

[LEGAL NOTICE No. 95]

MARITIME TRANSPORT DECREE 2013
(DECREE NO. 20 OF 2013)

Maritime (Coasting-trade) Regulations 2014

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IN exercise of the powers conferred upon me by section 243 of the Maritime Transport Decree 2013, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Maritime (Coasting-trade) Regulations 2014 and shall come into force on a date or dates appointed by the Minister by notice in the *Gazette*.

Interpretation

2. In these Regulations, unless the context otherwise requires,—

“Administration” means the Government of the State under whose authority a ship is operating and whose flag the ship is entitled to fly;

“approved form” means a form approved by the Chief Executive Officer;

“Authority” means Maritime Safety Authority of Fiji;

“authorised officer” shall have the same meaning as in section 2 of the Decree;

“Chief Executive Officer” means the Chief Executive Officer of the Authority;

“Clearance book” means the book required to be maintained for a ship under regulation 17(1);

“Coasting-trade Licence” means a Licence issued to Fiji ships engaged in trade within Fiji waters;

“Coasting-trade Permit” means a Permit issued to foreign ships engaged in trade within Fiji waters and ships chartered in Fiji waters;

“Decree” means the Maritime Transport Decree 2013;

“Licence” means the Coasting-trade Licence issued under regulation 6;

“marine clearance form” means the form issued under section 103A of the Decree in accordance with the requirements of regulations 17 and 18;

“passenger list” means a list of all passengers carried on the ship signed off by the master of the ship;

“Permit” means the Coasting-trade Permit issued under regulation 12;

“Sea Route Licence” means a Licence issued with a Coasting-trade Licence to allow Fiji ships to engage in trade within selected economical sea routes of Fiji; and

“Special Coasting-trade Licence” shall have the same meaning as in section 110 of the Decree.

Objectives

3. The objectives of these Regulations are to specify the—
- (a) requirements for the issuance of a general or special Coasting-trade Licence, a Sea Route Licence or a Coasting-trade Permit for a ship operating commercially in Fiji waters;
 - (b) details to be included in the Licences or Permit mentioned in paragraph (a);
 - (c) returns to be provided by masters of ships engaged in the coasting-trade; and
 - (d) limitations of the Licence and Sea Route Licence.

PART 2—COASTING-TRADE LICENCE AND SEA ROUTE LICENCE

Application for grant of a Licence

4.—(1) A person shall apply for the grant of a Licence by the Minister in the approved form.

(2) An application under sub-regulation (1) shall be made to the Chief Executive Officer.

(3) An application under sub-regulation (1) shall be accompanied by—

- (a) the Certificate of Registration or Certificate of Registry of the ship to be used in the proposed shipping service or other documentation sufficient to satisfy the Chief Executive Officer—
 - (i) of the identification of the ship;
 - (ii) that the ship to be used is a ship registered in Fiji; and
 - (iii) that the applicant is the owner or charterer of the ship, as the case may be;
- (b) evidence that the applicant, owner or charterer of the ship is qualified to engage the ship in coasting-trade in respect of which the application for a Licence is being made under these Regulations; and
- (c) a valid Survey Certificate and other relevant ship’s documentations as required under the maritime Regulations and marine environment protection Regulations.

(4) Where the application under sub-regulation (1) is for a special Coasting-trade Licence, the application shall contain full details of the shipping service in which it is intended to engage the ship.

Application for grant of a Sea Route Licence

5.—(1) A person shall apply for the grant of a Sea Route Licence by the Minister in the approved form.

(2) An application under sub-regulation (1) shall be made to the Chief Executive Officer.

(3) An application under sub-regulation (1) shall be accompanied by the requirements under regulation 4(3) and a valid Licence granted under regulation 7 in respect of the ship.

Chief Executive Officer to consider application for Licence and Sea Route Licence

6.—(1) Where the Chief Executive Officer is satisfied that the requirements for a Licence or a Sea Route Licence have been fulfilled by the applicant in accordance with the Decree and these Regulations, the Chief Executive Officer shall inform the Minister, and the Minister may grant the Licence or the Sea Route Licence, as the case may be with the following mandatory conditions and any other conditions he or she deems appropriate whereby the owner, operator or the charterer shall—

- (a) ensure that at all times during the term of the Licence, the ship complies with its obligation for safety and seafarers under the Decree;
- (b) during the period of the Licence or Sea Route Licence, whilst engaged in coasting trade, ensure that the ship is managed with due diligence and in a manner that does not infringe on other ships' right to use public facilities such as ports and jetties;
- (c) only issue sequenced number passenger tickets which shall include amongst the conditions of the journey, the date of travel and the route of travel for that particular journey and the number of tickets issued shall be limited to the number of passengers permitted under its Survey Certificate for the entire duration of the journey;
- (d) commence and cease its journey in accordance with the date and time schedule approved by the Authority in consultation with the ship owner, operator or charterer;
- (e) have adequate and proper accommodation and sanitary facilities, proper gangway for safe embarking and disembarking of passengers and shall continually meet the survey and manning requirements of the ship as per the maritime Regulations;
- (f) be able to carry cargo that is expected on the route and be fitted with proper cargo handling equipment that is tested and certified in accordance with the Maritime (Ships' Lifting Appliances) Regulations 2014;
- (g) ensure that all cargoes classified as dangerous goods in the International Maritime Dangerous Goods Code (IMDG Code) will not be carried with passengers or on the passenger ship;
- (h) ensure that the ships are maintained in a safe and hygienic condition at all times; and
- (i) ensure that the working and living conditions of the ship's crew are complied with at all times as per the provisions of the applicable labour laws.

(2) The Minister in consultation with the Chief Executive Officer may vary any condition or cancel or suspend the Licence or the Sea Route Licence if the above conditions have been breached, and in the opinion of the Minister, it is necessary in the public interest to do so.

(3) The Licence and the Sea Route Licence shall not be transferable.

(4) Subject to sub-regulation (5), where the Minister decides to grant a Licence under sub-regulation(1), he or she shall determine the period for which the Licence shall be valid, which shall not exceed 12 months in accordance with section 111 of the Decree.

(5) The Sea Route Licence granted by the Minister shall be valid for a period of not more than 5 years.

Grant of a Licence and Sea Route Licence

7.—(1) Where the Minister is of the opinion that an application for a Licence or Sea Route Licence should be granted, he or she shall advise the applicant of the following—

- (a) the period of validity of the proposed Licence or Sea Route Licence;
- (b) the prescribed fees; and
- (c) any conditions subject to which the Licence has been granted.

(2) Upon payment of the prescribed fees under the Schedule, the Chief Executive Officer shall issue the Licence and Sea Route Licence to the applicant.

(3) Where following receipt of an application in accordance with sub-regulation (1), the Minister is of the opinion that the application should not be granted, he or she shall advise the Chief Executive Officer and the Chief Executive Officer shall within 24 hours after being advised by the Minister, inform the applicant of the decision and the reasons for the decision in writing.

(4) Notwithstanding the provisions of sub-regulation (2), the Minister may after consultation with the Chief Executive Officer by written notice, grant an exemption in accordance with section 33 of the Decree for the payment of the prescribed fees.

Contents of a Licence and Sea Route Licence

8.—(1) A Licence and Sea Route Licence shall specify the following—

- (a) the name and address of the person to whom the Licence or Sea Route Licence is granted;
- (b) the name of the registered ship in respect of which the Licence or the Sea Route Licence is granted;
- (c) where the Licence is a special Coasting-trade Licence, details of the shipping service and area of operation in which the ship may be engaged;
- (d) the date the Licence or Sea Route Licence was granted and the date on which it will cease to be valid; and
- (e) the mandatory conditions and any other conditions the Minister in consultation with the Chief Executive Officer considers necessary to impose in accordance with section 112 of the Decree and these Regulations.

(2) Notwithstanding sub-regulation (1), a Licence and Sea Route Licence shall be in such form, and may contain such other information as the Minister in consultation with the Chief Executive Officer deems necessary.

Restrictions on number of Licence or Sea Route Licence issued

9. The Minister in consultation with the Chief Executive Officer may consider restricting the number of Licences or Sea Route Licences issued under these Regulations, to ship owners and operators to 2 or 3 Licences after considering the volume of trade, the adequacy of facilities and existing licenced services to provide the proposed service.

Revocation of a Licence or Sea Route Licence

10. Where the Minister after consultation with the Chief Executive Officer, has reason to believe that a shipping service is not being carried out by a ship in accordance with the conditions of the Licence or Sea Route Licence granted to the ship, he or she may revoke that Licence or Sea Route Licence and prevent the ship from engaging further in any coasting-trade in Fiji waters.

PART 3—COASTING-TRADE PERMIT

Application for a Permit

11.—(1) An application for a Permit allowing a foreign ship including superyachts to engage in coasting-trade whether carrying passengers or cargo, or both in a specified area shall be made to the Chief Executive Officer in the approved form.

(2) An application under sub-regulation (1) shall be accompanied by—

- (a) the Certificate of Registration of the ship to be used in the proposed shipping service or other documentation sufficient to satisfy the Chief Executive Officer of the identification of the ship;
- (b) a valid Survey Certificate and other relevant ship's documentations of the administration;
- (c) details of why the proposed shipping service cannot be carried out by a Fiji ship in respect of which a Licence has been granted; and
- (d) evidence as to the details provided in paragraph (c) if required.

Requirement to be surveyed

12. A foreign registered ship whose owner or operator has applied for a Permit shall undergo a special survey under the Maritime (Small Craft Code) Regulations 2014 and Maritime (Fiji Maritime Code) Regulations 2014 for issue of a Survey Certificate as sufficient for the purpose of being granted a Permit.

Issue of Permit

13.—(1) Where an applicant has satisfied the requirements of regulations 11 and 12, the Chief Executive Officer shall notify the Minister and the Minister shall grant a Permit.

(2) Where the Minister grants the Permit under sub-regulation (1), Chief Executive Officer shall then notify the applicant within 24 hours specifying in the notification the specific area, the shipping service, the fee payable, and any conditions subject to which the Permit may be issued.

(3) Upon payment of the prescribed fees under the Schedule, the Chief Executive Officer shall issue the Permit.

Contents of a Permit

14.—(1) A Permit shall contain a statement that the holder of the Permit shall have a Licence to carry coastwise issued under section 87 of the Customs Act 1986 before undertaking the shipping service permitted by the Permit.

(2) A Permit shall specify the following—

- (a) the name and address of the person to whom it is issued;
- (b) the name of the ship in respect of which the Permit is issued;
- (c) the type of ship in respect of which the Permit is issued;
- (d) the country of registration of the ship;
- (e) the tonnage of the ship;
- (f) the shipping service permitted by the Permit;
- (g) the specific area of trade;
- (h) the dates between which the shipping service permitted by the Permit is to be carried out; and
- (i) any conditions the Minister deems necessary to impose in accordance with sections 113(2) and (3) of the Decree.

(3) Notwithstanding sub-regulation (2), a Permit shall be in a form and may contain such other information as approved by the Minister in consultation with the Chief Executive Officer.

Revocation of a Permit

15. Where the Minister after consultation with the Chief Executive Officer, has reason to believe that a shipping service is not being carried out by a ship in accordance with the conditions of the Permit granted to the ship, the Minister may revoke that Permit and prevent the ship from engaging further in any coasting-trade in Fiji waters.

Master of coasting ships to report arrival and departure

16.—(1) The master of a ship in respect of which a Coasting-trade Licence or Sea Route Licence is held shall report the arrival and departure of the ship to authorised officers at that port, each time the ship arrives or departs a port.

(2) The master of a ship to which sub-regulation (1) applies shall report the arrival and departure of that ship 2 hours prior to the arrival or departure of that ship.

(3) Any master who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$1,000.

PART 4—MARINE CLEARANCE

Marine clearance

17. A marine clearance form issued by an enforcement and compliance officer, for the purpose of section 103A of the Decree shall specify the following—

- (a) the name of the ship;
- (b) the prescribed port at which it was issued;
- (c) the date on which it was issued;

- (d) the number of passengers on the ship;
- (e) the type of cargo on board the ship, if any;
- (f) the proposed route of the ship;
- (g) the proposed places to be called at by the ship;
- (h) the number of crew members on the ship; and
- (i) the name of authorised officer who issued the marine clearance.

Contents of clearance book

18.—(1) The following information shall be entered in a clearance book maintained in accordance with regulation 19, in respect of a ship—

- (a) the name of each passenger embarking and disembarking from the ship and the date and place the passenger went on board and left the ship;
- (b) a description and volume of all the goods or cargoes taken on board the ship and the date and place the goods or cargoes were taken on board and the date and place they were discharged;
- (c) the names of all ports called at by the ship during any voyage;
- (d) the names of the master and crew of the ship; and
- (e) the date of expiry of the Survey Certificate and other statutory ship's documents issued in respect of the ship or copies of these documents attached to the clearance book.

(2) Where, for any reason, it is impracticable to record the name of each passenger in a clearance book it shall be sufficient compliance with sub-regulation (1) if the master or owner of the ship is able to produce on demand the passenger list.

(3) Any person who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Clearance book to be maintained

19.—(1) The master, owner and operator of a ship in respect of which a Licence or Sea Route Licence is in force shall each ensure that a clearance book in respect of the ship is maintained and carried on the ship.

(2) The master, owner and operator of a ship to which a Coasting-trade Permit is granted shall not be required to carry a clearance book but for the purpose of marine clearance, is required to produce to authorised officers the following—

- (a) the Coasting-trade Permit;
- (b) Survey Certificate and other relevant ship's documentation issued by the administration;
- (c) Survey Certificate issued by the Authority;
- (d) a description and volume of all the goods or cargoes taken on board the ship; and
- (e) the names of the master and crew of the ship.

(3) Any person who contravenes sub-regulations (1) and (2) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Clearance book to be presented

20.—(1) The master of a ship in respect of which a General or Special Licence and Sea Route Licence is in force—

- (a) shall before the ship leaves a port, present the clearance book for the ship which shall be up to date, to the authorised officer at that port; and
- (b) whenever required to do so, shall, produce to an authorised officer the clearance book maintained in respect of that ship.

(2) A master who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

PART 5—TRANSITIONAL PROVISIONS AND REPEALS

Repeal, savings and transitional provisions

21.—(1) The Marine (Coasting-trade) Regulations, 1990 are hereby repealed.

(2) A Licence or Permit in force immediately prior to the commencement of these Regulations remains in force—

- (a) for a period of 2 years and 4 months from the commencement date of the Decree; or
- (b) until the date of the expiration of that Licence or Permit, whichever is earlier.

(3) A Sea Route Licence issued in accordance with these Regulations shall come into force on the 1st of January 2015.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE
(Regulation 7(2))

FEES AND CHARGES FOR COASTING-TRADE LICENCE,
SEA ROUTE LICENCE AND COASTING-TRADE PERMIT

	<i>Item</i>	<i>Rate \$(VAT Exclusive)</i>
1.	Coasting-trade Licence fees include— Receiving and processing application Assessment of application Processing and issuance of Coasting-trade Licence	

	<i>Item</i>	<i>Rate \$(VAT Exclusive)</i>
	Commercial open boats = or < 15 meters	\$45.00
	Commercial Ships > 15meters but < or = 100 net tonnage	\$1.00 /net tonnage (per year)
	Commercial Ships > 100 net tonnage	\$1.00 /net tonnage (per year)
2.	Sea Route Licence fee (In addition to the Coasting-trade Licence fees) Commercial ships all sizes	\$5.00/net tonnage (five yearly)
3.	Coasting-trade Permit fees include the following— Receiving and processing application Assessment of application Processing and issuance of Coasting-trade Permit	\$50.00 \$100.00 \$150.00
	Foreign ships including superyachts under charter under the Superyacht Charter Decree 2010	\$2500.00 base plus 5% of net tonnage of cargo or passengers carried per voyage.