

[LEGAL NOTICE NO. 110]

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

Marine (Ballast Water Management) Regulations 2014

In exercise of the powers conferred upon me by section 233(d) 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 Marine (Ballast Water Management) Regulations 2014 and shall come into force on a date or dates appointed by the Minister by notice in the *Gazette*.

Interpretation

2.—(1) 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;

“Annex” means the Annex to the Convention;

“authorised officer” shall have the meaning as in the Decree and includes—

- (a) every surveyor and other persons appointed to undertake surveys and inspections of ships in accordance with these Regulations;
- (b) boarding officers employed by the Authority;
- (c) other officers of the Authority appointed by the Chief Executive Officer to enforce these Regulations; and
- (d) other persons to whom the Chief Executive Officer delegates powers to enforce these Regulations;

“authorised organisation” means an organisation which has entered into a memorandum of agreement with the Chief Executive Officer in accordance with the International Maritime Organisation Assembly Resolution A.739 (18), Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration and the Annexes 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, governing the undertaking of particular survey and certification functions by the organisation’s employees under the Decree;

“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 audits as the Authority considers necessary for the purposes of these Regulations;

- “Authority” means the Maritime Safety Authority of Fiji;
- “ballast water” means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship, and has the meaning given to it under MARPOL as modified by the Protocol of 1978, any subsequent amendments and the Convention;
- “ballast water internal transfer” means the transfer of ballast water from one tank to another tank within the ship;
- “Ballast Water Management” means mechanical, physical, chemical and biological processes, used either singularly or in combination, to remove, render harmless or to avoid the uptake or discharge of harmful aquatic organisms and pathogens within a ship’s ballast water and sediments;
- “Ballast Water Management Convention” or “Convention” means the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004;
- “Ballast Water Management Plan” or “Plan” means the plans required under regulation 9(1)(a) of these Regulations;
- “ballast water record book” means the record book required under regulation 9(1)(b);
- “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 such audits as the Authority considers necessary for the purposes of these Regulations;
- “Decree” means the Maritime Transport Decree 2013;
- “Fiji ship” shall have the same meaning as in the Decree;
- “Fiji waters” shall have the same meaning as in the Decree;
- “FPSO” means floating production, storage and off-loading units;
- “FSU” means floating storage units;
- “harmful aquatic organisms and pathogens” means aquatic organisms or pathogens which if introduced into the sea, estuaries, or into fresh water courses may create hazards to the environment, human health, property or resources, impair biological diversity or interfere with other legitimate uses of such areas;
- “International Ballast Water Management Certificate” or “Certificate” means the International Ballast Water Management Certificate specified in the Convention, which shall be issued by the Authority or an authorised organisation in a form consistent with the form prescribed by the Convention and provided under Schedule 5;

“International Maritime Organisation” or “IMO” means the organisation set up under the International Maritime Organisation Convention, 1958 for the purpose of developing a comprehensive body of international maritime conventions, codes and recommendations which could be implemented by all members to the convention;

“international marine pollution conventions” means MARPOL, Ballast Water Management Convention, International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001, International Convention on Civil Liability for Bunker Oil Pollution Damage and the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 as modified by the Protocol of 1973 and any subsequent amendments;

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 and any subsequent amendments;

“Minister” means the Minister responsible for maritime transport;

“Notice to Mariners” means a notice published by the Authority, and includes any amendment made to the notice;

“offshore terminal” means an installation or device located offshore with facilities for loading and unloading of ships;

“owner” shall have the same meaning as in the Decree;

“Party” means a State which is a Party to the Convention;

“pleasure craft” shall have the same meaning as in the Decree;

“port” shall have the same meaning as in the Decree;

“sediments” means matters settled out of ballast water within a ship;

“sediment reception facility” means the sediment reception facility required under regulation 12; and

“ship” shall have the same meaning as in the Decree.

(2) Subject to sub-regulation (1), words and phrases used in these Regulations shall have the same meaning as provided in the Decree and the Convention.

Objectives

3. The objectives of these Regulations are to—

- (a) prevent, minimise or eliminate the transfer of harmful aquatic organisms and pathogens, through the control and management of ships’ ballast water and sediments;
- (b) require ships to which these Regulations apply, to carry and implement an approved Ballast Water Management Plan which details the actions to be taken which shall be compliant with these Regulations and the Convention; and

- (c) require ships to carry a ballast water record book for the purpose of recording ballast water transactions within the ship which includes ballasting and de-ballasting operations and ballast water internal transfers.

Application of the Convention under written laws

4.—(1) In accordance with the provisions of the Decree, the Convention shall be a maritime convention to be applied, implemented and enforced in accordance with the Decree, and shall be deemed to be an international marine pollution convention.

(2) The obligations, duties, legal processes and rights provided for under the Convention shall be deemed to be requirements enforceable in accordance with these Regulations in relation to ships to which these Regulations apply, and a breach of any such obligation or duty shall be an offence for the purposes of regulation 14.

Ships to which the Convention applies

5.—(1) Subject to sub-regulations (2) and (6) and where expressly stated in these Regulations, the provisions of these Regulations shall apply to—

- (a) ships entitled to fly the flag of Fiji;
- (b) ships not entitled to fly the flag of Fiji but which operate under the maritime laws of Fiji and are issued with Coasting-trade Permits; and
- (c) foreign ships entering Fiji waters and berthed at ports and at offshore terminals or offshore platforms in Fiji.

(2) Subject to sub-regulation (3), the provisions of these Regulations shall not apply to permanent ballast water in sealed tanks on—

- (a) ships not designed or constructed to carry ballast water;
- (b) any military ships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only for Government non-commercial service,

unless the Authority determines, in accordance with sub-regulation (3), that the discharge of ballast water from such ships may impair, endanger or damage the environment, human health, property or resources of Fiji or those of adjacent or other States.

(3) Where the Authority determines that the discharge of ballast water from ships to which sub-regulation (2) applies may impair, endanger or damage the environment, human health, property or resources of Fiji or those of adjacent or other States, the Authority may serve written notice on the owner or master of the ships, requiring that the provisions of these Regulations and the Convention be complied with in relation to the ballast water held in the ships.

(4) A notice served under sub regulation (3) may—

- (a) apply to a single voyage or for a specific period of time; and
- (b) specify any particular measures that the owner or master shall undertake to be compliant with the Ballast Water Management Convention.

(5) Any owner or master of a ship who fails to comply with sub-regulation (3) commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(6) The Chief Executive Officer may exempt a ship which only operates in Fiji waters from complying with the provisions of these Regulations or the Convention, but the Chief Executive Officer shall not grant such exemptions if doing so may impair, endanger or damage the environment, human health, property or resources, of Fiji or those of adjacent or other States.

(7) If the Chief Executive Officer refuses to grant an authorisation to a ship under sub-regulation (6), the Chief Executive Officer shall notify the owners or if the ship is a foreign flagged ship, the Administration of that ship, that it is bound by the provisions of these Regulations and the Convention.

PART 2—SURVEYS AND CERTIFICATION

Surveys and certification under the Convention

6.—(1) A Fiji ship of 400 gross tonnes or more to which these Regulations apply (excluding floating platforms, FSUs and FPSOs), shall be subject to surveys specified in Regulation E-1 of the Annex as provided in Schedule 4, and the satisfactory completion of such surveys shall be endorsed on the Certificate as required by the Convention.

(2) Pursuant to regulation 7(1), the Authority or an authorised organisation shall—

- (a) undertake surveys as prescribed in Regulation E-1 of the Annex as provided in Schedule 4; and
 - (i) issue Certificates indicating compliance with these Regulations and the Convention; or
 - (ii) if there is non-compliance, serve notice on the owner or master of the ships prescribing measures to be undertaken for the ships to achieve compliance with these Regulations and the Convention; and
- (b) apply other appropriate measures, as determined by the Chief Executive Officer, for the inspection, certification and regulation of such ships in order to ensure that the requirements of the Convention are applied to those ships.

(3) The Authority may apply the requirements of these Regulations to all pleasure craft used solely for recreational purposes or competition, and every ship which is less than 50 metres in overall length used primarily for search and rescue, with a maximum ballast water capacity of 8 cubic metres, and such measures shall—

- (a) take into account the IMO Resolution MEPC.123 (53) *Guidelines for Ballast Water Management Equivalent Compliance (G3)*;
- (b) be published in a Notice to Mariners; and
- (c) be implemented by the owner and master of the pleasure craft or ship.

(4) The Authority shall only issue or authorise to be issued a Certificate, where a ship has been surveyed under these Regulations and found to be compliant with these Regulations and the Convention.

(5) The Chief Executive Officer may—

- (a) determine the period for which Certificates shall be valid, which shall be that specified in Regulation E-5, unless otherwise required;
- (b) impose any conditions in relation to the ships and its operations to ensure compliance with these Regulations and the Convention;
- (c) require the re-survey of any ships during the period of any Certificate; and
- (d) suspend a Certificate or vary the conditions of any Certificate during its period of validity to ensure full compliance with these Regulations and the Convention.

(6) At the request of the Party, the Chief Executive Officer may cause a ship to be surveyed and may issue or authorise the issue of a Certificate to the ship in accordance with these Regulations and—

- (a) each Certificate issued shall contain a statement to the effect that it has been issued at the request of the Party; and
- (b) a copy of it together with a copy of the survey report shall be transmitted at the earliest to the Administration of the Government requesting the survey.

(7) No Certificate shall be issued by the Authority or an authorised organisation to a ship which does not fly the flag of a Party.

Surveyors and authorised organisations

7.—(1) Surveys of ships, for the purposes of applying and enforcing the provisions of these Regulations may be carried out by—

- (a) surveyors employed by the Authority;
- (b) other appropriately qualified persons appointed by the Chief Executive Officer to be surveyors for the purposes of these Regulations; and
- (c) authorised organisations including classification societies and other appropriate organisation recognised and authorised by the Chief Executive Officer for the purpose of undertaking surveys in accordance with the Guidelines and Specifications adopted by the IMO.

(2) The Chief Executive Officer may authorise surveyors or authorised organisations to—

- (a) require ships that are surveyed to comply with the provisions of these Regulations and the Convention; and
- (b) carry out surveys and inspections at the request of the appropriate authorities of a Port State that is a Party.

(3) The Authority shall notify the IMO of the specific responsibilities and conditions of the authority delegated to the surveyors or authorised organisations under these Regulations.

Transfer of flag

8.—(1) Upon the transfer of the flag of a Fiji ship to the flag of another Party, the Authority shall transmit as soon as possible to the Government of the Party concerned, a copy of the Certificate carried by the ship before the transfer and if available, a copy of the ship's most recent survey report, if the State makes such a request within 3 months after the transfer has taken place.

(2) Where a ship is transferred to the Fiji Register of Ships, a new Certificate shall only be issued when the Authority is fully satisfied that the ship is in compliance with the requirements of these Regulations and the Convention.

PART 3—BALLAST WATER MANAGEMENT

Obligations of owners and masters

9.—(1) The owner, master or agent of any ship to which these Regulations apply, shall—

- (a) ensure that a Plan has been prepared for the ship and is kept on board and implemented at all times, in accordance with Regulation B-1 of the Annex as prescribed in Schedule 2;
- (b) ensure that a ballast water record book complying with Regulation B-2 of the Annex as prescribed in Schedule 6—
 - (i) is maintained and kept on board at all times;
 - (ii) records all entries for a minimum period of 2 years prior to the current date;
 - (iii) is kept in the owner's control for a minimum period of 3 years after the record book is full;
 - (iv) contains entries as required by Regulation B-3.3, B-3.5 and B-4 of the Annex as prescribed in Schedule 2; and
 - (v) is kept readily available for inspection at all reasonable times, and in the case of an unmanned ship under tow it may be kept on the towing ships.
- (c) ensure that officers and crew are familiar with their duties in relation to the implementation of ballast water management relevant to the ships on which they serve, and are familiar with the ship's Ballast Water Management Plan, as it applies to their specific duties;
- (d) ensure that the condition of the ship and its equipment, systems and processes are maintained so as to comply with these Regulations and the provisions of the Convention, to ensure that the ship remains fit to proceed to sea without posing a threat of harm to the environment, human health, property or resources;
- (e) after any survey of a ship under these Regulations has been completed, ensure that no change is to be made in the structure and any equipment, fittings, arrangements or material associated with the ship's Ballast Water

Management, without the prior approval of the Chief Executive Officer, except where the replacement of such equipment or fittings with identical items is undertaken;

- (f) provide a full report as soon as practicable to the Chief Executive Officer of any accident which occurs to a ship or when a defect is discovered which affects or impacts the ability of the ships to conduct Ballast Water Management in accordance with its Ballast Water Management Plan, and the Convention or these Regulations;
 - (g) provide a report to the Chief Executive Officer as soon as possible after any ballast water is discharged from the ships into Fiji waters that does not comply with any requirement of these Regulations or the Convention, and provide such further information in relation to the discharge as may be required by the Chief Executive Officer; and
 - (h) carry out investigations to determine whether a survey is necessary after an accident, incident or mishap has occurred or such a defect is discovered, and provide a report to the Chief Executive Officer in relation to such matters.
- (2) Each Plan shall—
- (a) provide in detail safety procedures for the ships, and its crew who have responsibilities for the management of ballast water;
 - (b) provide a detailed description of the actions to be taken to implement Ballast Water Management and supplemental Ballast Water Management practices in accordance with the Convention;
 - (c) provide detailed procedures for the disposal of sediments at sea and on shore which comply with the requirements of these Regulations and the Convention;
 - (d) designate officers and crew with responsibilities for implementing the Plan and observing the requirements of these Regulations and the Convention;
 - (e) specify appropriate reporting responsibilities and procedures; and
 - (f) be written in the English language, with an English translation provided if it is written in a language other than English.

Ballast Water and Sediment Management

- 10.—(1) The owners and masters of all ships to which these Regulations apply shall—
- (a) conduct Ballast Water Management in accordance with Regulation B-3 of the Annex as prescribed in Schedule 2;
 - (b) ensure that all ballast water management systems are in accordance with Regulation D-3 of the Annex as prescribed in Schedule 3;
 - (c) conduct Ballast Water exchange to meet the standard in Regulation D-1 of the Annex as prescribed in Schedule 3;
 - (d) remove and dispose of sediments in accordance with Regulation B-5 of the Annex as prescribed in Schedule 2.

(2) The requirements of regulation 9(1)(a) shall not apply in the circumstances set out in Regulation A-3 of the Annex as prescribed in Schedule 1, and subject to sub-regulations (3) and (4), the Chief Executive Officer may grant exemptions for Fiji waters, in relation to any of those requirements in the circumstances set out in Regulation A-4 of the Annex as prescribed in Schedule 1.

(3) Exemptions granted pursuant to sub-regulation (2) shall not have effect until after communication to the IMO and circulation of relevant information to the Parties has been effected.

(4) The Chief Executive Officer shall not grant an exemption under this regulation which may impair, endanger or damage the environment, human health, property or resources of Fiji or those of adjacent or other States.

(5) Any exemptions granted under this regulation shall be recorded in the ballast water record book of the relevant ships.

Other powers of the Chief Executive Officer

11.—(1) If it is determined by an authorised officer that a ship's ballast water management—

- (a) does not conform with the requirements of these Regulations or the Convention or the conditions of the Certificate; or
- (b) is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources of Fiji or those of adjacent or other States,

the Chief Executive Officer shall determine the corrective action that shall be taken to bring the ship into compliance, and—

- (i) may cancel and withdraw the Certificate if it is current, and require the cancelled Certificate to be surrendered to the Authority;
- (ii) may refuse to issue a Certificate if no current Certificate is in effect;
- (iii) shall ensure that the appropriate authorities of that Party are notified, if the ship is in the port of another Party;
- (iv) may detain the ship; and
- (v) may take all necessary action and exercise all appropriate powers under the maritime laws to ensure that the defects or breaches are remedied.

(2) The Chief Executive Officer may by a notice published in a Notice to Mariners specify measures which it considers necessary to prevent, reduce or eliminate the transfer of harmful aquatic organisms and pathogens through ballast water and sediments, and such measures shall take account of the Guidelines developed by the IMO.

(3) A Notice to Mariners given under sub-regulation (2) shall—

- (a) specify the additional measures;

- (b) list all appropriate services, including notification to mariners of areas available and alternative routes or ports, as far as practicable; and
- (c) recite any approvals given by the IMO.

(4) Every owner and master shall comply with the additional measures provided under these Regulations.

(5) Any owner or master of a ship who fails to comply with sub-regulation (2) commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or both.

(6) The Chief Executive Officer may by a Notice to Mariners, vary or waive any measures imposed under these Regulations for a period of time or in any specified circumstances.

(7) The Chief Executive Officer may issue a Notice to Mariners to notify mariners of areas in Fiji waters where ships should not uptake ballast water due to known conditions including—

- (a) outbreaks, infestations or populations of harmful aquatic organisms and pathogens (such as toxic algal blooms) which are likely to be of relevance to ballast water uptake or discharge;
- (b) the location of sewage outfalls; or
- (c) tidal flushing which is poor, or if the tidal stream is known to be more turbid and such notices may include the precise coordinates of the area or areas, and the location of any alternative area or areas for the uptake of ballast water.

(8) The Chief Executive Officer shall notify the IMO and all potentially affected coastal States of any areas identified under sub-regulation (7), and the period during which, such warning is likely to be in effect, and such notifications shall include—

- (a) the precise co-ordinates of the area or areas;
- (b) the location of any alternative area or areas for the uptake of ballast water, if any; and
- (c) advice to ships that need to uptake ballast water in the area and describe arrangements made for alternative supplies.

(9) The Chief Executive Officer shall also notify mariners, the IMO and any potentially affected coastal States when a Notice given under sub-regulation (7) is no longer applicable.

Sediment reception facilities

12.—(1) All facilities for the reception and disposal of sediments at ports and any other location shall be designed, constructed, managed and operated so as to effectively contain the sediments taken from the ship, and protect the environment and human health, and shall—

- (a) comply with the requirements of these Regulations, the Convention and any requirements from time to time by the Chief Executive Officer;

- (b) be open to inspection by officers of the Authority at any time; and
 - (c) be designated for the purposes of Article 5 of the Convention.
- (2) The Chief Executive Officer shall—
- (a) prescribe standards applying to any sediment reception facility;
 - (b) determine and apply requirements for the operation of the sediment reception facilities without causing undue delay to ships, and to provide for the safe storage, treatment and disposal of sediments so as not to impair or damage the environment, human health, property or resources, or those of other States; and
 - (c) issue any directions necessary for implementing the requirements of the Convention relating to sediment reception facility.

PART 4—INSPECTIONS AND ENFORCEMENT

Inspections of and actions against ships

13.—(1) All ships to which these Regulations apply are subject to inspection by authorised officers for the purpose of determining whether the ships are in compliance with these Regulations and the Convention, and any such inspection may be conducted to—

- (a) verify that the ships have a valid Certificate, and that it is kept on board;
- (b) confirm that ballast water record book is being carried and properly kept and maintained for the ships; and
- (c) take samples of the ship's ballast water for testing, but the time required to analyse the samples shall not be used as a basis for unduly delaying the operation, movement or departure of the ships.

(2) The Chief Executive Officer shall carry out or cause to be carried out, a detailed inspection of the ships in a manner the Chief Executive Officer deems necessary, where ships do not carry a valid Certificate, or if there are grounds upon which an authorised officer believes that the—

- (a) condition of the ship or its equipment are not in compliance with the Certificate; or
- (b) master or the crew are not familiar with essential shipboard procedures relating to Ballast Water Management, or have not implemented such procedures.

(3) An authorised officer undertaking an inspection under sub-regulation (2) may give directions to the owner or master of the ship and take such steps as are necessary to ensure that the ship does not discharge ballast water until it can do so without presenting a threat of harm to the environment, human health, property or resources of Fiji or those of other adjacent States.

(4) If a ship is non-compliant with the provisions of these Regulations, then in addition to any other powers under these Regulations or any other written law, the Chief Executive Officer may—

- (a) issue a warning to the owner or master;

- (b) detain the ship until it is made to comply with the requirements of these Regulations and the Convention, or rendered safe as required by these Regulations;
- (c) order that the ships be excluded from Fiji waters, and from ports and off-shore facilities in those waters; or
- (d) grant permission to leave the port or offshore terminal for the purpose of discharging ballast water or proceeding to the nearest appropriate repair yard or sediment reception facility, if the movement of the ship does not present a threat of harm to the environment, human health, property or resources of Fiji or those of other adjacent States.

(5) If a sample of ballast water taken from a ship indicates that the ship poses a threat to the environment, human health, property or resources of Fiji or those of other adjacent States, the Chief Executive Officer may issue a notice to the Master of the ship to prohibit any discharge of ballast water until the threat is removed.

(6) Where a request for an investigation is received from any Party to the Convention, an authorised officer may inspect a ship when it enters port or an offshore terminal, and the report of such investigation shall be sent to the State requesting it and to the competent authority of the Administration of the ship concerned so that appropriate action may be taken.

(7) In the event that any action is taken in relation to a ship under these Regulations, the officer taking the action shall give written notice to the Administration of the ship concerned, or if this is not possible, to the consul or diplomatic representative of the ship concerned, of the action taken against it.

(8) The Chief Executive Officer shall also notify the ship's next port of call of all relevant information about the violation.

(9) If the Chief Executive Officer detains a ship due to an alleged contravention of these Regulations, he or she shall authorise the release of the ship if—

- (a) no proceedings for the offence in question are instituted within 3 working days, including the day the ship is detained;
- (b) the master or owner is not convicted in any such proceedings;
- (c) the sum of \$100,000 or of an amount determined by the Chief Executive Officer is lodged with the Authority by way of security;
- (d) where the master or owner is convicted of the offence, all fines, costs and expenses are paid in full in accordance with the order of the court of law; or
- (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea, 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(10) The Authority shall repay any sum paid under sub-regulation (9)(c) or release any security so given if—

- (a) no proceedings for the offence in question are instituted within 7 days beginning with the day on which the sum is paid; or

- (b) such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.

(11) Where security has been given, by any person in accordance with sub-regulation (9)(c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows—

- (a) first in payment of any costs or expenses ordered by the Court to be paid by the master or owner;
- (b) payment of any fine imposed by the Court; and
- (c) any balance shall be repaid to the person giving the security.

Offences against these Regulations

14.—(1) The owner and master of a ship to which these Regulations apply each have a duty to ensure that the ship complies with the provisions of these Regulations, and are jointly and severally liable in relation to any breach.

(2) Any person who contravenes these Regulations commits an offence and shall be liable upon conviction to a fine not exceeding \$5000.00 or to imprisonment for a term of 3 months, or both.

(3) It shall be a defence for a person charged with a breach of sub-regulation (1) or (2) to show that all reasonable precautions were taken and that he or she exercised all due diligence to avoid the commission of the offence.

(4) If a fine, or an order for the payment of costs or expenses, imposed by a Court in proceedings for an offence under these Regulations is not paid, the Court may, in addition to any other powers for enforcing payment, order the amount remaining unpaid to be levied by distress or arrest and sale of the ships, or its tackle, furniture and apparel.

(5) In addition to imposing a fine upon conviction of a person under these Regulations, the court may order the person to pay compensation arising from any pollution caused by the commission of the offence, including the costs of responding to any such pollution.

Offences by ships outside the jurisdiction

15. In accordance with the requirement of the Convention, the Authority shall cooperate with an Administration of another Party in relation to proceedings against a ship for a breach of the Convention in the jurisdiction of that Party.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE 1
(Regulation 2)

GENERAL PROVISIONS

Annex

Regulations for the control and management of ships' ballast water and sediments.

Regulation A-3

Exceptions

The requirements of regulation B-3, or any measures adopted by a Party pursuant to article 2.3 and section C, shall not apply to—

1. the uptake or discharge of ballast water and sediments necessary for the purpose of ensuring the safety of a ship in emergency situations or saving life at sea; or
2. the accidental discharge or ingress of ballast water and sediments resulting from damage to a ship or its equipment:
 - .1 provided that all reasonable precautions have been taken before and after the occurrence of the damage or discovery of the damage or discharge for the purpose of preventing or minimizing the discharge; and
 - .2 unless the owner, Company or officer in charge wilfully or recklessly caused damage;
3. the uptake and discharge of ballast water and sediments when being used for the purpose of avoiding or minimizing pollution incidents from the ship;
4. the uptake and subsequent discharge on the high seas of the same ballast water and sediments; or
5. the discharge of ballast water and sediments from the ship at the same location where the whole of that ballast water and those sediments originated and provided that no mixing with unmanaged ballast water and sediments from other areas has occurred. If mixing has occurred, the ballast water taken from other areas is subject to ballast water management in accordance with this Annex.

Regulation A-4

Exemptions

1. A Party or Parties, in waters under their jurisdiction, may grant exemptions to any requirements to apply regulation B-3 or C-1, in addition to those exemptions contained elsewhere in this Convention, but only when they are—
 - .1 granted to a ship or ships on a voyage or voyages between specified ports or locations; or to a ship which operates exclusively between specified ports or locations;
 - .2 effective for a period of no more than five years subject to intermediate review;

- .3 granted to ships that do not mix ballast water or sediments other than between the ports or locations specified in paragraph 1.1; and
 - .4 granted based on the guidelines on risk assessment developed by the Organization.
2. Exemptions granted pursuant to paragraph 1 shall not be effective until after communication to the Organization and circulation of relevant information to the Parties.
 3. Any exemptions granted under this regulation shall not impair or damage the environment, human health, property or resources of adjacent or other States. Any State that the Party determines may be adversely affected shall be consulted, with a view to resolving any identified concerns.
 4. Any exemptions granted under this regulation shall be recorded in the ballast water record book.

Special Requirements in Certain Area

Regulation C-1

Additional measures

1. If a Party, individually or jointly with other Parties, determines that measures in addition to those in Section B are necessary to prevent, reduce or eliminate the transfer of Harmful aquatic organisms and pathogens through ships' ballast water and sediments, such Party or Parties may, consistent with international law, require ships to meet a specified standard or requirement.
2. Prior to establishing standards or requirements under paragraph 1, a Party or Parties should consult with adjacent or other States that may be affected by such standards and requirements.
3. A Party or Parties intending to introduce additional measures in accordance with paragraph 1 shall:
 - .1 take into account the guidelines developed by the Organization.
 - .2 communicate their intention to establish additional measure(s) to the Organization at least six months, except in emergency or epidemic situations, prior to the projected date of implementation of the measure(s). Such communication shall include:
 - .1 the precise co-ordinates where additional measure(s) is/are applicable;
 - .2 the need and reasoning for the application of the additional measures, including, whenever possible, benefits;
 - .3 a description of the additional measure(s); and
 - .4 any arrangements that may be provided to facilitate ships' compliance with the additional measure(s).
 - .3 to the extent required by customary international law as reflected in the United Nations Convention on the Law of the Sea, as appropriate, obtain the approval of the Organization.

4. A Party or Parties, in introducing such additional measures, shall endeavor to make available all appropriate services, which may include but are not limited to notification to mariners of areas available and alternative routes or ports, as far as practicable, in order to ease the burden on the ship.
5. Any additional measures adopted by a Party or Parties shall not compromise the safety and security of the ship and in any circumstances not conflict with any other convention with which the ship must comply.
6. A Party or Parties introducing additional measures may waive these measures for a period of time or in specific circumstances as they deem fit.

SCHEDULE 2

MANAGEMENT AND CONTROL REQUIREMENTS FOR SHIPS

Annex

Regulations for the control and management of ships' ballast water and sediments.

Regulation B-1

Ballast Water Management Plan

Each ship shall have on board and implement a Ballast Water Management Plan. Such a Plan shall be approved by the Administration taking into account guidelines developed by the Organization. The Ballast Water Management Plan shall be specific to each ship and shall at least:

1. detail safety procedures for the ship and the crew associated with the ballast water management as required by the Convention;
2. provide a detailed description of the actions to be taken to implement the ballast water management requirements and supplemental ballast water management practices as set forth in this Convention;
3. detail the procedures for the disposal of sediments:
 - .1 at sea; and
 - .2 to shore;
4. include the procedures for co-ordinating shipboard ballast water management that involves discharge to the sea with the authorities of the State into whose waters such discharge will take place;
5. designate the officer on board in charge of ensuring that the plan is properly implemented;
6. contain the reporting requirements for ships provided for under this Convention; and
7. be written in the working language of the ship. If the language used is not English, French or Spanish, a translation into one of these languages shall be included.

Regulation B-2*Ballast water record book*

1. Each ship shall have on board a ballast water record book that may be an electronic record system, or that may be integrated into another record book or system and which shall at least contain the information specified in Appendix 6.
2. Ballast water record book entries shall be maintained on board the ship for a minimum period of two years after the last entry has been made and thereafter in the Company's control for a minimum period of three years.
3. In the event of the discharge of ballast water pursuant to regulations A-3, A-4 or B-3.6 or in the event of other accidental or exceptional discharge of ballast water not otherwise exempted by this Convention, an entry shall be made in the ballast water record book describing the circumstance of, and the reason for, the discharge.
4. The ballast water record book shall be kept readily available for inspection at all reasonable times and, in the case of an unmanned ship under tow, may be kept on the towing ship.
5. Each operation concerning ballast water shall be fully recorded without delay in the ballast water record book. Each entry shall be signed by the officer in charge of the operation concerned and each completed page shall be signed by the master. The entries in the ballast water record book shall be in a working language of the ship. If that language is not English, French or Spanish, the entries shall contain a translation into one of those languages. When entries in an official national language of the State whose flag the ship is entitled to fly are also used, these shall prevail in case of a dispute or discrepancy.
6. Officers duly authorized by a Party may inspect the ballast water record book on board any ship to which this regulation applies while the ship is in its port or offshore terminal, and may make a copy of an entry, and require the master to certify that the copy is a true copy. Any copy so certified shall be admissible in any judicial proceeding as evidence of the facts stated in the entry. The inspection of a ballast water record book and the taking of a certified copy shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation B-3*Ballast water management for ship*

1. A ship constructed before 2009:
 - .1 with the ballast water capacity of between 1,500 and 5,000 cubic metres, inclusive, shall conduct ballast water management that at least meets the standard described in regulation D-1 or regulation D-2 until 2014, after which time it shall at least meet the standard described in regulation D-2;
 - .2 with a ballast water capacity of less than 1,500 or greater than 5,000 cubic metres shall conduct ballast water management that at least meets the standard described in regulation D-1 or regulation D-2 until 2016, after which time it shall at least meet the standard described in regulation D-2.

2. A ship to which paragraph 1 applies shall comply with paragraph 1 not later than the first intermediate or renewal survey, whichever occurs first, after the anniversary date of delivery of the ship in the year of compliance with the standard applicable to the ship.
3. A ship constructed in or after 2009 with ballast water capacity of less than 5,000 cubic metres shall conduct ballast water management that at least meets the standard described in regulation D-2.
4. A ship constructed in or after 2009 but before 2012, with a ballast water capacity of 5,000 cubic metres or more shall conduct ballast water management in accordance with paragraph 1.2.
5. A ship constructed in or after 2012 with ballast water capacity of 5,000 cubic metres or more shall conduct ballast water management that at least meets the standard described in regulation D-2.
6. The requirements of this regulation do not apply to ships that discharge ballast water to a reception facility designed taking into account the guidelines developed by the Organization for such facilities.
7. Other methods of ballast water management may also be accepted as alternatives to the requirements described in paragraph 1 to 5, provided that such methods ensure at least the same level of protection to the environment, human health, property or resources, and are approved in principle by the Committee.

Regulation B-4

Ballast water exchange

1. A ship conducting ballast water exchange to meet the standard in regulation D-1 shall:
 - .1 whenever possible, conduct such ballast water exchange at least 200 nautical miles from the nearest land and in water at least 200 metres in depth, taking into account the guidelines developed by the Organization;
 - .2 in cases where the ship is unable to conduct ballast water exchange in accordance with paragraph 1.1, such ballast water exchange shall be conducted taking into account the guidelines described in paragraph 1.1 and as far from the nearest land as possible, and in all cases at least 50 nautical miles from the nearest land and in water at least 200 metres in depth.
2. In sea areas where the distance from the nearest land or the depth does not meet the parameters described in paragraph 1.1 or 1.2, the port State may designate areas, in consultation with adjacent or other States, as appropriate, where a ship may conduct ballast water exchange, taking into account the guidelines described in paragraph 1.1.
3. A ship shall not be required to deviate from its intended voyage, or delay the voyage, in order to comply with any particular requirement of paragraph 1.

4. A ship conducting ballast water exchange shall not be required to comply with paragraphs 1 or 2, as appropriate if the master reasonably decides that such exchange would threaten the safety or the stability of the ship, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other extraordinary condition.
5. When a ship is required to conduct ballast water exchange and does not do so in accordance with this regulation, the reasons shall be entered in the ballast water record book.

Regulation B-5

Sediment management for ships

1. All ships shall remove and dispose of sediments from spaces designated to carry ballast water in accordance with the provisions of the ship's Ballast Water Management Plan.
2. Ships described in regulations B-3.3 to B3.5 should, without compromising safety or operational efficiency, be designed and constructed with a view to minimize the uptake and undesirable entrapment of sediments, facilitate removal of sediments, and provide safe access to allow for sediment removal and sampling, taking into account guidelines developed by the Organization. Ships described in regulation B-3.1 should, to the extent practicable, comply with this paragraph.

SCHEDULE 3 (Regulation 10)

STANDARDS FOR BALLAST WATER MANAGEMENT

Annex

Regulations for the control and management of ships' ballast water and sediments.

Regulation D-1

Ballast water exchange standard

1. Ships performing ballast water exchange in accordance with this regulation shall do so with an efficiency of at least 95 per cent volumetric exchange of ballast water.
2. For ships exchanging ballast water by the pumping-through method, pumping through three times the volume of each ballast water tank shall be considered to meet the standard described in paragraph 1. Pumping through less than three times the volume may be accepted provided the ship can demonstrate that at least 95 per cent volumetric exchange is met.

Regulation D-2

Ballast water performance standard

1. Ships conducting ballast water management in accordance with this regulation shall discharge less than 10 viable organisms per cubic metre greater than or equal to 50 micro metres in minimum dimension and less than 10 viable organisms per

millilitre less than 50 micrometres in minimum dimension and greater than or equal to 10 micrometres in minimum dimension; and discharge of the indicator microbes shall not exceed the specified concentrations described in paragraph 2.

2. Indicator microbes, as a human health standard, shall include:
 - .1 Toxicogenic *Vibrio cholera* (O1 and O139) with less than 1 colony- forming unit(cfu) per 100 millilitres or less than 1 cfu per 1 gram (wet weight) zooplankton samples;
 - .2 *Escheria coli* less than 250 cfu per 100 millilitres;
 - .3 Intestinal Enterococci less than 100 cfu per 100 millilitres.

Regulation D-3

Approval requirements for ballast water management systems

1. Except as specified in paragraph 2, ballast water management systems used to comply with this Convention must be approved by the Administration taking into account guidelines developed by the Organization.

SCHEDULE 4

SURVEY AND CERTIFICATION REQUIREMENTS FOR BALLAST WATER MANAGEMENT

Annex

Regulations for the control and management of ships' ballast water and sediments.

Regulation E-1

Surveys

1. Ships of 400 gross tonnage and above to which this Convention applies, excluding floating platforms, FSUs and FPSOs, shall be subject to surveys specified below:
 - .1 An initial survey before the ship is put in service or before the Certificate required under regulation E-2 or E-3 is issued for the first time. This survey shall verify that the Ballast Water Management Plan required by regulation B-1 and any associated structure, equipment systems, fitting, arrangements and material or processes comply fully with the requirements of this Convention.
 - .2 A renewal survey at intervals specified by the Administration, but not exceeding five years, except where regulation E-5.2, E-5.5, E-5.6 and E-5.7 is applicable. This survey shall verify that the Ballast Water Management Plan required by regulation B-1 and any associated structure, equipment systems, fitting, arrangements and material or processes comply fully with the applicable requirements of this Convention.
 - .3 An intermediate survey within three months before or after the third anniversary date of the Certificate, which shall take the place of one of the annual surveys specified in paragraph 1.4. The intermediate surveys

shall ensure that the equipment, associated system and processes for ballast water management full comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.

- .4 An annual survey within three months before or after each anniversary date, including a general inspection of the structure, any equipment, system, fittings, arrangements and material or processes associated with the Ballast Water Management Plan required by regulation B-1 to ensure that they have been maintained in accordance with paragraph 9 and remain satisfactory for the service for which the ship is intended. Such annual surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.
 - .5 An additional survey, either general or partial, according to the circumstances, shall be made after a change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements and material necessary to achieve full compliance with this Convention. Such surveys shall be endorsed on the Certificate issued under regulation E-2 or E-3.
2. The Administration shall establish appropriate measures for ship that are not subject to the provisions of paragraph 1 in order to ensure that the applicable provisions of this Convention are complied with.
 3. Surveys of ships for the purpose of enforcement of the provisions of this Convention shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.
 4. An Administration nominating surveyors or recognizing organizations to conduct surveys, as described in paragraph 3 shall, as a minimum, empower such nominated surveyors or recognized organizations to:
 - .1 require a ship that the survey to comply with the provisions of this Convention; and
 - .2 carry out surveys and inspections if requested by the appropriate authorities of a port state that is a Party.
 5. The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations for circulation to Parties for the information of their officers.
 6. When the Administration, a nominated surveyor, or a recognized organization determines that the ship's ballast water management does not conform to the particulars of the Certificate required under regulation E-2 or E-3 or is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources, such surveyors or organization shall immediately ensure that corrective action is taken to bring the ship into compliance. A surveyor or organization shall be notified immediately, and it shall

ensure that the Certificate is not issued or is withdrawn as appropriate. If the ship is in the port of another Party, the appropriate authorities of the port state shall be notified immediately. When an officer of the Administration, a nominated surveyor, or a recognized organization has notified the appropriate authorities of the port state, the Government of the port state concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation, including any action described in article 9.

7. Whenever an accident occurs to a ship or a defect is discovered which substantially affects the ability of the ship to conduct ballast water management in accordance with this Convention, the owner, operator or other person in charge of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph 1 is necessary. If the ship is in a port of another Party, the owner, operator or other person in charge shall also report immediately to the appropriate authorities of the port state and the nominated surveyor or recognized organization shall ascertain that such report has been made.
8. In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.
9. The condition of the ship and its equipment, systems and processes shall be maintained to conform with the provisions of this Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources.
10. After any survey of the ship under paragraph 1 has been completed, no change shall be made in the structure, any equipment, fittings, arrangements or material associated with the Ballast Water Management Plan required by regulation B-1 and covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings.

Regulation E-2

Issuance or endorsement of a Certificate

1. The Administration shall ensure that a ship to which regulation E-1 applies is issued a Certificate after successful completion of a survey conducted in accordance with regulation E-1. A Certificate issued under the authority of a party shall be accepted by the other parties and regarded for all purposes covered by this Convention as having the same validity as a Certificate issued by them.
2. Certificates shall be issued or endorsed either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the Certificate.

Regulation E-3*Issuance or endorsement of a Certificate by another Party*

1. At the request of the Administration, another party may cause a ship to be surveyed and, if satisfied that the provisions of this Convention are complied with, shall issue or authorize the issuance of a Certificate to the ship, and where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with this Annex.
2. A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.
3. A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as a Certificate issued by the Administration.
4. No Certificate shall be issued to a ship entitled to fly the flag of a State which is not a Party.

Regulation E-4*Form of the Certificate*

The Certificate shall be drawn up in the official language of the issuing Party, in the form set forth in Appendix 5. If the language used is neither English, French nor Spanish, the text shall include a translation into one of these languages.

Regulation E-5*Duration and validity of the Certificate*

1. A Certificate shall be issued for a period specified by the Administration that shall not exceed five years.
2. For renewal surveys:
 - .1 Notwithstanding the requirements of paragraph 1, when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
 - .2 When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
 - .3 When the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.
3. If a Certificate is issued for a period of less than five years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum

period specified in paragraph 1, provided that the surveys referred to in regulation E-1.1.3 applicable when a Certificate is issued for a period of five years are carried out as appropriate.

4. If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorised by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.
5. If a ship at the time when the Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the Certificate, but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than three months, and a ship to which such extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.
6. A Certificate issued to a ship engaged in short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.
7. In special circumstances, as determined by the Administration, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by paragraph 2.2, 5 or 6 of this regulation. In these special circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.
8. If an annual survey is completed before the period specified in regulation E-1, then:
 - .1 the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
 - .2 the subsequent annual or intermediate survey required by regulation E-1 shall be completed at the intervals prescribed by that regulation using the new anniversary date;
 - .3 the expiry date may remain unchanged provided one or more annual surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulation E-1 are not exceeded.

- 9. A Certificate issued under regulation E-2 or E-3 shall cease to be valid in any of the following cases:
 - .1 if the structure, equipment, systems, fittings, arrangements and material necessary to comply fully with this Convention is changed, replaced or significantly repaired and the Certificate is not endorsed in accordance with this Annex;
 - .2 upon transfer of the ship to the flag of another state. A new Certificate shall only be issued when the party issuing the new Certificate is fully satisfied that the ship is in compliance with the requirements of regulation E-1. In the case of a transfer between parties, if requested within three months after the transfer has taken place, the party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the administration copies of the Certificates carried by the ship before the transfer and, if available, copies of the relevant survey reports;
 - .3 if the relevant surveys are not completed within the periods specified under regulation E-1.1; or
 - .4 if the Certificate is not endorsed in accordance with regulation E-1.1.

—————
 SCHEDULE 5
 (Regulation 2)

FORM OF INTERNATIONAL BALLAST WATER MANAGEMENT CERTIFICATE

International Ballast Water Management Certificate

Issued under the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments (hereinafter referred to as "the Convention") under the authority of the Government of

.....
 (full designation of the country)

by.....
 (full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of ship

Name of ship

Distinctive number or letters

Port of registry

Gross tonnage.....

IMO number.....

Date of construction

Ballast water capacity (in cubic metres)

Details of ballast water management method(s) used

Method of ballast water management used.....

Date installed (if applicable).....

Name of manufacturer (if applicable).....

The principal ballast water management method(s) employed on this ship is/are:

in accordance with regulation D-1

in accordance with regulation D-2 (describe).....

the ship is subject to regulation D-4

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with regulation E-1 of the Annex to the Convention: and
2. That the survey shows that ballast water management on the ship complies with the Annex to the Convention.

This Certificate is valid until.....subject to surveys in accordance with regulation E-1 of the Annex to the Convention.

Completion date of the survey on which this Certificate is based: dd/mm/yyyy

Issued at.....

(Place of issue of Certificate)

.....
(Date of issue)

.....
(Signature of authorized official issuing the Certificate)

(seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEY(S)

THIS IS TO CERTIFY that at a survey required by regulation E-1 of the Annex to the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual Survey: Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

Annual/ intermediate Survey: Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

Annual/ intermediate Survey: Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

Annual Survey: Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION E-5.8.3

THIS IS TO CERTIFY that, an annual/ intermediate survey in accordance with regulation E-5.8.3 of the Annex to the Convention, the ship was found to comply with the relevant provisions of the Convention:

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION E-5.3 APPLIES

The ship complies with the relevant provisions of the Convention, and the Certificate shall, in accordance with regulation E-5.3 of the Annex to the Convention, be accepted as valid until

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION E-5.4 APPLIES

The ship complies with the relevant provisions of the Convention and this Certificate shall, in accordance with regulation E-5.4 of the Annex to the Convention, be accepted as valid until.....

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE REGULATION E-5.5 OR E-5.6 APPLIES

This Certificate shall in accordance with regulation E-5.5 and E-5.6 of the Annex to the Convention, be accepted as valid until

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE WHERE REGULATION E-5.8 APPLIES

In accordance with regulation E-5.8 of the Annex to the Convention the new anniversary date is

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

In accordance with regulation E-5.8 of the Annex to the Convention the new anniversary date is

Signed.....
(signature of duly authorized official)

Place.....

Date.....

(seal or stamp of the authority, as appropriate)

SCHEDULE 6
(Regulation 9)

FORM OF BALLAST WATER RECORD BOOK

INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF
SHIPS' BALLAST WATER AND SEDIMENTS

Period from: To:

Name of ship

IMO number.....

Gross tonnage.....

Flag

Total ballast water capacity (in cubic metres).....

The ship is provided with a Ballast Water Management Plan

Diagram of ship indicating ballast tanks:



1 Introduction

In accordance with regulation B-2 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, a record is to be kept of each ballast water operation. This includes discharges at sea and to reception facilities.

2 Ballast water and ballast water management

Ballast water means water with its suspended matter taken on board a ship to control trim, list, draught, stability, or stresses of a ship. Management of ballast water shall be in accordance with an approved Ballast Water Management Plan and taking into account guidelines developed by the Organization.

3 Entries in the ballast water record book

Entries in the Ballast Water record book shall be made on each of the following occasions:

- 3.1 When ballast water is taken on board:
 - .1 Date, time and location of port or facility of uptake (port or lat/log), depth if outside port;
 - .2 Estimated volume of uptake in cubic metres;
 - .3 Signature of the officer in charge of the operation.
- 3.2 Whenever ballast water is circulated or treated for ballast water management purposes:
 - .1 Date and time of operation;
 - .2 Estimated volume circulated or treated (in cubic metres);
 - .3 Whether conducted in accordance with the Ballast Water Management Plan;
 - .4 Signature of the officer in charge of the operation.
- 3.3 When ballast water is discharged into the sea:
 - .1 Date, time and location of port or facility of discharge (port or lat/log);
 - .2 Estimated volume discharged in cubic metres plus remaining volume in cubic metres;
 - .3 Whether approved Ballast Water Management Plan had been implemented prior to discharge;
 - .4 Signature of the officer in charge of the operation.
- 3.4 When ballast water is discharged in a reception facility:
 - .1 Date, time and location of uptake;
 - .2 Date, time and location of discharge;
 - .3 Port or facility;
 - .4 Estimated volume discharged or taken up, in cubic metres;
 - .5 Whether approved Ballast Water Management Plan had been implemented prior to discharge; and
 - .6 Signature of the officer in charge of the operation.
- 3.5 Accidental or other exceptional uptake or discharges of ballast water:
 - .1 Date and time of occurrence;
 - .2 Port or position of the ship at time of occurrence;
 - .3 Estimated volume of ballast water discharged;
 - .4 Circumstances of uptake, discharge, escape or loss, the reason therefor and general remarks;

.5 Whether approved Ballast Water Management Plan had been implemented prior to discharge;

.6 Signature of the officer in charge of the operation.

3.6 Additional operational procedure and general remarks

4 Volume of ballast water

The volume of ballast water on board should be estimated in cubic metres. The ballast water record book contains many references to estimated volume of ballast water. It is recognized that the accuracy of estimating volumes of ballast is left to interpretation.

RECORD OF BALLAST WATER OPERATIONS

SAMPLE BALLAST WATER RECORD BOOK PAGE

Name of ship

Distinctive number or letters

<i>Date</i>	<i>Item (number)</i>	<i>Record of operations/signature of officers in charge</i>

Signature of master.....

[LEGAL NOTICE NO. 111]

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

Maritime (STCW Convention) Regulations 2014

PART 1—PRELIMINARY

1. Short title and commencement
2. Purpose
3. Interpretation
4. STCW Convention
5. Application

PART 2—CONTROL PROCEDURES

6. Powers to exercise control procedures
7. Registration of seafarers and certificates
8. Offences and penalties

PART 3—RESPONSIBILITIES OF OWNERS AND OTHERS

9. Responsibilities of owners and operators
10. Responsibilities of owners and masters
11. Responsibilities of masters
12. Responsibilities of seafarers
13. Offences and penalties

PART 4—WATCHKEEPING OF SHIPS

14. Watchkeeping arrangements
15. Watch schedules
16. Fitness for duty
17. Fatigue
18. Hours of rest
19. Alcohol and drug abuse
20. Offences and penalties

PART 5—MANNING OF SHIPS

21. Manning
22. Duties of owners and masters with respect to manning of ships
23. Duties of seafarers with respect to manning of ships
24. Offences and penalties

PART 6—TRAINING AND CERTIFICATION OF SEAFARERS

25. Training, assessment and powers to make rules
26. Approval and audit of maritime training institutions or providers
27. Moderation
28. Examinations
29. Examination results
30. Conduct of exams

31. Training instructors, supervisors and assessors
32. Authority's Examiners and Assessors
33. Issue of certificates
34. Recognition of certificates
35. Endorsement of certificates
36. Revalidation of certificates
37. Dispensations
38. Availability of information by electronic means
39. Transitional provisions
40. Refresher courses
41. Offences and penalties
42. Detention of ships
43. Fees
44. Forfeiture of fees

PART 7—SPECIAL TRAINING REQUIREMENTS

45. Basic safety training and safety familiarisation
46. Training in proficiency in survival craft and rescue boats other than fast rescue boats
47. Mandatory minimum requirements for advanced firefighting
48. Mandatory minimum requirements for medical first aid
49. Mandatory minimum training for seafarers on tankers
50. Mandatory minimum training for seafarers on passenger ships including ro-ro ships
51. Use of simulators for training
52. Minimum requirements for security-related training and instruction for all seafarers
53. Fees
54. Offences and penalties

PART 8—MEDICAL STANDARDS

55. Purpose and application of Part 8
56. Standards
57. Approval of medical practitioners and optometrists
58. Certificate of Medical Fitness
59. Eye and vision tests for the issue of a Certificate of Competency
60. Issue of Certificate of Medical Fitness
61. Duration of certificates
62. Re-examination
63. Review of a Medical Fitness Certificate
64. Appeal of reviewed Certificate of Medical Fitness
65. Costs of medical examinations for reviews and appeals
66. Certificate of Medical Fitness required
67. Equivalent certificates
68. Requirement to wear and carry spectacles
69. Requirement to produce a Certificate of Medical Fitness to the Chief Executive Officer or master on request

PART 5—MANNING OF SHIPS

Manning

21.—(1) The number of seafarers and classes of certificate to be held by seafarers required for the safe manning of each class of ships is in Schedule 2.

(2) In addition to the certificates required under sub-regulation (1), every passenger ship must carry the number of persons holding certificates of proficiency- in Survival Craft and rescue boats other than fast Rescue Boat as required by Section A - VI/2 of the STCW Code—

- (a) in the case of survival craft and rescue boats, as set out in Part 7; and
- (b) as set out in Schedule 3.

(3) The minimum number of Fiji citizens employed on each Fiji ship must be prescribed by the Chief Executive Officer.

(4) The number of seafarers and classes of certificates for the safe manning of ships laid up and securely moored must be determined by the Chief Executive Officer.

(5) If a ship has been manned in accordance with these Regulations, the Chief Executive Officer must issue a Safe Manning Certificate in the form set out in Schedule 4.

(6) The Chief Executive Officer may, upon application, grant an exemption from the requirements prescribed in Schedule 2, if he or she considers that to do so is in the public interest and will not compromise the safety of the ship, its crew, passengers or cargo.

(7) The Authority may impose additional operating limits on ships operating on Inshore and Sheltered waters voyage.

(8) For the purpose of these Regulations, an enclosed ship of 20 gross tons will be deemed equivalent to an open ship of 15 metres length overall.

Duties of owners and masters with respect to manning of ships

22.—(1) The owner and the master of a ship shall not operate that ship unless there is on board the number of crew necessary to operate the ship safely, taking into account the requirements of regulation 21(2) and Schedule 2.

(2) When determining the minimum safe manning of a ship required by regulation 22(1), due consideration should be given to the following factors to ensure sufficient crew for—

- (a) maintaining safe navigational, engineering and radio watches in accordance with the requirements of this Part and maintain general surveillance of the ship; and
- (b) mooring and unmooring the ship safely; and
- (c) managing the safety functions of the ship when employed in a stationary or near-stationary mode at sea; and
- (d) performing operations, as appropriate, for the prevention of damage to the marine environment; and

- (e) maintaining the safety arrangements and the cleanliness of all accessible spaces to minimise the risk of fire; and
- (f) providing for medical care on board the ship; and
- (g) ensuring safe carriage of passengers and cargo during transit; and
- (h) conducting all stages of the ship's operation safely; and
- (i) inspecting and maintaining, as appropriate, the structural integrity of the ship; and
- (j) operating all watertight closing arrangements and maintaining them in an effective condition and also deploy a competent damage control party; and
- (k) operating all onboard fire-fighting and emergency equipment and lifesaving appliances, carry out such maintenance of this equipment as is necessary at sea, and mustering and disembarking all persons on board; and
- (l) operating the main propulsion and auxiliary machinery and maintain them in a safe condition to enable the ship to overcome the foreseeable perils of the voyage; and
- (m) supplying provisions for and prepare nutritious meals on board the ship.

(3) The owner and the master of a ship when applying for or submitting a proposal for a minimum Safe Manning Certificate, shall take into account the requirements of sub-regulation (2) and any maritime regulation covering—

- (a) watchkeeping;
- (b) fitness for duty;
- (c) safety management;
- (d) qualification of seafarers;
- (e) specialised training requirements for particular types of ships;
- (f) the need to provide training opportunities for entrant seafarers and cadets to allow them to gain the knowledge and experience needed;
- (g) occupational health, including hygiene; and
- (h) crew accommodation.

(4) The owner and the master of a ship shall monitor on an on-going basis, the effectiveness of the crewing carried in accordance to sub-regulation (1) in order to ensure compliance with sub-regulation (2).

(5) The owner of a ship shall apply or may submit a proposal to the Chief Executive Officer for safe manning certificate at the following times—

- (a) during the registration of ships;
- (b) revalidation of a safe manning certificate;

- (c) if the ship undergoes a change in trading area, construction, machinery, equipment, operation, or maintenance, which may affect the minimum safe crewing level;
- (d) if monitoring conducted in accordance with sub-regulation (4) indicates that a change is necessary.

Duties of seafarers with respect to manning of ships

23. No person may act in a crew position listed in the Minimum Safe Manning Certificate unless that person holds the qualification which the certificate requires for that position.

Offences and penalties

24.—(1) The owner of a Fiji ship who engages or causes or permits to be engaged as a seafarer, a person who does not hold a certificate commits an offence and is liable upon conviction—

- (a) in the case of an individual, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
- (b) in the case of a corporate body, to a fine not exceeding \$40,000.

(2) The owner of a Fiji ship who causes or permits for the ship to go to sea when it is not safely manned in accordance to this Part commits an offence and is liable upon conviction—

- (a) in the case of an individual, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
- (b) in the case of a corporate body, to a fine not exceeding \$40,000.

(3) The owner of a ship who causes or permits the ship to go to sea when it is not manned with the prescribed number of Fiji seafarers commits an offence and is liable upon conviction—

- (a) in the case of an individual, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
- (b) in the case of a corporate body, to a fine not exceeding \$40,000.

(4) The master of a Fiji ship who engages as a seafarer, a person who does not hold a certificate commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both.

(5) The master of a ship who takes the ship to sea when it is not safely manned in accordance with this Part commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both.

(6) The master of a Fiji ship who takes the ship to sea when it is not manned with the prescribed number of Fiji seafarers commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both.

(7) A person who acts in a crew position listed in the Minimum Safe Manning Certificate without holding proper qualification required for that position commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$3,000 or both.

(8) If these Regulations require a function or service on a ship to be performed by a seafarer who is a holder of a Certificate of Competency or a Certificate of Proficiency, a master who requires or permits that function or service to be performed by a seafarer who is not a holder of the required certificate, a valid dispensation or a recognition endorsement commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both.

PART 6—TRAINING AND CERTIFICATION OF SEAFARERS

Training, assessment and powers to make rules

25.—(1) The training and assessment of competence of seafarers in Fiji shall be administered, supervised and monitored in accordance with the provisions of Section A-I/6 of the STCW Code.

(2) Every person responsible for the training and assessment of competence of seafarers shall be appropriately qualified in accordance with the provisions of Section A-1/6 of the STCW Code for the type and level of training or assessment involved.

(3) Training programmes provided for seafarers in Fiji shall be those as specified in Schedule 5 and shall be conducted in accordance with the provisions of the Convention and to the standards required by the STCW Code.

(4) The assessment of competence of seafarers in Fiji shall be in accordance with the provisions of the Convention, the standards specified in relevant sections of the STCW Code and these Regulations.

(5) Curricula developed for training programmes offered in Fiji shall be based on the relevant IMO Model courses or courses of similar content and must incorporate the relevant requirements of the STCW Code.

(6) All modules prescribed shall be continuously reviewed to be compliant with the IMO technical requirements updates and industry updates and developments.

(7) Maritime Training institutions and providers shall ensure all modules prescribed are updated in line with the amendments of the STCW Code and other relevant instruments including industry updates and developments in consultation with the Chief Executive Officer.

(8) Curricula developed for training programmes offered in Fiji for seafarers and any revision to the modules of the curricular shall be approved by the Authority.

(9) The training and assessment of seafarers shall be carried out in the English language.

(10) The Chief Executive Officer may make rules setting out standards and procedures for—

- (a) course outlines, detailed curricula and methods of assessment;
- (b) procedures for application for certificates, calculation of sea service and determination of prerequisite;
- (c) conduct of written examinations and determination of pass marks;
- (d) procedures for re-sitting written examinations;

- (e) procedures for oral exams and re-sitting of oral exams;
- (f) procedures for moderation and assessment of exam papers;
- (g) form of safety training certificates;
- (h) form of certificates of competency, endorsements thereon and recognition of such certificates issued by another administration;
- (i) the format of sea service record in the Seafarers' Employment and Training Record Book;
- (j) serving capacity and endorsement as per schedule 1; and
- (k) any other associated requirements that it deems necessary at the time.

Approval and audit of maritime training institutions or providers

26.—(1) Subject to sub-regulations (2), (3), (6) and (7) if the Chief Executive Officer is satisfied that a maritime training institution or provider complies with the relevant provision of the Convention, the STCW Code and these Regulations, the Chief Executive Officer in consultation with the Minister may by order in the Gazette approve an institution or provider for the purpose of training and assessment of seafarers.

(2) The Chief Executive Officer may only approve a maritime training institution or provider for the purpose of training and assessment of seafarers after the institution has been the subject of an initial audit by the Authority.

(3) The Chief Executive Officer may accept the Quality Standard System of a maritime training institution or provider if after the initial audit has been carried out, the Chief Executive Officer is satisfied that the maritime training institution's Quality Standard System meets the standards provided in Part 9.

(4) All approved maritime training institutions or providers shall have in place an ISO certified Quality Management System equivalent to the standards of ISO 9001-2008 or better replacing the Quality Standard System by 31st February, 2015.

(5) The Chief Executive Officer shall approve the training course if, after an audit has been performed, the Chief Executive Officer is satisfied that the programme meets the specified standards prescribed in sub-regulation (6).

(6) The specified standards for training courses shall include but not be limited to the following documents—

- (a) timetables;
- (b) teaching plans;
- (c) qualifications, industrial experience, and teaching experience required of training instructors, supervisors and assessors;
- (d) qualification and certification of training of trainers for all instructors, supervisors and assessors;
- (e) qualification and certification of simulator base training for all instructors, supervisors and assessors;

- (f) course notes for candidates;
- (g) candidate learning outcomes;
- (h) contracts with any off site training contractors;
- (i) examination rules to be observed during examinations and practical assessments, including rules to prevent cheating and to prevent the disturbance of candidates; and
- (j) any other documentation considered relevant by the Chief Executive Officer.

(7) The maritime training institution or provider shall provide facilities, equipment and learning resources for conducting the intended training course that are acceptable to the Chief Executive Officer.

(8) The maritime training institution or provider, shall provide electronic copies of all course materials for any training programme to be approved by the Authority and such course materials shall be retained by the Authority.

(9) The Chief Executive Officer shall approve a structured training program if, after an audit has been performed, the Chief Executive Officer is satisfied that the program meets the specified standards prescribed in sub-regulations (6) and (10).

(10) The Standards for structured training programmes shall include but not be limited to the following—

- (a) qualifications and industry skill and knowledge required of assessors;
- (b) candidate learning outcomes;
- (c) training resources to be employed;
- (d) procedures for keeping assessors up to date with changes in relevant legislation;
- (e) any unit standards, observation records or assessment guides to be used in the programme;
- (f) evidence that the training has been formally agreed between the trainer and the trainee, and if appropriate, the trainee's employer; and
- (g) any other documentation considered relevant by the Chief Executive Officer.

(11) The Chief Executive Officer may refuse to issue a certificate to a candidate who has completed a training course, structured training programme or a unit standard if the Chief Executive Officer has reasonable grounds to believe that the training course, structured training programme or unit standard has not—

- (a) been provided in accordance with the quality management system of a maritime training institution or provider; and
- (b) provided the level of training required in order for that certificate to be issued.

(12) The Chief Executive Officer may conduct further audits of any training course, structured training programme or unit standard approved under sub-regulations (3), (5) and (9) to determine whether the applicable approval criteria have been complied with. Such audits shall be conducted annually in accordance with requirements specified in sub-regulation (13) or at intervals determined by the Chief Executive Officer.

(13) The following are audit requirements—

- (a) audits shall be based on the ISO 9000-2008 series standard that is most appropriate to the maritime training institution or provider and shall be conducted by 31st February, 2015, regardless of the standard that the maritime training institution or provider's Quality Standard System is based on;
- (b) initial and subsequent audits shall be carried out by a team including the Nautical Examiner and the Marine Engineer Examiner or other authorised maritime auditors employed by the Maritime Safety Authority of Fiji;
- (c) the audit team shall check sufficient documentation to ensure that the Quality Standard System complies with Part 9;
- (d) the audit team shall check the facilities, equipment and teaching resources provided by the maritime training institution or providers to verify that the facilities, equipment and learning resources are adequate for the purpose of training and examining candidates.

(14) The certificate of approval for maritime training institutions or providers to conduct training programs and assessment of seafarers is valid for a period not exceeding five years subject to the annual compliance audits.

(15) Approved maritime training institutions and providers shall submit to the Chief Executive Officer an Assessment Result Form for a Certificate of Competency or Certificate of Proficiency for each student who has satisfactorily completed each module in the course structure of the training programmes specified in Schedule 5.

(16) Maritime training institutions and providers may issue certificates of attendance attesting to the satisfactory completion of short courses listed in Part 2 of Schedule 6.

(17) Maritime training institutions or providers must maintain a record of the assessment of all seafarers to whom Assessment Result Forms are issued.

Moderation

27.—(1) A recognised training instructor, supervisors and assessors must not conduct a written examination for a certificate unless the Chief Executive Officer—

- (a) has been provided with a copy of the examination paper and model answers for the paper to be moderated by respective Nautical and Engineer Examiners; and
- (b) the respective Nautical and Engineer Examiners has verified that—
 - (i) the examination paper is aligned with the curriculum and satisfactorily tests the candidate's knowledge of the applicable curricula approved by the Chief Executive Officer;

- (ii) each question is allocated marks relative to its difficulty with breakdown of marks provided; and
- (iii) the model answers provided are accurate.

(2) Written exam papers including re-sit exam papers shall be submitted to the respective Nautical and Engineer Examiners for moderation by the recognised training instructors, supervisors and assessors 21 days prior to the date of the exam.

Examinations

28.—(1) A recognised training instructor intending to examine any candidate for a certificate must give the Chief Executive Officer 21 days notice of the date, time and place of the written examination.

(2) A recognised training instructor must ensure that written examinations required for the issue of certificates of competency—

- (a) are taken in the order;
- (b) have a duration;
- (c) have pass marks and overall marks; and
- (d) approved by the nautical and marine engineer examiners appointed under regulation 32.

(3) A recognised training instructor shall not mark a written examination required for the issue of a certificate unless he or she holds a maritime document authorising him or her to act as an examiner for that certificate.

(4) A recognised training instructor must award marks for written examinations against an absolute standard or with scaling approved by the Authority's nautical or engineer examiners.

(5) A candidate who fails to attend an examination at the time appointed by the recognised training instructor will be considered to have failed that examination unless he or she produces a medical certificate or other evidence satisfactory to the examiner of his or her inability to attend.

(6) A pass in written examinations for approved curricula shall be valid for a period of 5 years for both the marine engineering and nautical certificates of competency.

(7) Any candidate who fails a written examination may re-sit that examination after one month has passed from the date of the failed examination.

(8) A candidate who has failed 3 consecutive written exams shall not be allowed to continue to re-sit the written exams unless approved by the Chief Executive Officer.

Examination results

29. A recognised training instructor who examines a candidate for a certificate must, as soon as possible after the conclusion of the written examination forward the marks and results, in writing, to the Chief Executive Officer for assessment by a Nautical or Marine Engineer Examiner appointed under regulation 32.

Conduct of exams

30.—(1) The supervisor for a written examination must ensure that every candidate is made aware of the rules required by the training institute or provider to be observed during the examination.

(2) A candidate for an examination must observe the rules required by the training institute and provider to be observed during the examination.

(3) The Chief Executive Officer may refuse to issue a certificate to a candidate who violates the rules required by the training institute or provider to be observed during the examination.

Training instructors, supervisors and assessors

31.—(1) The Chief Executive Officer will set the standards including minimum qualification requirements for training instructors, supervisors and assessors of an approved maritime training institution or providers.

(2) Training instructors, supervisors or assessors should undergo training of trainers training in an approved maritime training institution and documentary evidence of such training shall be submitted to the Chief Executive Officer.

(3) The Chief Executive Officer may grant approval for new training instructors, supervisors or assessors who do not hold documentary evidence of having completed the training of trainers' course for a period of not more than 6 months in order for the instructors, supervisors or assessors to obtain the necessary qualification.

(4) Training instructors, supervisors or assessors using a simulator shall—

- (a) have received an appropriate guidance in instructional techniques and assessment methods and practice involving the use of simulators;
- (b) have gained practical operational experience on the particular type of simulator being used and practical assessment experience; and
- (c) if conducting assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor.

Authority's Examiners and Assessors

32.—(1) The Chief Executive Officer will appoint appropriately qualified Nautical and Marine Engineer Examiners and Assessors for the specified types and levels of training and assessment of competence of seafarers.

(2) The Chief Executive Officer will only appoint a person as an examiner who—

- (a) has qualifications acceptable to the Chief Executive Officer for the certificates of competency for which the applicant intends to act as an examiner; and
- (b) has either undergone sea service or training acceptable to the Chief Executive Officer or while being an authorised person under section 34 of the Decree, in the last five years completed at least ten oral examinations per year.

(3) Assessment of trainees who have satisfactorily completed a course provided by approved maritime training institutions and providers shall be carried out by Examiners and Assessors appointed under regulation 32(1).

(4) The Chief Executive Officer may issue, recognise and endorse Certificates of Competency listed in Schedule 5 to those seafarers who have satisfied the Examiners and Assessors that they are competent in the functions and levels of responsibility mentioned in the certificate.

(5) A Certificate of Competency or Proficiency issued to a seafarer by the Chief Executive Officer is sufficient evidence of a seafarer's competence in the functions and levels of responsibility mentioned in the certificate.

Issue of certificates

33.—(1) The Chief Executive Officer is the authority for—

- (a) the approval and issuance of certificates;
- (b) exemptions and dispensations;
- (c) recognition and endorsement of certificates; and
- (d) suspension or cancellation of certificates.

(2) The Chief Executive Officer may take such administrative action as is reasonably necessary for the proper administration of the training and certification of seafarers in accordance with the provisions of the Convention, the STCW Code and these Regulations.

(3) The classes of certificates that may be issued, and the pre-requisites that candidates shall satisfy for their issue, are set out in Schedule 5.

(4) Candidates for certificates shall provide satisfactory proof of—

- (a) their identity and age;
- (b) their medical fitness, in accordance with Part 7;
- (c) completion of sea-going service, training or re-training;
- (d) completion of approved course;
- (e) any other requirements of the Authority.

(5) The certificates issued under sub-regulations (1) and (2) shall be in a format similar to that set out in Section A-I/2 of the STCW Code and shall be in the English language.

(6) Where a seafarer applies for a certificate, the pre-requisites and standards of which are prescribed in the Convention or the STCW Code, that seafarer shall only be issued with a certificate if found to be duly qualified under the provisions of Article VI and Regulation 1/2 of the Convention and the standards required by the STCW Code.

(7) Where a seafarer applies for a certificate, the pre-requisites and standards of which are not prescribed in the Convention or the STCW Code, that seafarer may be issued with a certificate if found to be duly qualified under the provisions of these Regulations.

(8) An Interim Certificate may be issued pending the issue of a Certificate of Competency.

(9) The Authority shall maintain, in the office of the Registrar of Ships, appointed under section 69 of the Ship Registration Decree 2013, a record of all certificates, exemptions and dispensations issued, suspended or cancelled and any form of endorsement to a certificate.

(10) If the holder of a certificate or endorsement needs to wear a visual aid to meet the required medical standards, the fact shall be recorded on the certificate or endorsement.

Recognition of certificates

34.—(1) A certificate issued by a Party and endorsed by the issuing State as complying with the provisions of the Convention and STCW Code, as set out in Schedule 6, may be recognised by the Chief Executive Officer, provided that the certificate—

- (a) is issued by the maritime administration of the Party, which the Authority in Fiji has satisfied itself, that the facilities and procedures, standards of competence, training, certification, quality management systems and standards are fully complied with and meets the provisions of the Convention;
- (b) complies with the provisions of the STCW Code;
- (c) is appropriate to the duties to be performed by the holder on the ship in which the holder intends to serve; and
- (d) is valid under the Convention for the ship and for the voyage on which the ship is engaged.

(2) The Chief Executive Officer shall ensure that the Party concerned is notified promptly of any significant change in the arrangements for the training and certification, in compliance with the Convention.

(3) Every master, mate, chief engineer, engineer, electro technical officer and radio officer and every person who forms part of the deck or engineering watch on a ship not registered in Fiji but operating within Fiji waters shall hold the Certificate of Competency and Certificate of Proficiency issued by a Party to the Convention for a ship of that tonnage or propulsion power on the voyage in which it is engaged.

(4) A seafarer who applies for the recognition of a certificate shall have, in accordance with Regulation 1/10 of the Convention, an appropriate knowledge of the Fiji's maritime legislation particular to the ship and its area of operation and relevant to the functions the seafarer is permitted by the certificate he or she holds.

(5) The Chief Executive Officer may, if he or she grants the application under sub-regulation (4), endorse such certificates to attest its recognition.

(6) The endorsement required under sub-regulation (5) shall only be issued if all requirements of the Convention and these Regulations have been complied with, and these requirements also include—

- (a) knowledge of Fiji's maritime laws;
- (b) knowledge of the English language;
- (c) oral exams or assessment by the examiners to attest to the above.

(7) The form of the endorsement used under sub-regulation (5) is set out in paragraph 3 of section A-1/2 of the STCW Code.

(8) The endorsements referred to in sub-regulations (5), (6) and (7) must—

- (a) be issued as separate documents;
- (b) be assigned a unique number, except that endorsement attesting the recognition of a certificate may be assigned the same number as the certificate concerned, provided that the number is unique; and
- (c) expire as soon as the certificate being endorsed expires or is withdrawn, suspended or cancelled by the Party that issued it and, in any case, not more than 5 years after their date of issue.

(9) The capacity in which the holder of a certificate is authorised to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe manning requirements of the Authority.

(10) Such an endorsement of recognition of a certificate issued by another Party may be known as a “Certificate of Recognition”.

(11) Subject to sub-regulation (12), the Chief Executive Officer may, under the provisions of Regulation 1/10 of paragraph 5 of the Convention, if circumstances require, permit a seafarer to serve on a Fiji ship for a period not exceeding 3 months while holding an appropriate and valid certificate issued and endorsed by another Party pending its endorsement for service on Fiji ships.

(12) The Chief Executive Officer shall issue a letter as documentary evidence that the application for endorsement of recognition has been submitted to the Authority before permitting a seafarer to serve on a Fiji ship for a period not exceeding 3 months while holding an appropriate and valid certificate issued and endorsed by another Party pending its endorsement for service on Fiji ships.

(13) The Chief Executive Officer when recognising a Certificate of Proficiency issued to masters and officers in accordance to the provisions of regulations V/1-1 and V/1-2 of the Convention shall endorse such certificate to attest its recognition only after ensuring the authenticity and validity of the certificate.

(14) Holders of Certificate of Competency or endorsement at the management level shall satisfy the Chief Executive Officer, by successfully completing an assessment that they possess appropriate knowledge of Fiji’s maritime legislation relevant to the functions they are permitted to perform, before an endorsement for the recognition of a certificate is made by the Chief Executive Officer.

Endorsements of certificates

35.—(1) Any endorsement of a certificate shall be made by the Chief Executive Officer, in the English language, in a format similar to that illustrated in the STCW Code, and may form part of the certificate.

(2) No such endorsement may be made unless the Chief Executive Officer is satisfied that all the requirements of the Convention have been complied with.

(3) Where an endorsement is requested attesting the recognition of a certificate, the Chief Executive Officer shall only issue an endorsement if it is satisfied that the requirements of Regulation 1/2 and 1/10 of the Convention and Section A-I/10 of the STCW Code have been complied with.

(4) The Chief Executive Officer may also endorse a Fiji Certificate of Competency for masters and chief engineers on a particular ship, its trade and operational area subject to on-board assessment and other requirements as the Chief Executive Officer sees necessary to ascertain the competence of the seafarer.

(5) The endorsement of a certificate is only issued by the Chief Executive Officer.

Revalidation of certificates

36.—(1) Every seafarer holding a certificate issued or recognised under these Regulations must, in order to qualify for seagoing service, hold a valid Certificate of Medical Fitness and be required at intervals not exceeding 5 years to establish continued professional competence in accordance with Section A-I/11 of the STCW Code.

(2) A seafarer holding a qualification issued in accordance with the requirements of Regulations VI/1, VI/2, and VI/3 of the Convention shall be required to demonstrate competence in accordance with the relevant requirements of Sections A-VI/1-1, A-VI/1-2, A-VI/2, and A-VI/3, of the STCW Code, at intervals not exceeding 5 years.

(3) If a seafarer seeking revalidation of a certificate—

- (a) produces evidence to the Chief Executive Officer that the seafarer has—
 - (i) approved seagoing service, performing functions appropriate to the certificate held, for a period of at least one year in total during the preceding 5 years;
 - (ii) approved seagoing service, performing functions appropriate to the certificate held, for a period of three months in total during the preceding six months immediately prior to revalidating;
 - (iii) performed functions or service considered to be equivalent to the seagoing service required under subparagraph (i) such as marine surveyors and nautical/engineer examiners; or
 - (iv) one of the following—
 - a. passed an approved test which may be a written or oral exam;
 - b. successfully completed an approved revalidation course or courses;
 - c. satisfactorily completed seagoing service in an appropriate lower officer rank than that for which the certificate is held; or
 - d. satisfactorily completed seagoing service, performing functions appropriate to the certificate held, for a period of not less than 3 months in a supernumerary capacity;
- (b) has paid the fee prescribed in Schedule 7,

the Chief Executive Officer may revalidate the seafarer's certificate for a period not exceeding 5 years.

(4) A certificate which has expired and has not been revalidated in accordance with these Regulations is not valid for seagoing service.

(5) A Certificate of Competency may be revalidated within six (6) months prior to its expiry date and in such case, the certificate may be revalidated until the fifth anniversary of its validity, or extension of validity, of the certificate.

Dispensations

37. No dispensations may be issued by the Chief Executive Officer except in accordance with Article VIII of the Convention.

Availability of information by electronic means

38.—(1) The Chief Executive Officer shall ensure that information on certificates of competency, certificates of proficiency, endorsements and dispensations are made available by electronic means and in the English language as of 1st January 2017.

(2) All maritime training institutes and providers shall ensure that documentary evidence on all training conducted by them is made available by electronic means and in the English language as of 1st January, 2017.

Transitional provisions

39. The transitional provisions in respect of training and certification of seafarers set out in Article VII and Regulation 1/15 of the Convention shall be followed in respect of the continued validation of certificates issued in Fiji.

Refresher courses

40.—(1) The holder of a certificate issued in accordance with the provisions of the Convention before 1 January 2012 must, for service after 1 July 2013, undergo appropriate refresher and updating training or assessment to meet the standard of competence for the Certificate of Competency or Certificate of Proficiency specified in Part A of the STCW Code.

(2) The holder of a certificate issued in accordance with the provisions of the Convention as amended shall undergo appropriate refresher or updating courses when new or amendments to current training requirements is issued by IMO.

(3) The Chief Executive Officer shall for the purpose of updating the knowledge of masters, officers and radio operators, ensure that the text of the changes to national and international regulations concerning the safety of life at sea, security, and the protection of the marine environment are made available to ships registered in Fiji.

Offences and penalties

41.—(1) A seafarer who makes a false declaration in order to obtain a Certificate of Competency or an endorsement under this Part commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(2) A seafarer who obtains or uses a forged document or obtains a document by fraud for the purpose of obtaining a Certificate of Competency or an endorsement commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(3) A seafarer who issues a false document or forges a document to facilitate the issue of a Certificate of Competency or an endorsement commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(4) It is an offence for a person who holds a Certificate of Competency to fail, without reasonable excuse, to produce it if requested to do so by—

- (a) the Chief Executive Officer;
- (b) a Registrar of Seafarers;
- (c) a Port State Control Officer;
- (d) a Surveyor;
- (e) an Enforcement and Compliance Officer; or
- (f) the owner or master of any ship to which these Regulations apply.

(5) It is an offence for any person to secure employment on a ship at sea while falsely pretending to be a qualified seafarer of any grade.

(6) It is an offence for the owner or master of a ship to which these Regulations apply to knowingly permit an unqualified seafarer to hold a relevant grade or designation.

(7) Any person who acts in contravention of sub-regulations (4), (5) and (6) commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

Detention of ships

42. A ship not meeting its minimum manning requirements and carrying unqualified seafarers, will be detained until such a time it meets its manning requirements.

Fees

43. The fees payable for receiving and processing applications, assessing competence and issuing certificates of competency, dispensations or endorsements, minimum safe manning certificate for vessels, conduct of boat masters licence and Class Master/Engineer restricted course, moderation and assessment of exam papers, and audit of maritime training institutions and providers under this Part are prescribed in Schedule 7.

Forfeiture of fees

44. A seafarer who fails to attend an oral examination at the time appointed by the nautical or engineer examiner, will be considered to have failed that examination and forfeited the oral exam fees unless he or she produces a medical certificate or other evidence satisfactory to the examiners of his or her inability to attend.

PART 7—SPECIAL TRAINING REQUIREMENTS

Basic safety training and safety familiarisation

45.—(1) The owner and master of a ship to which these Regulations apply, shall ensure that all newly employed seafarers when joining a vessel for the first time—

- (a) have satisfactorily completed a safety familiarisation training programme with an assigned officer which should be signed off by the seafarer and assigned officer; and

- (b) shall receive safety familiarisation training or instruction in accordance with STCW Code A–VI/1 and section A–VI/1 of paragraph 1;
- (c) are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties and that each seafarer can make a knowledgeable and informed contribution to the safe operation of the vessel in accordance with Part 3 of these Regulations.

(2) Before joining a ship and being assigned to any shipboard duties, every seafarer employed on a ship shall receive approved basic safety training as set out in Section A–VI/1 and Tables A–VI/1-1, A–VI/1-2, A–VI/1-3 and A–VI/1-4 of the STCW Code.

(3) The basic safety training set out in Section A–VI/1 of the STCW Code, is issued as a Certificate of Proficiency known as the “Basic Training Safety Certificate”.

(4) Seafarers are required to revalidate basic safety training (short courses) at intervals not exceeding five years which includes Personal Survival Technique, Fire Prevention and Control and elementary first aid.

(5) The Chief Executive Officer may accept on-board training and experience for certain areas of competency required for personal survival technique and firefighting as specified in Section A–VI/1 paragraph 4 of the STCW Code as amended. For this purpose, documentary evidence of on-board training that meets the required standards of competencies shall be provided to the Chief Executive Officer.

Training in proficiency in survival craft and rescue boats other than fast rescue boats

46.—(1) Every person designated in the muster list of a ship to—

- (a) command or be second in command of a survival craft;
- (b) be in charge of launching a survival craft; or
- (c) be a member of the operating crew of a marine evacuation system,

shall hold a Certificate of Proficiency in survival craft and rescue boats other than fast rescue boats.

(2) To qualify for a Certificate of Proficiency in survival craft and rescue boats other than fast rescue boats a person shall have—

- (a) approved seagoing service of not less than 12 months within the last 5 years and have attended an approved training course; and
- (b) achieved the standard of competence for certificates of proficiency in survival craft and rescue boats other than fast rescue boats set out in Section A–VI/2, paragraphs 1 to 4 of the STCW Code.

(3) A candidate for a Certificate of Proficiency in fast rescue boats must—

- (a) be the holder of a Certificate of Proficiency in survival craft and rescue boats other than fast rescue boats;
- (b) have attended an approved training course; and

- (c) meet the standard of competence for certificates of proficiency in fast rescue boats set out in paragraphs 7-10 of Section A-VI/2, of the STCW Code.

(4) All holders of Certificate of Proficiency in survival craft and rescue boats other than fast rescue boats set out in Section A-VI/2, paragraphs 1 to 4 of the STCW Code or in fast rescue boats set out in paragraphs 7-10 of Section A-VI/2, of the STCW Code shall attend and successfully complete an approved refresher course within a period of 5 years in areas where specified competency cannot be obtained on board ships.

Mandatory minimum requirements for advanced firefighting

47.—(1) Every person designated to control firefighting operations shall have successfully completed advanced training in firefighting techniques in accordance with the provisions of Section A-VI/3 of the STCW Code and shall meet the standard of competence specified therein.

(2) A candidate for a Certificate of Proficiency in advanced firefighting shall provide documentary evidence of having achieved the required standard of competence within the previous 5 years, in accordance with the methods of demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of Table A-VI/3 of the STCW Code.

(3) Where training in advanced firefighting is not included in the qualifications for the Certificate of Competency to be issued, a Certificate of Proficiency, as appropriate, shall be issued indicating that the holder has attended a course or training in advanced firefighting.

(4) Every person so designated must, while serving on board a ship, carry a Certificate of Proficiency in advanced firefighting or other evidence of having received such training.

(5) All holders of Certificate of Proficiency in advanced firefighting set out in Section A-VI/3 of the STCW Code shall attend and successfully complete an approved refresher course within a period of 5 years in areas where specified competency cannot be obtained on board ships.

Mandatory minimum requirements for medical first aid

48.—(1) Every person designated to provide medical first aid on board a ship shall meet the standards of competence in medical first aid on board ships specified in Section A-VI/4 of the STCW Code.

(2) Every person designated to take charge of medical care on board a ship shall meet the standard competence specified in Section A-VI/4, subsections 4 to 6 of the STCW Code.

(3) If training in medical first aid or medical care is not included in the qualifications for the Certificate of Competency to be issued, a Certificate of Proficiency as appropriate, shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care.

(4) A candidate for a certificate under paragraph 1 of Regulation VI/4 shall provide documentary evidence that the required standard of competence has been achieved in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of Table A-VI/4-1 of the STCW Code.

(5) A candidate for a certificate under the provisions of Regulation VI/4, paragraph 2 shall provide documentary evidence that the required standard of competence has been achieved in accordance with the methods for demonstrating competence and the criteria for evaluating competence tabulated in columns 3 and 4 of Table A-VI/4-2 of the STCW Code.

(6) Every person designated to provide medical first aid or take charge of medical care must, while serving on board the ship, carry evidence of having received appropriate training.

(7) All holders of Certificate of Proficiency in medical first aid at sea and medical care set out in Section A-VI/4 of the STCW Code shall attend and successfully complete an approved refresher course within a period of 5 years in areas where specified competency cannot be obtained on board ships.

Mandatory minimum training for seafarers on tankers

49.—(1) Every ship which carries a bulk cargo consisting in whole or in part of oil, liquid chemicals or liquefied gases, shall carry personnel qualified in accordance with this regulation.

(2) A person serving as master, chief mate, chief engineer, second engineer or any other officer with immediate responsibility for the loading, discharging, care in transit or handling of the cargo, tank cleaning or other cargo related operations in such a ship shall hold either—

- (a) a certificate to confirm that the holder has received approved training in accordance with the requirements of paragraphs 2 of Section A-V/1-1 of the STCW Code for Advance Oil Tanker Cargo Operation; or
- (b) a certificate to confirm that the holder has received approved training in accordance with the requirements of paragraphs 3 of Section A-V/1-1 of the STCW Code for Advance Chemical Tanker Cargo Operation; or
- (c) a certificate to confirm that the holder has received approved training in accordance with the requirements of paragraph 2 of Section A-V/1-2 of the STCW Code for Advance Liquefied Gas Tanker Cargo Operation.

(3) An existing Certificate of Competency in advanced oil tanker cargo operations, advanced chemical tanker cargo operations and advanced liquefied gas tanker cargo operations shall be revalidated at intervals not exceeding five years if—

- (a) the holder of the Certificates has served in a relevant capacity on board the respective type of tanker for a period of three months during the five years preceding the date of revalidation; or
- (b) the holder of the certificate has undergone advanced tanker training course in either type of tanker.

(4) A seafarer, other than one to whom sub-regulation (2) applies, who has specific duties and responsibilities relating to cargo equipment in tankers shall hold a Certificate of Proficiency valid for service in tankers of the appropriate type or, if the seafarer does not hold such qualifications, shall have—

- (a) completed not less than 3 months approved seagoing service acceptable to the Chief Executive Officer; or

- (b) completed an approved basic training for tankers cargo operations of the appropriate type meeting the requirements of either section A-V/1-1, paragraph 1 of the STCW Code or section A-V/1-2, paragraph 1 of the STCW Code;
- (c) a certificate attesting to the training required by this regulation.

Mandatory minimum training for seafarers on passenger ships including ro-ro ships

50.—(1) Masters, officers and any other person assigned specific shipboard duties and responsibilities on board passenger ships and ro-ro ships shall have completed the familiarisation training specified in paragraph 2 of Section A-V/2 of the STCW Code and other training specified in sub-regulations (3), (5) and (6).

(2) Every person required to be trained in accordance with sub-regulations (3), (5) and (6) must, at intervals not exceeding 5 years, undertake refresher training.

(3) Master, officer and any other persons designated on muster lists to assist passengers in emergency situations on board passenger ships and ro-ro ships shall have completed training in crowd management as specified in paragraph 1 of Section A-V/2 of the STCW Code.

(4) Every Person providing direct services to passengers in passenger spaces on-board passenger ships shall have completed the safety training specified in paragraph 2 of Section A-V/2 of the STCW Code.

(5) Masters, officers and any other person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board passenger ships and ro-ro ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in paragraph 4 of Section A-V/2 of the STCW Code.

(6) Masters, officers and any other person having responsibility for the safety of passengers in emergency situations on board passenger ships and ro-ro ships shall have completed approved training in crisis management and human behaviour as specified in paragraph 3 of Section A-V/2 of the STCW Code.

(7) The master and owner of a passenger ship shall provide the Chief Executive Officer with documented evidence of the training of persons required under this Part for the Chief Executive Officer's approval and records.

Use of simulators for training

51. The performance standards and other provisions set forth in Section A-I/12 of the STCW Code and such other requirements as are required in Part A of the STCW Code for any certificate concerned shall be complied with in respect of—

- (a) all mandatory simulator-based training;
- (b) any assessment of competency required by Part A of the STCW Code which is carried out by means of a simulator; and
- (c) any demonstration, by means of a simulator, for continued proficiency required by Part A of the STCW Code.

Minimum requirements for security-related training and instruction for all seafarers

52.—(1) Before being assigned to shipboard duties, all persons employed or engaged on a sea going ship which is required to comply with the provisions of the ISPS Code, other than passengers, shall receive approved security-related familiarisation training, taking into account the guidance given in Part B of the STCW Code, to be able to—

- (a) report a security incident, including a piracy or armed robbery threat or attack;
- (b) know the procedures to follow when they recognise a security threat; and
- (c) take part in security-related emergency and contingency procedures.

(2) Seafarers with designated security duties engaged or employed on a seagoing ship shall, before being assigned such duties, receive security-related familiarisation training in their assigned duties and responsibilities, taking into account the guidance given in Part B of the STCW Code.

(3) The security-related familiarisation training shall be conducted by the ship security officer or an equally qualified person.

(4) Seafarers employed or engaged in any capacity on board a ship which is required to comply with the provisions of the ISPS Code without designated security duties, shall before being assigned to any shipboard duties—

- (a) receive appropriate approved training or instruction in security awareness as set out in Table A-VI/6-1 of the STCW Code;
- (b) be required to provide evidence of having achieved the required standard of competence to undertake the tasks, duties and responsibilities listed in Table A-VI/6-1 column 1 of the STCW Code by—
 - (i) demonstration of competence, in accordance with the methods and the criteria for evaluating competence tabulated in Table A-VI/6-1 columns 3 and 4 of the STCW Code; and
 - (ii) examination or continuous assessment as part of an approved training programme in the subjects listed in Table A-VI/6-1 column 2 of the STCW Code.

(5) Every seafarer who is designated to perform security duties, including anti-piracy and anti-armed-robbery related activities, shall be required to demonstrate competence to undertake the tasks, duties and responsibilities listed in Table A-VI/6-2 column 1 of the STCW Code.

(6) The level of knowledge of the subjects in Table A-VI/6-2 column 2 of the STCW Code shall be sufficient to enable every candidate to perform on board designated security duties, including anti-piracy and anti-armed-robbery related activities.

(7) Every candidate for certification shall be required to provide evidence of having achieved the required standard of competence through—

- (a) demonstration of competence to undertake the tasks, duties and responsibilities listed in Table A-VI/6-2 column 1 of the STCW Code, in accordance with the methods for demonstrating competence and the criteria for evaluating competence listed in columns 3 and 4 of Table A-VI/6-2 of the STCW Code; and

- (b) examination or continuous assessment as part of an approved training programme covering the material set out in Table A-VI/6-2 column 2 of the STCW Code.

Fees

53. The fees payable for receiving and processing applications, assessing competence and issuing certificates of proficiency under this Part are as prescribed in Schedule 7.

Offences and penalties

54.—(1) A person who makes a false declaration for the purpose of obtaining a Certificate of Proficiency or endorsement issued under this Part commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(2) A person who obtains or uses forged documents or obtains documents by fraud for the purpose of obtaining a Certificate of Proficiency commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(3) A person who issues a false document or forges a document for the purpose of facilitating the issue of a Certificate of Proficiency commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000 or both.

(4) A master and owner who fails to provide documentary evidence of persons engaged on a ship who are required to be trained under this part commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000 or both.

PART 8—MEDICAL STANDARDS

Purpose and application of Part 8

55.—(1) This Part makes provision for medical standards required for seafarers serving aboard ships registered or licensed in Fiji and for citizens of Fiji who are employed aboard any ship and apply to—

- (a) recognised medical practitioner responsible for assessing medical fitness and recognised optometrist responsible for assessing eye and colour vision test;
- (b) persons responsible for the recruitment and employment of seafarers;
- (c) owners and masters of ships registered or licensed in Fiji;
- (d) seafarers required by Part 6 to hold a certificate and any other persons serving aboard Fiji ships;
- (e) seafarers required by the Convention and the STCW Code to hold a certificate who are citizens of Fiji serving on any ship;
- (f) persons required by these Regulations to maintain registers and records pertaining to seafarers and their certificates.

(2) The vision and hearing requirements of these Regulations apply to seafarers who are employed in any capacity for which a certificate as a master, mate, chief engineer, engineer or watchkeeper is required by Part 6.

Standards

56.—(1) The standards of medical fitness for seafarers required by Regulation 1/9 of the Convention are as set out in Schedule 8, and the ILO/IMO Guidelines on the medical examination of seafarers as amended and IMO Guidelines STCW.7/Circ.19 of 9 January, 2013 as amended.

(2) Only a registered medical practitioner recognised by the Chief Executive Officer shall conduct medical examinations and issue Certificates of Medical Fitness to seafarers pursuant to Regulation 1/9 of the Convention.

(3) A list of registered medical practitioners recognised by the Chief Executive Officer shall be maintained by the Authority and made available to other Parties to the Convention, to ship owners, operators and seafarers.

(4) Only registered optometrists recognised by the Chief Executive Officer shall conduct eye and colour vision examinations and certify that the seafarer's eyesight and colour vision meet the standards in Part 3 of Schedule 8, pursuant to Regulation 1/9 of the Convention.

(5) A list of registered optometrists recognised by the Chief Executive Officer shall be maintained by the Authority and made available to other Parties of the Convention and to ship owners, operators and seafarers.

(6) Every person who is required to use spectacles or contact lenses to perform his or her duties shall have a spare pair of spectacles or contact lenses conveniently available aboard ship.

(7) The eyes of every seafarer shall be free of disease, and any permanent or progressive debilitating pathology without recovery is regarded as the cause for the determination of unfitness.

(8) Any information in respect of medical examinations shall be provided to the Authority for inclusion in the register kept by the Registrar.

(9) A seafarer submitting to medical examination shall declare any existing medical pre-condition or illness that might be a determinant of unfitness for duty.

Approval of medical practitioners and optometrists

57.—(1) Subject to such conditions as the Chief Executive Officer considers necessary, the Chief Executive Officer may approve a registered medical practitioner as a recognised medical practitioner for the purposes of this part, if the Chief Executive Officer is satisfied that the practitioner—

- (a) has experience to determine whether a seafarer—
 - (i) meets the required medical standard; and
 - (ii) is fit for the duties to which the seafarer's certificate or licence relates, or which the seafarer is to perform; and

- (b) is professionally independent from employers, seafarers, and employer and seafarer representatives;
- (c) satisfies the requirements specified in this part in respect of the approval.

(2) Subject to any such conditions that the Chief Executive Officer considers necessary, the Chief Executive Officer may approve a registered optometrist as a recognised optometrist for the purposes of this section if the Chief Executive Officer is satisfied that—

- (a) the optometrist has the knowledge and equipment necessary to conduct the tests required by this part; and
- (b) the requirements specified in this part have been complied with in respect of the approval.

(3) An approval made under sub-regulation (1) or (2) is valid for 5 years from the date of approval.

Certificate of Medical Fitness

58.—(1) Medical examinations required under this Part shall be carried out in accordance with this Part and the Medical Standards in Schedule 8.

(2) The recognised medical practitioner shall set out in the Medical Fitness Examination Report, in Form No. 1 as prescribed in Schedule 9, his or her assessment of the seafarer's suitability as—

- (a) unfit for service at sea;
- (b) fit for service at sea, with limitations; or
- (c) fit for service at sea, without limitations.

(3) The recognised medical practitioner who assesses a seafarer as fit for service at sea with limitations shall state those limitations on the seafarer's Certificate of Medical Fitness.

(4) The recognised medical practitioner carrying out a medical examination of a seafarer shall—

- (a) complete the applicable sections of the medical examination form that is acceptable to the Chief Executive Officer; and
- (b) take into consideration the guidance for the conduct of medical examinations outlined in Part 2 of Schedule 8; and
- (c) comply with the instructions for conduct of medical examinations specified in Part 2 of Schedule 8; and
- (d) in the case of a seafarer engaged on a voyage in the unlimited area, take into consideration the guidance on vaccination requirements for seafarers outlined in Part 2 of Schedule 8; and judge whether specialised testing such as chest X-ray and STD is required; and
- (e) judge whether specialised testing such as chest X-ray and STD is required; and
- (f) determine whether the seafarer complies with the required medical standard outlined for that seafarer in this regulation.

(5) When determining whether a seafarer satisfies the required medical standard, the recognised medical practitioner shall ensure that the seafarer's eyesight and colour vision meet the standard required for the seafarer in Part 3 of Schedule 8.

(6) A recognised medical practitioner may, for the purposes of sub-regulation (5), accept an approved eye and vision test from a recognised optometrist that certifies that the seafarer's eyesight and colour vision meet the standards in Part 3 of Schedule 8.

(7) Where a recognised medical practitioner finds that the seafarer needs to wear corrective lenses to meet any standard required by Part 3 and Part 4 of Schedule 8, the practitioner shall endorse the seafarer's Certificate of Medical Fitness to that effect.

Eye and vision tests for the issue of a Certificate of Competency

59.—(1) A seafarer who requires eye or vision tests to be carried out for the purposes of an application for a Certificate of Competency, shall ensure that those eye and vision tests are performed by a recognised optometrist.

(2) When determining if the seafarer complies with the eyesight and colour vision standards for the issue of that Certificate of Competency, the recognised optometrist shall ensure that—

- (a) the eye and vision tests are carried out in accordance with the procedures specified in Part 4 of Schedule 8;
- (b) the seafarer's eyesight and colour vision meet the standards in Part 3 of Schedule 8; and
- (c) the standards set out in Part 3 of Schedule 8 are applied as follows—
 - (i) when the medical examination is for the issue of a new Certificate of Medical Fitness the eye sight standard must be tested in the preceding 12 months;
 - (ii) in any other case the eye sight standard must be in the preceding 24 months; and
 - (iii) the colour vision standards shall be tested in the preceding 5 years; and
- (d) there is no evidence of serious or progressive eye disease.

Issue of Certificate of Medical Fitness

60. On completion of a medical examination of a seafarer under these Regulations, a recognised medical practitioner shall, issue a Certificate of Medical Fitness to the seafarer in Form No. 2 prescribed in Schedule 9.

Duration of certificates

61.—(1) Except where a re-examination is required under regulation 62, and subject to sub-regulations (2) and (3), a Medical Fitness Certificate is valid—

- (a) for a period of 1 year for seafarers under the age of 18 years; and
- (b) for a period of two years for all other seafarers.

(2) If appropriate, taking into account the state of health of the seafarer examined, a recognised medical practitioner may issue a Certificate of Medical Fitness that specifies a shorter period of validity than the period set out in sub-regulation (1)(a) and (b).

(3) If the period of validity of a Certificate of Medical Fitness expires in the course of a voyage, then the medical certificate shall continue in force until the next port of call where a medical practitioner recognised by the Party is available, provided that the period shall not exceed three months.

(4) A colour vision test is carried out at intervals of six years.

Re-examination

62.—(1) The Chief Executive Officer may at any time require the re-examination of a seafarer—

- (a) if the Chief Executive Officer has reason to believe that a re-examination is desirable in order to protect the safety of the ship or of other seafarers on board the ship;
- (b) at the request of the seafarer's employer, if the employer has grounds to believe that the seafarer's state of health may constitute a risk to the safety of the ship or of other seafarers on board the ship; or
- (c) at the request of the seafarer.

(2) A re-examination under this regulation shall be conducted as if it were an original examination by a recognised medical practitioner nominated by the Chief Executive Officer.

Review of a Medical Fitness Certificate

63.—(1) A seafarer may apply to the Chief Executive Officer for a review by a reviewing medical practitioner of a Certificate of Medical Fitness issued under this Part that indicates the seafarer is—

- (a) unfit for service at sea; or
- (b) fit for service at sea with limitations.

(2) The reviewing medical practitioner shall be a medical practitioner recognised by the Chief Executive Officer.

(3) After reviewing a Certificate of Medical Fitness and the state of health of the seafarer to whom it was issued, the reviewing medical practitioner may direct that a further medical examination be carried out and may stipulate the examination and the medical practitioner or organisation to carry it out.

(4) The reviewing medical practitioner must—

- (a) confirm the Certificate of Medical Fitness originally issued; or
- (b) where appropriate, based on further examinations conducted pursuant to sub-regulation (3), issue a new Certificate of Medical Fitness in the form set out in Schedule 9.

- 70. Seafarers of foreign ships
- 71. Offences and penalties

PART 9—QUALITY STANDARDS AND MANAGEMENT SYSTEM FOR ALL APPROVED MARITIME TRAINING INSTITUTIONS AND PROVIDERS

- 72. Purpose and application of Part 9
- 73. Quality Standard System for maritime training institutions or providers
- 74. Evaluation
- 75. Reporting

PART 10—INVESTIGATIONS AND MARINE INQUIRIES

- 76. Purpose and application of Part 10
- 77. Impartial investigation
- 78. Powers of impartial investigation as to certificates of competency
- 79. Suspension or cancellation of certificates
- 80. Appeals
- 81. Immunities

PART 11—MARINE RADIO

- 82. Purpose of Part 11
- 83. Application of Part 11
- 84. Radio Regulations
- 85. Certification of radio operators
- 86. Radio Certificates
- 87. Offences and penalties

PART 12—MINIMUM AGE FOR SEAFARERS WORKING IN SHIPS

- 88. Minimum age

PART 13—EMPLOYMENT RECORD BOOK FOR SEAFARERS

- 89. Application for seafarer's employment record book
- 90. Validity of seafarer's employment record book

PART 14—MISCELLANEOUS

- 91. Repeal

SCHEDULES

- Schedule 1—Serving Capacity and Endorsement
- Schedule 2—Manning Requirements and Classes of Certificates
- Schedule 3—Number of Certificates of Proficiency – Passenger Ships
- Schedule 4—Safe Manning Certificate
- Schedule 5—Classes of Certificates and the Pre-Requisites for their Issue
- Schedule 6—Certificates Recognised in Fiji
- Schedule 7—Prescribed Fees
- Schedule 8—Medical Standards for Seafarers Being Examined for Certificates of Competency and Certificates of Medical Fitness
- Schedule 9—Prescribed Forms

IN exercise of the powers conferred upon me by sections 240(1)(b) (n) (o) and (p) 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 (STCW Convention) Regulations 2014 and shall come into force on 1st January, 2015.

Purpose

2. This regulation prescribes the requirements for—

- (a) the training of all Fiji registered seafarers to meet the international qualification standards of the Standards of Training, Certification and Watchkeeping Convention 1978 as amended;
- (b) approval for maritime training providers for ship's personnel and clarifies the role of the maritime training providers in respect of initial and on-going audits of the maritime training providers quality standards system or quality management system;
- (c) the appointment of the Authority's examiners in respect of qualification and skills which need to be kept current;
- (d) mobile training for a ship's personnel;
- (e) medical examination for ship's personnel and standards of medical examination;
- (f) minimum manning certification of all Fiji registered ships.

Interpretation

3.—(1) In these Regulations, unless the context otherwise requires,—

- “Able seafarer deck” means a rating qualified in accordance with the provisions of regulation II/5 of the Convention;
- “Able seafarer engine” means a rating qualified in accordance with the provisions of regulation III/5 of the Convention;
- “approved” means approved by the Chief Executive Officer of the Authority;
- “Archipelagic waters” has the same meaning under section 2 of the Decree;
- “Assessment Result Form” means the form provided by the approved maritime training institution to the Authority;
- “Assessor” means a person appointed by the Chief Executive Officer to conduct assessments under these Regulations;
- “Authority” means the Maritime Safety Authority of Fiji;
- “Chief Executive Officer” means the Chief Executive Officer of the Authority;

“Certificate of Competency” means—

- (a) a certificate issued or endorsed and held by Masters, Deck and Engine Officers and GMDSS radio operators appropriate for the size, type, trading area and kilowatts of the main propulsion power of the ship in accordance with the provisions of Chapters II, III, IV or VII of the Convention and Schedule 5; or
- (b) a certificate issued and endorsed for masters, officers and GMDSS radio operators by the maritime administration of another Party and recognised by the Chief Executive Officer;

“Certificate of Proficiency” means a certificate other than a Certificate of Competency issued to a seafarer who has demonstrated proficiency according to the standards set forth in—

- (a) chapter II on standards regarding masters and deck department;
- (b) chapter III on standards regarding engine department;
- (c) chapter V of the STCW Convention, on standards regarding special training requirements for personnel on certain types of ships; and
- (d) chapter VI of the STCW Convention, on standards regarding emergency, occupational safety, medical care and survival functions of the STCW Code;

“clear grounds” in respect of the control procedures set forth in regulation 6(2) includes—

- (a) collision, grounding or stranding;
- (b) an illegal discharge;
- (c) an operation that would pose a danger to lives, property or the marine environment; or
- (d) any deficiencies in a ship’s equipment or documentation;

“colour vision standards” means the applicable colour vision standards set out in Schedule 8;

“colour vision test” means an Ishihara plate colour vision test or a lantern colour vision test as prescribed in Part 3 of Schedule 8;

“Convention” or “STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and includes all subsequent amendments;

“Deck Officer” means an officer qualified in accordance with the provision of chapter II of the Convention and Schedule 5;

“Decree” means the Maritime Transport Decree 2013;

“deficiencies” in respect of clear grounds, includes —

- (a) failure to hold a Certificate of Competency;
- (b) failure to hold a Certificate of Proficiency;
- (c) failure to hold a valid dispensation or to provide a documentary proof that an application for endorsement has been submitted to the flag state administration;
- (d) failure to comply with the provisions of the Safe Manning Certificate;
- (e) watch arrangements that do not conform to those specified by the flag state administration;
- (f) absence in a watch of a qualified seafarer for the purpose of operating equipment essential to safe navigation, safe radio communication or the prevention of marine pollution; or
- (g) inability to provide seafarers who are sufficiently rested or otherwise fit for watchkeeping duties;

“dispensation” means a dispensation from a requirement of these Regulations or the Convention and the STCW Code, granted either generally or in a particular case by the Chief Executive Officer under regulation 37;

“documentary evidence” means documentation, other than a Certificate of Competency or Certificate of Proficiency used to establish that the relevant requirements of this regulation and the Convention have been met;

“duly certificated” in relation to a seafarer, means holding a valid certificate showing that the holder is qualified to serve in the capacity concerned on the type, tonnage, power and means of propulsion, and class of ship and voyage concerned and to perform the function involved at the relevant level of responsibility specified in the certificate;

“EEZ” means the Exclusive Economic Zone and has the meaning given by the Marine Spaces Act (Cap. 158A);

“Electro technical Officer” means an officer qualified in accordance with the provisions of regulation III/6 of the Convention;

“Electro technical Rating” means a rating qualified in accordance with the provisions of regulation III/7 of the Convention;

“Endorsement” means an endorsement to a certificate made by the Chief Executive Officer under regulation 35 or made by the maritime administration of another Party;

“Enforcement and Compliance Officer” means a person appointed as such under section 101 of the Decree;

“Engineer Officer” means an officer qualified in accordance with the provisions of regulation III/1, III/2 or III/3 of the Convention and Schedule 5;

“Examiner” means examiner of masters and deck department personnel or engine department personnel appointed by the Chief Executive Officer to conduct oral examinations, assessment of seafarer competency, moderation and assessment of seafarer exam papers under these Regulations;

“eye and vision test” means—

- (a) an examination of eye health and visual function, including a letter test of unaided vision and correct visual acuity;
- (b) an examination for the purpose of determining if there is evidence of serious or progressive eye disease; and
- (c) a colour vision test if required under this Part;

“eyesight standards” means the applicable eyesight and vision standards other than colour vision standard set out in Part 3 of Schedule 8 which includes standards for distance vision, near or intermediate vision, visual fields, night blindness and diplopia (double vision);

“Fiji seafarer” means a permanent resident or citizen of Fiji who holds appropriate seafaring qualification;

“Fiji ship” means a ship that is registered under the Ship Registration Decree 2013 and includes a ship that is not registered under that Decree but is required or entitled to be registered under that Decree;

“Fiji waters” means Fiji waters defined under section 2 of the Decree;

“GMDSS radio operator” means a person who is qualified in accordance with the provisions of chapter IV of the Convention and this regulation;

“Government” means the Government of the Republic of Fiji;

“ILO/IMO Guidelines on the medical examination of seafarers” means the document entitled ‘Guidelines on the medical examination of seafarers’ published on behalf of the International Labour Organization and the International Maritime Organization in 2013;

“IMO” means the International Maritime Organisation;

“ISO” means the International Organization for Standardization;

“Integrated rating” means a rating qualified in accordance with the provisions of regulation II/4 & III/4 of the Convention;

“Ishihara plate colour vision test” means the Ishihara plate colour vision test prescribed in clause 10 of Part 4 of Schedule 8;

“ISPS Code” means the International Ship and Port Facility Security (ISPS) Code adopted on 12 December 2002 by resolution 2 of the conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS), as may be amended by the IMO;

“lantern colour vision test” means the lantern colour vision test prescribed in clause 12 of Part 4 of Schedule 8;

- “Maritime Auditor” means a person referred to in section 226 of the Decree required by the Chief Executive Officer to conduct compliance audit of Maritime training institutions, maritime service providers and audit of safe ship management systems;
- “maritime training institution or provider” means a training institution approved by the Authority for training of seafarers to the level stipulated under the Convention and for the issuance of STCW certificates by the Government;
- “officer” means a member of the crew, other than the master of the vessel;
- “owner” means an owner and operator of a ship and includes a company or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship, and who on assuming such responsibility, has agreed to take over all duties and responsibilities imposed on the owner and operator by this regulation;
- “Party” means a Party to the Convention;
- “passenger ship” means a ship which carries more than twelve passengers as defined in the International Convention for the Safety of Life at Sea, 1974 (SOLAS), as amended;
- “Port State Control Officer” means a surveyor duly appointed under section 101 of the Decree;
- “radio duties” include as appropriate, Watchkeeping and technical maintenance and repairs conducted in accordance with the Maritime (Radio) Regulations 2014, the SOLAS Convention 1974 as amended and, at the discretion of the Chief Executive Officer, the relevant recommendation of the IMO;
- “radio operator” means a person holding an appropriate certificate issued or recognised by the Chief Executive Officer under the provisions of this regulation and the Maritime (Radio) Regulations 2014;
- “recognised medical practitioner” means a registered medical practitioner recognised by the Chief Executive Officer under regulation 57(1);
- “recognised optometrist” means a registered optometrist recognised by the Chief Executive Officer under regulation 57(2);
- “registered medical practitioner” means a medical practitioner registered under the Medical and Dental Practitioners Decree 2010 who is practising medicine in accordance with his or her scope of practice and is recognised by the Chief Executive Officer for the purpose of conducting medical examinations of seafarers;
- “registered optometrist” means a person who is registered under the Optometrist and Dispensing Optician Decree 2012 for the purpose of practising optometry in accordance with his or her scope of practice and is recognised by the Chief Executive Officer for the purpose of conducting eye and vision tests of seafarers;

- “Registrar” means the Registrar of ships as prescribed in section 69 of the Ship Registration Decree 2013;
- “Ro-ro passenger ship” means a passenger ship with ro-ro spaces or special category spaces as defined in the International Convention for the Safety of Life at Sea, 1974 (SOLAS), as amended;
- “Safe Manning Certificate” means a certificate issued by the Chief Executive Officer attesting that the requisite number of seafarers, each holding the appropriate qualification for service in the particular capacity, are on board the ship for its intended voyage;
- “Sea Area A1” means an area within the radiotelephone coverage of at least one VHF coast station in which continuous digital selective calling (DSC) alerting is available, as may be defined by a Contracting Government;
- “Sea Area A2” means an area, excluding sea area A1, within the radiotelephone coverage of at least one MF coast station in which continuous DSC alerting is available as may be defined by a Contracting Government;
- “Sea Area A3” means an area, excluding sea areas A1 and A2, within the coverage of INMARSAT geostationary satellite in which continuous alerting is available;
- “Sea Area A4” means an area outside sea areas A1, A2 and A3;
- “Seafarer” means a person employed in any capacity on a ship and includes a person who is employed, or who seeks employment, as master, officer, or rating on a ship;
- “Seagoing service” means service on board a ship relevant to the issue or revalidation of a certificate or other qualification;
- “Security duties” includes all security tasks and duties on board ships as defined by chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974 (SOLAS), as amended, and the International Ship and Port Facility Security (ISPS) Code;
- “ship security officer” means the person on board the ship, accountable to the master, designated by the company as responsible for the security of the ship including implementation and maintenance of the ship security plan and liaison with the company security officer and port facility security officer;
- “SOLAS” means the International Convention for the Safety of Life at Sea, 1974, as amended by the Protocols of 1978 and 1988 and any amendments from time to time adopted by IMO and accepted by the Government;
- “special colour vision test” means a test of colour vision administered by a recognised optometrist;
- “STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code as adopted by the 1995 STCW Conference Resolution 2, as it may be amended by the IMO;

“Surveyor” means a person appointed as a surveyor under section 101 of the Decree;

“Telecommunications Convention” means the International Telecommunication Union (ITU) Convention and associated recommendations;

“Territorial Waters” has the meaning given by the Marine Spaces Act (Cap. 158A).

(2) In compliance with Regulation 1/3 of the Convention, the following terms apply to these Regulations—

“inshore voyage” a voyage, trade or operation of a ship of not more than 15 nautical miles from a port or place in Fiji to another port or place in Fiji within the archipelagic waters of Fiji;

“near coastal voyage” means a voyage, trade or operation of a ship from a place in Fiji up to the limits of Fiji’s EEZ;

“sheltered waters voyage” means a limited voyage, trade or operation of a ship within inland waters and protected waters adjacent to beaches or landings within Fiji;

“territorial waters voyage” means a voyage, trade or operation of a ship from a port or place in Fiji for more than 15 nautical miles to another port or place in Fiji that is within the archipelagic waters and territorial seas of Fiji;

“unlimited voyage” means a voyage, trade or operation of a ship from any port or place in Fiji beyond the EEZ of Fiji to another port or place outside Fiji or conversely.

(3) In respect of Part 7, (Special Training Requirements), the following terms apply—

“chemical tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquid in bulk listed in chapter 17 of the International Bulk Chemical Code;

“liquefied gas tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;

“oil tanker” means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;

(4) In respect of Part 11, (Marine Radio),—

“GMDSS” means the global maritime distress and safety system.

(5) Where a term is used in these Regulations that are defined in Article II and Regulation I/1 of the Convention, the term has the same meaning in the Convention unless a different meaning is given to that term by these Regulations or by necessary implication.

STCW Convention

4.—(1) The carriage of the Convention as amended is mandatory on all ships registered in Fiji to which the Convention applies.

(2) The carriage of this regulation is mandatory on all ships of 15 meters and over registered in Fiji.

(3) The training, assessment and certification procedures required by these Regulations and not covered by the Convention and the STCW Code are as prescribed in other Regulations under the Decree.

Application

5.—(1) These Regulations apply to—

- (a) Fiji ships;
- (b) seafarers employed on Fiji ships;
- (c) owners and masters of Fiji ships;
- (d) Fiji seafarers;
- (e) seafarers or holders of certificates recognised and endorsed by the Government;
- (f) maritime training institutions or providers located in Fiji; and
- (g) certificates issued under these Regulations or recognised by the Government as so issued.

(2) Notwithstanding Article III of the Convention, these Regulations apply to fishing ships.

(3) For the purposes of control procedures under Part 2, the provisions of the Convention, the STCW Code and these Regulations apply to—

- (a) all foreign ships in Fiji waters;
- (b) all owners and masters of such ships; and
- (c) all seafarers employed on such ships.

PART 2—CONTROL PROCEDURES

Powers to exercise control procedures

6.—(1) A Port State Control Officer duly appointed under the section 101 of the Decree who may exercise control procedures described in Article X and Regulation I/4 of the Convention.

(2) In the absence of clear grounds for believing that the standards of the Convention and STCW Code are not being maintained, control is limited to verifying that all certificates are in order and that the numbers and certificates of seafarers are in conformity with the Safe Manning Certificate.

(3) In the event there are clear grounds for believing that the standards of the Convention and STCW Code are not being maintained, the competence of seafarers must be assessed in accordance with the control procedures specified in Section A-I/4 of the STCW Code.

(4) In the event that any deficiencies are found under procedures specified in Regulation 1/4 of the Convention, the Port State Control Officer shall immediately inform in writing the master of the ship, the council or, in his or her absence the nearest diplomatic representative or the flag state authority of the ship.

(5) Failure to correct any of the deficiencies referred to in paragraph 2 of Regulation 1/4 of the Convention that possess danger to person, property or the environment, shall be the only grounds of detaining a ship under Article X of Convention.

Registration of seafarers and certificates

7.—(1) The Registrar must maintain a register for seafarers and record in it the particulars of documents issued under these Regulations, including—

- (a) all certificates issued;
- (b) all endorsements made to certificates;
- (c) all certificates suspended or cancelled;
- (d) all certificates issued by another country and recognised as valid on Fiji ships;
- (e) all dispensations and exemptions granted under these Regulations ;
- (f) all certificates issued or recognised that have been revalidated under these Regulations;
- (g) all certificates issued to replace those lost, damaged or expired; and
- (h) all medical certificates issued to seafarers under Part 8.

(2) The Registrar shall make information from the register available to the Secretary-General of IMO, any party, any ship owner, agents or any registrar seeking authenticity and validity of certificates and endorsements issued in Fiji.

(3) The Registrar shall ensure that a national seafarer database is established in accordance with Section A-I/2 of the Convention for the purpose of sub-regulation (1).

Offences and penalties

8.—(1) In respect of these Regulations, the Convention and the STCW Code, a person who—

- (a) contravenes; or
- (b) fails to do anything required, commits an offence and, if no other penalty is prescribed, is liable upon conviction to a penalty as set forth in sub-regulation (2).

(2) Any person who contravenes sub-regulation (1) commits an offence and is liable upon conviction—

- (a) in the case of an owner, agent or operator—
 - (i) in the case of an individual, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
 - (ii) in the case of a corporate body, to a fine not exceeding \$40,000;

- (b) in the case of a master, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
- (c) in the case of an officer or seafarer, to a fine not exceeding \$3,000 or imprisonment for a term not exceeding 3 months, or both.

PART 3—RESPONSIBILITIES OF OWNERS AND OTHERS

Responsibilities of owners and operators

9.—(1) An owner and operator of a ship must employ seafarers for service on the ship in accordance with this regulation and the Convention.

(2) An owner and operator of a ship must provide a written safety familiarisation training program to the master setting out procedures for all newly employed seafarers to familiarise themselves with—

- (a) the ship's environment;
- (b) emergency duties, muster station including boat stations;
- (c) all emergency equipment, their operations and location;
- (d) fire appliances, fire alarm systems;
- (e) emergency alarms;
- (f) operation of watertight doors;
- (g) all emergency escapes and exits.

(3) The procedures referred to in sub-regulation (2) must allocate a reasonable time so that immediately upon joining a ship, a new employee is familiarised with the ship's layout, emergency equipment and his or her emergency duties.

(4) An owner and operator of a ship must provide written instructions to the master setting out the policies and procedures to be followed to ensure that all seafarers on board the ship are given a reasonable opportunity to ensure they are familiar with—

- (a) the shipboard equipment and operating procedures; and
- (b) any other arrangements needed for the proper performance of their duties before being assigned to those duties.

(5) The policies and procedures referred to in sub-regulation (4) must—

- (a) allocate a reasonable period of time during which each seafarer will have an opportunity to become familiar with —
 - (i) the specific equipment the seafarer will be operating; and
 - (ii) ship-specific watchkeeping, safety, security, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;
- (b) designate a knowledgeable seafarer who is responsible for ensuring that an opportunity is provided for each seafarer to receive essential information in a language the seafarer understands; and

- (c) ensure that—
- (i) seafarers are free from fatigue;
 - (ii) rest periods are observed;
 - (iii) watch rosters are posted in accordance with the watchkeeping arrangements specified under Part 4; and
 - (iv) the rosters are readily available for inspection by Port State Control Officers and seafarers.

(6) The owner and operator of a ship shall provide ship-specific introductory programs aimed at assisting newly employed seafarers to familiarise themselves with all procedures and equipment relating to their area of responsibility.

(7) The owner and operator of a ship to which these Regulations apply must enter into an employment agreement or an employment contract with each seafarer. This employment agreement must be contained in the Articles of Agreement to be signed by both the Master and the seafarer.

(8) The Articles of Agreement under sub-regulation (7) must—

- (a) contain the bio-data of the seafarer required by the Convention;
- (b) specify the date on which the seafarer was engaged and in what capacity, the seafarer's certificate, the nature of the voyage, and the date of the seafarer's discharge.

(9) The owner and operator of a ship must provide policies and procedures preventing alcohol abuse by seafarers on board ships.

(10) Notwithstanding sub-regulation (9), an alcohol limit of not greater than 0.05 per cent blood alcohol level (BAC) or 0.25 mg/l alcohol in the breath may be permitted for masters, officers and other seafarers while performing designated safety, security & marine environmental duties.

(11) The owner and operator of a ship shall ensure that seafarers assigned to any of their ship have received refresher and updating training as required by the Convention and these Regulations.

(12) The owner and operator of a ship shall ensure that at all times on board their ship there is effective communication in accordance with chapter V, regulations 3 and 4 of the International Convention for the Safety of Life at Sea, 1974 (SOLAS) as amended.

(13) The owner and operator of a vessel shall ensure that masters, officers and other personnel assigned specific duties and responsibilities on board their passenger ship have completed familiarisation training to attain the abilities that are appropriate to the capacity to be filled and duties and responsibilities to be taken up, taking into account the guidance given in section B-I/14 of the ISPS Code.

Responsibilities of owners and masters

- 10.—(1) The owner and master of a ship must each ensure that as far as practicable—
- (a) all seafarers employed on the ship are duly certificated;
 - (b) the ship is manned in compliance with the applicable safe manning requirements prescribed in Part 5;
 - (c) documentation and data relevant to all seafarers employed on the ship are maintained and readily accessible and include, without being limited to documentation and data on their experience, training, medical fitness and competency in assigned duties;
 - (d) all seafarers employed on the ship are familiar with their specific duties and with all ship arrangements, installations, equipment, procedures and ship characteristics relevant to their routine or emergency duties; and
 - (e) the ship's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

(2) The owner and the master of a ship to whom these Regulations apply must each ensure that every seafarer can make a knowledgeable and informed contribution to the safe operation of the ship.

(3) The date of engagement and discharge of every seafarer on a ship, and particulars of the ship (gross tonnage and the main propulsion power in kilowatts) must be recorded by the owner or master in the Seafarer's Employment Record Book.

Responsibilities of masters

11.—(1) A master must take all steps necessary to implement any company instructions issued in accordance with regulation 10, including—

- (a) identifying all seafarers who are newly employed on board the ship before they are assigned to any duties;
- (b) ensuring that all newly employed seafarers have satisfactorily completed a safety familiarisation training program with an assigned officer which should be signed off by the seafarer and assigned officer;
- (c) providing the opportunity for all newly arrived seafarers to—
 - (i) visit the spaces, in which their primary duties are to be performed;
 - (ii) get acquainted with the location, controls and display features of equipment they will be operating or using;
 - (iii) activate the equipment when possible and perform functions using the controls on the equipment; and
 - (iv) observe and ask questions of someone who is already familiar with the equipment, procedures and other arrangements, and who can communicate information in a language which the seafarer understands; and

- (d) providing for a suitable period of supervision when there is any doubt that a newly employed seafarer is unfamiliar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of his or her duties.

(2) The master of a ship to which these Regulations apply, must keep on board the ship for the duration of the voyage Articles of Agreement evidencing the contract of employment between the owner and every seafarer on board the ship.

(3) The master must sign the Articles of Agreement on behalf of the owner and ensure that the seafarer fully understands their meaning before appending his or her signature or mark.

(4) The master of a ship is responsible for ensuring that alcohol consumption on board the ship by the crew does not exceed the alcohol limit specified in regulation 9(10).

Responsibilities of seafarers

12.—(1) A seafarer assigned to a ship to which these Regulations apply must take full advantage of every opportunity provided to become familiar with the shipboard equipment, operating procedures, and other arrangements needed for the proper performance of his or her duties.

(2) Immediately upon arriving on board a ship for the first time, a seafarer has the responsibility of becoming familiar with his or her emergency duties, muster station, ship's fire and alarm system including the ship's emergency equipment, its location and operation.

(3) A seafarer has the responsibility to become acquainted with the ship's working environment, particularly with respect to new unfamiliar equipment, procedures or arrangements.

(4) A seafarer who does not promptly attain the level of familiarity required for performing his or her duties must bring this fact to the attention of his or her supervisor.

(5) A seafarer has the responsibility of ensuring that he or she does not consume alcohol above the limit specified in regulation 9(10).

Offences and penalties

13.—(1) An owner who fails to comply with regulation 9 or 10 commits an offence and is liable upon conviction—

- (a) in the case of an individual, to a fine not exceeding \$ 10,000 or imprisonment for a term not exceeding 2 years, or both;
- (b) in the case of a corporate body, to a fine not exceeding \$40,000.

(2) A master who fails to comply with regulation 10 or 11 commits an offence and is liable upon conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$10,000 or both.

(3) A seafarer who fails to comply with regulation 12 commits an offence and is liable upon conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$3,000 or both.

PART 4—WATCHKEEPING OF SHIPS

Watchkeeping arrangements

14.—(1) The owner, master, chief engineer officer and all watchkeeping personnel of every ship to which these Regulations apply shall observe the requirements, principles and guidelines set out in the Convention and the STCW Code published in the “Standards Regarding Watchkeeping under STCW Convention 78 as amended” to ensure that a safe watch is maintained at all times.

(2) The master of a ship to which these Regulations apply shall ensure that watchkeeping arrangements are adequate to maintain a safe navigational watch while the ship is at sea, taking into account—

- (a) the watchkeeping arrangements and principles to be observed under Section A- VIII/2 of the STCW Code, and having due regard to the guidance contained in Section B- VIII/2 of the STCW Code; and
- (b) the following principles—
 - (i) the officer in charge of a navigational watch is responsible for the safe navigation of the ship and must be physically present on the bridge or associated location during his or her period of duty;
 - (ii) the officer in charge of a navigational watch or a radio operator is responsible for maintaining continuous radio watch on appropriate frequencies during his or her period of duty;
 - (iii) officers in charge of cargo watch with responsibility for the planning and conduct of cargo operations shall ensure that such operations are conducted safely through the control of the specific risks including when non-ship’s personnel are involved;
 - (iv) an officer shall at all times maintain responsibility for safe anchor watches and if a master considers it necessary, a continuous navigation watch shall be maintained while the ship is at anchor or moored; and
 - (v) a proper look-out shall be maintained at all times.

(3) The chief engineer shall ensure that the composition of the engineering watch must, at all times, be adequate to ensure the safe operation of all machinery affecting the operation of the ship, in either automated or manual mode, and be appropriate to the prevailing circumstances and conditions.

(4) The Chief Engineer or his or her representative, who is the officer in charge of the engineering watch, shall be responsible at all times for the safe and efficient operation and upkeep of machinery affecting the safety of the ship and is responsible for any inspection, operation and testing of all machinery and equipment under the responsibility of the engineering watch.

(5) The master of a ship shall ensure that appropriate and effective watches must be maintained for the purpose of safety and security at all times—

- (a) when the ship is at anchor, moored or alongside a berth; and
- (b) when the ship is carrying hazardous cargo.

Watch schedules

- 15.—(1) The owner and the master of a ship shall ensure that a watch schedule is—
- (a) posted where it is easily accessible to the crew; and
 - (b) established in a standardised format in the working language or languages of the ship and in English; and
 - (c) available for inspection at all reasonable times by the Chief Executive Officer.

(2) The master of a ship shall ensure that any deviation from the planned watch schedule that occurs is recorded on the watch schedule that is required to be retained on board by sub-regulation (3).

(3) The owner and the master of a ship shall ensure that watch schedules and a daily record of actual watchkeeping hours of all watchkeeping crew are kept and retained on board for a period of three (3) years from the date of the schedule and made available to the Chief Executive Officer, on request.

Fitness for duty

16.—(1) The system of watches aboard a ship shall be so arranged and duties so organised that—

- (a) the efficiency of all personnel with watchkeeping duties is not impaired by fatigue; and
- (b) the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

(2) The owner and master of a ship shall establish and implement procedures in respect of the ship's crew taking into account, the requirement in regulation 17(1), to ensure that all crew are fit for duty when keeping a watch.

(3) The crew of a ship shall ensure, taking into account the requirement in regulation 17(2), that they are fit for duty at all times when keeping a watch.

Fatigue

17.—(1) When the owner or the master establishes and implements procedures for ensuring a seafarer's fitness for duty, they shall take into account that—

- (a) the level of alertness of a person keeping a navigational or engine room watch may be affected by fatigue; and
- (b) whenever alertness is affected by fatigue, performance can be impaired.

(2) When considering his or her fitness for duty, a seafarer shall take into account—

- (a) the signs, symptoms, and effects of fatigue;
- (b) that fatigue affects alertness; and
- (c) that the performance of any person whose alertness is affected by fatigue can be impaired.

Hours of rest

18.—(1) Without limiting regulation 16, the owner and the master of a ship shall ensure that each person who is assigned duty as officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, prevention of pollution, and security duties is provided with a minimum of—

- (a) 10 hours of rest in any 24 hour period; and
- (b) seventy-seven hours of rest in any seven day period.

(2) The owner and the master of a ship shall ensure that the hours of rest required by sub-regulation (1) are divided into no more than two periods, one of which is at least six hours in length, the other at least one hour in length. The interval between consecutive periods of rest shall not exceed 14 hours.

(3) The rest period requirements prescribed by sub-regulations (1) and (2) need not be maintained in the case of emergency, or of other essential on board work that for safety or environmental reasons cannot be delayed, or that could not reasonably have been anticipated at the commencement of the voyage.

(4) The hours of rest required by sub-regulations (1) and (2) may be reduced in exceptional circumstances, provided that—

- (a) not less than 70 hours of rest are provided in each seven-day period;
- (b) which do not extend for more than two consecutive seven-day periods; and
- (c) the duration of the interval between any two periods are at least twice the duration of the exception.

(5) The 10 hours of rest in any 24 hour period required by sub-regulation (1)(a) may be divided into no more than three periods and—

- (a) one of those three periods must be at least six hours in length and the other two must each not be less than one hour in length;
- (b) the intervals between consecutive rest periods must not exceed 14 hours; and
- (c) any such exception does not extend beyond two 24-hour periods in any seven-day period.

(6) The master of a ship shall ensure that an adequate compensatory rest period is provided to a seafarer working on call such as when a machinery space is unattended, if the rest period requirements prescribed by sub-regulations (1) and (2) are disturbed by call-outs to work.

(7) The master of a ship must—

- (a) ensure that records of the daily hours of rest taken in accordance with sub-regulations (1) and (2) are kept and maintained—
 - (i) in a standardised format;
 - (ii) in the working language or languages of the ship and in English; and

- (iii) to allow monitoring and verification of compliance with the requirements of this part; and
- (b) ensure that each seafarer—
 - (i) receives a copy of his or her records that is signed and dated by the master or a person authorised by the master to do so; and
 - (ii) signs and dates that copy.

(8) Nothing in this part impairs the right of the master of a ship to suspend scheduled hours of rest and require a seafarer to perform any hours of work necessary, until the normal situation has been restored, for—

- (a) the immediate safety of the ship, persons on board, or the cargo; or
- (b) the purpose of giving assistance to other ships or persons in distress at sea.

(9) As soon as practicable after the normal situation has been restored under sub-regulation (8), the master must ensure that seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

(10) The master shall ensure that any musters, firefighting drills, lifeboat drills, and other emergency drills required by the Maritime (Ships Survey) Regulations 2014 are conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

Alcohol and drug abuse

19.—(1) A Master, an officer and other seafarer shall comply with shipping company or ship owners' alcohol policy.

(2) Masters shall ensure that seafarers found to be under the influence of drugs or alcohol should not be permitted to perform watchkeeping duties or duties that involve designated safety, prevention of pollution and security duties, until they are no longer impaired in their ability to perform those duties.

(3) Ship owners and operators shall provide an alcohol policy for its fleet of ships.

Offences and penalties

20. An owner, master, chief engineer or seafarer with watchkeeping duties who fails to comply with the Regulation under this Part commits an offence and upon conviction is liable—

- (a) in the case of an owner—
 - (i) in the case of an individual, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both;
 - (ii) in the case of a corporate body, to a fine not exceeding \$40,000;
- (b) in the case of a master or chief engineer, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months, or both;
- (c) in the case of a seafarer other than the master or chief engineer, to a fine not exceeding \$3,000 or imprisonment for a term not exceeding 3 months, or both.