

[LEGAL NOTICE NO. 84]

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

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## Maritime (Mooring Buoy) Regulations 2014

IN exercise of the powers conferred upon me by section 240(1)(*dd*) 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 (Mooring Buoy) Regulations 2014 and shall come into force on a date appointed by the Minister by notice in the *Gazette*.

#### *Interpretation*

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

“Authority” means the Maritime Safety Authority of Fiji;

“Chief Executive Officer” means the Chief Executive Officer of the Maritime Safety Authority of Fiji;

“commercial mooring buoy” means a buoy that is owned by registered businesses and companies demonstrating legitimate commercial need to support the nominated business activity with established marine services and shore facilities such as water, public amenities, and ship sourced waste reception;

“Decree” means the Maritime Transport Decree 2013;

“mooring buoy” means a buoy secured to the bottom of the seabed by permanent moorings with means of mooring a ship by use of its anchor chains or mooring lines;

“private mooring buoy” means a buoy that is privately owned for non-commercial services and for the use of the nominated vessel or vessels registered by the applicant; and

“registered business or companies” means port operators, government agencies, boat builders and boat repairers, marina operators, fishing and commercial fleet operators, boating, yachting or fishing clubs wishing to offer moorings to members or legitimate visitors to the club, and companies who own more than one commercial vessel and intend to use the mooring on a rotational or occasional basis.

#### *Application*

3.—(1) These Regulations shall apply to all mooring buoys belonging to the State or any person within Fiji waters.

(2) A mooring buoy may be used for private or commercial use.

(3) A mooring buoy may be used interchangeably between approved vessels.

(4) An approval issued by the Authority shall not confer any legal title on any person.

*Purpose*

4. The purpose of these Regulations is to set out the standards and requirements for establishing, maintaining, operating, altering, removing or relocating mooring buoys within Fiji waters.

## PART 2—MOORING BUOY REQUIREMENTS

*Establishment and control of mooring buoys*

5.—(1) A person shall apply to the Chief Executive Officer to install, modify, alter the character of or remove a private, commercial or terminal mooring buoy on a form approved by the Chief Executive Officer.

(2) The Chief Executive Officer may approve an application made under sub-regulation (1) and issue an approval, with each mooring buoy issued with a registration number, and on terms and conditions as approved by the Authority.

(3) On approval, a mooring buoy shall be installed by the applicant within 30 days and adhere to the design approved by the Authority.

(4) A person who contravenes sub-regulations (1) and (2) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to—

- (a) in the case of an individual, to a fine not exceeding \$3,000 or imprisonment for a term not exceeding 3 months, or to both.
- (b) in the case of a body corporate, to a fine not exceeding \$10,000.

(5) The Chief Executive Officer may, for the safety or convenience of maritime navigation, by notice in writing served on the owner or operator of the mooring buoy, require the owner or operator to—

- (a) remove the mooring buoy entirely or relocate it, within the time specified in the notice;
- (b) cease using the mooring buoy; or
- (c) not use the mooring buoy except at the times and in the manner specified in the notice.

(6) A person served with a notice under sub-regulation (5), who, without reasonable cause, fails to comply with the requirements specified in the notice, commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

(7) Where the owner or operator of the mooring buoy—

- (a) fails, without reasonable cause, to comply with a requirement specified in a notice served on him or her under sub-regulation (5); or
- (b) for any reason cannot be served with a notice under sub-regulation (5),

the Chief Executive Officer may—

- (i) take possession or control of the mooring buoy; and

- (ii) take necessary measures which the owner of the mooring buoy, was required to do under any notice served on him or her under sub-regulation (5), for the safety of navigation.

(8) Costs incurred by the Authority under sub-regulation (7) shall be deemed a debt due to the Authority from the owner or operator of the mooring buoy who may be sued for in a court of law of competent jurisdiction.

*Mooring buoys subjected to periodical inspection*

6.—(1) An owner or operator of a mooring buoy shall be required to provide to the Authority an annual independent full underwater inspection report of each mooring buoy, showing the conditions of each mooring buoy a month prior to the expiration of the approval issued by the Authority.

(2) The Authority may inspect a mooring buoy by giving the owner or operator 7 days' notice.

*Marine protected areas*

7.—(1) The installation of mooring buoys in declared marine protected areas under the Offshore Fisheries Management Decree 2012 is prohibited unless the consent of the Permanent Secretary responsible for Fisheries is obtained.

(2) Installation of a mooring buoy in a native customary fishing right area under the Fisheries Act (Cap. 158) is prohibited unless consent of the native customary fishing rights owners is obtained, and the owners' details are verified and confirmed with the *iTaukei* Lands and Fisheries Commission.

(3) An applicant for a mooring buoy proposed to be installed in a native customary fishing rights area shall submit to the Chief Executive Officer evidence of consent of the owners and verification of the owners' entitlement to that area from the *iTaukei* Lands and Fisheries Commission, with the application form.

*Refusal or revocation*

8.—(1) The Chief Executive Officer may refuse an application if the mooring buoy will impede a navigation channel or if such approval will contravene any other written law as applicable.

(2) The Chief Executive Officer may revoke the approval for or registration of, a mooring buoy if—

- (a) there are significant changes in circumstances affecting marine safety in the vicinity of the mooring buoys;
- (b) the mooring buoy is unattended for a period of more than 90 days; or
- (c) the owner or operator fails to comply with any term and condition issued by the Authority.

(3) A mooring buoy shall be removed within 14 days by the owner if the approval or registration is revoked.

(4) Subject to sub-regulation (3), the Authority may remove a mooring buoy, upon failure of the owner to remove the mooring buoy, and may recover costs incurred from the owner.

*Exempted mooring buoys*

9.—(1) The Chief Executive Officer may exempt a mooring buoy within a customary fishing rights area owned by the native owners of that customary fishing area for private use, from the requirements of these Regulations.

(2) A mooring buoy installed by owners of native customary fishing rights areas for commercial use shall not be exempted from the requirements of these Regulations.

*Mooring buoys fees and charges*

10.—(1) Fees and charges for approval, verification and inspection of mooring buoys are prescribed in the Schedule.

(2) The fees for the commercial use of mooring buoys in declared port boundaries under the Sea Ports Management Act 2005 shall be regulated by the port operator.

Made this 14th day of December 2014.

P. TIKODUADUA  
Minister for Infrastructure and Transport

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SCHEDULE  
(Regulation 10)  
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MOORING BUOY FEES AND CHARGES

<i>No.</i>	<i>Fees and Charges</i>	<i>Rate \$ (VAT Exclusive)</i>
1.	Application fees	
	Application for private mooring buoys	\$10.00/ mooring buoy
	Application for commercial mooring buoys	\$15.00/mooring buoy
	Application for terminal mooring buoys	\$50.00/mooring buoy
2.	Private Mooring Registration	
	Initial Approval of private mooring buoy	\$40.00/mooring buoy
	Annual renewal of private mooring buoy	\$20.00/mooring buoy
3.	Commercial Mooring Registration	
	Initial Approval of commercial mooring buoy	\$75.00/mooring buoy
	Annual renewal of commercial mooring buoy	\$35.00/mooring buoy
4.	Terminal Mooring Registration	
	Initial Approval of terminal mooring buoy	\$400.00/mooring buoy
	Annual renewal of terminal mooring buoy	\$200.00/mooring buoy