



Queensland

# **Transport Legislation (Port Pilotage) Amendment Bill 2013**





Queensland

# Transport Legislation (Port Pilotage) Amendment Bill 2013

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	4
2	Commencement . . . . .	4
<b>Part 2</b>	<b>Amendment of Maritime Safety Queensland Act 2002</b>	
3	Act amended . . . . .	4
4	Amendment of s 4 (Purpose of Act) . . . . .	4
5	Amendment of s 8 (Functions and powers of MSQ) . . . . .	5
6	Amendment of s 12 (Employees) . . . . .	5
7	Amendment of s 12A (Preservation of rights of particular public service officers) . . . . .	6
8	Amendment of s 12B (Tenure as public service officer on ending of particular employment contracts) . . . . .	6
9	Insertion of new pt 2A. . . . .	6
	Part 2A            Transfer of pilotage services	
	Division 1        Preliminary	
	12C        Definitions for pt 2A . . . . .	6
	12D        Who is the new employer of a transferred employee . . . . .	8
	12E        What is a transferred pilotage area . . . . .	9
	Division 2        Transfer of assets and liabilities, etc.	
	12F        Transfer notice . . . . .	9
	Division 3        Transfer of employees and contracts	
	12G        Matters for transfer of transferred employees . . . . .	11
	12H        Preservation of rights of transferred employees . . . . .	12
	12I        Contracts relating to transferred pilots . . . . .	14
	12J        Pilotage service contracts . . . . .	14
	Division 4        Other matters for transferring pilotage services	

Contents

---

	12K	Non-liability for duty . . . . .	16
	12L	Disposal of public records . . . . .	16
	12M	Application of instruments . . . . .	16
	12N	Registering authority to note transfer or other dealing	18
	12O	Part applies despite other laws and instruments . . . .	19
	12P	Effect on legal relationships . . . . .	19
	12Q	Things done under this part . . . . .	20
	12R	Severability . . . . .	20
10		Amendment of s 13 (Fund). . . . .	21
11		Amendment of s 18 (Recording MSQ's changed name in register)	21
12		Insertion of new pt 5, div 3 . . . . .	21
	Division 3	Transitional provisions for Transport Legislation (Port Pilotage) Amendment Act 2013	
	19	Immunity for general employers . . . . .	22
	20	Licences of transferred pilots not affected by transfer of pilotage services. . . . .	22
	21	References to the State or MSQ in documents . . . . .	23
13		Amendment of sch 2 (Dictionary). . . . .	23
<b>Part 3</b>		<b>Amendment of Transport Infrastructure Act 1994</b>	
14		Act amended . . . . .	25
15		Amendment of s 276 (Port services function) . . . . .	25
<b>Part 4</b>		<b>Amendment of Transport Operations (Marine Safety) Act 1994</b>	
16		Act amended . . . . .	26
17		Amendment of s 30 (What is the system that is established). . . .	27
18		Insertion of new s 43A . . . . .	27
	43A	General obligation on managing pilotage entity to provide piloted movement of ships safely. . . . .	27
19		Insertion of new s 71A . . . . .	28
	71A	Who is the responsible pilotage entity for a compulsory pilotage area. . . . .	28
20		Insertion of new s 88A . . . . .	28
	88A	Direction to managing pilotage entity about pilotage services . . . . .	28
21		Amendment of s 101 (Immunity for pilots and general employers)	28
22		Amendment of s 102A (Restriction on conduct of ship by pilot) . .	29
23		Amendment of schedule (Dictionary). . . . .	29

# 2013

---

## A Bill

for

***An Act to amend the *Maritime Safety Queensland Act 2002*, the *Transport Infrastructure Act 1994* and the *Transport Operations (Marine Safety) Act 1994* for particular purposes***

---

[s 1]

---

**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Transport Legislation (Port Pilotage) Amendment Act 2013*. 4  
5

**Clause 2 Commencement** 6

This Act commences on a day to be fixed by proclamation. 7

**Part 2 Amendment of Maritime Safety Queensland Act 2002** 8  
9

**Clause 3 Act amended** 10

This part amends the *Maritime Safety Queensland Act 2002*. 11

**Clause 4 Amendment of s 4 (Purpose of Act)** 12

(1) Section 4, heading, ‘Purpose’— 13

*omit, insert—* 14

**Purposes** 15

(2) Section 4, ‘The purpose’— 16

*omit, insert—* 17

The main purpose 18

(3) Section 4— 19

*insert—* 20

---

	(2) This Act also facilitates the transfer from Maritime Safety Queensland to port authorities of the function of providing, or arranging for the provision of, pilotage services in particular compulsory pilotage areas.	1 2 3 4 5
<b>Clause 5</b>	<b>Amendment of s 8 (Functions and powers of MSQ)</b>	6
	(1) Section 8(1)(e)— <i>renumber</i> as section 8(1)(f).	7 8
	(2) Section 8(1)— <i>insert</i> —	9 10
	(e) to monitor and manage—	11
	(i) the provision by the responsible pilotage entity for a compulsory pilotage area of pilotage services; and	12 13 14
	(ii) arrangements made by the responsible pilotage entity for a compulsory pilotage area for providing pilotage services;	15 16 17 18
	(3) Section 8— <i>insert</i> —	19 20
	(3) In this section— <i>responsible pilotage entity</i> , for a compulsory pilotage area, does not include MSQ.	21 22 23
<b>Clause 6</b>	<b>Amendment of s 12 (Employees)</b>	24
	(1) Section 12(1)(a) and (2), ‘marine’— <i>omit</i> .	25 26
	(2) Section 12(2), from ‘satisfied’— <i>omit, insert</i> —	27 28

---

[s 7]

---

	satisfied the individual is licensed under TOMSA as a pilot.	1 2
<b>Clause 7</b>	<b>Amendment of s 12A (Preservation of rights of particular public service officers)</b>	3 4
	Section 12A(1)(a), ‘marine’—	5
	<i>omit.</i>	6
<b>Clause 8</b>	<b>Amendment of s 12B (Tenure as public service officer on ending of particular employment contracts)</b>	7 8
	Section 12B(1)(a), ‘marine’—	9
	<i>omit.</i>	10
<b>Clause 9</b>	<b>Insertion of new pt 2A</b>	11
	After section 12B—	12
	<i>insert—</i>	13
	<b>Part 2A</b>	14
	<b>Transfer of pilotage services</b>	15
	<b>Division 1</b>	16
	<b>Preliminary</b>	
	<b>12C Definitions for pt 2A</b>	17
	In this part—	18
	<i>asset</i> includes a right.	19
	<i>Gladstone port authority</i> means Gladstone Ports Corporation Limited ACN 131 965 896.	20 21
	<i>Gladstone ports entity</i> means—	22
	(a) if, before the transfer day, Gladstone port authority entered into a written agreement with a subsidiary of Gladstone port	23 24 25



---

authority for the subsidiary to provide pilotage services and the general manager approves the agreement—the subsidiary; or	1 2 3
(b) otherwise—Gladstone port authority.	4
<i>new employer</i> , of a transferred employee, see section 12D.	5 6
<i>pilot transfer crew member</i> means a person—	7
(a) who, immediately before the transfer day, was an employee of the State; and	8 9
(b) to whom the Maritime Safety Queensland Gladstone Pilot Transfer Crew Certified Agreement 2009–2012 applied immediately before the transfer day.	10 11 12 13
<i>transfer day</i> means the day this part commences.	14
<i>transfer notice</i> see section 12F.	15
<i>transferred administration employee</i> means a person who—	16 17
(a) immediately before the transfer day was an employee of the State and employed under the <i>Public Service Act 2008</i> ; and	18 19 20
(b) was offered by a port authority or Gladstone ports entity (each a <i>receiving entity</i> ) a transfer of employment from the State to the receiving entity, and for the employment to start on the transfer day; and	21 22 23 24 25
(c) accepted the receiving entity’s offer before the transfer day.	26 27
<i>transferred employee</i> means any of the following—	28 29
(a) a pilot transfer crew member;	30
(b) a transferred administration employee;	31
(c) a transferred pilot.	32

[s 9]

---

*transferred pilot* means a person who— 1

- (a) immediately before the transfer day was an 2  
employee of the State and based in the 3  
department's regional office in Cairns, 4  
Gladstone, Mackay or Townsville; and 5
- (b) was employed under section 12(1)(a) as a 6  
pilot. 7

*transferred pilotage area* see section 12E. 8

**12D Who is the *new employer* of a transferred 9  
employee 10**

The *new employer* of a transferred employee is— 11

- (a) for a transferred employee who is a 12  
transferred pilot— 13
  - (i) if the transferred pilot was based in the 14  
department's regional office in Cairns 15  
immediately before the transfer 16  
day—Far North Queensland Ports 17  
Corporation Limited ACN 131 836 18  
014; or 19
  - (ii) if the transferred pilot was based in the 20  
department's regional office in 21  
Gladstone immediately before the 22  
transfer day—Gladstone ports entity; 23  
or 24
  - (iii) if the transferred pilot was based in the 25  
department's regional office in Mackay 26  
immediately before the transfer 27  
day—North Queensland Bulk Ports 28  
Corporation Limited ACN 136 880 29  
218; or 30
  - (iv) if the transferred pilot was based in the 31  
department's regional office in 32  
Townsville immediately before the 33

---

transfer day—Port of Townsville Limited; or	1 2
(b) for a transferred employee who is a pilot transfer crew member—Gladstone ports entity; or	3 4 5
(c) for a transferred employee who is a transferred administration employee—the port authority or Gladstone ports entity that offered the employee transfer of employment.	6 7 8 9 10
<b>12E What is a <i>transferred pilotage area</i></b>	11
(1) A <i>transferred pilotage area</i> is a compulsory pilotage area, other than the following—	12 13
(a) Brisbane pilotage area;	14
(b) Southport pilotage area.	15
(2) In this section—	16
<i>Brisbane pilotage area</i> means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.	17 18 19 20
<i>Southport pilotage area</i> means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.	21 22 23 24
<b>Division 2 Transfer of assets and liabilities, etc.</b>	25 26
<b>12F Transfer notice</b>	27
(1) For the purpose of the transfer of pilotage services, the Minister may, by gazette notice (a <i>transfer notice</i> ), do any of the following—	28 29 30

---

[s 9]

---

- |     |   |                                  |
|-----|---|----------------------------------|
| (a) | transfer an asset or a liability of the State to a port authority;  | 1<br>2                           |
| (b) | make provision about the consideration for an asset or a liability transferred under paragraph (a);   | 3<br>4<br>5                      |
| (c) | transfer a lease, easement or other right from the State to a port authority;   | 6<br>7                           |
| (d) | vary or extinguish a lease, easement or other right held by the State;  | 8<br>9                           |
| (e) | provide whether and, if so, the extent to which a port authority is the successor in law of the State;  | 10<br>11<br>12                   |
| (f) | make provision for a legal proceeding that is being, or may be, taken by or against the State to be continued or taken by or against a port authority;  | 13<br>14<br>15<br>16             |
| (g) | make provision for or about the issue, transfer or application of an instrument to a port authority;  | 17<br>18<br>19                   |
| (h) | make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for transferring a pilotage service.  | 20<br>21<br>22<br>23             |
| (2) | A transfer notice may include conditions applying to something done or to be done under the notice.   | 24<br>25<br>26                   |
| (3) | If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is— | 27<br>28<br>29<br>30<br>31<br>32 |
| (a) | signed by the Minister; and   | 33                               |

- 
- (b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates. 1  
2  
3
- (4) The transfer of a liability of the State under a transfer notice discharges the State from the liability, except to the extent stated in the notice. 4  
5  
6
- (5) A transfer notice has effect on the day it is published in the gazette or a later day stated in it. 7  
8
- (6) If a transfer notice makes provision for a matter under subsection (1)(g) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including— 9  
10  
11  
12  
13  
14
- (a) updating a register or other record; and 15
- (b) amending, cancelling or issuing an instrument. 16  
17
- (7) In this section— 18
- port authority* includes Gladstone ports entity. 19
- responsible entity*, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument. 20  
21  
22
- Division 3            Transfer of employees and contracts** 23  
24
- 12G Matters for transfer of transferred employees** 25
- (1) On the transfer day— 26
- (a) a transferred employee ceases to be an employee of the State; and 27  
28
- (b) a transferred employee becomes an employee of the new employer for the transferred employee; and 29  
30  
31

[s 9]

---

- (c) for a transferred employee who is a transferred pilot or a pilot transfer crew member—the transferred employee is employed on the same conditions on which the transferred employee was employed by the State; and
- Example of a condition of employment—*  
employment on a part-time or full-time basis
- (d) the State’s records for a transferred employee become records of the new employer for the transferred employee; and
- (e) the State’s liabilities relating to a transferred employee’s accrued rights to annual, sick, long service or other leave become the liabilities of the new employer for the transferred employee.
- (2) In this section—  
*records* means the records of the State that have been identified by the general manager before the transfer day as records about the employment of a transferred employee who is to be transferred to the new employer for the transferred employee.

## **12H Preservation of rights of transferred employees**

- (1) The transfer of a transferred employee to the new employer for the transferred employee does not—
- (a) subject to subsection (2), affect the employee’s total remuneration; or
- (b) prejudice the employee’s existing or accruing rights to superannuation or annual, sick or long service leave; or
- (c) interrupt continuity of service, except that the employee is not entitled to claim the

- 
- benefit of a right or entitlement more than 1  
once in relation to the same period of 2  
service; or 3
- (d) subject to subsection (3)— 4
- (i) constitute a retrenchment, redundancy 5  
or termination of the employee’s 6  
employment by the State; or 7
- (ii) entitle the employee to a payment or 8  
other benefit because the employee is 9  
no longer employed by the State; or 10
- (e) require the State to make any payment to the 11  
employee in relation to the employee’s 12  
accrued rights to annual, sick or long service 13  
leave irrespective of any arrangement 14  
between the State and the employee. 15
- (2) A transferred administration employee’s total 16  
remuneration on the employee’s transfer from the 17  
State to the new employer for the employee may 18  
be equal to or greater than the employee’s total 19  
remuneration immediately before the transfer. 20
- (3) Subsection (1)(d) applies to a transferred pilot 21  
subject to the Fair Work Act. 22
- (4) Subsection (5) applies if a transferred employee 23  
is a transferred pilot or a pilot transfer crew 24  
member. 25
- (5) Subject to the Fair Work Act, an industrial 26  
instrument applying to the transferred employee 27  
immediately before the transfer day continues to 28  
apply to the employee after the transfer day. 29
- (6) In this section— 30
- industrial instrument* includes a federal 31  
industrial instrument under the *Industrial* 32  
*Relations Act 1999*. 33

[s 9]

---

<b>12I Contracts relating to transferred pilots</b>	1
(1) This section applies to a contract entered into by the State relating or incidental to the employment of a transferred pilot that was in force immediately before the transfer day.	2 3 4 5
<i>Example—</i>	6
a contract for a mobile phone or lease of a vehicle that is part of a transferred pilot's salary package provided by the State	7 8 9
(2) On the transfer day, to the extent the contract applies to the transferred pilot—	10 11
(a) the new employer for the transferred pilot takes the place of the State as a party to the contract; and	12 13 14
(b) the contract may be enforced by or against the new employer.	15 16
(3) Compensation is not recoverable from the State or anyone else in relation to the transfer from the State to the new employer for the transferred pilot of the rights and obligations under a contract to which this section applies.	17 18 19 20 21
(4) In this section—	22
<i>contract</i> , for a contract that only partly relates to a transferred pilot, means that part of the contract relating to the transferred pilot.	23 24 25
<b>12J Pilotage service contracts</b>	26
(1) This section applies to a contract for services, entered into by the State for the supply of a pilotage service or pilotage services in 1 or more transferred pilotage areas, that was in force immediately before the transfer day.	27 28 29 30 31
(2) On the transfer day, to the extent the contract applies to a transferred pilotage area—	32 33



- 
- (a) the pilotage entity for the transferred pilotage area takes the place of the State as a party to the contract; and
- (b) the contract may be enforced by or against the pilotage entity.
- (3) Compensation is not recoverable from the State or anyone else in relation to the transfer from the State to the pilotage entity for each of the transferred pilotage areas of the rights and obligations under a contract to which this section applies.
- (4) In this section—
- Bundaberg pilotage area*** means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.
- contract***, for a contract that only partly relates to a pilotage service, means the part of the contract relating to the pilotage service.
- Gladstone pilotage area*** means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.
- pilotage entity***, for a transferred pilotage area, means—
- (a) for a transferred pilotage area that is Abbot Point pilotage area—Port of Townsville Limited; or
- (b) for a transferred pilotage area that is Bundaberg pilotage area, Gladstone pilotage area or Rockhampton pilotage area—Gladstone ports entity; or
- (c) otherwise—the responsible pilotage entity for the transferred pilotage area.

[s 9]

---

*Rockhampton pilotage area* means the area of  
Queensland waters declared to be a compulsory  
pilotage area under TOMSA that is referred to by  
that name.

**Division 4            Other matters for**            5  
**transferring pilotage**            6  
**services**            7

**12K Non-liability for duty**            8

No duty under the *Duties Act 2001* is payable in  
relation to anything done under a transfer notice.            9  
10

**12L Disposal of public records**            11

- (1) This section applies if—            12
- (a) a thing is done under a transfer notice or            13  
section 12G; and            14
  - (b) the thing is, or involves, a disposal of a            15  
public record under the *Public Records Act*            16  
*2002*.            17
- (2) To remove any doubt, it is declared that, for the            18  
purpose of section 13 of that Act, the public            19  
record is disposed of under legal authority,            20  
justification or excuse.            21

**12M Application of instruments**            22

- (1) This section applies if a transfer notice or section            23  
12I or 12J provides for an instrument that applied            24  
to the State to apply to a port authority in place of            25  
the State.            26
- (2) Without limiting the application of the transfer            27  
notice or the section to the instrument—            28

- 
- (a) any right, title, interest or liability of the State arising under or relating to the instrument is taken to be transferred from the State to the port authority; and
- (b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of the State, the instrument is taken to have been given to, by or in favour of the port authority; and
- (c) the port authority is taken to be a party to the instrument in place of the State; and
- (d) a reference in the instrument to the State is, to the extent possible and if the context permits, taken to be a reference to the port authority; and
- (e) if an application was made for the instrument in the name of the State, the application is taken to have been made in the name of the port authority; and
- (f) if the instrument is an instrument under which an amount is or may become payable to or by the State, the instrument is taken to be an instrument under which the amount is or may become payable to or by the port authority, in the way the amount was or might have been payable to or by the State; and
- (g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the State, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the port authority, in the way it was or might have been liable to be transferred, conveyed or assigned to or by the State.

[s 9]

---

- (3) In this section— 1  
*port authority* includes Gladstone ports entity. 2

**12N Registering authority to note transfer or other dealing** 3  
4

- (1) The registrar of titles or other person required or 5  
authorised by law to register or record 6  
transactions affecting assets or liabilities— 7
- (a) may, without formal application, register or 8  
record in the appropriate way a transfer or 9  
other dealing affecting an asset or liability 10  
under a transfer notice; and 11
- (b) must, on written application by a transferee 12  
port authority, register or record in the 13  
appropriate way the transfer of an asset or 14  
liability under a transfer notice to the 15  
transferee port authority. 16
- (2) A transaction, related to an asset or liability 17  
transferred to a transferee port authority, entered 18  
into by the transferee port authority in the name 19  
of the State or the name of a predecessor in title 20  
to the State, if effected by an instrument 21  
otherwise in registrable form, must be registered 22  
even though the transferee port authority has not 23  
been registered as proprietor of the asset or 24  
liability. 25
- (3) If an asset or liability is registered in the name of 26  
the State, the registrar of titles or other 27  
registering authority may register a dealing for a 28  
transaction about the asset or liability without 29  
being concerned to enquire whether it is, or is 30  
not, an asset or liability transferred under a 31  
transfer notice. 32
- (4) In this section— 33  
*port authority* includes Gladstone ports entity. 34

---

*transferee port authority* means the port authority to which an asset or liability is transferred under a transfer notice.

**12O Part applies despite other laws and instruments**

Subject to the Fair Work Act, a thing may be done under this part despite any other law or instrument.

**12P Effect on legal relationships**

- (1) Nothing done under this part—
- (a) makes a relevant entity liable for a civil wrong or contravention of a law, including for a breach of a contract, confidence or duty; or
  - (b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or
  - (c) except as expressly provided under a transfer notice, is taken to fulfil a condition that—
    - (i) terminates, or allows a person to terminate, an instrument or obligation; or
    - (ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or
    - (iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or

[s 9]

---

- (iv) requires any money to be paid before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.
- (2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this part, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.
- (3) If, apart from this subsection, giving notice to a person would be necessary to do something under this part, the notice is taken to have been given.
- (4) In this section—  
*relevant entity* means—
  - (a) the State or an employee or agent of the State; or
  - (b) a port authority, Gladstone ports entity or an employee or agent of a port authority or Gladstone ports entity.

### **12Q Things done under this part**

To remove any doubt, it is declared that a thing is taken to be done under this part if it is done by, or in compliance with, a transfer notice, even if the thing includes taking steps under another Act.

### **12R Severability**

- (1) Subsection (2) applies if a provision of this part or a transfer notice is held by a court or judge to be beyond power, invalid or unenforceable.
- (2) The provision is to be disregarded or severed and the court's or judge's decision does not affect the

---

	remaining provisions of the part or transfer notice that continue to have effect.	1 2
	(3) This section does not affect the operation of the <i>Acts Interpretation Act 1954</i> , section 9 in any way.	3 4 5
<b>Clause 10</b>	<b>Amendment of s 13 (Fund)</b>	6
	(1) Section 13(6) and (7)— <i>renumber</i> as section 13(7) and (8).	7 8
	(2) Section 13— <i>insert</i> —	9 10
	(6) Without limiting subsection (5), an amount may be paid from the fund to the responsible pilotage entity for a compulsory pilotage area for providing, or arranging for the provision of, a pilotage service in the pilotage area.	11 12 13 14 15
<b>Clause 11</b>	<b>Amendment of s 18 (Recording MSQ's changed name in register)</b>	16 17
	Section 18(2)— <i>omit</i> .	18 19
<b>Clause 12</b>	<b>Insertion of new pt 5, div 3</b>	20
	Part 5— <i>insert</i> —	21 22

[s 12]

---

<b>Division 3</b>	<b>Transitional provisions for Transport Legislation (Port Pilotage) Amendment Act 2013</b>	1 2 3 4
<b>19</b>	<b>Immunity for general employers</b>	5
(1)	This section applies to a transferred pilot who is—	6 7
(a)	a conducting pilot under TOMSA, section 101 if the conducting pilot—	8 9
(i)	is acting in the supply of a pilotage service in a transferred pilotage area; and	10 11 12
(ii)	has the conduct of a ship as its pilot immediately before and immediately after the transfer day; or	13 14 15
(b)	a supervising pilot, under section 101 of that Act, of the conducting pilot.	16 17
(2)	Despite TOMSA, section 101(5), definition <i>general employer</i> , the general employer of the transferred pilot for section 101 of that Act is both—	18 19 20 21
(a)	MSQ; and	22
(b)	the new employer of the transferred pilot.	23
(3)	Subsection (2) applies while the conducting pilot has the conduct of a ship as its pilot.	24 25
<b>20</b>	<b>Licences of transferred pilots not affected by transfer of pilotage services</b>	26 27
	To remove any doubt, it is declared that a transferred pilot's licence to have the conduct of a ship as its pilot, in force immediately before the transfer day, continues	28 29 30



---

in force from the transfer day as if part 2A had not  
commenced. 1  
2

**21 References to the State or MSQ in documents** 3

- (1) A reference to the State or MSQ in a document  
about a transferred employee may, if the context  
permits, be taken to be a reference to the new  
employer for the transferred employee. 4  
5  
6  
7
- (2) A reference to the State or MSQ in a document  
relating to the transfer of a pilotage service from  
MSQ to a port authority may, if the context  
permits, be taken to be a reference to the port  
authority. 8  
9  
10  
11  
12
- (3) In this section— 13  
*port authority* includes Gladstone ports entity. 14

**Clause 13 Amendment of sch 2 (Dictionary)** 15

Schedule 2— 16

*insert*— 17

*Abbot Point pilotage area* means the area of  
Queensland waters declared to be a compulsory  
pilotage area under TOMSA that is referred to by  
that name. 18  
19  
20  
21

*asset*, for part 2A, see section 12C. 22

*compulsory pilotage area* see TOMSA. 23

*Fair Work Act* means the *Fair Work Act 2009*  
(Cwlth). 24  
25

*Gladstone port authority*, for part 2A, see section  
12C. 26  
27

*Gladstone ports entity* see section 12C. 28

*instrument* means a document of any type or an  
oral agreement. 29  
30

[s 13]

---

<i>new employer</i> , of a transferred employee, see section 12D.	1 2
<i>pilot</i> see TOMSA.	3
<i>pilot transfer crew member</i> , for part 2A, see section 12C.	4 5
<i>port authority</i> means a port authority under the <i>Transport Infrastructure Act 1994</i> .	6 7
<i>Port of Townsville Limited</i> means Port of Townsville Limited ACN 130 077 673.	8 9
<i>record</i> includes any document.	10
<i>registrar of titles</i> means a public official or authority responsible for registering title to land and dealings affecting land.	11 12 13
<i>responsible pilotage entity</i> , for a compulsory pilotage area, see TOMSA, section 71A.	14 15
<i>right</i> includes power, privilege and immunity.	16
<i>subsidiary</i> see the <i>Government Owned Corporations Act 1993</i> , section 2.	17 18
<i>TOMSA</i> means the <i>Transport Operations (Marine Safety) Act 1994</i> .	19 20
<i>transfer</i> , of pilotage services—	21
1 The <i>transfer</i> of pilotage services is—	22
(a) the transfer from MSQ to a port authority of the function of providing, or arranging for the provision of, pilotage services in a transferred pilotage area other than the Abbot Point pilotage area (the <i>relevant area</i> ); or	23 24 25 26 27 28 29
(b) the transfer, in relation to the supply of pilotage services by Port of Townsville Limited in the Abbot Point pilotage area, of an asset, liability, instrument or	30 31 32 33

---

	employee of the State to Port of Townsville Limited.	1 2
2	For paragraph 1(a), the transfer includes the transfer in relation to pilotage services in the relevant area of an asset, liability, instrument or employee of the State to a port authority or Gladstone ports entity.	3 4 5 6 7
	<i>transfer day</i> see section 12C.	8
	<i>transfer notice</i> , for part 2A, see section 12F.	9
	<i>transferred administration employee</i> , for part 2A, see section 12C.	10 11
	<i>transferred employee</i> see section 12C.	12
	<i>transferred pilot</i> see section 12C.	13
	<i>transferred pilotage area</i> see section 12E.	14
<b>Part 3</b>	<b>Amendment of Transport Infrastructure Act 1994</b>	15 16
<b>Clause 14</b>	<b>Act amended</b>	17
	This part amends the <i>Transport Infrastructure Act 1994</i> .	18
<b>Clause 15</b>	<b>Amendment of s 276 (Port services function)</b>	19
	(1) Section 276—	20
	<i>insert—</i>	21
	(2A) However, subsection (2) does not apply to the function of providing port services to the extent the port services are pilotage services and arranging for the provision of pilotage services.	22 23 24 25
	(2) Section 276(3)—	26

[s 16]

---

- insert—* 1
- compulsory pilotage area* see TOMSA. 2
- pilotage services* see the *Maritime Safety Queensland Act 2002*. 3  
4
- responsible pilotage entity*, for a compulsory pilotage area, see TOMSA, section 71A. 5  
6
- (3) Section 276(3), definition *port services*, paragraphs (b) to (d)— 7  
8
- renumber* as paragraphs (c) to (e). 9
- (4) Section 276(3), definition *port services—* 10
- insert—* 11
- (b) pilotage services, or arranging for the provision of pilotage services, in the compulsory pilotage area for which the port authority is the responsible pilotage entity; 12  
13  
14  
15
- (5) Section 276(3), definition *port services*, paragraph (e), as renumbered, ‘paragraphs (a) to (c)’— 16  
17
- omit, insert—* 18
- paragraphs (a) to (d) 19
- (6) Section 276(2A) and (3)— 20
- renumber* as section 276(3) and (4). 21

**Part 4** **Amendment of Transport Operations (Marine Safety) Act 1994** 22  
23  
24

- Clause 16** **Act amended** 25
- This part amends the *Transport Operations (Marine Safety) Act 1994*. 26  
27

---

<b>Clause 17</b>	<b>Amendment of s 30 (What is the system that is established)</b>	1
		2
	Section 30(1), after the fifth dot point—	3
	<i>insert—</i>	4
	• managing pilotage entities for compulsory pilotage areas	5
		6
<b>Clause 18</b>	<b>Insertion of new s 43A</b>	7
	After section 43—	8
	<i>insert—</i>	9
	<b>43A General obligation on managing pilotage entity to provide piloted movement of ships safely</b>	10
		11
		12
	(1) A managing pilotage entity for a compulsory pilotage area must not provide for the piloted movement of ships in the pilotage area in an unsafe way.	13
		14
		15
		16
	Maximum penalty—500 penalty units or imprisonment for 1 year.	17
		18
	(2) Without limiting subsection (1), a managing pilotage entity causes the piloted movement of ships to be provided in an unsafe way if—	19
		20
		21
	(a) the managing pilotage entity employs an individual as a pilot; and	22
		23
	(b) the individual is not appropriately licensed.	24
	(3) However, if the contravention of subsection (1) causes the death of, or grievous bodily harm to, a person, the managing pilotage entity commits an indictable offence and is liable to a maximum penalty of 5000 penalty units or imprisonment for 2 years.	25
		26
		27
		28
		29
		30

[s 19]

---

<b>Clause 19</b>	<b>Insertion of new s 71A</b>	1
	After section 71—	2
	<i>insert—</i>	3
	<b>71A Who is the <i>responsible pilotage entity</i> for a compulsory pilotage area</b>	4
		5
	(1) The <i>responsible pilotage entity</i> for a compulsory pilotage area is the entity prescribed under a regulation as the responsible pilotage entity for the pilotage area.	6
		7
		8
		9
	(2) A responsible pilotage entity has the function of providing, or arranging for the provision of, pilotage services in its compulsory pilotage area.	10
		11
		12
<b>Clause 20</b>	<b>Insertion of new s 88A</b>	13
	After section 88—	14
	<i>insert—</i>	15
	<b>88A Direction to managing pilotage entity about pilotage services</b>	16
		17
	(1) A harbour master may direct a managing pilotage entity for a compulsory pilotage area to provide, or arrange for the provision of, pilotage services in the pilotage area in a specified way.	18
		19
		20
		21
	(2) The managing pilotage entity must not contravene a direction under subsection (1), unless the managing pilotage entity has a reasonable excuse for the contravention.	22
		23
		24
		25
	Maximum penalty for subsection (2)—200 penalty units.	26
		27
<b>Clause 21</b>	<b>Amendment of s 101 (Immunity for pilots and general employers)</b>	28
		29
	Section 101(5), definition <i>general employer—</i>	30
	<i>omit, insert—</i>	31

---

	<i>general employer</i> , of a conducting pilot or supervising pilot, means—	1 2
	(a) the responsible pilotage entity for the compulsory pilotage area in which the pilot is acting to supply pilotage services; or	3 4 5
	(b) if the responsible pilotage entity for a compulsory pilotage area has entered into a written agreement with another entity for the other entity to supply pilotage services in the pilotage area and the pilot is acting in the supply of the services—each party to the agreement.	6 7 8 9 10 11 12
<b>Clause 22</b>	<b>Amendment of s 102A (Restriction on conduct of ship by pilot)</b>	13 14
	(1) Section 102A(1) and (2), after ‘its pilot’— <i>insert</i> — in a compulsory pilotage area	15 16 17
	(2) Section 102A(1) and (2), ‘MSQ’— <i>omit, insert</i> — the responsible pilotage entity for the compulsory pilotage area	18 19 20 21
	(3) Section 102A(1)(b)(ii) and (2)(b)(ii), ‘person’— <i>omit, insert</i> — entity	22 23 24
<b>Clause 23</b>	<b>Amendment of schedule (Dictionary)</b>	25
	Schedule— <i>insert</i> — <i>managing pilotage entity</i> , for a compulsory pilotage area, means—	26 27 28 29

---

[s 23]

---

- (a) the responsible pilotage entity for the pilotage area; or 1  
2
- (b) if the responsible pilotage entity for the pilotage area has entered into a written agreement with another entity for the other entity to supply pilotage services in the pilotage area—each party to the agreement. 3  
4  
5  
6  
7
- pilotage services* see the *Maritime Safety Queensland Act 2002*. 8  
9
- responsible pilotage entity*, for a compulsory pilotage area, see section 71A. 10  
11

© State of Queensland 2013  
Authorised by the Parliamentary Counsel