

Transitional Arrangements relating to the Licensing and Training Requirements for Marine Pilots in Victorian Ports

Issued: 10 June 2020

1. Background

By Government Gazette No. S 432 dated 29 October 2019 the Director, Transport Safety (**Director**) published the Determination: Licensing and Training Requirements for Marine Pilots in Victorian Ports (**Determination**) in exercise of the powers vested in the Director under sections 252 and 258(1)(i) of the *Marine Safety Act 2010*. The Determination came into effect on 20 January 2020 (**Commencement Date**).

The Determination replaced the previously published document: Training and Licensing of Marine Pilots for Victorian Ports Standard 6.2 dated 19 September 2013 (**Standard**).

This document sets out transitional arrangements that will be applied by the Director in dealing with the transition from the Standard to the Determination (**Transitional Arrangements**).

2. Transitional arrangements

2.1 Applications for a pilot licence

Any application for a pilot licence received by the Director on or before the date occurring three months after the date of issue of these Transitional Arrangements will be assessed and dealt with on the basis of the requirements under the Standard, not the Determination. This includes any examination procedures that are required to be undertaken.

2.2 Pilot licence increments

Pilot licence increments relate to pilot licences where the licence is conditional based on increments of vessel length and draught limitations.

Where the holder of a pilot licence is, on the Commencement Date, part way to achieving a higher increment under the Standard, the Director will assess the achievement of that higher increment in accordance with the requirements under the Standard, not the Determination. After that, future achievement of increments by that person will be assessed against the requirements under the Determination.

An example is set out below:

- Where a person holds a pilot licence that is limited to a vessel length of 190 metres and draught of 9.5 metres for the Ports of Melbourne and Geelong;
- That person is part way to achieving the next increment (which is, under both the Standard and the Determination, for vessel length of 220 metres and draught of 10.5 metres),

then the Director will assess the achievement of the next increment by reference to the requirements under the Standard, not the Determination. This concession will only apply where the requirements of that increment are completed within six months from the date of issue of these Transitional Arrangements. Thereafter the Determination will apply unless the Director, due to exceptional circumstances, extends the 6 month period.

The achievement of further increments thereafter will be assessed by reference to the requirements under the Determination.

2.3 Process requirements

Where:

- the Determination sets out a process (including a process that includes a set of requirements) (**Process**) that includes a precondition that, prior to the commencement of the Process, a person performs a particular task or provides a particular thing (the **Prior Requirement**); and
- a person commenced undertaking the requirements of that Process prior to the Commencement Date,

that person will be taken to have complied with the Prior Requirement if he or she performs the Prior Requirement when requested by the Director.

Example: Paragraph 62 of the Determination states that a Pilot Training Plan should be provided to the Director and the relevant Harbour Master for approval 21 days prior to the commencement of training.

This transitional provision will operate so that where a person commenced training under the Standard (which did not require prior submission of a Pilot Training Plan), that person will be taken to have complied with paragraph 62 of the Determination if that person provides a Pilot Training Plan when requested by the Director.

2.4 Inactive pilot licences

Paragraph 19 of the Determination requires a Pilot and the employing Pilotage Services Provider to notify the Director if the Pilot has not acted as a Pilot for a period of at least 12 months. The obligation to notify the Director commences on the Commencement Date and applies in relation to the period commencing 12 months prior to the Commencement Date.

2.5 Pilot medical fitness

All new applicants must meet the medical fitness standards under the Determination, including the standards prescribed in AMSA Marine Order 76 and obtain a certificate of medical fitness.

With regard to certificates of physical fitness (paragraph 26(c) of the Determination), the Director will, until further notice, accept certificates from medical practitioners whose certificates have previously been accepted.

2.6 Additional areas of operation

From the Commencement Date, where a licence holder for a particular port intends to apply for a pilot licence for a different port that applicant must complete all the observer trips, examination requirements, licence progression, assessment trips and otherwise meet all of the eligibility criteria specified in the Determination for that port.

The Pathway Two requirements to obtain a pilot licence for the Port of Hastings (paragraph 141) and the Port of Portland (paragraph 152) in the Determination apply to existing Pilots who have held a Melbourne and Geelong Class 1 (formerly unrestricted) Pilots' Licence for at least 36 months.

2.7 Qualifications for Check Pilots

Paragraph 51 of the Determination provides that the Director may issue a Check Pilot Condition to a Pilot holding a Pilot Licence subject to certain requirements. For the avoidance of doubt:

- all current Pilots carrying out the role as Check Pilot may continue to do so from the Commencement Date; and
- Check Pilots will be notified in future if they are required to complete an assessment approved by Maritime Safety Victoria.

3. Ongoing application

Apart from the Transitional Arrangements specified above:

- the Determination applies on and from the Commencement Date; and
- the Standard was replaced by the Determination and ceased to apply on the Commencement Date.

Frequently Asked Questions - Determination: Licensing and Training Requirements for Marine Pilots in Victorian Ports

The Director, Transport Safety (**Director**) published the Determination: Licensing and Training Requirements for Marine Pilots in Victorian Ports (version 1) dated 18 October 2019 (**Determination**) in the Government Gazette on 29 October 2019. The Determination came into effect on 20 January 2020 (**Commencement Date**).

The Determination replaced the previously published document: Training and Licensing of Marine Pilots for Victorian Ports Standard 6.2 (issue 2) dated 19 September 2013 (**Standard**).

The purpose of this document is to set out answers to frequently asked questions. For further information, please also refer to the transitional provisions issued by the Director (**Transitional Arrangements Document**) at the time of issue of these FAQs.

1. Do my observer trips or training trips that I completed before January 2020 count for my pilot licence?

Yes, as long as the licence increment you are working towards is completed within 6 months from the date of the Transitional Arrangements Document. Please also refer to the Transitional Arrangements document.

2. Do I need a training plan if I am progressing from an increment in the Standard to the next class as per the Determination?

Yes, and the training plan will need to address how you aim to meet the requirements of the classes you are completing. The training plan needs to be approved by both the relevant Harbour Master and the Safety Director.

3. Can I put my observer trips in my training plan?

Yes, the observer trips must be lodged in your training plan.

4. When must the first of the annual assessment trips be carried out?

The first annual assessment trip for each pilot should be carried out at the earliest practicable opportunity, but must be carried out on or before 20 January 2021. Thereafter, an assessment trip must be carried out each year within 12 months of the last assessment trip.

5. Do I need to change my current 'unrestricted' pilot licence to a class pilot licence?

No, however if you vary any conditions on your licence, a new licence with equivalent class will be issued. Note that the same pilot licence number will be used.

6. I hold an existing pilot licence and wish to apply to be an assessment pilot. What steps do I need to take now?

Please see Determination, Section 8.1 for all requirements.

7. How do I apply to become a pilotage examiner?

Please contact Maritime Safety Victoria for more information on 1800 223 022 or TSVqualifications@transportsafety.vic.gov.au

8. How do I find out more information about the PLAKE?

Please contact the appropriate Harbour Master(s) of the Port(s) to which you intend to operate as a pilot in.

9. What are my Medical and Eyesight Requirements?

Please contact Maritime Safety Victoria for more information on 1800 223 022 or TSVqualifications@transportsafety.vic.gov.au

10. When must I obtain a certificate of medical fitness?

Under paragraph 23 of the Determination, medical certificates are required to be obtained by pilots every 2 years for those under 55 years and annually for those 55 years and over. This means that:

- a) If you were under 55 years of age on the Commencement Date you must obtain a certificate from a medical practitioner every 2 years but once you have turned 55 you must obtain your next certificate before the earlier of:
 - i. The expiration of 2 years from the date of your last certificate; and
 - ii. The date of your 56th birthday,and you must obtain further certificates annually thereafter; and
- b) If you were 55 years of age or over on the Commencement Date you must obtain a certificate from a medical practitioner within 12 months of the Commencement Date and annually thereafter.

11. What happens if I transfer from one PSP to another at any time during the training or licensing process, or my subsequent career?

A new pilot training plan from the employing PSP will be required. You will also need to discuss this with your new PSP.

12. How do we define a trip that is in hours of daylight/darkness?

A trip undertaken in the hours of darkness is defined as a trip that commences after sunset and is completed before sunrise as set daily by the Bureau of Meteorology.

A trip undertaken in the hours of daylight is defined as a trip that commences after sunrise and completed before sunset as set daily by the Bureau of Meteorology or as described in the second paragraph of item 14 below.

13. How is an ebb or flood tide defined?

An ebb or flood tide shall be determined from the relevant tide table for the port in question.

Trips completed partially in ebb tide or partially in flood tide will not be counted towards a defined ebb/flood tide trip as per the Determination.

14. What if a trip is completed partially in darkness and partially in daylight?

Trips completed partially in darkness and partially in daylight will not be counted towards a defined night trip as per the Determination.

If the requirement of a trip is for it to be 'during the hours of darkness', then the whole trip must be completed in this time frame. If it is not completed within the time frame, then it will be considered a 'daylight' trip.

15. Paragraph 72 of the Determination requires monthly progress reports on a trainee pilot's progress, what will this look like and what information should it contain?

An acceptable format would be a formal email addressed to the Safety Director and the relevant Harbour Master containing an assessment of the trainee pilot training against their approved training plan.

16. Can a person that has applied for a pilot licence appeal a decision made by the Safety Director (or his duly authorised delegate) not to grant the licence?

Yes, Part 8.7 of *the Marine Safety Act 2010 (Vic)* provides for two reviews:

- (a) an internal review – this is an application made to the Director and must be made in writing in a form approved by the Director within 28 days the person was notified of the decision; or
- (b) a review by the Victorian Civil and Administrative Appeals Tribunal (**VCAT**) – this is an application to VCAT and must be made within 28 days after the later of: the day the person was notified of the decision or the day on which the person requested a statement of reasons and it was either given to the person or the person was notified that such a statement will not be given. Please refer to the VCAT for further information on their procedures.

17. If training was completed prior to 20 January 2020 under the Standard, but an application has not yet been submitted, will the training be accepted?

Yes, as long as the training was completed in accordance with the requirements in the Standard and there is evidence of this. Any further increment must be completed under the Determination.

18. Are the assessment trips (for a trainee pilot licence) to be completed before or after the MSV pilot assessment?

Assessment trips are to be completed after the MSV pilot assessment.

19. What is the MSV approved assessment for a Pilot seeking an Check Pilot Condition on their Pilot Licence?

Please contact Maritime Safety Victoria for more information on 1800 223 022 or TSVqualifications@transportsafety.vic.gov.au

20. Can two Trainee Pilots be present on the navigation bridge of a vessel?

It is recommended that training is conducted one-to-one, however, a PSP may develop a training plan with a maximum of two Trainee Pilots on the bridge of a vessel.

The PSPs training program for the trainees must be endorsed by relevant Harbour Master and approved by Safety Director, when training with two Trainee Pilots on the bridge.

If there are two Trainee Pilots on the bridge, then the PSP's management system must address the risk and how the Training Trips will be counted for each trainee.

There may be a need to have more than two trainees while training Pilots for a precinct where vessels do not often visit. In this circumstance, a PSP's training program must address the risks and any proposal should be endorsed by the relevant Harbour Master and approved by Safety Director.

A Check Pilot may not conduct an Assessment Trip for a trainee Pilot who they have recently trained, unless they hold a current nationally recognised assessment qualification.

21. If there are two trainee pilots on the navigation bridge of a vessel, can the 'training trip' be counted as a full training trip for each pilot as required under the Determination?

No. Only the part of the voyage that is undertaken by a trainee pilot will be counted as a training trip.

22. Can an observer pilot be on the bridge while a training pilot is undertaking a training trip?

Yes, however, there can be no more than two PSP personnel under the supervision of the pilot undertaking the pilotage movement on the bridge of the vessel.

23. Can a pilot undertake an assessment trip while a training pilot and/or observer pilot is also on the bridge?

No

24. If only the minimum assessment trips are completed, will a licenced pilot be able to pilot a vessel to any precinct in the Port of Melbourne and Port of Geelong?

A pilot will only be permitted to pilot vessels to and from precincts they have completed assessment trips for as per the PSP training plan and the requirements of the Determination.

The PSP must have in place a process whereby any pilot visiting a precinct for the first time must do so in line with the requirements of the Port appendix in the Determination and on assessment trips with a pilot who is qualified to visit the/these precinct(s).

25. Do precinct assessment trips undertaken by a licenced pilot (lower than Class 1) count towards the minimum trip requirements to progress to the next licence class?

See Clause 93 and 94 of the Determination for clarification.

26. How do I progress through each class under the Determination?

The Pilot will progress through the class structure:

1. as set out in the Determination by completing the minimum number of trips specified for the port(s) and relevant precincts; and
2. the minimum time period specified for each successive class increment; and
3. after completing the required assessment trips while a check pilot assesses their performance.