

[LEGAL NOTICE NO. 96]

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

Maritime (Novel Ships) Regulations 2014

IN exercise of the powers conferred upon me by section 240(1)(c) of the Maritime Transport Decree 2013, I hereby make these Regulations—

PART I — PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Maritime (Novel Ships) 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 Authority of the Government of the state under whose authority a ship is operating or the flag state, whose flag the ship is entitled to fly;

“authorised organisation” means an organisation that has entered into a memorandum of agreement with the Chief Executive Officer in compliance with the International Maritime Organisation Assembly Resolution A.739 (18) and the annex as amended by Resolution MSC 208(81), entitled

“Adoption of Amendments to the Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration” whereby that organisation may carry out surveys and audits and issue certificates on behalf of the Authority;

“authorised person” means a person employed by an authorised organisation and appointed under section 38(1) of the Decree to carry out such inspections and such audits as the Authority considers necessary for the purposes of these Regulations;

“Authority” means the Maritime Safety Authority of Fiji;

“Certificate of Fitness” means a Certificate issued under regulation 8;

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

“Classification Society” means a recognised organisation authorised by the Chief Executive Officer to conduct such inspections and audits as the Authority considers necessary for the purposes of these Regulations;

“Decree” means the Maritime Transport Decree 2013;

“Fiji waters” shall have the same meaning as under section 2 of the Decree;

“international voyage” means a voyage to or from a port outside Fiji;

“major alteration” means the alteration, or the replacement, removal or addition of any part of a ship that is likely to—

- (a) significantly affect the structural integrity, tonnage, freeboard, cargo or passenger capacity, crew or passenger accommodation, conditions of assignment of load lines, watertight subdivision, stability, structural fire protection or safety equipment of the ship; or
- (b) result in significant changes to the propulsion machinery, auxiliary machinery or method of propulsion of the ship;

“major repair” means a repair that is likely to significantly affect the structural integrity, conditions of assignment of load lines, watertight subdivision, stability, structural fire protection, main propulsion machinery, method of propulsion, steering gear or vital auxiliary machinery of the ship;

“operate on the Fiji coast” means to undertake voyages which begin and end at ports or offshore terminals in Fiji but does not include any voyage of a foreign ship that is exercising the right of innocent passage through Fiji’s territorial waters and archipelagic waters;

“pilot” in relation to a submersible, means the person driving the submersible;

“safety case” means a written document prepared by the owner to demonstrate that major hazards arising from the operation of the ship—

- (a) have been reduced to risk levels that are as low as reasonably practicable; and
- (b) will be managed effectively;

“submersible” means a submarine or other ship capable of navigation when totally submerged;

“survey” means a thorough examination of a ship and its equipment –

- (a) performed by, in the presence of, or under the direct control of, a surveyor;
- (b) by utilising means including but not limited to visual inspection, non-destructive testing, destructive testing or adopting appropriate Classification Society rules, or other recognised certificates issued by an Administration;
- (c) verifying that the owner has—
 - (i) undertaken hazard identification of the ship’s design; and
 - (ii) taken all practicable steps to eliminate, isolate or minimise identified hazards; and
- (d) to ensure that the ship and its equipment are—
 - (i) fit for their intended purpose and operating limits; and
 - (ii) comply with the applicable provisions of the Maritime (Small Craft Code) Regulations 2014, and Maritime (Fiji Maritime Code) Regulations 2014;

“surveyor” means a person—

- (a) appointed by the Chief Executive Officer—
 - (i) as a surveyor to undertake the particular function referred to; and
 - (ii) who holds a valid maritime document as a surveyor issued under section 24 of the Decree; or
- (b) an authorised person of an authorised organisation; and

“wing-in-ground craft or WIG craft” means a multimodal craft that in its main operational mode, flies—

- (a) in close proximity to, and without contact with the water surface;
- (b) by using surface-effect action above the water; and
- (c) supported in the air primarily by an aerodynamic lift generated on the wings or the hull of the craft or their parts.

Objectives

3. The objectives of these Regulations are to—

- (a) ensure that each novel ship is surveyed and issued with a Certificate of Fitness and a safety case, which shall be approved by the Chief Executive Officer; and

- (b) ensure that the operation of the ship is audited annually to determine whether the safety case and Safety Management System of the ship are implemented effectively.

Application

- 4.—(1) These Regulations shall apply to every Fiji ship and foreign ship that—
- (a) operates on the Fiji coast; and
 - (b) is a commercial ship—
 - (i) to which the requirements of the Maritime (Small Craft Code) Regulations 2014 and Maritime (Fiji Maritime Code) Regulations 2014 do not apply; or
 - (ii) that is required to comply with these Regulations as a condition of an exemption from other Maritime Regulations and Marine Environment Protection Regulations.
- (2) These Regulations shall not apply to—
- (a) pleasure crafts;
 - (b) manually powered ships;
 - (c) ships powered solely by sail; or
 - (d) warships.

PART 2—SAFETY CASE

Issue of maritime document

5.—(1) No person shall operate a ship to which these Regulations apply without the written approval of the Chief Executive Officer of the safety case of the ship.

(2) An application for the written approval of the Chief Executive Officer under sub-regulation (1) shall—

- (a) be made by the owner in a form approved by the Chief Executive Officer;
- (b) include the applicant's—
 - (i) address for service in Fiji;
 - (ii) telephone number;
 - (iii) fax number (if any); and
 - (iv) email address (if any);
- (c) be made at least 3 months before the intended commencement of the ship's operation; and
- (d) include a copy of the Certificate of Fitness and the contents of the safety case of the ship.

(3) The Chief Executive Officer shall approve in writing, the safety case of a ship, for a period not exceeding the expiry date of the Certificate of Fitness, if the Chief Executive Officer—

- (a) has received a copy of the Certificate of Fitness of the ship; and
- (b) is satisfied that the safety case—
 - (i) complies with the requirements under these Regulations; and
 - (ii) indicates a level of safety, consistent with the requirements for other commercial shipping operations.

(4) The written approval of the Chief Executive Officer of a safety case shall—

- (a) be a maritime document for the purposes of these Regulations; and
- (b) cease to be valid if the—
 - (i) ship does not have a valid Certificate of Fitness;
 - (ii) ship is not operated in accordance with the approved safety case;
 - (iii) safety case is revised without the approval of the Chief Executive Officer; or
 - (iv) the ownership of the ship changes.

Safety case

6.—(1) The owner shall ensure that a safety case is prepared that contains the relevant particulars set out in—

- (a) Schedule 1 for the design, construction, equipment and operation of the ship; and
- (b) Schedule 2 for the safety management system that will operate in respect of the ship.

(2) The owner shall ensure that—

- (a) the ship is constructed, equipped and operated in accordance with the safety case;
- (b) the master and all members of the crew—
 - (i) are informed of the parts of the safety case relevant to their duties; and
 - (ii) comply with the requirements of the safety case; and
- (c) any change to the safety case is approved by the Chief Executive Officer before it is implemented.

(3) The owner shall ensure that the operation of the ship is audited by the Chief Executive Officer, in accordance with section 38 of the Decree—

- (a) at least once per calendar year; and

- (b) to determine whether the safety case and safety management system of the ship are—
 - (i) implemented effectively; and
 - (ii) suitable to achieve the safety management system objectives.

Display of maritime document

7.—(1) The owner of a ship shall ensure that the written approval of the Chief Executive Officer of the safety case is displayed on the ship in a prominent position and accessible at all times to passengers and crew.

(2) Where it is not practicable to comply with sub-regulation (1), the written approval of the Chief Executive Officer shall be made available for inspection to the Chief Executive Officer upon request.

PART 3—SURVEY

Certificate of Fitness

8.—(1) The owner shall ensure that a valid Certificate of Fitness is in force at all times in respect of the ship and its equipment.

(2) A surveyor shall issue an initial Certificate of Fitness, in respect of a ship and its equipment, if—

- (a) the surveyor has conducted a survey of the ship and its equipment and determined that the ship and its equipment—
 - (i) are fit for their intended operation; and
 - (ii) comply with all of the relevant provisions of the proposed safety case of the ship; and
- (b) the design of the ship has been approved by a surveyor or an authorised person.

(3) A surveyor may issue a second or subsequent Certificate of Fitness, in respect of a ship and its equipment, if—

- (a) the surveyor has conducted a survey of the ship and its equipment and determined that the ship and its equipment—
 - (i) are fit for their intended operation; and
 - (ii) comply with all of the relevant provisions of the approved safety case; and
- (b) in the case of a ship that has undergone major alteration, the modified design of the ship has been approved by a surveyor or an authorised person.

(4) A Certificate of Fitness shall be in the form approved by the Chief Executive Officer and may be subject to a requirement of additional information by a surveyor.

(5) A Certificate of Fitness shall be issued—

- (a) for a period not exceeding one (1) year; and
- (b) within 3 months after the completion of the survey.

(6) The Certificate of Fitness shall cease to be valid if—

- (a) the ship or its equipment—
 - (i) undergo major alteration or repair; or
 - (ii) does not undergo a satisfactory annual survey; or
- (b) an item or equipment, covered by the Certificate of Fitness, is removed without equivalent replacement.

(7) Before the issuance of any subsequent Certificate of Fitness, the ship and its equipment shall be re-surveyed.

(8) Where a ship is re-surveyed and a new Certificate of Fitness is issued before the expiry date of an existing Certificate of Fitness, the existing Certificate of Fitness shall cease to be valid.

Annual Survey

9. The owner shall ensure that an annual survey of the ship and its equipment is carried out by a surveyor before the expiry of the Certificate of Fitness.

Fiji Registration number

10. The owner and the master of a ship shall ensure that the ship is clearly and permanently marked with its Registration number in accordance with the requirements under the Ship Registration Decree 2013.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE 1
(Regulation 6(1)(a))

PARTICULARS TO BE INCLUDED IN THE SAFETY CASE OF A SHIP

- 1.0 A safety case shall include—
- 1.1 general description of the means by which the owner will ensure that the ship's structure, machinery and systems will be designed, constructed, operated and maintained in a way that minimises hazards;
- 1.2 particulars of a safety management system, for the operation of the ship, complying with Schedule 2;
- 1.3 details of any significant hazards;
- 1.4 details of risk assessments and any consequent measures proposed to ensure that hazards are minimised;

- 1.5 a detailed description of—
- (a) the principal features of the design of the ship, machinery and systems; and
 - (b) the particulars of its construction, outfit and inspection, that are intended to ensure that hazards are minimised;
- 1.6 particulars of plant, systems and equipment installed for—
- (a) detecting explosion, fire, heat, smoke, gas and toxic fumes;
 - (b) preventing and mitigating fires;
 - (c) protecting the crew and passengers from the consequences of explosion, fire, heat, smoke, gas and toxic fumes;
 - (d) detecting, limiting and removing flood water; and
 - (e) evacuating crew and passengers in the event of an accident;
- 1.7 the results of any practical demonstration or test to determine whether the plant, systems or equipment essential for—
- (a) the safety of personnel; or
 - (b) controlling the consequences of an accident,
- shall be capable of functioning in conditions of fire, flooding, adverse heel, adverse trim and climatic conditions;
- 1.8 any limitations in the specification of the design of the ship and its equipment in relation to the area, depth or height of operation, climatic conditions, sea state or other limits for its safe operation and use;
- 1.9 particulars of applicable requirements of national, international or classification society standards, regulations or codes of practice;
- 1.10 details of—
- (a) the ship's intended area of operation, including applicable charts;
 - (b) intended embarkation and disembarkation facilities;
 - (c) search and rescue facilities in the intended areas of operation; and
 - (d) ship to shore base communications available in the areas of operation;
- 1.11 particulars of every operation to be undertaken, including—
- (a) if passengers are to be carried—
 - (i) the maximum number that can be carried;
 - (ii) how passengers may be accommodated
 - (iii) the passenger safety information that will be provided and if passengers will enter the water from the ship, the proposed arrangements for monitoring their safety;

- (b) if cargo is to be carried—
 - (i) the nature of any cargo to be carried;
 - (ii) the means of handling such cargo;
 - (iii) precautions to be taken in respect of any dangerous cargo; and
 - (iv) the relevant safety information to be made available to the crew; and
 - (c) relevant safety information made available to the crew in respect of operation of such plant;
- 1.12 details of means of egress, escape routes, embarkation positions and responsibilities of crew in respect of assembling persons, launching lifesaving appliances and abandoning ship;
- 1.13 details of proposed crewing and qualifications;
- 1.14 details of specific crew training requirements appropriate to the nature of the ship, its operation, cargoes to be carried or specific hazards identified in the safety case;
- 1.15 details of the proposed frequency and scope of reviews of the safety case; and
- 1.16 any other relevant details requested, in writing, by the Chief Executive Officer.
- 2.0 Additional particulars for submersibles
- 2.1 The safety case for a submersible shall also include details of the—
 - (a) life support systems and equipment for normal and emergency conditions;
 - (b) means of thermal protection, if necessary;
 - (c) arrangements for blowing ballast;
 - (d) stability and trim whilst ascending, descending, submerged and on the surface;
 - (e) means of emergency surfacing;
 - (f) procedures for emergency situations;
 - (g) operational mission including time and depth capabilities;
 - (h) geographical dive site limitations;
 - (i) launch and recovery operation procedures;
 - (j) arrangements for liaison with support ships;
 - (k) procedures for emergency drills; and
 - (l) Pilot certification and crew training.
- 3.0 Additional particulars for WIG craft
- 3.1 Safety case for a WIG craft shall include the appropriate particulars given in Part B, of the International Maritime Organization's circular MSC/Circ.1054 entitled Interim Guidelines for Wing-In-Ground (WIG) Craft.

SCHEDULE 2
(Regulation 6(1)(b))

REQUIREMENTS OF A SAFETY MANAGEMENT SYSTEM

- 1.0 The owner shall develop, implement and maintain a safety management system for the operation of the ship, which shall include the following—
 - 1.1 a safety policy describing how the ship's operation will ensure safety at sea, prevent human injury or loss of life and avoid damage to the ship and its environment;
 - 1.2 instructions and procedures to ensure the safe operation of the ship in compliance with relevant Fiji legislation;
 - 1.3 definition and documentation of the responsibility, authority and lines of communication between all personnel (on board and ashore) who manage, perform and verify work that affects safety;
 - 1.4 designation of a person ashore who has—
 - (a) direct access to the highest level of management;
 - (b) responsibility for monitoring the safe operation of the ship; and
 - (c) responsibility for ensuring that adequate resources and shore based support are available as required;
 - 1.5 procedures to identify, prepare for and respond to potential emergency situations, and programmes for drills and exercises to prepare for emergency situations;
 - 1.6 procedures for reporting accidents, non-conformities and hazardous occurrences to the owner and others in compliance with relevant Fiji legislation and procedures for the investigation and analysis of these incidents and for the implementation of corrective action;
 - 1.7 procedures to ensure that the ship is maintained in conformity with the provisions of the approved safety case and documentation of that maintenance;
 - 1.8 procedures to control all documents and data relevant to the safety management system;
 - 1.9 procedures for internal audits—
 - (a) to verify whether safety activities comply with the safety management system; and
 - (b) for management reviews of the safety management system; and
 - 1.10 any other safety procedures requested, in writing, by the Chief Executive Officer.