



Department  
for Transport

# Maritime Pilotage Order

## THE HARWICH HAVEN AND WALTON BACKWATERS (APPLICATION OF THE PILOTAGE ACT 1987) ORDER 2020

September 2020

**Moving Britain Ahead**

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# 1. Summary

Following a review Harwich Haven Authority (the Authority), in its role as a Competent Harbour Authority (CHA), has applied to the Department for Transport (the Department) to extend its existing area of voluntary pilotage to include the western most areas of Hamford Water and Oakley Creek in the area known as the Walton Backwaters.

The Department is minded to agree to the Authority's request for efficiency and navigation safety reasons which will require an order under the Pilotage Act 1987 (the Act).

This consultation seeks your comments on the Authority's proposal and a draft of the pilotage extension order to assist the Secretary of State in making a final decision on the application.

## Duration of Consultation

The consultation will last for four weeks, beginning on 11 September 2020 and closing on 09 October 2020.

In deciding on the length of time for the consultation we have considered the government's consultation principles at **Annex A**. We have concluded that stakeholders, who are mainly maritime operators and recreational boaters at Harwich Haven, are already aware of the relevant issues having already been consulted by the Authority on its proposals and that four weeks should be a sufficient period in which to consider the application.

## How to respond

Please ensure that your response reaches us before 09 October 2020.

Your response will be most useful if it is framed in reply to the questions posed at **Section 4** although further comments and evidence are also welcome.

A list of those consulted can be found at **Annex B**.

If you have any question about this consultation, please e-mail us at [maritimesafety@dft.gov.uk](mailto:maritimesafety@dft.gov.uk) or contact us at:

Maritime Safety Team  
Department for Transport  
Zone 2/34

Great Minster House  
33 Horseferry Road  
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## Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather evidence in relation to whether authorising the Authority to exercise pilotage functions in the Area would be in the interests of efficiency and safety of navigation. This consultation and the processing of personal data that it entails is necessary for the exercise of DfT's functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the Controller for this information.

As part of this consultation we're asking for your name and e-mail address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions. If you wish to remain anonymous please refrain from disclosing personal information that would make you identifiable.

Information provided in response to this consultation may be subject to publication or disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

If you want all, or part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it confidential will be taken into account but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address) and any other identifying material, in accordance with the Data Protection Act 2018 and your personal information will only be used for the purposes of this consultation. Your information will not be shared with third parties unless the law allows it. Your information will be kept securely on DfT servers and destroyed within 12 Months after the consultation has been completed.

You can read more about what the Department does when we ask for, and hold, your personal information in our personal information charter which is available from:

<https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>

## What will happen next?

We will consider responses to this consultation and aim to publish a summary, noting the Secretary of State's final conclusions, within 12 weeks of the closing date at:

[www.gov.uk/government/organisations/department-for-transport](http://www.gov.uk/government/organisations/department-for-transport)

If any formal objections to the proposal are raised then the Department will contact the person who raised the objection to discuss their concerns. If the objection is not withdrawn and the Secretary of State decides to proceed with the Order then the Order will be subject to special parliamentary procedure, as described in section 1(8) of the Act.

## 2. Introduction



**Figure 1. An aerial photograph of Oakley Creek taken in 2015 with Oakley Creek Berth clearly marked**

This chapter explains the background to marine pilotage, the powers and obligations of Competent Harbour Authorities (CHAs) and Pilotage Directions.

### What is Marine Pilotage?

Pilotage is the use of marine pilots to conduct the navigation of ships through dangerous or congested waters using their local knowledge and skills to ensure safe passage.

Under the Act, full responsibility for the management of pilotage was given to CHAs. The Act recognised that they have the local expertise required to undertake this responsibility effectively.

Depending on the size, geography, tides and many other variables affecting a port or harbour, the responsible CHA may require certain ships to employ one or more pilots or provide these on a voluntary basis if requested.

## What is a Competent Harbour Authority?

A CHA, as defined in the Act, is a harbour authority which has (a) statutory powers in relation to the regulation of shipping movements and the safety of navigation within its harbour; and (b) which also falls wholly or partly within an active former Pilotage District.

A CHA has a duty to keep pilotage services for its geographical area under review and to consider what pilotage services, if any, are needed and whether these should be mandatory. If pilotage is considered necessary, CHAs have a duty to specify the area and circumstances under which pilotage services are required, the authorisation of pilots, the arrangements under which pilots are to provide their services and, if they are employed, the terms of their employment. They are also responsible for the assessment and granting of Pilotage Exemption Certificates<sup>1</sup>.

## What is a Pilotage Direction?

A CHA has powers, under section 7 of the Act, to produce Pilotage Directions which explain to which vessels or in which areas mandatory or voluntary pilotage is applicable and such other provisions as are considered appropriate to maintain and enhance the safety of navigation.

It is the duty of a Master of a vessel to which a Pilotage Direction applies to comply with that Direction and failure to do so constitutes an offence.

The Authority publishes its Pilotage Directions on its web site, [found here](#).

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<sup>1</sup> If pilotage is compulsory the CHA must, on application by certain crew on a vessel, grant them a certificate enabling them to pilot that vessel (and any other ships specified in the certificate) in the area without a pilot provided they are satisfied by examination or reference to such other requirements as it may reasonably impose that their skill, experience and local knowledge are sufficient for that purpose and, if it appears necessary in the interests of safety, that they have sufficient knowledge of English. These certificates are known as Pilotage Exemption Certificates or PECs.



# 3. The Proposal

## The request to extend voluntary pilotage services

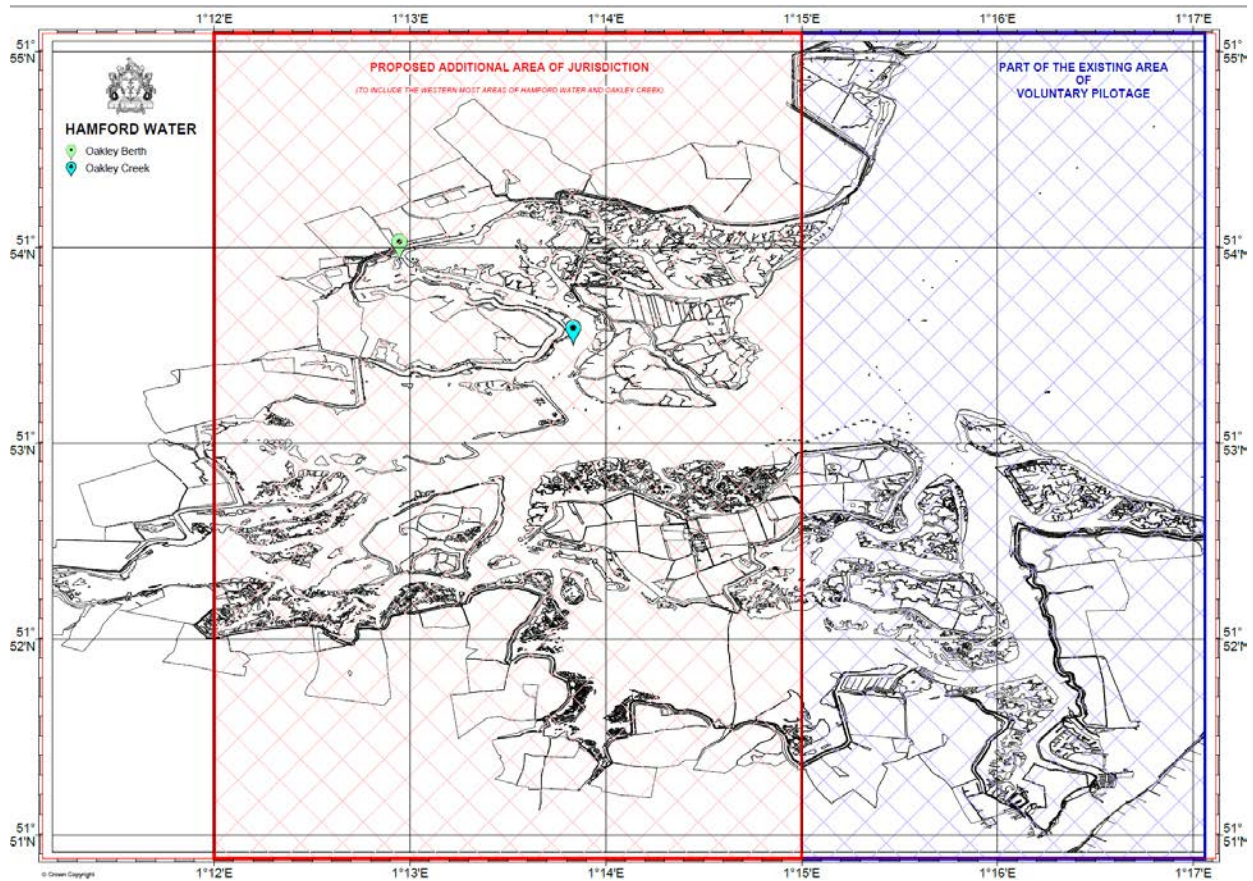
In December 2019, the Department for Transport received a letter from the Chief Executive of the Authority applying for an extension of its existing area of voluntary pilotage to include the western most areas of Hamford Water and Oakley Creek in the area known as the Walton Backwaters.

The request follows a review of the Authority's current pilotage arrangements which identified that these did not cover vessels travelling to the berth at Great Oakley. The approach to this quay is not straightforward as it can only be reached via the Walton Backwaters which are shallow and tidal. The nature of the waterway, and the size of vessels currently using this route, means that they are at considerably risk of grounding. The Authority notes that the availability of pilotage assistance for any vessels whose crew are not familiar with the area is, in its view, essential and that a formal extension to its voluntary pilotage area to provide this service has been called for by its customers.

Under a joint working agreement with the nearby ports of Ipswich, Felixstowe and Harwich International Port, the Authority exercises pilotage functions on their behalf in their respective pilotage areas which are collectively known as the Haven Ports Pilotage Area. This pilotage area is defined within the Authority's Pilotage Directions, [available here](#), as being in two distinct areas (compulsory and voluntary).

In the compulsory area mandatory pilotage is required for all vessels transiting this area and a pilot must be boarded before any vessel can enter this area. In the voluntary area a vessel may request a pilot to assist in navigating areas with which the master or crew are not familiar but this is not a requirement.

The Authority is requesting an expansion of its current voluntary pilotage area only to cover the Walton Backwaters for the reasons noted above. The proposed extension would bring the area noted in red in **Figure 1** within the Authority's voluntary pilotage area enabling it to offer pilotage services, on request, for vessels travelling in and out of the waters at Great Oakley and incorporating the full extent of the Walton Backwaters through which it is accessed.



**Figure 2. The proposed additional voluntary pilotage area, incorporating the Walton Backwaters and Oakley Creek**

## Consideration

The Department has considered the application by the Chief Executive of the Authority to extend its voluntary pilotage area to the Walton Backwaters.

The request has arisen from the Authority's statutory obligation as a CHA to review its pilotage arrangements and an assessment of the navigation safety risks posed to the vessels which use the intended voluntary pilotage extension area.

The Department agrees that the evidence supplied by the Authority indicates that, given the nature of the waterway and the size of vessels which use its facilities, there is a potentially significant risk of grounding. It notes that the masters of the majority of vessels which regularly call at the Oakley Berth are familiar with the waterway and that the application of mandatory pilotage is not, therefore, necessary. However, the risk of grounding is markedly heightened for vessels whose masters and deck officers may not be familiar with the area and to enable the Authority to offer pilotage services to such vessels on a voluntary, request, basis if required would seem to be a sensible precaution.

The Department notes that, given the voluntary nature of the extension, no costs would be incurred by any business unless pilotage services were requested. There may be some small, non-quantifiable costs to the Authority in respect of on-going

training of current and new pilots but these are likely to be off-set by increased utilisation as a result of any extension. The main benefits of any extension are therefore in relation to risk reduction for the Authority, given its statutory obligations as a CHA and to operate a safe and effective harbour, and for the owners of vessels traversing unfamiliar waters to mitigate the potential of grounding.

Consequently, the Department is minded to extend the Authority's voluntary pilotage area as requested by making the Order (at **Annex C**) under section 1(3)(a) of the Act.

The Department is, therefore, undertaking this consultation in accordance with section [1(8AA)] of the Act and would welcome your views on the questions at **Section 4**. In making a final decision about whether or not to proceed with making the Order, the Secretary of State will take into account any responses and evidence received as a result of this consultation.

If you wish to raise a formal objection to the making of the Order then please follow the instructions in **Section 5**.

## Draft Order

A draft of the proposed Harwich Haven and Walton Backwaters (Application of the Pilotage Act 1987) Order can be found at **Annex C**.

## Impact Assessment

No impact assessment has been produced for this legislation as there are no quantifiable costs or benefits associated with the proposal to extend the Authority's pilotage area. The Order will impose no direct costs on business as any future acts of pilotage within the expanded area will be voluntary.

## Next Steps

We will publish a summary of the responses to the consultation and our final conclusions within 12 weeks of the consultation closing date.

This will be available from:

[www.gov.uk/government/organisations/department-for-transport](http://www.gov.uk/government/organisations/department-for-transport)

## 4 . Consultation Questions

We would welcome views on any aspect of this consultation but your comments on the following questions would be appreciated (please give reasons for your answers where appropriate):

### **About you**

- What is your name?
- What is your e-mail address?
- If you are responding on behalf of an organisation, please tell us what that organisation is and how the views in your response were determined (e.g. through consultation)?

### **Consultation Questions**

#### **Question 1**

Do you agree that it is in the interests of efficiency and safety of navigation to allow the Authority to expand its voluntary pilotage area to the Walton Backwaters?

#### **Question 2**

Do you have a view on whether the proposal to allow the Authority to expand its voluntary pilotage functions to the Walton Backwaters will have any impact (positive or negative) on the users of this area or the local environment either directly or indirectly?

#### **Question 3**

Are you aware of any quantifiable benefits or costs in relation to the extension?

## 5. Objections

If you would like to raise a formal objection to the proposal then please provide full details in writing to the addresses given in the [How to Respond](#) section by 09 October 2020 at the latest. Please ensure that you provide sufficient information to allow the Secretary of State to assess and consider the reasoning behind your objection. Please also provide your full name and e-mail address.

# Annex A: Consultation principles

This consultation is being conducted in line with the Government's key consultation principles which can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process, please contact:

Consultation Co-ordinator  
Department for Transport  
Zone1/14  
Great Minster House  
London SW1P 4DR

E-mail [consultation@dft.gsi.gov.uk](mailto:consultation@dft.gsi.gov.uk)

## Annex B: List of those consulted

- British Marine Federation
- British Ports Association
- Harwich Area Sailing Association
- Haven Gateway Partnership
- Royal Yachting Association
- Tendring District Council
- Titchmarsh Marina
- Trinity House
- UK Chamber of Shipping
- UK Major Ports Group
- UK Maritime Pilots Association

# Annex C: Draft Order

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## STATUTORY INSTRUMENTS

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**2020 No. 000**

### **PILOTAGE**

#### **The Harwich Haven and Walton Backwaters (Application of the Pilotage Act 1987) Order 2020**

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

Harwich Haven Authority are currently the competent harbour authority within the meaning of the Pilotage Act 1987<sup>(2)</sup> for Harwich Haven Harbour.

The Secretary of State considering that, in the interests of efficiency and safety of navigation, Harwich Haven Authority should exercise pilotage functions both as respects the harbour and a defined part of the Walton Backwaters, makes the following Order in exercise of the powers conferred by section 1(3)(a) of the Pilotage Act 1987.

In accordance with section 1(7) of the Act, the Secretary of State has informed Harwich Haven Authority and other persons whom the Secretary of State considered might be affected by the Order and, having given them a reasonable period to object, has received no objections.

#### **Citation and commencement**

1. This Order may be cited as the Harwich Haven and Walton Backwaters (Application of the Pilotage Act 1987) Order 2020 and comes into force on [DATE].

#### **Application of the Pilotage Act 1987**

2. The Pilotage Act 1987 shall apply to the Harwich Haven Authority as if their harbour included the area contained by a line drawn between the following points—

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<sup>(2)</sup> 1987 c. 21. Section 1 was amended by section 1 of the Marine Navigation Act 2013 (c. 23). There are other amendments which are not relevant to this Order.



- (a) latitude 51°55'N, longitude 01°12'E;
- (b) latitude 51°55'N, longitude 01°15'E;
- (c) latitude 51°51'N, longitude 01°15'E; and
- (d) latitude 51°51'N, longitude 01°12'E.

Signed by the authority of the Secretary of State for Transport.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Transport

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides that the Pilotage Act 1987 shall apply to the Harwich Haven Authority as if their harbour included a defined area within the Walton Backwaters, described more specifically via the coordinates provided in article 2.

This has the effect that the harbour authority shall exercise the pilotage functions conferred on them by the Act as competent harbour authority in respect of this extended area.