

1988 No. 1089

PILOTAGE

**The Terms of Employment of Pilots (Arbitration)
Regulations 1988**

<i>Made - - - -</i>	<i>21st June 1988</i>
<i>Laid before Parliament</i>	<i>27th June 1988</i>
<i>Coming into force</i>	<i>18th July 1988</i>

The Secretary of State for Transport, in exercise of the powers conferred on him by section 5(7) of the Pilotage Act 1987(a), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Terms of Employment of Pilots (Arbitration) Regulations 1988 and shall come into force on 18th July 1988.

Interpretation

2. In these Regulations the following expressions have the meanings respectively assigned to them—

“the Act” means the Pilotage Act 1987;

“applicant” means the party who refers a dispute to arbitration pursuant to section 5(1) of, or paragraph 2(1) of Schedule 1 to, the Act;

“appointed day” means the day appointed under section 33(2) of the Act for the coming into force of Part I of the Act;

“Chairman”, “Members of the Panel” and “Panel” mean the Chairman, Members of the Panel and Panel appointed in accordance with section 5(2) of the Act;

“the parties” means the applicant and the respondent being—

- (i) in the case of a reference by a competent harbour authority before the appointed day, the competent harbour authority and the person or organisation representing the majority of the holders of licences under section 12 of the Pilotage Act 1983 (b) for the pilotage district in which the harbour falls;
 - (ii) in the case of a reference by a competent harbour authority after the appointed day, the competent harbour authority and the pilot or pilots in relation to whose contracts of employment the question in dispute arises;
 - (iii) in the case of a reference before the appointed day by a person or organisation representing the majority of the holders of licences under section 12 of the Pilotage Act 1983 for a pilotage district in which a competent harbour authority's harbour falls, that person or organisation and the competent harbour authority;
- and,

(a) 1987 c.21.
(b) 1983 c.21.

- (iv) in the case of a reference after the appointed day by the majority of the authorised pilots for a harbour, or part of a harbour, the authorised pilots for the harbour, or part of the harbour, and the competent harbour authority;

“question in dispute” means the issue as to the terms of a contract of employment of pilots referred to arbitration by the applicant under section 5(1) of, or paragraph 2(1) of Schedule 1 to, the Act;

“respondent” means the party other than the applicant.

Arbitration proceedings

3. The Rules contained in the Schedule to these Regulations shall have effect in relation to the referral and determination of a question in dispute.

Expenses of arbitrations

4. The expenses of the Chairman incurred by him in connection with an arbitration (including any fees payable to him by virtue of his terms of appointment in respect of his conduct of that arbitration) shall be borne equally by the parties to the arbitration.

Signed by authority of the Secretary of State

David B. Mitchell
Minister of State,
Department of Transport

21st June 1988

SCHEDULE

Regulation 3

RULES AS TO REFERRAL AND DETERMINATION OF QUESTIONS IN DISPUTE

Referral

1.—(1) An arbitration shall be instituted by the applicant's presenting to the Chairman of the Panel and to the respondent a request for arbitration on a question in dispute which shall be in writing and shall set out—

- (a) the names and addresses of the competent harbour authority and the person acting for the pilot or pilots in the proceedings;
- (b) the question for determination; and
- (c) a statement that the dispute cannot be resolved by negotiation.

(2) Where the applicant is the majority of the authorised pilots for a harbour, or part of a harbour, the request presented under sub-paragraph (1) above shall be accompanied by a certificate signed by the person acting for the pilots that a majority of the pilots in question has voted to refer the dispute to arbitration.

(3) Upon receipt of a request the Chairman shall take the steps he considers necessary to ascertain whether the dispute can still be resolved by negotiation. If he decides that the dispute can still be resolved by negotiation he shall decline to accept the reference until such time as he is satisfied that the dispute cannot be resolved by negotiation.

Action upon acceptance of a reference

2.—(1) Once the reference has been accepted, the Chairman shall set a date, being not later than 3 weeks from the acceptance of the reference, time and place for the holding of the arbitration, unless both parties have informed him in writing that they do not require an oral hearing.

(2) Each party shall, within 14 days of receiving notification of acceptance of the reference, present to the Chairman a written statement of its case and shall copy it to the other party.

Preparation for arbitration

3.—(1) The Chairman shall make all the necessary arrangements for the holding of an arbitration.

(2) The Chairman may engage such ancillary services as he thinks fit with a view to assisting the Panel in the discharge of its functions.

Procedure at the arbitration

4.—(1) Where both parties have informed the Chairman that they do not require an oral hearing, the Panel shall proceed as expeditiously as it can to determine the question in dispute upon the basis of any written statements presented to the Chairman.

(2) Where an oral hearing is held, each party may appear and be heard through its authorised representative or, with the consent of the Chairman, may be represented by an adviser; and each party may give evidence, with the consent of the Chairman call witnesses, question any witness and address the Panel.

(3) If a party shall fail to appear or to be represented at the time and place fixed for the hearing the Panel may adjourn the hearing to a later date or may determine the question in dispute in its absence, but before determining the question in dispute it shall consider any written statement presented to the Chairman by that party.

Determinations of the Panel

5.—(1) The Panel shall seek to determine a question in dispute through a unanimous decision of the Panel, and if this proves impossible through a majority decision; but if it proves impossible for any two Members of the Panel to agree to a decision the Panel may act through the decision of the Chairman alone.

(2) The Panel shall record in a document signed by the Chairman its determination of the question in dispute.

Miscellaneous powers of Panel

6.—(1) Subject to the provisions of these Rules, a Panel may regulate its own procedure.

(2) A Panel may, if it thinks fit—

- (a) extend the time appointed by these Rules for presenting a written statement notwithstanding that the time appointed may have expired;
- (b) postpone the day or time fixed for, or adjourn, any hearing;
- (c) where there are pending 2 or more requests for arbitration and, either upon the application of any party or on its own motion, it appears to a Panel that some common question of law arises in both or all the requests for arbitration, then the Panel may order that some or all of the requests for arbitration shall be considered together, and may give such consequential directions as may be necessary: provided that before exercising this power notice shall have been sent to all parties concerned giving them an opportunity to show cause why such an order should not be made.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as respects the referral and determination of disputes as to the terms of employment of pilots under section 5(1) of the Pilotage Act 1987, and the expenses of arbitrations held to determine such disputes.

85p net

ISBN 0 11 087089 1

Printed in the United Kingdom for Her Majesty's Stationery Office

850/WO 1020 C11 6/88 452/1 9385/3530/3773 PS 8910371