Pilot Liability

There are very few jurisdictions where it is possible to make significant recoveries for loss, damage or liabilities incurred as a result of pilot error. The general principle is that when a pilot goes on board a vessel to provide pilotage services he becomes a servant of the vessel and its owner and operator, who therefore remain liable for damages arising as the result of the pilot's negligence, notwithstanding that pilotage may be compulsory. Even if a right of recourse potentially exists, it may well entail claiming against the pilot personally. As an individual with limited assets and generally no insurance, such claims are unlikely to be productive.

In the UK, central administration of pilotage is the responsibility of the Secretary of State and the Pilotage Commission. Pilotage authorities are responsible for local administration through pilotage districts. Pilotage authorities license the pilots who provide pilotage services and may grant pilotage certificates to qualifying Masters and mates. Most pilots are self-employed, however a few pilotage authorities employ the pilots they license.

Under the UK Pilotage Act 1983, a licensed pilot or assistant is not liable for damages for neglect or want of skill beyond the sum of £100 and the amount of the pilotage charges. If loss or damage arise through the fault of the pilotage authority, its liability is limited to £100 x the number of pilots holding licences from that authority. With such low limits of liability, actions against pilots or pilotage authorities are rare.

A departure from these principles came from the U.S. in 2001 when the California State Harbors and Navigation Code was amended to give vessel operators a choice: Under the Code, vessel operators are obliged by law to defend and indemnify pilots unless they elect to purchase “trip insurance” which relieves them from this obligation. Trip insurance provides liability coverage for the pilot and the cost is added as an extra charge on the pilotage invoice. The cost is $239 per movement and provides up to $25m cover in relation to any civil claim or action arising out of acts or omissions in connection with the pilotage services, other than wilful misconduct. In the absence of trip insurance the vessel operator remains obliged to indemnify the pilot and any organisation to which he belongs, subject to the vessel's limit of liability under applicable law.

Whilst this is a welcome change, experience shows that vessel operators rarely take the trip insurance option due to the immediate cost burden.

In the Panama Canal the situation is also different. Pilots take navigational control of the vessel for the transit through the Canal. Where damage occurs, provided there is a formal investigation before the vessel leaves the canal system and within 24 hours of the casualty, recovery is possible from the Panama Canal Authority if the pilot’s fault is established.

In contrast, the Suez Canal Rules of Navigation provide that pilots only give advice in manoeuvring the vessel. Responsibility for handling remains with the Master, who is solely responsible for all damages or accidents of whatever kind resulting from the navigation or handling of the ship. Elsewhere, the ship owner generally remains responsible for the negligent acts or omissions of a pilot, with little or no prospect of recovery.

In December 2003, the IMO adopted Resolution A960(23) on Training, Qualifications and Operational Procedures for Maritime Pilots other than Deep Sea Pilots. (This updated and revoked an earlier resolution on this topic – A485 (XII) of November 1991.) This resolution, inter alia, recommends:

- The establishment of competent pilotage authorities to implement the resolution;
- Pilotage authorities to establish, develop and maintain entry requirements and standards of training for pilots, and to arrange for the findings of investigations of incidents involving pilots to be taken into account in pilot training programmes;
- Every pilot to hold an appropriate certificate or licence issued by the competent pilotage authority stating any limitations that may apply such as maximum size, draught, or tonnage of ships the holder is qualified to pilot;
- Every pilot to satisfy the competent authority about his medical fitness, particularly as regards eyesight and hearing which should meet STCW requirements or such other standard considered appropriate by the competent pilotage authority;
- Training standards to be sufficient to enable the pilot to carry out his duties safely and efficiently, and training to include practical experience gained under the close supervision of experienced pilots. This may be supplemented by simulation or classroom instruction;
- Pilots to be trained in bridge resource management with emphasis on the exchange of information. Maintaining an effective working relationship between the pilot and the bridge team in routine and emergency situations should be covered in training;
- The competent authority to satisfy itself at regular intervals not exceeding five years that pilots under its jurisdiction remain navigationally proficient and medically fit.

Such IMO resolutions only constitute recommendations to Member governments. The situation would be different if the recommendations had been adopted as an amendment to a Convention – for example, STCW - thereby acquiring legal force.

The IMO’s resolution recognises that efficient pilotage depends upon the effectiveness of communication and information exchange between the pilot, the Master, and the bridge personnel, and the mutual understanding each has of the other’s role. These factors were emphasised in the 1994 video training programme in the Bridge Procedures series “The Master and Pilot Relationship” produced by the Club with Videodate Marine International. In 1998 the International Group developed two Master Pilot Exchange of Information forms in conjunction various industry bodies. Details were distributed to the Members with Club Circular B309 of December 1998.

Further information on pilotage, including details of resolution A960(23), is available on the IMO pilotage webpage at: