

# Lotsa rätt!

*Delbetänkande av Lotsutredningen*

*Stockholm 2007*



# Summary of “Correct Piloting” (Lotsa rätt)

(SoU 2007:106)

## The remit

My remit has been to review certain piloting issues (ToR 2006: 116). The remit has included showing how new technology can facilitate and streamline pilotage services and examining the possibilities of developing pilotage from a land-based centre. Other tasks have included reviewing the requirements that are to apply to work as a pilot and considering whether there is reason to propose changes to the existing procedure for being granted a Pilot Exemption Certificate. Further, my remit has included analysing the effects of the cross-subsidy that exists between pilotage and fairway dues.

## A new Pilotage Act

I propose that basic provisions for pilotage be regulated in a special ‘Pilotage Act’. Mandatory pilotage is currently only regulated in the form of ordinances. It is my assessment that mandatory pilotage is such an extensive obligation for individuals that it should be regulated by law. Further, it is my assessment that regulation of authorisation for pilots must be in the form of a law.

By means of supplementary terms of reference to the Pilotage Inquiry (2007:69), I have the task of presenting proposals concerning the future organisation of pilotage services no later than 2 May 2008. Decisive reasons argue in favour of considering pilotage to be an exercise of official authority. If the position is taken that the ‘pilotage monopoly’ is to end either completely or partially, then the right for a legal or natural person to exercise official authority can only be transferred by law.

Neither the Swedish Maritime Code nor the Ship Safety Act reflect the special conditions that pilotage services work under. In addition, these codes of law are very extensive and not particularly easy to grasp. Coherent legislation for pilotage is therefore preferable.

## Proposal that communication be included in the legal definition of pilotage

An important and extensive part of a pilot’s responsibilities is communication with the bridge crew, other ships, tugboats and Vessel Traffic Service (VTS) centres. To describe the existing circumstances in a fair manner, I therefore propose that the concept of ‘communication’ be included in the Pilotage Act’s definition of pilotage. The texts of previous ordinances on pilotage only included the concepts of ‘navigation’ and ‘manoeuvring’.

## Regulating authorisation of pilots

I consider that regulation of authorisation is necessary if alternative organisational forms for pilotage services are to be allowed. Even with a continued pilotage monopoly, regulation of authorisation helps to provide pilotage services with additional quality assurance.

I propose that the basic authorisation requirements for pilots be regulated by law. In order to allow the development of alternative methods for recruiting and training pilots, I consider that the basic authorisation criteria that are regulated by law are to be more general in nature. The Maritime Safety Inspectorate will be tasked with defining the requirements and to take responsibility for issuing and revoking authorisation. Further, the Maritime Safety Inspectorate is to review and assess a pilot's qualifications by means of practical and theoretical examinations. I also propose that a person who pilots ships or in some other way carries out the responsibilities of a pilot in Swedish territory without a valid authorisation can be sentenced to a fine or a maximum of six months imprisonment. Under the current system, the penalties are only fines. At present Swedish citizenship is required for employment as a student pilot. The primary reason for this is that much of the bathymetric data that pilots need to practice their profession is subject to secrecy. My proposal for regulating authorisation does not include a citizenship requirement. A development that involves allowing bathymetric data to also be available to foreign citizens is, however, a prerequisite for them to be employed as pilots to a greater extent. My proposal is therefore to task the Swedish Armed Forces with making an inventory over the additional areas in which secrecy concerning bathymetric data can be cancelled.

### **Trial scheme with pilotage from land**

The Swedish Maritime Administration and the Maritime Safety Inspectorate will be tasked with initiating a trial scheme with shore-based pilotage in two or three different fairways. According to the proposal, simulation will be carried out in a first stage so that the conditions for the scheme can be established in more detail. Stage two will involve carrying out tests in reality. The trial scheme should be conducted in close dialogue with the industry. An independent organisation should be given the task of following up and evaluating the trial scheme.

In my opinion the fairway to the port of Göteborg can be suitable for testing shore-based pilotage. I also consider that the Flintrännen Channel through Öresund Sound and the port of Malmö can be suitable fairways to test shore-based pilotage. In addition, I feel it is desirable that trial schemes with shore-based pilotage, if such is suitable, also be conducted along the coast of Norrland or the east coast. The aim is to examine what possibilities the new technology provides, and to build up knowledge and experience ahead of coming decisions regarding shore-based pilotage.

### **Digitalised standard passage plans**

I propose that the Swedish Maritime Administration be tasked with producing and digitalising standard passage plans for important fairways, and publishing them on the Internet. It is my assessment that maritime and environmental safety will increase by making the collected and tested knowledge that exists on the conditions in a particular fairway available to more people in merchant shipping regardless of whether a ship is subject to mandatory pilotage rules, is exempt from mandatory pilotage or is not subject to these rules.

### **Changes to mandatory pilotage rules**

Great responsibility rests with a ship's master to decide whether it is necessary to send for a pilot even if the formal regulations do not require it, or despite the fact that the ship would actually be

able to proceed with a Pilot Exemption Certificate. I consider that responsibility of this kind should be clarified by introducing a special provision to this effect in the Pilotage Act.

Further, I propose that ships registered in a state included on the Black List published by the Paris Memorandum of Understanding on Port State Control (Paris MoU) must always be obligated to engage a pilot. It is my assessment that these ships are generally less careful with maritime safety issues and should therefore be subject to mandatory pilotage. Each year, the Paris MoU makes an evaluation of all flag states in the world based on port state inspections that have been carried out. The Black List contains those states that are considered the worst when it comes to such matters as deficient safety equipment, neglected maintenance and insufficient training among the crew.

A fixed mandatory pilotage rule that is related to the size of the ship on its own would be a blunt instrument that, in certain borderline cases, could be difficult to justify from a maritime safety perspective. I therefore propose that the Maritime Safety Inspectorate, together with the Swedish Maritime Administration and in dialogue with the relevant actors in the industry, be tasked with developing regulations aimed at tempering the sharp distinction between ships that are subject to, and ships that are not subject to, mandatory pilotage. The regulations must be predictable and must not be open to arbitrary interpretation. It is also important that the regulations are designed in such a way as not to increase the administrative costs of processing and monitoring.

To emphasise the importance of a broad use of new technology in shipping I also propose that an equipment criterion be introduced when assessing whether mandatory pilotage is to apply.

Equipment has therefore been added to the Pilotage Act as one of a number of criteria for regulations on the scope of mandatory pilotage. Both the criterion on equipment and the other criteria can also serve as the starting point for regulations on exemptions to the obligation of engaging a pilot, i.e. Pilot Exemption Certificates.

## **Changes to the rules for Pilot Exemption Certificates**

I propose that junior officers who have a Pilot Exemption Certificate be able to use their exemption even if the ship's master does not have a Pilot Exemption Certificate. The aim of the proposal is to make it easier for shipping companies to operate ships in a safe manner using the skills of their own personnel.

I also propose that a Pilot Exemption Certificate be valid for five years and that it be combined with the requirement that one or more voyages are to be made in the fairway to which the exemption applies. Further, under my proposal the Maritime Safety Inspectorate is to be responsible for examinations for testing knowledge prior to granting a pilot authorisation, including elements such as a practical pilotage test. As a result of this I consider it reasonable that the Maritime Safety Inspectorate also assume the overall responsibility for practical tests in connection with Pilot Exemption Certificates. In this way the expertise is accumulated at one agency.

I also propose that a modern ship that navigates in a corridor in certain fairways, and where the ship's master has access to a standard passage plan, be able to receive exemption from mandatory pilotage through a simpler procedure. This is to be possible on condition that the VTS centre monitors traffic in the area. The Maritime Safety Inspectorate, in cooperation with the Swedish Maritime Administration, is to be tasked with identifying suitable fairways where navigation in corridors is to be made possible through a simplified exemption procedure.

I consider that in principle, it is difficult to defend the possibility of granting general exemptions since this is not consistent with the overall safety assessments that form the basis of means-tested

mandatory pilotage. A general exemption allows for operating without a pilot in fairways where skills have not been demonstrated in practical or theoretical examinations. In light of this I consider that the possibility of granting general exemptions should be phased out.

### **Building up knowledge – effects of pilotage are to be evaluated**

I propose that the Swedish Maritime Administration be tasked with instructing an independent organisation or research institute to follow and evaluate the effects of pilotage on maritime and environmental safety. It is also important to particularly follow the effects of the changes that may be introduced as a result of my proposals.

At the same time, the Swedish Agency for Innovation Systems should be tasked with initiating research on methods development concerning ways to continually and systematically follow and assess the effects of different maritime safety measures in relation to goals for environmental and maritime safety, and in relation to the cost-efficiency of the measures.

### **Financing model for pilotage**

According to a background report produced within the Inquiry, the current financing model and the level of cost recovery that applies for pilotage appear to be well adjusted from a socio-economic perspective. Raising pilotage dues alone in order to achieve full cost recovery risks producing distorted results and decreasing the socio-economic effect.

In light of the fact that a number of sources recommend higher cost recovery for pilotage, I have considered several alternative methods for increasing the level of cost recovery within the existing pilotage organisation. These include such matters as differentiating the level of service and changing the dues structure, implementing continued rationalisation and considering possibilities to reduce or phase out discounts of pilotage dues in Lake Vänern and Lake Mälaren. Consideration can also be given to whether all merchant ships that arrive in Sweden should contribute to the pilotage infrastructure through a smaller general fee beyond regular pilotage dues. In this way pilotage would not be partially financed through fairway dues.

The way pilotage services should be financed is closely related to the issue of how pilotage is organised. I therefore want to emphasise that I have not taken a position on how the financing model and the level of cost recovery should be designed; rather, I intend to address this issue in my final report.

## All proposals as bulleted points

- The fundamental legal regulations for piloting are to be regulated in a special Pilotage Act.
- Basic authorisation requirements for pilots are to be set out in the Pilotage Act. The Government or an agency specified by the Government is to define the authorisation requirements for pilots and to issue and revoke authorisation.
- A pilot's qualifications are to be examined by the Maritime Safety Inspectorate.
- It will be possible to impose a fine or a maximum of six months imprisonment on a person who pilots ships or in some other way carries out the responsibilities of a pilot in Swedish territory without valid authorisation.
- The Swedish Armed Forces will be tasked with making an inventory over the additional areas in which secrecy concerning bathymetric data can be cancelled to allow the removal of the requirement that pilots have Swedish citizenship.
- The Swedish Maritime Administration is to produce and digitalise standard passage plans for important fairways and publish them on the Internet.
- The Swedish Maritime Administration and the Maritime Safety Inspectorate are to begin a trial scheme with shore-based pilotage. An independent organisation is to follow up and evaluate the trial scheme.
- An equipment criterion is to be introduced when assessing whether mandatory pilotage is to apply.
- The responsibility of the ship's master to send for a pilot is to be regulated by law.
- It is proposed that communication be included in the legal definition of pilotage.
- Ships registered in flag states on the Paris MoU Black List are to be subject to mandatory pilotage.
- Junior officers who have a Pilot Exemption Certificate are to be able to use their exemption even if the ship's master does not have an exemption.
- A Pilot Exemption Certificate is to be valid for five years.
- The Maritime Safety Inspectorate is to take the overall responsibility for examinations when issuing Pilot Exemption Certificates.
- The Maritime Safety Inspectorate is to be tasked with designing more flexible regulations for mandatory pilotage.
- Simplified exemption procedures when navigating in corridors with standardised passage plans are to be possible.
- The possibility of granting general pilotage exemptions is to be phased out.
- Building up knowledge – effects of pilotage are to be evaluated.