

EXECUTIVE COUNCIL

PUBLIC

Title: Harbours and Ports (Amendment) Bill 2025

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Responsible Director: Director of Emergency Services and Islands Security

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Portfolio Holder: MLA Ford

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Under Executive Council Standing Order 23(2), Executive Council must have regard to the categories of exempt information in Schedule 3 to the Committees (Public Access) Ordinance when determining if information should be withheld

The categories which are potentially relevant to this paper are:

Paragraph 10 Information about relevant contracts and negotiations
Paragraph 13 Information about contemplated action

Previous papers: 121/21 Implementation of the Stanley Harbour Pilotage Direction and Pilotage Service.
06/24 Harbours and Ports (Amendment) Bill 2024.

List of Documents: Annex A: Harbours and Ports (Amendment) Bill 2025.
Annex B: Byron Marine feedback to 2024 pilotage consultation.

1. Recommendations

Honourable Members are recommended to:

- (a) approve the attached draft Harbours and Ports (Amendment) Bill 2025 (the Bill) for publication and submission to the Legislative Assembly (Annex A);
- (b) approve Para 5.2.3 option 2(c) regarding the creation of a pilotage scheme;
- (c) approve in principle the work plan set out in paragraph 7 of this paper towards establishing a Stanley Harbour pilotage regime; and
- (d) authorise the Attorney General to correct typographical errors and non-substantive drafting errors found in the Bill prior to publication.

2. Additional Budgetary Implications

- 2.1** There is currently no operating budget for the provision of pilotage and little Falkland Islands Maritime Authority (FIMA) staff time is committed to the existing pilotage arrangements.
- 2.2** Pilotage services are currently provided by Byron Marine, with charges levied directly by the provider to the vessel operator for both pilotage provision and launch services.
- 2.3** Administration costs will need to be covered through fees being levied for those wishing to apply for examination as either a pilot, or to obtain a Pilotage Exemption Certificate (PEC). Beyond low level administrative considerations, the broader financial implications arising from the Bill vary significantly depending upon whether options are pursued to source the pilots through the private sector or ‘in house’.

3. Executive Summary

- 3.1** Part 5 of the Harbours and Ports Ordinance 2017 (H&PO17) regulates marine pilotage. Section 43 of the H&PO17 requires FIMA to provide such pilotage services that it considers necessary in the waters of the Falkland Islands.
- 3.2** FIMA considers compulsory pilotage to be necessary for some operations in Port William to the west of a line drawn between Doctor and Ordnance Points and in Stanley Harbour to reduce the risks involved with vessel movements thereby protecting seafarers, port workers, the marine environment and the critical infrastructure of the islands, i.e. FIPASS at present and, following substantial FIG investment, the new port facility.
- 3.3** ExCo Paper 121/21 recognized and endorsed the duty of FIMA to ensure the provision of a pilotage service and to approve the licensing of pilots as per Falkland Islands maritime legislation. In the same Paper, ExCo approved the drafting of a Bill to amend Part 5 of H&PO17 to enable the development of an effective pilotage service.

- 3.4 It is recognized that as a result of having implemented compulsory pilotage for berthing activities at FIPASS in 2019, FIMA has a duty under section 43 of the H&PO17 to ensure that a pilotage service is provided.
- 3.5 In terms of section 45 of the H&PO17, FIMA may make such arrangements as it considers appropriate for the provision of the services of authorised pilots in any harbour within the Falkland Islands (whether under a contract of employment or a contract for services).
- 3.6 The purpose of this paper's immediate predecessor (Paper 06/24, which was approved by ExCo in January 2024) was to brief Honourable Members on current arrangements for the provision of pilotage services in Stanley Harbour. In the same EXCO Paper, approval was granted for the draft Bill to be subjected to a second round of consultations, which were subsequently completed between April and June 2024.
- 3.7 The attached draft Bill makes additional provisions to support the delivery of an effective pilotage service that safeguards the public interest. This includes provisions establishing the rights and authority of pilots, limitation of liability, additional detail on pilot misconduct and the right for FIMA to charge for pilotage services on behalf of the Falkland Islands Government (FIG), should an option be selected in the future for the provision of pilotage services by FIG. The draft Bill also introduces the establishment of a Pilotage Committee whose responsibility will be to assist and advise FIMA in performing its functions under Part 5 of the H&PO17. Detailed information regarding the appointment, membership and functions of the Pilotage Committee will be contained in the Regulations. The draft Bill further identifies new areas in respect of which regulations may be made by the Governor (Executive Council). These new areas are the designation of compulsory pilotage areas; the identification of categories of ships that may be subjected to or exempted from compulsory pilotage; the responsibilities of the Master of a ship under compulsory pilotage; the training, assessment and authorisation of pilots under section 44; the composition and functions of the Pilotage Committee.
- 3.8 The current pilotage services are provided by Byron Marine. Byron Marine has effectively delivered a pilotage service for over 3 decades and enjoys a very sound track record that is especially commendable given both the environmental challenges faced by pilots conducting their business and the lack of tug assistance. On the latter point, it is worth emphasizing that the provision of a small tug, or at least a vessel with a 'push-pull' capability would very significantly reduce the likelihood of mishaps during berthing and un-berthing operations, whilst also providing a degree of safety cover for vessels at anchor. Returning to the provision of pilotage services, the key vulnerability for FIG arising from the current arrangements concerns the lack of formal arrangement with, oversight of, or written commitment by Byron Marine in providing that service.
- REDACTED**
- 3.9 There is a relative paucity of personnel with pilotage skills available in the Stanley area, which is particularly relevant when considering 'in house' options for future pilotage service provision. At present, under the auspices of Byron Marine, there is a Chief Pilot with over 40 years' experience and one other pilot based full-time in Stanley. Additional pilots, all former Byron Marine Maritime and Coastguard Agency Certificate of Competency-holding Masters or Chief Mates with the requisite number of years of

proven ship handling experience, make up a small yet professional cadre of pilots.
REDACTED.

3.10 The current cadre of pilots allows for a pilotage service to be delivered 06:00 to midnight daily, allowing appropriate hours of rest. Excepting in emergency situations, a service is not provided between midnight and 06:00. Although some feedback from the consultation (see paragraph 6) indicates a preference within the fishing industry for 24-hour coverage, the costs of employing the extra pilots required to provide such coverage would be significant (see paragraph 8).

3.11 H&PO17 section 47 requires FIMA to issue a Pilotage Direction if it considers it necessary for safety and must direct pilotage to be compulsory in the area of the harbour. Once the attached draft Bill has been approved, FIMA will work with the Attorney General's Office to prepare the Policy for the Pilotage Regulations and finalise the Pilotage Direction.

4. Background [and Links to Islands Plan and Directorate Business Plan/s]

4.1 ExCo Paper 121/21 detailed the history of pilotage in Stanley Harbour. In summary, until 2019 the use and provision of pilotage services was entirely voluntary. Following a berthing incident at FIPASS, an FIG Notice To Mariners (NTM) (NTM 08/19) introduced a temporary compulsory Pilotage Direction for all vessels berthing at the facility. The NTM was intended as a temporary measure and does not adequately support the requirement for a full pilotage service and compulsory Pilotage Direction as set out by the H&PO17.

4.2 EXCO Paper 121/21 further detailed the policy and legislative history of the pilotage issue between 2013 and 2021, with the H&PO17 being a key element of that legislative process. Part 5 of the H&PO17 introduced pilotage legal requirements for the first time.

4.3 Under ExCo Paper 121/21, Honourable Members:

4.3.1 noted the draft Pilotage Direction for Stanley Harbour;

4.3.2 recognised and endorsed that FIMA has a duty to provide the necessary pilotage service through the options provided and to approve the licensing of pilots as per Falkland Islands maritime legislation; and

4.3.3 approved the writing of a Bill to amend Part 5 of H&PO17 to enable the development of an effective pilotage service.

4.4 In January last year, under ExCo Paper 06/24, Honourable Members:

4.4.1 noted the draft Bill.

4.4.2 noted the summary of current arrangements for the provision of pilotage services for Stanley Harbour.

4.4.3 noted the draft options within paragraph 5 of the paper regarding the creation of a formal pilotage scheme and the proposed work plan towards that scheme at

paragraph 7, versions of which would be submitted for formal approval once consultations were complete; and

4.4.4 approved a second round of consultations with industry stakeholders.

4.5 The consultation approved at paragraph 4.4.4 was completed in June last year and this paper is now being submitted to ExCo in accordance with paragraph 4.4.3.

4.6 The attached Bill has been updated since the last time it was presented to ExCo through Paper 06/24. The new additions are in relation to the proposal to the following:

4.6.1 establishment of a Pilotage Committee that will assist and advise FIMA in performing its functions under this Part 5 of the H&PO17. The Bill proposes that the details of this Committee's composition and functions be outlined in the regulations; and

4.6.2 section 52 of the H&PO17 has now been amended to identify new areas in respect of which regulations may be made by the Governor (Executive Council). These new areas are the designation of compulsory pilotage areas; the identification of categories of ships that may be subjected to or exempted from compulsory pilotage; the responsibilities of the Master of a ship under compulsory pilotage; the training, assessment and authorisation of pilots under section 44; the composition and functions of the Pilotage Committee.

4.7 Within the Islands Plan 2022-26 the following commitments are relevant and linked to the proposals being made in this paper:

4.7.1 Under Sustained Economic Development for the Islands, the Legislative Assembly committed to '*Continue to cement our position as a Gateway to the Antarctic by building relationships with partners and developing our offer*' and to '*Review the tourism development strategy and improve local facilities to support the sector*';

4.7.2 Under Safety and Security, the Legislative Assembly further committed to '*Continue to advance the maritime authority, so that seafarers are as safe as possible in our waters*'; and

4.7.3 Under Organised and Effective Government, the Legislative Assembly committed to '*Focus on recruitment, retention and succession planning, for the longer-term resilience of government and essential frontline public services*'.

Byron Marine currently contributes to the latter commitment in training and developing the pilot cadre. FIG would have to ensure the continuity of pilotage services in Stanley Harbour should the current providers stop doing so.

5. Analysis of Options

5.1 Options relating to the draft Bill:

The attached draft Bill makes additional provisions to support the delivery of an effective pilotage service that safeguards the public interest. This includes provisions establishing the rights and authority of pilots, limitation of liability, additional detail on pilot misconduct and the right for FIMA to charge for pilotage services on behalf of FIG, should an option be selected in the future for the provision of pilotage services by FIG. The draft Bill also introduces the establishment of a Pilotage Committee whose responsibility will be to assist and advise FIMA in performing its functions under Part 5 of the H&PO17. Detailed information regarding the appointment, membership and functions of the Pilotage Committee will be contained in the Regulations.

The draft Bill further identifies new areas in respect of which regulations may be made by the Governor (Executive Council). These new areas are the designation of compulsory pilotage areas; the identification of categories of ships that may be subjected to or exempted from compulsory pilotage; the responsibilities of the Master of a ship under compulsory pilotage; the training, assessment and authorisation of pilots under section 44; the composition and functions of the Pilotage Committee.

Once the attached draft Bill has been approved, there will be a need to prepare the requisite regulations to implement Part 5 of the H&PO17. This work will be done by FIMA in consultation with the relevant directorates, including the Attorney General's Office. There will be a need to finalise the Pilotage Direction that is a requirement under section 47 of the H&PO17 and a draft has been prepared. The Pilotage Direction will need to be finalised together with the Pilotage Regulations.

In light of the above the following options are recommended:-

5.1.1 **Option 1(a), (Recommended) – Approve the Harbours and Ports (Amendment) Bill 2025 in its entirety; the drafting of local pilotage regulations under H&PO17 and then issue in due course a Pilotage Direction in similar terms to that attached to ExCo Paper 121/21.** This option would introduce new provisions to H&PO17 and more detail of those provisions is set out under paragraph 5.1 and below.

- (a) Local pilotage regulations will be drafted alongside the Pilotage Direction¹ and will support the establishment of a Pilotage Committee and the authorisation of pilots, as well as other matters such as providing detailed provisions under H&PO17 for fees.
- (b) It is intended that the Pilotage Direction will require compulsory pilotage of:
 - (a) most vessels in connection with berthing at FIPASS (and its replacement);
 - (b) vessels manoeuvring near other critical infrastructure; and
 - (c) any other vessel which, following risk assessment of the vessel and the proposed movement, the Harbour Master and/or Chief Pilot determine should be subject to compulsory pilotage.

This **Option 1(a) is recommended** as it would complete the framework required to support FIMA in drafting local pilotage regulations, finalising the Pilotage Direction and in formalising a fully functioning, effective and efficient pilotage scheme,

¹ A draft Pilotage Direction has been produced.

including appropriate measures to protect authorised pilots. The aim would be to draft the pilotage regulations alongside work to finalise the Pilotage Direction, completing both strands of work as soon as possible but certainly by the end of this year. The amendments are consistent with provisions set out in the UK Pilotage Act 1987, which forms the existing basis of Part 5 of H&PO17. These amendments should be included in the Ordinance itself, rather than regulations, given the fact that they represent fundamental elements of a framework for a pilotage scheme that should be provided for in law and made clear to members of the public.

5.1.2 **Option 1(b) – partial amendment of H&PO17.**

Honourable Members have the option of accepting some, but not all, of the proposed amendments detailed in the Bill. **This option is not recommended** as it would not create a complete framework to support the creation of a formal, effective and efficient pilotage service that safeguards the interest of the public, pilots and FIG.

5.1.3 **Option 1(c) – do nothing.**

If no amendment is made to H&PO17, FIMA will remain exposed to the risks outlined in paragraphs 3.2 and 3.8 **REDACTED This option is therefore not recommended.**

5.2 **Options regarding the creation of a pilotage scheme:**

As stated under paragraph 3.8 above, FIMA considers compulsory pilotage to be necessary for some operations in Port William to the west of a line drawn between Doctor and Ordnance Points and in Stanley Harbour. This will assist with reducing the risks involved with vessel movements thereby protecting seafarers, port workers, the marine environment and the critical infrastructure of the islands.

Within Stanley, there are very few personnel with pilotage skills available. This will need to be considered when considering ‘in house’ options for future pilotage service provision. The pilotage service is currently being offered by Byron Marine which has a Chief Pilot and one other pilot based full-time in Stanley, with other pilots available on a part time basis.

5.2.1 **Option 2(a) – FIG recruits and trains its own pilots who then fulfil multi-discipline roles within FIMA.**

FIG recruits and trains its own pilots who then fulfil multi-discipline roles within FIMA. Pilotage is a highly skilled and specialist role and there are therefore likely to be difficulties in recruiting suitable candidates. **REDACTED** There are operational and reputational risks if FIG legislates for a service that it undertakes to provide and then cannot effectively and consistently deliver. **This option is not recommended.**

5.2.2 **Option 2(b) – FIG engages a private sector operator on a service style contract.**

FIG formalises the current *ad hoc* arrangements through engaging a private sector operator on a service style contract. This option was recommended by the Maritime Consultant in ExCo Paper 81/18 and presents a valid approach for a safe and efficient pilotage service in the Falkland Islands. As stated under paragraph 3.5 above, pilotage services may be provided through a contract for services as is contemplated under section 45 of the H&PO17. If pursued, this option would require FIMA to seek Expressions of Interest (EoI) from private sector operators to confirm that the private sector appetite and capacity exists to provide a pilotage service on behalf of FIMA. If the EoI exercise is successful, Invitations To Tender will be issued and a competitive bidding process will follow. **REDACTED** However, in the longer term, with the introduction of formalized arrangements for the provision of the service along with specified contract start and finish dates, competition may be encouraged in the future. **This option is not recommended and would represent a more complex way than Option 2(c) below.**

5.2.3 **Option 2(c) – FIG seeks a Letter of Agreement with the current private sector operator.**

FIG seeks to sign a Letter of Agreement with Byron Marine as the current providers of pilotage services. This will address the key vulnerability for FIG in not having a contract for the provision of pilotage services with the current service provider. The proposed Letter of Agreement will provide certainty regarding the period of time over which the current service provider commits to providing pilotage services. **REDACTED** this option builds on the firm foundation of a pilotage service that has grown locally and organically and provides a good fit for the Falkland Islands. **REDACTED** capped with the surety to FIG of continued service delivery. **This option is recommended.**

5.2.4 Additional information on the anticipated financial and human resources implications of providing a pilotage scheme under these different options is provided in paragraph 8 of this paper.

6. Consultation

6.1 A consultation was undertaken with the wider industry stakeholders on a draft Pilotage Direction and proposed amendments to the H&PO17 in July 2020. The responses indicated general support for the introduction of marine pilotage services and an understanding that it is a risk reduction tool.

6.2 More recently, in 2023, Byron Marine was consulted over the content of and proposals within ExCo Paper 06/24 and also over the draft legislation. Given that the earlier formal consultation with industry stakeholders was over 3 years ago, a further round of consultations was conducted between April and June 2024 and the results have been incorporated into this ExCo paper in paragraphs 6.3 to 6.10 below.

6.3 **REDACTED**. The Director responded: ‘That all sounds fine. Our primary interest would be that the pilot service is available 24/7 to ensure minimisation of lost fishing time when vessels make port calls’.

- 6.4 **REDACTED** The Fishing Operations Director posed a question regarding compulsory pilotage requirements for vessels with a draft of over 6.5 metres proceeding to an anchorage in Stanley Harbour, rather than a berth alongside FIPASS. Investigation revealed that wording in the consultation document was misleading and it was confirmed that vessels of over 6.5 metres draft simply anchoring in Stanley Harbour would not generally be subjected to compulsory pilotage.
- 6.5 **REDACTED** The Managing Director noted that the wording of the consultation document suggested that pilotage was compulsory for both berthing and un-berthing from FIPASS. It was agreed that, although pilotage support is available for un-berthing operations if desired (or if deemed necessary by the Harbour Master or Chief Pilot), it is generally only compulsory for berthing operations.
- 6.6 **REDACTED** The Fishing Operations Director offered the following comments and questions:
- 6.6.1 ‘The proposals generally seem fine and we welcome the discussion’.
 - 6.6.2 ‘I had sought clarification earlier on whether it was intended that all vessels with draft exceeding 6.5m required pilotage to enter Stanley Harbour and it was indicated that is not the intention’.
 - 6.6.3 ‘We hope that in developing and formalising the service it will continue to be user focused and straightforward to access’.
 - 6.6.4 ‘Ideally the service would be available on a 24hr basis, which might require some notice to be given. This is particularly the case if all un-berthing operations at FIPASS require pilotage (our understanding has been that hitherto the requirement for a pilot for berthing has been absolute whereas un-berthing has had more flexibility – but may have that wrong!)’. Note: see clarification below.
 - 6.6.5 ‘**REDACTED** uses pilots for berthing to reefer vessels in Port William but not generally for un-berthing. Presumably this practice could continue if the reefer is East of the Doctor-Ordinance Point line, but not necessarily if it is West of the line? In the case of a transhipping operation West of this line would an un-berthing operation be subject to compulsory pilotage in all circumstances, or might it depend on circumstances: weather, proximity of other vessels, etc?’ Note: see response below).

FIMA provided responses to the points raised at 6.6.4 and 6.6.5 above clarifying that although pilotage support is available for un-berthing operations from FIPASS if desired (or if deemed necessary by the Harbour Master or Chief Pilot), it is generally only compulsory for berthing operations. Similarly, it is also not the intention to require compulsory pilotage for berthing and un-berthing operations in Port William.

- 6.7 **REDACTED** The Managing Director responded: ‘Even before the compulsory pilotage **REDACTED** were insisting and would not allow their vessels to berth at FIPASS unless they had a pilot on board – so they are fully in agreement with pilots for

vessels. I had dropped Stuart a line to query regarding where reefers currently head to IW2 to collect fenders etc. before heading back out and also that often the tankers will head to IW2 or closer to deploy fenders before the pilot boards and then proceed to FIPASS – Stuart confirmed that this still will be able to happen so from our side I don't think we have any further comments'.

- 6.8 REDACTED** The Managing Director responded: 'We are broadly comfortable with the proposed way ahead, our only comment is that blanket exemptions in the legislation for any ships are perhaps unwise but the Harbour Master should have discretion under specific guidelines to exempt certain vessels. Great to see this vital piece of work progressing'.
- 6.9 REDACTED.** As the current provider of pilotage services in Stanley, **REDACTED** gave substantial feedback to the 2024 consultation and this is set out at Annex B.
- 6.10 REDACTED.** The General Manager responded: 'Thank you... for taking the time to meet... most helpful, we appreciated the opportunity to comment on the proposal. We **REDACTED** are broadly content with the proposed way ahead, we understand the reasoning behind the proposal, noting that some of the points we needed clarification on, like a pilot for unberthing at FIPASS, a pilot for manoeuvring within Stanley Harbour etc. has since been removed'.

7. Proposed Implementation Plan

- 7.1** If formal approval of this policy and draft legislation is forthcoming from Executive Council and assuming the decision is made by Honourable Members to accept **Options 1(a) and 2(c)** of this paper; FIMA will, in consultation with the Attorney General's Chambers, **REDACTED** and, secondly, work towards introducing the formal pilotage arrangements outlined under Option 1(a).
- 7.2** Concurrently with the activities stipulated under paragraph 7.1 above, the aim would be to draft the pilotage regulations alongside work to finalise the Pilotage Direction, completing both strands of work as soon as possible but certainly by the end of this year. Thereafter authorisation, licencing and re-validation of pilots under the provisions of sections 44 and 45 of the H&PO17 would be conducted by FIMA with the assistance and advice of a Pilotage Committee. The details regarding the composition, appointment and functions of the Pilotage Committee will be contained in the Regulations. The Chief Pilot will be responsible for the training of new pilots and will present a trainee for licencing by the FIMA when the Chief Pilot judges that the trainee is ready for assessment. **REDACTED.**

8. Resource Implications of the draft Bill once approved

- 8.1 Financial Implications.** In order to cover administration costs, application fees will be published and levied for those wishing to apply for examination as either a pilot, or to become a PEC holder. Beyond low level administrative considerations, the broader financial implications arising from this paper vary significantly depending upon whether the pilots are provided by the private sector or 'in house':

8.1.1 In House, whereby FIMA recruits and trains its own pilots to provide an in-house pilotage service. The fees for pilotage would need to be set at an appropriate level to fully cover staffing and training costs. In the event that pilots have to be recruited from overseas, staff costs are likely to be significant (see footnote to paragraph 8.3.2 for indicative salaries). Training costs would largely depend on whether the training could be delivered by existing Falkland Islands-based pilots, by instructors flown to the islands, or whether training in the UK was required. **REDACTED**

8.1.2 By a private sector operator on a service style contract, with all costs borne by service provider. **REDACTED**

8.1.3 The following context is offered to provide the indication of the costs involved with the operation of a pilotage service:

8.1.3.1 In 2023, there were 285 vessel calls to FIPASS, with 269 in 2024.

8.1.3.2 For 2024 pilotage charges in Stanley are £425 and **REDACTED** for ECMP movements², with an arrival and departure (if pilots are taken for departure as well) combining to form a single act of pilotage. The figure for ECMP above is for acts of pilotage only. MoD requirements require regular consultation between KHM and the Chief Pilot and working attendance at ECMP from time-to-time. Daily MoD RoRo marine cargo superintending and embarked support during product tanker operations are charged for in addition to pilotage and require qualifications at least similar to those of a pilot.

8.1.3.3 Using the 2024 vessel call figures gives an indicative figure of £115K for pilotage charges for FIPASS movements (269 x £425), which does not include other pilot assisted movements to other berths or for rafting-up operations in Port William. **REDACTED**

8.1.3.4 In addition to vessel berthing evolutions (not just FIPASS, where pilotage is compulsory, but also The Camber and East Jetty), pilotage services are frequently requested by Byron Marine clients to facilitate vessel movements to raft up for ship-to-ship transfers in Port William and Berkeley Sound. In the event that the Temporary Docking Facility (TDF) is reactivated pilotage will be compulsory, probably leading to an increased demand for pilotage services although, as with the previous campaign, PECs will be issued to Masters of those vessels supporting hydrocarbons operations following several movements in/out by day and night.

² ECMP movements are often more complex, involving travel from/to Stanley, Cargo and Marine Superintendent cover, Tanker endorsement and the acts of pilotage themselves.

8.1.4 It should be noted that launch fees to transfer pilots between shore and ship will be charged directly to the ship, not FIG.

8.1.5 The table below captures some of the more significant elements of income and expenditure if FIG were to take the provision of pilotage services ‘in house’, based on figures researched during the writing of this paper. It is acknowledged that the table only includes broad estimates and is incomplete, pending the granularity that will come from further discussions with the current providers.

INCOME	
Item	Estimate
Pilotage fees (FIPASS)	£115K
Pilotage fees (Port William rafting-up operations)	Unknown
Pilotage fees (ECMP). Not including significant daily MoD RoRo marine cargo superintending charges and embarked support charges during product tanker operations (not available to author).	REDACTED
EXPENDITURE	
Pilot salaries (based on UK average of £65K)	£195K (for 3 pilots) £260K (for 4 pilots)
Office and administrative costs	Unknown

8.2 Other Resource Implications.

8.2.1 Beyond the recruiting costs highlighted at paragraph 8.1.1 above and at footnote 4, establishing an in-house FIG pilotage service would incur office and administrative costs that are currently absorbed within the wider Byron Marine construct, which would need to be reflected in fees levied.

8.3 Human Resource Implications.

8.3.1 The existing FIMA team of 4 core operational staff and one Head of Service are fully committed to delivering against their current tasks of harbour control; incident, accident and maritime Search and Rescue response; vessel inspections; promulgation of maritime safety information; port security and maritime policy and legislation work. Pilot qualifications are not held by the existing FIMA staff, nor are they required for their current roles and responsibilities. If pilotage provision is brought in-house, there will be a very significant impact on FIMA resources. To ensure an effective 24/7 service, 4 new posts would need to be established to ensure round-the-clock pilot availability and to allow for training and leave. Supporting the current 06:00 to midnight commitment to pilotage services would require the establishment of 3 new posts.

8.3.2 Pilots are highly skilled and take time to train with, for example, training typically taking about 7 months for Port of London pilots. Given the current pilot availability detailed in paragraph 3.9, recruiting additional candidates from within the local community is likely to be very challenging. Finding

and recruiting new pilots from external sources would be challenging and expensive with average salaries of about £65K for pilots in the UK³.

8.3.3 If private sector pilotage provision is pursued, FIMA will only be required to perform an administrative function in the licencing and examination of pilots, which should be achievable within current resources.

9. Legal and Legislative Implications of the draft Bill once approved

- 9.1** FIMA is currently not complying with its statutory duty to provide a pilotage service that has been determined to be necessary as contemplated in terms of section 43 of the H&PO17. Continued reliance on the FIG NTM is inadequate to meet the obligations placed on FIMA. FIMA could under the current terms of the Ordinance authorise pilots and introduce a Pilotage Direction but the resulting scheme would leave pilots and FIMA open to a level of risk that FIMA considers unacceptable, as highlighted under Option 1(c) above. Implementing the recommended changes will ensure that a pilotage scheme is properly based in law and that the law contains appropriately detailed regulation of pilots.
- 9.2** The Bill provides further support for pilotage by inserting provisions similar to those in the UK Pilotage Act 1987, which were left out when the Ordinance was enacted.
- 9.3** Clause 4 of the Bill amends the definition of ‘harbour’ which has been found to be unclear. Other minor amendments are made in the schedule to correct some errors in the Ordinance and to make consequential changes.
- 9.4** Clause 5 amends section 43 by adding new subsections to provide for the establishment of a Pilotage Committee. Regulations made under section 52 will provide for the membership and functions of the Committee.
- 9.5** Clause 6 of the Bill inserts new sections 48A and 48B which allow the authority to suspend and revoke PEC. The new provisions are derived from sections 8A and 8B of the UK Pilotage Act. A certificate may be suspended or revoked in cases set out in section 48A. The procedures for suspension and revocation are in section 48B.
- 9.6** Clause 7 of the Bill inserts new sections 49A and 49B which are similar to section 10 of the UK Pilotage Act. The authority is allowed to make reasonable charges in respect of pilotage services provided by it. Section 49B provides for a right to object to the charges using the existing procedure in section 30 of the H&PO17.
- 9.7** Clause 8 of the Bill inserts new sections 51A to 51F. Sections 51A to 51D provide for the rights of authorised pilots when providing pilotage services. The rights are that a pilot has the right to receive information regarding the ship or its cargo; an authorised pilot may not be taken beyond a point up to which the pilot has been engaged without reasonable excuse or their consent; and an authorised pilot must be given safe facilities to

³ The following port-specific pilot salary examples are from research carried out in late 2024: Port of London circa £65K for a Class IV Training Pilot rising to circa £115K for a Class 1 Unrestricted pilot; Associated British Ports £50K to £65K; Dover Port £88K to £94K; Shoreham Harbour £65K to £70K; Aberdeen £69K to £76K.

board and subsequently to leave the ship. Section 51E provides for misconduct by pilots and 51F deals with limitation of liability in respect of pilots.

9.8 Clause 9 of the Bill amends section 52 by adding new matters in respect of which regulations may be made.

9.9 Clause 10 of the Bill provides for minor amendments which are detailed in the schedule of the attached Bill.

10. Equalities and Human Rights Implications

10.1 The proposed Bill is not considered to have any equalities or human rights implications.

11. Environmental & Sustainability Implications

11.1 There is a risk of significant environmental damage resulting from a marine accident in Stanley Harbour. An example of the consequences of a grounding due in part to a poor pilotage regime can be seen in the report by the UK Marine Accident Investigation Branch into the grounding of the SEA EMPRESS at Milford Haven⁴. Introducing a formal pilotage service will reduce the risk of marine incidents and therefore the risk of damage to the environment. The operation of a pilotage scheme in itself is not anticipated to have any significant environmental impacts.

12. Camp Implications

12.1 The proposals have no implications for Camp.

13. Significant Risks

13.1 The proposals made under **Option 1(a)** will introduce a new regulated scheme which carries the risk that individuals might object to the new requirements. Amending the H&PO17 will introduce additional conditions, including requirements around the role of authorised pilots, an additional offence relating to pilot misconduct, additional situations where a PEC may be revoked or suspended, limitation of FIG liability in the case of incidents and a framework for charging. These are all elements that may be met with resistance. However, they also provide protections to individuals and clarity to service users.

13.2 There is risk that additional regulation around pilotage would slow economic activity at FIPASS if delays were caused through either the process itself, or through lack of available authorised pilots. This risk is considered to be low and should be weighed against the significant economic impact of a major marine incident in or around FIPASS.

13.3 The proposals made under **Option 1(b)** will result in a failure to implement all of the recommended amendments which has the resultant risk of having a pilotage scheme that does not operate effectively. This would open FIG to criticism as a result of

⁴ <https://www.gov.uk/maib-reports/grounding-of-oil-tanker-sea-empress-in-the-approaches-to-milford-haven-wales-and-the-subsequent-salvage-operation>

dissatisfaction with the service provided and lack of transparency and certainty for users. Risks associated with failure to implement specific measures include an inability to recruit or procure the services of pilots as a result of inadequate protections, delays to harbour users if sufficient authorised pilots are not available, significant legal liability in the case of any incidents and an increased risk of marine incidents due to an ineffective pilotage scheme, with the associated risk of damage and loss and injury to people, the environment and property.

- 13.4** The proposal made under **Option 1(c)** of taking no action sustains significant risks. In addition to those detailed above in relation to **Option 1(b)**, **REDACTED**
- 13.5** The proposals made under **Option 2(a)** which relate to the direct employment of pilots by FIG to deliver an in-house scheme would carry the risk of an inability to recruit sufficient appropriately qualified staff. **REDACTED**
- 13.6** The proposals made under **Option 2(b)** which relate to contracting out the service to the private sector on a service contract would entail FIMA ‘handing over’ a degree of control for providing the service to a private sector provider, with the costs being borne by that provider (which is the current situation with Byron Marine).

14. Publicity and Outreach following approval of the draft Bill

- 14.1** FIMA will communicate any changes to the H&PO17 and the details of any pilotage service and Pilotage Direction and will liaise with the FIG Communications Officer to ensure sufficient coverage.

04.04.25 (Exco draft)

Harbours and Ports (Amendment) Bill 2025

(ORDINANCE No. OF 2025)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Harbours and Ports Ordinance
4. Section 3 amended (interpretation)
5. Section 43 amended (general duties as to provision of pilotage services)
6. New sections 48A and 48B inserted
7. New sections 49A and 49B inserted
8. New sections 51A to 51F inserted
9. Section 52 amended (regulations)
10. Minor amendments

Schedule - Minor amendments

Harbours and Ports (Amendment) Bill 2025

(assented to: 2025)
(commencement: in accordance with section 2)
(published: 2025)

A BILL

for

AN ORDINANCE

To amend the Harbours and Ports Ordinance 2017 in connection with pilotage and other matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Harbours and Ports (Amendment) Ordinance 2025.

2. Commencement

This Ordinance comes into force on a day appointed by the Governor by notice in the *Gazette*.

3. Amendment of Harbours and Ports Ordinance

This Ordinance amends the Harbours and Ports Ordinance 2017.

4. Section 3 amended (interpretation)

Replace the definitions of “harbour” and “port” with —

““**harbour**” means a harbour that has been designated and defined under section 14 and includes a harbour that was declared as such under the Harbours Ordinance 1902;” and

““**port**” means a port declared and defined under section 6 and includes a port declared as such under the Harbours Ordinance 1902;”.”

5. Section 43 amended (general duties as to provision of pilotage services)

In section 43 —

- (a) in subsection (1)(b) replace “any part of harbour” with “a harbour”;
- (b) after subsection (3), add —

“(4) There is established a Pilotage Committee to assist and advise the authority in performing its functions under this Part which will be appointed in accordance with regulations.

(5) Regulations made under section 52 must provide for the membership and functions of the Pilotage Committee.”.

6. New sections 48A and 48B inserted

After section 48 insert —

“48A. Pilotage exemption certificates : suspension and revocation

(1) The authority may by written notice suspend or revoke a person’s pilotage exemption certificate in the following cases.

(2) Case 1 is where an event has occurred as a result of which the authority is no longer satisfied of the matters specified in section 48(1)(a).

(3) Case 2 is where the authority thinks that the person has provided false information to the authority as to any of those matters.

(4) Case 3 is where the authority thinks that the person has been guilty of professional misconduct while piloting a ship.

[Pilotage Act 1987 (UK), s. 8A]

48B. Section 48A : supplementary

(1) The maximum period for which a pilotage exemption certificate may be suspended is 28 days.

(2) Where the authority suspends a person’s certificate and is considering whether to revoke it, the authority may by written notice extend the suspension for a single period of up to 28 days.

(3) A suspended certificate may be revoked (on the same grounds or different grounds).

(4) Before revoking a person’s certificate, the authority must —

(a) give the person written warning, stating the reasons for the proposed revocation; and

(b) allow the person a reasonable opportunity to make representations.

(5) The authority may pay compensation to any person who suffered or is likely to suffer, loss as a result of suspending or revoking a certificate.

[Pilotage Act 1987 (UK) s. 8B]”.

7. New sections 49A and 49B inserted

After section 49, insert —

“49A. Pilotage charges

(1) The authority may make reasonable charges in respect of the pilotage services provided by it.

(2) Without prejudice to the generality of subsection (1), the charges to be made under that subsection may include —

(a) charges for the services of a pilot authorised by the authority;

- (b) charges in respect of any expenses reasonably incurred by such a pilot in connection with the provision of services as a pilot;
- (c) charges by way of penalties payable in cases where the estimated time of arrival or departure of a ship is not notified as required by the authority or the ship does not arrive or depart at the notified time;
- (d) charges in respect of the cost of providing, maintaining and operating pilot boats for the area; and
- (e) charges in respect of any other costs involved in providing and maintaining the pilotage organisation provided by the authority.

(3) Different charges may be made under this section in different circumstances.

(4) The authority must arrange for the charges to be made by it under this section to be published in such manner as to bring them to the notice of those persons likely to be interested.

(5) Charges imposed by the authority under this section are recoverable as a civil debt or in any other manner in which ship, passenger and goods dues are recoverable by the authority.

(6) In subsection (5) “**ship, passenger and goods dues**” has the same meaning as in section 134 of the Maritime Ordinance 2017.

[Pilotage Act 1987 (UK), s10]

49B. Right of objection to pilotage charges

Subsections (2) to (11) of section 30 (right of objection to ship, passenger and goods charges) apply in respect of charges imposed by the authority under section 49A as they apply as respects charges to which section 30 applies but, —

- (a) with the substitution for the reference to the persons mentioned in section 30(2)(a) and (b) and (3)(b) of references to —
 - (i) the owners of ships which customarily navigate in the harbour in question; and
 - (ii) any persons who carry on harbour operations within that harbour; or, in any of those cases, persons representative of them; and
- (b) with the omission of section 30(2)(i) and (iii).

[Pilotage Act 1987 (UK), s10(6)]”.

8. New sections 51A to 51F inserted

After section 51, insert —

“51A. Right of authorised pilot to supersede unauthorised pilot

- (1) An authorised pilot may, within the harbour in relation to which or a part of which they are authorised, supersede as the pilot of a ship any unauthorised person who has been employed to pilot it.
- (2) The master of any ship who navigates it in any part of a harbour under the pilotage of an unauthorised person without first notifying the authority that they propose to do so, commits an offence.
- (3) An unauthorised person who pilots a ship within a harbour knowing that an authorised pilot has offered to pilot it, commits an offence.
- (4) The master of a ship navigating within a harbour who knowingly employs or continues to employ an unauthorised person to pilot the ship after an authorised pilot has offered to pilot it, commits an offence.
- (5) For the purposes of this section —
 - (a) a person is an unauthorised person if the person is neither an authorised pilot nor the holder of a pilotage exemption certificate in respect of the ship and the area in question; and
 - (b) any person (other than the master or one of the crew of a ship) who is on the bridge of the ship or in any other position from which the ship is navigated (whether on board or elsewhere) is deemed to be piloting the ship unless they prove otherwise.
- (6) A person who is convicted of an offence under this section is liable to a fine not exceeding —
 - (a) in the case of an offence under subsection (2), level 1 on the scale set out in the Schedule; and
 - (b) in the case of an offence under subsection (3) or (4), level 2 on the scale set out in the Schedule.

[Pilotage Act 1987 (UK), s17]

51B. Declaration as to draught etc. of ship

- (1) A pilot may request information relating to the ship or its cargo from the master of a ship or from the agent of the ship.
- (2) The master of a ship must provide —
 - (a) information requested by the pilot under subsection (1) with respect to the ship's draught, length and beam; and
 - (b) such other information which is necessary to enable the pilot to carry out duties as the pilot of the ship.
- (3) In addition to the information requested under subsection (1), the master of a ship must bring to the notice of any person who pilots the ship any defects in, and any matter peculiar to, the ship and its machinery and equipment of which the master knows and which might materially affect the navigation of the ship.
- (4) A master of a ship commits an offence if the master —

- (a) refuses to comply with a request made under subsection (1);
- (b) makes a statement which is false in a material particular in answer to such a request, knowing it to be false or being reckless as to whether it is false, or fails without reasonable excuse to correct such a statement made by another person in answer to such a request although knowing it to be false; or
- (c) without reasonable excuse contravenes subsection (3).

(5) A person who is convicted of an offence under this section is liable to a fine not exceeding level 2 on the scale set out in the Schedule.

[Pilotage Act 1987 (UK), s18]

51C. Authorised pilot not to be taken out of their area

(1) A master of a ship must not without reasonable excuse take an authorised pilot without their consent beyond the point up to which the pilot has been engaged to pilot the ship.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding level 3 on the scale set out in the Schedule.

[Pilotage Act 1987 (UK), s19]

51D. Facilities to be given for pilot boarding or leaving ship

(1) The master of a ship must facilitate the pilot boarding and subsequently leaving the ship where —

- (a) the master of a ship, which is navigating in an area in circumstances in which pilotage is compulsory for it but is not under the pilotage of an authorised pilot or a deck officer possessing a pilotage exemption certificate in respect of the ship and the area, is offered the services of an authorised pilot; or
- (b) the master of a ship accepts the services of an authorised pilot in any other circumstances.

(2) The master of a ship must ensure that the equipment provided and arrangements made for the pilot to board and subsequently leave the ship are safe.

(3) The master of a ship who, without reasonable excuse contravenes this section commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale set out in the Schedule.

[Pilotage Act 1987 (UK), s20]

51E. Misconduct by pilot endangering ship or persons on board ship

(1) The pilot of a ship commits an offence if they do or omit to do an act set out in subsection (2) and —

- (a) the act or omission is deliberate or amounts to a breach or neglect of duty; or
- (b) the pilot is under the influence of drink or a drug at the time of the act or omission.

(2) The act or omission for purposes of subsection (1) is —

- (a) an act which causes or is likely to cause the loss or destruction of, or serious damage to, the ship or its machinery, navigational equipment or safety equipment, or the death of, or serious injury to, a person on board the ship; or
- (b) an omission to do anything required to preserve —
 - (i) the ship or its machinery, navigational equipment or safety equipment from loss, destruction or serious damage; or
 - (ii) any person on board the ship from death or serious injury.

(3) A person who is convicted of an offence under this section is liable on conviction, to imprisonment for a term not exceeding 2 years or a fine.

[Pilotage Act 1987 (UK), s21]

51F. Limitation of liability in respect of pilots

(1) The liability of an authorised pilot for any loss or damage caused by their act or omission while acting as such a pilot must not exceed £1,000 and the amount of the pilotage charges in respect of the voyage during which the liability arose.

(2) For purposes of subsection (1), a person is deemed to be an authorised pilot notwithstanding that they are acting as a pilot of a ship navigating outside the area in relation to which they are authorised if —

- (a) the pilot is piloting the ship to that area from a place where pilots authorised for that harbour regularly board ships navigating to it; or
- (b) the pilot is piloting the ship from that harbour to a place where such pilots regularly leave ships navigating from it; and
- (c) in either case, the ship is one in respect of which the pilot is authorised.

(3) The liability of the authority where there is loss or damage to any ship, to any property on board any ship or to any property rights of any kind caused by an authorised pilot employed by the authority, is damages to the amount of £1,000 multiplied by the number of pilots employed by the authority at the date when the loss or damage occurs.

(4) The limitation of damages in subsection (3) applies to a person who has been engaged by the authority to provide pilotage services on behalf of the authority in the event of loss or damage to any ship, any property or rights of any kind caused by the authorised pilot employed by the person engaged by the authority.

(5) Subsections (3) and (4) apply where there is no personal act or omission by the authority or person providing pilotage services on behalf of the authority as mentioned in article 4 of the Convention (on limitation of Liability for Maritime Claims 1976) contained in Schedule 5 to the Maritime Ordinance 2017.

(6) The limit of liability under this section applies to the whole of any losses and damages which may arise upon any one distinct occasion although such losses and damages may be sustained by more than one person.

(7) Where any proceedings are taken against any person (“the defendant”) for any act or omission in respect of which liability is limited as provided by this section and other claims

are or appear likely to be made in respect of the same act or omission, the court in which the proceedings are taken may —

- (a) determine the amount of the liability;
- (b) upon payment by the defendant of that amount into court, distribute that amount rateably amongst the claimants;
- (c) stay any proceedings pending in relation to the same matter; or
- (d) proceed in such manner and subject to such requirements as the court thinks just —
 - (i) as to making interested persons parties to the proceedings;
 - (ii) as to the exclusion of any claimants whose claims are not made within a certain time;
 - (iii) as to requiring security from the defendant; and
 - (iv) as to payment of any costs.

(8) Nothing in subsection (3) or (4) affects any liability which may be limited under section 194 (limitation of liability for maritime claims) or is excluded under section 195 (exclusion of liability) of the Maritime Ordinance 2017.

(9) The authority is not liable for any loss or damage caused by any act or omission of a pilot authorised by it under section 44 by virtue only of that authorisation.

(10) In this section “**the court**” means the Magistrate’s Court.

[Pilotage Act 1987 (UK), s22]

9. Section 52 amended (regulations)

In section 52, replace paragraphs (e) and (f) with —

- “
- (e) the making of pilotage directions;
 - (f) the designation of compulsory pilotage areas;
 - (g) the categories of ships that may be subjected to or exempted from compulsory pilotage;
 - (h) the responsibilities of the Master of a ship under compulsory pilotage;
 - (i) the training, assessment and authorisation of pilots under section 44;
 - (j) the composition and functions of the Pilotage Committee; and
 - (k) any other matter that is incidental or otherwise necessary to give effect to this Part.”

10. Minor amendments

(1) This section makes minor amendments to the Harbours and Ports Ordinance 2017 (“**the Ordinance**”).

(2) Amend the provisions of the Ordinance listed in the first column of the Schedule in accordance with the second column of the Schedule.

SCHEDULE: Minor amendments

section 10

Section	Amendment
4(2)	After “the authority” omit “(Department of Natural Resources)”.
34(4)	Replace “duly licenced pilot” with “pilot authorised under section 44”.
44	(a) In subsection (1), replace “or in any part of harbour” with “a harbour”; and (b) Delete subsection (7).
47(1)	Replace “any area or part of an area of a harbour” with “a harbour, or an area of a harbour”.
48	(a) In subsection (2)(b), replace the words in brackets with “applying to the authority for authorisation under section 44”; (b) Delete subsection (6); and (c) In subsection (7) omit “or suspending or revoking a certificate held by any person”.

OBJECTS AND REASONS

This Ordinance amends the Harbours and Ports Ordinance 2017, mainly to make further provisions for pilotage.

Part 5 of the Harbours and Ports Ordinance is based on the UK Pilotage Act 1987. When the Harbours and Ports Ordinance was enacted, the decision was made to leave out some provisions from the Pilotage Act 1987 until there is capacity to implement those provisions. This Ordinance adds to the Harbours and Ports Ordinance provisions which are similar to sections 8A, 8B, 10, 17, 18, 19, 20, 21 and 22 of the UK Pilotage Act. The new provisions deal with the rights of pilots; suspension and revocation of a pilotage exemption certificate and allows the authority to charge for services related to provision of pilotage. A Pilotage Committee is established to assist and advise the authority on matters under Part 5. Details of membership and functions of the Committee will be in regulations.

In more detail the individual clauses of the Bill provide as follows:-

Clauses 1, 2 and 3 provide for preliminary matters. The Bill will commence on a day appointed by the Governor by notice in the *Gazette*.

Clause 4 amends section 3 of the Ordinance by replacing the definitions of “harbour” and “port”. The new definition of harbour is simpler and a harbour is only a harbour once designated and defined under section 14. A harbour or a port that was declared as such under the Harbours Ordinance 1902 continue to be a harbour and port respectively.

Clause 5 amends section 43 by adding new subsections (4) and (5), providing for the establishment of a Pilotage Committee. Regulations made under section 52 will provide for the membership and functions of the Committee.

Clause 6 inserts new sections 48A and 48B. The new sections are similar to sections 8A and 8B of the UK Pilotage Act 1987. They allow the authority to suspend or revoke a pilotage exemption certificate in cases specified in the new section 48A. The new section 48B sets out the procedure to be followed when suspending or revoking an exemption certificate.

Clause 7 inserts new sections 49A and 49B. The new sections are similar to section 10 of the UK Pilotage Act.

Section 49A allows the authority to make reasonable charges in respect of pilotage services provided by it. Charges may be made as set out in section 49A(2). Charges are recoverable as a civil debt. There is a right of objection to pilotage charges under section 49B. Section 49B provides that section 30(2) to (11) (right of objection to ship, passenger and goods charges) applies in respect of charges imposed under section 49A. Section 30 allows objections to be made to the Governor and sets out the procedures for dealing with those objections.

Clause 8 inserts new sections 51A to 51F in the Ordinance.

The new sections 51A to 51D provide for the rights of authorised pilots when providing pilotage services. The rights are as follows:-

1. The right of an authorised pilot to supersede unauthorised pilot (section 51A), based on section 17 of the UK Pilotage Act. The effect of section 51A is that in an area where authorised pilots operate, vessels must use an authorised pilot or a person who has been granted a pilotage exemption certificate. It is an offence to use an unauthorised pilot without notifying the authority and to continue to use an unauthorised pilot when an authorised pilot has offered to pilot the ship. Section 51A(6) provides for the applicable penalties.
2. The right to receive information regarding the ship or cargo required for carrying out the duties as a pilot (section 51B). A pilot must require the master of a ship to declare the ship’s draught of water, length and beam. The pilot must also be notified of any defects in, and any matter peculiar to the ship and the ship’s machinery and equipment of which the master knows might materially affect the navigation of the ship.
3. An authorised pilot may not be taken without their consent or without reasonable excuse, beyond a point up to which the pilot has been engaged to pilot the ship (section 51C).
4. Facilities must be given for the authorised pilot to safely board and subsequently leave the ship (section 51D).

New section 51E deals with misconduct by pilots. It is an offence for a pilot to deliberately, negligently or while under the influence of alcohol or drugs to do anything that results in or would result in loss, destruction or serious damage to the ship or death or serious injury to a person or fails to do anything necessary to prevent any of those. The penalty for the offence is up to two years imprisonment or a fine.

Liability in respect of damage caused during an act of pilotage of individual pilots and of the authority as provider of pilotage services is limited under new section 51F. The limit is £1,000 and any pilotage charges for an individual pilot. The limitation for the authority is £1,000 multiplied by the number of authorised pilots employed by the authority at the date when the loss, damage or injury occurs. The limitation of liability ascribed to the authority also extends to a person engaged by the authority to offer pilotage services on behalf of the authority.

Clause 9 amends section 52 by adding new matters in respect of which regulations may be made.

Clause 10 makes minor amendments to the Ordinance as contained in the Schedule.

BYRON MARINE FEEDBACK TO 2024 PILOTAGE CONSULTATION

1. The feedback from Byron Marine (BM), as the current providers of pilotage services in Stanley covered a range of port- and pilotage-related issues and this Annex batches that feedback under subject area headings.

Offshore hydrocarbons operations

2. In their covering e-mail, BM noted that future oil and gas development will create a very different marine traffic operational setting, with intense activity, perhaps on occasion over 20 vessel movements in a weekend. Harbour operations will need to ensure that Temporary Docking Facility (TDF) operations are conducted in a seamless way, including bunkering operations. They also highlighted the impact on wider port activity and the need to effect appropriate prioritization of and de-confliction between the activities of different port users.

Pilotage Exemption Certificates (PEC)

3. BM touched upon the possibility of subjective assessments being made in cases where PECs were suspended or revoked. FIMA responded by clarifying that any such decision would be taken by the Pilotage Board as a whole, including the Chief Pilot, rather than by any individual member of FIMA.

'Grandfather rights'

4. As the current providers of pilotage services, they made the point that the position of the existing, highly trained and experienced cadre of pilots needs to be protected as part of the transition to more formal pilotage arrangements. This has been reflected in the ExCo paper.

Information to be reported to the Pilot on embarkation

5. Once published, the Pilotage Direction will require the master of a ship to provide details such as draught, length, beam or other information relevant to the ship, its cargo, equipment, or defects. The feedback from BM highlighted that, in the absence of a Pilotage Direction, these requirements are not always met, citing as examples:

- a. The failure to declare anchor hawsers filled with expanded polystyrene foam to prevent spray impacting the bridge during trawling operations. This practice compromises vessel and/or quayside safety in the event that the vessel is required to quickly deploy the anchor to prevent an incident.
- b. Bow thrusters are often declared working but are not able to operate at full power and are seldom tested, or at least are not tested prior entry into port.
- c. Some masters are not fully conversant with the impact of reverse thrust propulsion, which in turn can lead to them providing incorrect information to the embarked pilot.

Pilot misconduct

6. Linked to the information reporting requirement in paragraph 5, provisions are made within the draft Bill concerning pilot misconduct (by act or omission) and also concerning limitations of liability with respect to pilots. In noting these provisions, BM suggested that the formalisation of these matters is likely to necessitate the introduction of some form of checklist for vessels or their representatives to complete prior to pilot embarkation. The detail of this requirement will be addressed in the Pilotage Direction and Pilotage Regulations.

Compulsory Pilotage Area

7. In commenting on the demarcation of the Compulsory Pilotage Area (CPA) within the future Pilotage Direction, they highlighted the need to factor in any potential hydrocarbons operations, particularly with respect to TDF usage and ship-to-ship transfers of oil and gas equipment.

Exemptions from compulsory pilotage

8. The current draft Pilotage Direction cites 'vessels carrying marine pollutants in bulk, including those in ballast' as not being exempt from compulsory pilotage and BM offered the view that the phrase 'carrying marine pollutants in bulk' perhaps required enhanced definition as all ships carry fuel and lubes, whilst also highlighting that fishing vessels entering at the beginning of season are "bunkers topped up". Under this section they also made the point that in the event of an offshore industry emerging, marine pollutants could include a cacophony of offshore fuels, mud-drilling chemicals, cements, lubricants. Vessels operating as part of the hydrocarbons industry will mainly be using the TDF and that facility needed to be catered for within the pilotage regulations.

Responsibilities of a vessel under compulsory pilotage

9. Section 3 of the draft Pilotage Direction sets out the responsibilities of the ship under compulsory pilotage, including provision to the pilot of information concerning ship's characteristics, navigational plan, relevant defects and support from the bridge team. BM are keen to work with FIMA to finalize the detail within the Pilotage Direction regarding what information is required from vessels both at the time of booking a pilot and at the point that the pilot embarks.