in sub-sections (3) and (3A) for "certificate or licence" substitute "certificate, licence or registration";

(c) in sub-section (4)—

(i) for "certificate or licence" (where first occurring) substitute "certificate, licence or registration";

(ii) for "certificate or licence was issued by the Board" substitute "certificate or licence was issued or registration was granted by the Board";

(iii) after "certificate or licence" (where thirdly occurring) insert "or certificate of registration";

(iv) in paragraph (b)(ii), for "certificate or licence" substitute "certificate, licence or registration".

11. Offence to obstruct

In section 92 of the Principal Act—

(a) after "authority" insert "or an inspector";

(b) after "officer" (where secondly occurring) insert "or inspector".
12. **Penalties for certain offences increased**

In the Principal Act—

(a) in section 94, in the penalty set out at the foot of sub-sections (1), (2) and (3), for "10 penalty units" **substitute** "60 penalty units";

(b) in section 95, for "20 penalty units" **substitute** "100 penalty units";

(c) in the penalty set out at the foot of section 96(1), for "10 penalty units" **substitute** "100 penalty units".

13. **Amendment of powers of the Board**

(1) After clause 8 of Schedule 4 to the Principal Act **insert**—

"8AA. To impose conditions on licences of pilots or pilot exempt masters and to vary any conditions so imposed."

(2) After clause 8B of Schedule 4 to the Principal Act **insert**—

"PILOTAGE SERVICES PROVIDERS
8C. To register or renew the registration of pilotage services providers.
8D. To issue certificates of registration to pilotage services providers.
8E. To cancel or suspend registration of pilotage services providers.
8F. To inspect vessels and equipment of pilotage services providers to ensure compliance with safety standards."

14. **New Schedule 6 inserted**

After Schedule 5 to the Principal Act **insert**—

'SCHEDULE 6
SAFETY STANDARDS FOR PILOTAGE SERVICES PROVIDERS

DEFINITIONS

In this Schedule—

"pilot vessel" means a vessel transporting or transferring a pilot to and from a vessel for which services provided by a pilot are required;

"transfer deck" means the area of the pilot vessel's deck used for embarkation and disembarkation of a pilot;

"navigation position" means the position on a pilot vessel from which the vessel is controlled and navigated.

VISIBILITY

1. The transfer deck of the pilot vessel shall be clearly visible from the navigation position.

2. The overboard recovery position on a pilot vessel's deck shall permit visibility of the sea 1 metre from the side of the pilot vessel on which the overboard recovery position is located.

3. The navigation position shall permit clear observation of the embarkation and disembarkation of a pilot and the overboard recovery position of the pilot vessel.

WORKING DECKS

4. The transfer deck of the pilot vessel shall be not less than 1 square metre and shall be clear of obstructions.

5. The transfer deck of the pilot vessel shall be provided with inboard guardrails capable of withstanding a load of 12 kilonewtons (in both a horizontal and vertical direction) that will provide a secure holding point for the pilot and a crew member of the pilot vessel. The provision of such guardrails shall not impede or in any way interfere with the transfer of the pilot to and from the pilot ladder provided by the vessel to be piloted.

6. A non-skid deck area not less than 30 centimetres in width and a rigid horizontal safety rail, with harness carriage, preformed to follow the shape of the pilot vessel's wheelhouse or cabin shall be provided.
between the wheelhouse or cabin of the pilot vessel and the transfer deck. The safety rail and harness carriage shall be capable of withstanding a load of 12 kilonewtons in both a horizontal and vertical direction.

EQUIPMENT

7. In addition to equipment required by the regulations according to the vessel's class, the pilot vessel shall also be equipped with the following—

(a) a means of attaching to the vessel a safety harness that is capable of withstanding a load of 12 kilonewtons in both a horizontal and vertical direction;

(b) a VHF radio with marine bands;

(c) a loud hailer;

(d) a searchlight with a minimum of one-million candela and which is capable of illuminating the surface of the sea in all directions up to 100 metres from the pilot vessel;

(e) a means of illuminating the surface of the sea within 5 metres of the pilot vessel of not less than 200 lux; and

(f) a rescue crook or boat hook of sufficient length to pull an unconscious person in the sea to a position immediately below the vessel's overboard recovery position; and

(g) a manual or mechanical means for lifting an unconscious person from the water and which is capable of lifting on board a person with a mass of 150 kilograms from a floating position below the vessel's overboard recovery position in not less than 5 minutes in calm conditions.

PERSON OVERBOARD RECOVERY

8. The overboard recovery position of the pilot vessel's deck shall be not less than 2 square metres and shall be clear of obstructions.

9. The entrance to the wheelhouse or cabin of the pilot vessel shall have a clear width of at least 600 millimetres to allow a person to be carried through on a stretcher.
PILOT VESSEL MARKING

10. The word "PILOT" shall be clearly marked on both sides of the pilot vessel in letters not less than 30 centimetres high.

PERSONAL EQUIPMENT

11. A pilot on duty shall be provided with a personal flotation device that meets Australian Standard AS 1512 (Personal Flotation Devices—Type 1) and a safety harness that meets Australian Standard AS 2227 (Yachting Harnesses and Lines—Conventional Lines).

12. A crew member working outside the wheelhouse or cabin of a pilot vessel shall be provided with a personal flotation device that meets Australian Standard AS 1512 and a safety harness that meets Australian Standard AS 2227.

PILOT TRANSFER BY MEANS OTHER THAN VESSEL

13. All arrangements, equipment, instructions and training in respect of the transfer of pilots to and from a vessel by means other than a pilot vessel shall comply with the Australian Code of Safe Practice for Ship Helicopter Transfers, published from time to time by the Australian Maritime Safety Authority (AMSA).

FATIGUE MANAGEMENT

14. A pilot fatigue management system incorporating the following requirements shall be in place—

(a) in any 24 hour period, a pilot provided by a pilotage services provider must not work more than 14 hours and must rest for no less than 10 hours during that period. The rest period may be divided into not more than two periods, one of which shall be a continuous period of at least 6 hours; and

(b) in any 14 day period, a pilot provided by the provider must not work more than 144 hours and must rest for no less than 192 hours during that period, which rest period must include a continuous period of at least 48 hours or two
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continuous periods each of at least 24 hours; and

(c) in any 12 months period, a pilot provided by the provider must take not less than 4 weeks recreation leave, including one continuous period of at least 2 weeks.'.
NOTES

† Minister's second reading speech—
Legislative Council: 21 April 1999
Legislative Assembly: 12 May 1999

The long title for the Bill for this Act was "to amend the Marine Act 1988 and for other purposes."