

[LEGAL NOTICE NO.]

**MARITIME TRANSPORT ACT
(ACT NO. 20 OF 2013)**

Maritime (Labour Convention) Regulations 2017

TABLE OF PROVISIONS

PART I – PRELIMINARY

Regulation

1. Short title and commencement
2. Interpretation

PART II – SCOPE OF APPLICATION

3. Application
4. Exemption of ship
- 4A. Fundamental Rights and Principles

PART III – MINIMUM REQUIREMENTS FOR SEAFARERS' EMPLOYMENT

5. Minimum age for seafarers
6. Minimum age of cooks on board ships
7. Seafarer to have valid medical fitness certificate
8. Medical fitness standards
9. Employment of seafarers
10. Medical fitness certificate
11. Period of validity of medical fitness certificate
12. Recognition of certificate issued by foreign medical practitioner or optometrist
13. Reporting of medical conditions
14. Suspension and cancellation of medical fitness certificate
15. Review of approved medical practitioner or recognised foreign medical practitioner's decision
16. Certified copy of certificate
17. Training and qualifications
18. Seafarer recruitment and placement services
19. Grievance Procedure
20. Labour-Management, Consultation and Cooperation Committee (LMCCC)
21. Sexual harassment

PART IV – CONDITIONS OF SEAFARERS' EMPLOYMENT

22. Definitions
23. Shipowners to provide seafarers with safe and secure workplace
24. Manning levels
25. Seafarer's employment agreement
26. Particulars in seafarer's employment agreement
27. Information on conditions of employment
28. Notification of crew list
29. Details of crew list
- 29A. Working Hours
30. Hours of rest
31. Registration of provisions for exceptions to hours of rest
32. Restriction on working hours for young seafarer
33. Restriction on night work for young seafarer
34. Application for approval for night work by young seafarer
35. Prohibition on hazardous work for young seafarer
36. Wages
37. Allotment notes
38. Entitlement to annual leave
39. Repatriation of seafarers
- 39A. Financial Security
- 39B. Seafarers compensation for the ship's loss or foundering
40. Costs to be borne by shipowner for repatriation of seafarers
41. Costs to be borne by shipowner for relief and maintenance of seafarers
42. Period of liability for costs
43. Shipowner to bear supplementary costs
44. Seafarers' paid leave
45. Limitations on and exceptions to duty to repatriate
46. Provision of particulars
47. Information on arrangements made by seafarers
48. Conveyancing orders and directions
49. Recording of conveyance orders and directions
50. Work by seafarer being conveyed
51. Delivery of wages
52. Applicable agreement
53. Delivery of wages in other instances
54. Other records and accounts
55. Property of seafarers

- 56. Official log book entries
- 57. Offences and penalties
- 58. Compensation to seafarers in event of wreck or loss of ship, etc.
- 59. Procedure on discharge
- 60. Career and skill development and opportunities for seafarers

PART V – ACCOMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

- 61. Definitions
- 62. Accommodation and Recreational Facilities
- 63. Food
- 64. Requirement to carry qualified ship's cook
- 65. Training requirements for catering staff and other persons processing food in galley
- 66. Certificate of proficiency as ship's cook
- 67. Requirements for issue of certificate of proficiency as ships cook
- 68. Recognition of ship's cook certificate
- 69. Cancellation or suspension of certificate of proficiency and cessation of recognition of ship's cook certificate
- 70. Training requirements for catering staff
- 71. Holder of certificate with disease or disability
- 72. Holding of certificate
- 73. Loss of certificate
- 74. Cancellation of certificate upon death of holder

PART VI – MEDICAL CARE AND TREATMENT

- 75. Definitions
- 76. Medical care
- 77. Medical report forms
- 78. Medicine chest
- 79. Medical treatment on board ship
- 80. Medical advice through radio stations
- 81. Access to medical care ashore
- 82. Financial security requirement
- 83. Shipowner's duty to make provision for seafarer medical and other expenses
- 84. Shipowner's liability for wages following sickness or injury sustained by seafarer
- 85. Shipowner's liability in respect of burial or cremation of seafarer
- 86. Exclusion from liability under Regulations 80, 81 and 82
- 87. Limitation of seafarer's right to recover
- 88. Master's and shipowner's responsibilities

- 89. Medical guide
- 90. Medicines and medical equipment for foreign-going ships
- 91. Medicines and medical equipment for domestic ships
- 92. Medicines and medical equipment for ships plying upon domestic voyage
- 93. Ships carrying dangerous cargo
- 94. Ships without qualified medical practitioners
- 95. Ships with qualified medical practitioners
- 96. First-aid kit
- 97. Inspection of medicines and medical equipment
- 98. Medicine register and preservation of prescriptions
- 99. Alternative medicines and medical equipment
- 100. Standards of medicines kept on board
- 101. Packaging and labelling
- 102. Storage of medicines and medical equipment
- 103. Replenishment of dated medicine and medical equipment
- 104. Disposal of medicines and medical equipment

PART VII – HEALTH AND SAFETY PROTECTION AND ACCIDENT PREVENTION

- 105. Definitions
- 106. Duties of shipowner to ensure safety and health of seafarers
- 107. Duty of master to implement measures
- 108. Duties of seafarers at work on board a ship
- 109. Safety Committee
- 110. Codes of practice
- 111. Use of approved codes of practice in criminal proceedings
- 112. Investigation into occupational accidents, injuries and diseases on board ships
- 113. Safeguards and safety measures
- 114. Training of seafarers
- 115. Risk evaluation
- 116. Reporting requirements by shipowners and masters
- 116A. Duty of the shipowner and master
- 117. Investigation
- 118. Penalties

PART VIII – INSPECTION AND CERTIFICATION

- 119. Application and interpretation of this Part
- 120. Maritime Labour Certificate and Declaration of Maritime Labour Compliance
- 121. Power to inspect ships

- 122. Declaration of Maritime Labour Compliance
- 123. Interim Maritime Labour Certificate
- 124. Issue of Maritime Labour Certificate
- 125. Validity of Maritime Labour Certificate
- 126. Display of Maritime Labour Certificate and Declaration of Maritime Labour Compliance
- 127. Form of Declaration of Maritime Labour Compliance
- 128. Form of certificates
- 129. Replacement of lost documents
- 130. Fees

PART IX – COMPLAINTS

- 131. On-board complaint procedures
- 132. Provision of complaint procedures and other information

PART X – INSPECTIONS IN PORT

- 133. Application of this Part
- 134. Inspection of ships in port
- 135. Power to detain ships

PART XI – MISCELLANEOUS

- 136. Offences by bodies corporate, etc.
- 137. Forgery, etc., of documents and fraudulent use
- 138. Document obtained by fraud
- 139. Interfering with person in carrying out duty, etc.
- 140. Misleading officer, refusal to answer questions, produce documents, etc.
- 141. Taking person performing duty to sea
- 142. Provision as to jurisdiction in case of offences
- 143. Jurisdiction in case of offences on board ship
- 144. Prosecution of offences
- 145. Composition of offences
- 146. Sums ordered to be paid leviable by distress on ship
- 147. Depositions to be received in evidence when witness cannot be produced
- 148. Proof of attestation not required
- 149. Admissibility of documents in evidence
- 150. Service of documents
- 151. Mode of making declarations
- 152. Chief Executive Officer may authorise person to exercise powers and duties
- 153. Protection from personal liability

154. Powers of Authority to prescribe fees, recovery of fees and application of moneys
155. Exemption on application

List of Schedules

Schedule 1	—	GENERAL AREAS SUBJECT TO DETAILED INSPECTION IN PORT
Schedule 2	—	EVIDENCE OF FINANCIAL SECURITY
Schedule 3	—	SOCIAL SECURITY PROTECTIONS AFFORDED TO SEAFARERS
Schedule 4	—	TRAINING SYLLABUS
Schedule 5	—	MEDICAL REPORT FORM
Schedule 6	—	MEDICINE REGISTER
Schedule 7	—	SPECIFICATION OF INSECTICIDES AND MEANS OF APPLICATION
Schedule 8	—	DISPOSAL OF MEDICINES AND MEDICAL EQUIPMENT
Schedule 9	—	REPORT FORM: OCCUPATIONAL ACCIDENTS, INJURIES AND DISEASES AFFECTING SEAFARERS ON BOARD
Schedule 10	—	PART I – DECLARATION OF MARITIME LABOUR COMPLIANCE PART II – DECLARATION OF MARITIME LABOUR COMPLIANCE
Schedule 11	—	INTERIM MARITIME LABOUR CERTIFICATE
Schedule 12	—	MARITIME LABOUR CERTIFICATE
Schedule 13	—	FEES
Schedule 14	—	MINIMUM WAGES

IN exercise of the powers conferred upon me by *section 240 (1) (ee)* of the *Maritime Transport Act 2013*, I have made the following Regulations –

PART I – PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Maritime (Labour Convention) Regulations 2017 and shall come into force by notice in the *Gazette*.

Interpretation

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

“Authority” has the same meaning as in *Section 2* of the *Maritime Transport Act 2013*;

“approved medical practitioner means a registered medical practitioner under *Regulation 2* of the *Maritime (STCW Convention) Regulations 2014*;

“approved optometrist” means a registered optometrist under *Regulation 2* of the *Maritime (STCW Convention) Regulations 2014*;

“collective bargaining agreement” means an agreement or contract between a union(s) and an employer(s), reached through negotiation and defines the wages, terms and conditions of the employees it applies to;

“Commercial activity” means a ship that is used for hire or reward and including but not limited to—

(a) a ship that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business;

(b) a ship that is used on any voyage for pleasure if it is normally used or intended to be normally used as a fishing ship or for the carriage of passengers or cargo for hire or reward;

(c) a ship that is operated or provided by any club, incorporated society, trust, or business but does not include a pleasure craft;

“Convention” means the Maritime Labour Convention, 2006 adopted by the International Labour Organization at Geneva on 23rd February 2006 and, where the context shall admit or require, includes the Regulations, and the Standards in Part A of the Code, of the Convention including any future amendments;

“court”, in relation to any proceedings, includes any court having jurisdiction in the matter to which the proceedings relate;

“Chief Executive Officer” has the same meaning as in *Section 2* of the *Maritime Transport Act 2013*;

“Declaration of Maritime Labour Compliance” means the declaration referred to in *Regulation 122*;

“domestic voyage” means operating within Fiji waters;

“Fiji ship” has the same meaning as in *Section 2* of the *Ship Registration Act 2013*;

“Fiji waters” has the same meaning as in *Section 2 of the Maritime Transport Act 2013*;

“fit and proper person” is as prescribed in *Section 32 of the Maritime Transport Act 2013*;

“Flag State Inspector” means a person authorised under Regulation 134;

“Foreign ship” means a ship that is not a Fiji ship;

“gross rate of pay” means the total amount of money including allowances to which a seafarer is entitled under his seafarer’s employment agreement either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his seafarer’s employment agreement, or for each completed piece or task of work but does not include —

- (a) additional payments by way of overtime payments;
- (b) additional payments by way of bonus payments or annual wage supplements;
- (c) any sum paid to the seafarer to reimburse him for special expenses incurred by him in the course of his employment;
- (d) productivity incentive payments; and
- (e) travelling, food or housing allowances;

“gross tonnage”, in relation to a ship, means its gross tonnage calculated in accordance with the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969 and any amendment thereto which has come into force and has been accepted by the Government, or any successor Convention accepted by the Government;

“heavy load” has the same meaning as in the *Health and Safety at Work (General Workplace Conditions) Regulations 2003*;

“hire or reward” means any form of payment for any service that is provided by a shipowner or operator;

“hours of rest” means a period during which the seafarer is free to dispose of his own time and movements, and does not include any short breaks and any intervals allowed during hours of work for rest and meals;

“hours of work” means time during which seafarers are required to do work on account of the ship;

“Inspector” means a person who —

- (a) is a Flag State Surveyor or Port State Control Officer; or
- (b) is appointed in writing by the Chief Executive Officer to be an Inspector for the purposes of these Regulations;

“international voyage” means a voyage from a country to a port outside such a country.

“Maritime Appeal Tribunal” has the same meaning as in *Section 2* of the *Maritime Transport Act 2013*;

“Maritime Labour Certificate” means the certificate referred to in Regulation 124;

“master” includes every person, except a pilot, having command or charge of a ship;

“medical fitness certificate” means a certificate attesting to a person’s fitness to perform the duties which that person will carry out at sea and which is issued by a approved medical practitioner (whether or not subject to restrictions or conditions);

“other relevant written law” means other written law implementing requirements of the Convention;

“pleasure craft” has the same meaning in *Section 2* of the *Maritime Transport Act 2013*;

“Port State Control Officer” has the same meaning in *Section 2* of the *Maritime Transport Act 2013*;

“primitive built” relating to or denoting to a character of an early stage built;

“recognised foreign optometrist” means a person recognised by the Chief Executive Officer for the purpose of Regulation 12;

“recognised foreign medical practitioner” means a person recognised by the Chief Executive Officer for the purpose of Regulation 12;

“Recognised Organisation” “Recognised organization” means an organization which has entered into a Memorandum of Agreement with the Chief Executive Officer in compliance with the IMO Assembly Resolution A.739 (18) and the Annexes as amended by Resolution MSC 208(81) thereto entitled Adoption of Amendments to the Guidelines for the Authorization of Organizations acting on behalf of the Administration, governing the undertaking of particular survey and certification functions by the organization’s employees under the *Maritime*

Transport Act 2013 and the maritime and marine protection regulations. This recognized organization includes classification societies which are periodically audited and given instructions by the Authority for the purpose of survey, audit and certification, and authorised by the Chief Executive Officer to —

- (a) survey and inspect Fiji ships for the purposes of the requirements of the Convention or this Regulations;
- (b) issue Maritime Labour Certificates and Declarations of Maritime Labour Compliance in respect of Fiji ships; or
- (c) perform the functions referred to in paragraphs (a) and (b) ;

“requirements of the Convention” refers to the requirements in the Articles, the Regulations and Part A of the Code, of the Convention;

“seafarer” means any person, including the master, who is employed or engaged or works in any capacity on board a ship, but does not include —

- (a) a pilot;
- (b) a port worker;
- (c) a person temporarily employed on the ship during the period it is in port;
- (d) a person who is employed, engaged or works on board a ship in any of the following capacities —
 - (i) diver;
 - (ii) guest entertainer;
 - (iii) marine superintendent;
 - (iv) marine surveyor;
 - (v) privately contracted security personnel;
 - (vi) repair technician;
 - (vii) researcher;
 - (viii) scientist;
 - (ix) ship inspector;
 - (x) specialist offshore technician,
- (e) a person who is employed or engaged or who works in any of the capacities mentioned in (a) to (d) above, on board a ship and who fulfils the following criteria set out in sub-paragraphs (i) and (ii) together with any one of the following criteria set out in sub-paragraphs (iii), (iv) and (v):

- (i) his duration of stay on board that ship does not exceed 45 consecutive days;
- (ii) his working duration on board that ship in the aggregate does not exceed 4 months in any 12-month period;
- (iii) the nature of his work does not form part of the routine business of the ship;
- (iv) the work he performs is ad-hoc, with his principal place of employment onshore;
- (v) the labour and social conditions given to him by his principal employers are comparable to that provided for under the Regulations.

“seafarer recruitment and placement service” means any person, company, institution, agency or other organisation which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

“seafarer’s employment agreement” means a contract of employment in writing made between a person employed as a seafarer on a ship and the person employing him, including any collective bargaining agreement;

“sheltered waters” has the same meaning as Regulation 2 of the Maritime (STCW Convention) Regulations 2014;

“ship” has the same meaning as in *Section 2 of the Ship Registration Act 2013*;

“shipowner”, in relation to a ship, means the owner, and includes the registered owner, or in the absence of registration, the person owning the ship or any other person such as the ship manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;

“special personnel” means all persons who are not passengers or members of the crew or children of under one year of age and who are carried on board in connection with the special purpose of that ship or because of special work being carried out aboard that ship.

“special purpose ship” means a mechanically self-propelled ship which by reason of its function carries on board more than 12 special personnel including passengers. Special purpose ships include the following types –

- (a) ships engaged in research, expeditions and survey;
- (b) ships for training of marine personnel;
- (c) whale and fish factory ships not engaged in catching;
- (d) ships processing other living resources of the sea, not engaged in catching;
- (e) other ships with design features and modes of operation similar to ships referred to (a) to (d) above which in the opinion of the Chief Executive Officer may be referred to in this group.

“STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 and any amendment thereto which has come into force and has been accepted by the Government;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 25th June 2010 and any amendment thereto which has come into force and has been accepted by the Government;

“workplace” has the same meaning as in *Section 5 (1) of the Health and Safety at Work Act 1996*;

“young seafarer” means any seafarer who is 16 years of age or above and below 18 years of age.

(2) References in this Regulations —

- (a) to a failure to do any act or thing include references to a refusal or neglect to do that act or thing;
- (b) to going to sea include, in the case of a Fiji ship, references to going to sea from any country outside Fiji; and
- (c) to a death occurring on a ship include references to a death occurring in a ship’s boat or life raft and to being lost from a ship, ship’s boat or life raft.

(3) For the purposes of this Regulations —

- (a) a seafarer is discharged from a ship when his employment on that ship is terminated;

- (b) a seafarer discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there; and
- (c) a ship shall be deemed to have gone to sea if it has got under way for any purpose except for the purpose of moving the ship from one berth or place in a port to another berth or place in the port.

PART II – SCOPE OF APPLICATION

Application

3.—(1) Except as otherwise expressly provided, this Part and Parts I and XI shall apply to —

- (a) all Fiji ships ordinarily engaged in commercial activities on domestic or international voyage;
- (b) all ships, not being Fiji ships, in Fiji, whether publicly or privately owned, ordinarily engaged in commercial activities; and
- (c) all seafarers employed on ships referred to in paragraph (a) or (b).

(2) Except as otherwise expressly provided, Parts III to VII and IX shall apply to —

- (a) all Fiji ships ordinarily engaged in commercial activities on domestic or international voyage; and
- (b) all seafarers employed on ships referred to in paragraph (a).

(3) These Regulations do not apply to —

- (a) ships navigating exclusively in sheltered waters or waters within, or closely adjacent to sheltered waters;
- (b) warships or naval auxiliaries;
- (c) ships engaged in fishing; and
- (d) ships of primitive built.

Exemption of ship

4.—(1) Subject to this Regulation, where the Chief Executive Officer determines from time to time that it would not be reasonable or practicable to apply any provision of these Regulations, to any Fiji ship, of less than 200 gross tonnage and not engaged in international voyages, the Chief Executive Officer may exempt that Fiji ship, or

particular categories of Fiji ships, either generally or for such time or such voyage as the Chief Executive Officer shall determine.

(2) The Chief Executive Officer may in granting any exemption under sub-regulation (1) impose such conditions on the Fiji ship, or particular categories of Fiji ships as the Chief Executive Officer thinks fit.

(3) Without prejudice to the generality of sub-regulations (1) and (2), the conditions may include a requirement that the provisions of any other written law, or the terms of any seafarer's employment agreement or collective bargaining agreement, or other measures, be complied with in lieu of any provision of these Regulations or Part A of the Code of the Convention.

Fundamental Rights and Principles

4A. The Authority shall ensure that the Regulations include the fundamental rights to –

- (a) Freedom of association and the effective recognition of the right to collective bargaining;
- (b) The elimination of all forms of forced or compulsory labor;
- (c) The effective abolition of child labour; and
- (d) The elimination of discrimination in respect of employment and occupation.

PART III – MINIMUM REQUIREMENTS FOR SEAFARERS' EMPLOYMENT

Minimum age for seafarers

5.—(1) No person shall cause or permit a person below 16 years of age to be employed on board a ship.

(2) Any person who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Minimum age of cooks on board ships

6.—(1) No seafarer below 18 years of age shall be employed or engaged or work as a ship's cook.

(2) Any person who employs or engages a seafarer below 18 years of age to work as a ship's cook shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Seafarer to have valid medical fitness certificate

7.—(1) Subject to sub-regulations (3) and (4), no person shall work as a seafarer on a ship unless that person has been issued with a medical fitness certificate complying with the requirements and standards specified in the *Maritime (STCW Convention) Regulations 2014*, and which is still valid and is not suspended.

(2) A seafarer who has been issued with a medical fitness certificate shall carry that certificate on board during the term of that seafarer's employment on a ship.

(3) A seafarer whose medical fitness certificate has expired during the course of a voyage may continue to work until the earlier of the following:

(a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and be examined by an approved medical practitioner or recognised foreign medical practitioner;

(b) the expiry of 3 months starting from the date of the expiry of the certificate.

(4) In urgent cases, with the Chief Executive Officer's approval, if a person —

(a) does not hold a valid medical fitness certificate; but

(b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person below 18 years of age at the date of issue of the certificate, 12 months) and that certificate has expired no earlier than one month before the date on which that person joined a ship,

that person may work as a seafarer on that ship until the first port of call at which it is possible for an application for a medical fitness certificate in respect of that person to be made and for that person to be examined by an approved medical practitioner or recognised foreign medical practitioner, but in any case not for a period exceeding 3 months.

(5) No person may work as a seafarer on a ship in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(6) No person may work as a seafarer on a ship in breach of a condition of that person's medical fitness certificate.

Medical fitness standards

8.—(1) A medical fitness certificate shall be issued by an approved practitioner only if

- (a) the approved medical practitioner or recognised foreign medical practitioner has examined the person to whom the medical fitness certificate relates; and
- (b) having had regard to the medical fitness standards referred to in Regulation 7 (1), the approved medical practitioner or recognised foreign medical practitioner considers that the person to whom the medical fitness certificate relates

is fit to perform the duties which that person will carry out at sea.

(2) The medical fitness standards referred to in sub-regulation (1) (b) shall cover vision standards, hearing standards, physical capability requirements, fitness criteria for medication use, fitness criteria for common medical conditions and any other areas, as may be determined by the Chief Executive Officer.

(3) The Chief Executive Officer may publish the medical fitness standards determined under sub-regulation (2) in such manner as he thinks fit.

Employment of seafarers

9.—(1) Subject to sub-regulations (2) and (3), no person may employ another person as a seafarer on a ship unless that other person has been issued with a medical fitness certificate complying with requirements mentioned in Regulation 7 (1), and which is still valid and is not suspended.

(2) A person may continue to employ as a seafarer on a ship, a person whose medical fitness certificate has expired during the course of a voyage until the earlier of the following:

- (a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and be examined by an approved medical practitioner or recognised foreign medical practitioner;
- (b) the expiry of 3 months starting from the date of expiry of the certificate.

(3) In urgent cases, with the Chief Executive Officer's approval, if a person who is a seafarer —

- (a) does not hold a valid medical fitness certificate; but
- (b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person below 18 years of age at the date of issue

of the certificate, 12 months) and that certificate has expired no earlier than one month from the date on which the seafarer joined a ship,

a person may employ that person as a seafarer on that ship until the first port of call at which it is possible for an application for a medical fitness certificate in respect of that seafarer to be made and for that seafarer to be examined by an approved medical practitioner or recognised foreign medical practitioner, but in any case not for a period exceeding 3 months.

(4) No person shall employ a person as a seafarer on a ship in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(5) No person shall employ a person as a seafarer on a ship in such a way as to breach a condition of that person's medical fitness certificate.

(6) Any person who contravenes sub-regulation (1), (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Medical fitness certificate

10.—(1) A medical certificate shall be issued by an approved medical practitioner or recognised foreign medical practitioner for the purpose of issuing seafarers' medical certificates or, in the case of a certificate solely concerning eyesight, by an approved optometrists or recognised foreign optometrist qualified to issue such a certificate.

(2) A medical fitness certificate shall indicate if the person —

- (a) is fit for all duties worldwide within his department as indicated in the certificate;
- (b) can undertake all routine and emergency duties but is only able to work in specified waters;
- (c) requires adaptation of some routine and emergency duties; or
- (d) cannot perform routine and emergency duties safely and effectively, and adaptation of duties is not possible.

(3) A medical fitness certificate shall be provided in English.

(4) A medical fitness certificate shall —

- (a) state whether the hearing of the person concerned is satisfactory;
- (b) state whether the vision of the person concerned is satisfactory, which shall include the colour vision of the person where fitness for the duties to be performed by the person is liable to be affected by defective color vision;

- (c) state whether the person concerned is suffering from any medical condition likely to be aggravated by service at sea or to render the person unfit for such service or to endanger the health of other persons on board; and
- (d) contain such other information as required under section A-I/9 of the STCW Code (Guidelines on the Medical Examination of Seafarers).

Period of validity of medical fitness certificate

11. (1) A medical fitness certificate is valid only from the date of the medical examination and shall be valid for the period specified on the certificate, which shall not exceed the following maximum periods:

- (a) in respect of a person below 18 years of age or 55 years and above, 12 months; or
- (b) in respect of a person of 18 years of age or below 55 years, 24 months.

(2) A certification of color vision shall be valid for a maximum period of 6 years subject to the recommendation of the approved optometrist or recognised foreign optometrist.

Recognition of certificates issued by foreign medical practitioner or optometrist

12.—(1) The Chief Executive Officer may, at his discretion and upon such conditions as he may determine, recognize any -

- (a) medical fitness certificate issued by a foreign medical practitioner; or
 - (b) certification of color vision issued by a foreign optometrist,
- issued in accordance with the requirements of the STCW Convention, as being equivalent to a medical fitness certificate issued by an approved medical practitioner or approved optometrist.

(2) The list of –

- (a) foreign medical practitioners whose medical fitness certificates; and
 - (b) foreign optometrist whose certification of color vision,
- recognised by the Chief Executive Officer under sub-regulation (1), shall be published by the Chief Executive Officer in such manner as he thinks fit.

Reporting of medical conditions

13.—(1) A seafarer who holds a medical fitness certificate and who —

- (a) is, or is likely to be, absent from work for a period of 30 days or more due to a medical condition; or
- (b) develops a significant medical condition,

shall report that medical condition as soon as practicable to an approved medical practitioner or recognised foreign medical practitioner.

(2) If a seafarer is required to make the report required by sub-regulation (1), the validity of that seafarer's medical fitness certificate is suspended from the date on which it first becomes practicable for that seafarer to make the report until the date (if any) on which an approved medical practitioner or recognised foreign medical practitioner has assessed, if necessary by conducting a medical examination of the seafarer, that the seafarer is fit having regard to the medical standards prescribed.

(3) In this Regulation, "medical condition" includes both injury and illness, and a significant medical condition is one which adversely affects or is reasonably likely to adversely affect the seafarer's ability to carry out his duties, including the seafarer's ability to undertake emergency duties.

Suspension and cancellation of medical fitness certificate

14.—(1) This Regulation shall apply if an approved medical practitioner or recognised foreign medical practitioner has reasonable grounds for believing that —

- (a) there has been a significant change in the medical fitness of a person during the period of validity of that person's medical fitness certificate;
- (b) a person is not complying with the terms of a condition to which that person's medical fitness certificate is subject;
- (c) when a medical fitness certificate was issued, had an approved medical practitioner or recognised medical practitioner been in possession of full details of the condition of the person to whom the certificate relates, the approved medical practitioner or recognised medical practitioner could not reasonably have considered that the person was fit, having regard to the medical fitness standards specified in these Regulations; or
- (d) a medical fitness certificate was issued otherwise than in accordance with these Regulations.

(2) If this Regulation applies, the approved medical practitioner or recognised foreign medical practitioner may —

- (a) suspend the validity of a medical fitness certificate until the person to whom the certificate relates has undergone further medical examination;
- (b) suspend the validity of the medical fitness certificate for such period as the approved medical practitioner or recognised foreign medical practitioner considers the person to whom the certificate relates will remain unfit to perform the duties the person will carry out at sea; or
- (c) cancel the certificate if the approved medical practitioner or recognised foreign medical practitioner considers that the person to whom the certificate relates is likely to remain permanently unfit to perform the duties the person will carry out at sea,

and must notify that person concerned accordingly and the Chief Executive Officer.

(3) The approved medical practitioner or recognised foreign medical practitioner may require that a person surrenders a medical fitness certificate which has been issued to that person and which has been suspended or cancelled under sub-regulation (2), as that practitioner directs.

(4) For the purposes of this regulation, a significant change in the medical fitness of a person is a condition which affects or would be reasonably likely to affect that person's ability to carry out his duties, including his ability to undertake emergency duties.

Review of approved medical practitioner or recognised foreign medical practitioner's decision

15.—(1) A person who is aggrieved by —

- (a) the refusal of an approved medical practitioner or recognised foreign medical practitioner to issue a medical fitness certificate;
- (b) any restriction imposed on such a certificate; or
- (c) the suspension for a period of more than 3 months or cancellation of such a certificate by an approved medical practitioner or recognised foreign medical practitioner,

may, not later than 90 days after such refusal, restriction, suspension or cancellation, apply to the Chief Executive Officer for the matter to be reviewed by another approved medical practitioner or recognised foreign medical practitioner.

(2) Upon receiving the application, the Chief Executive Officer shall permit the medical fitness of the seafarer to be reviewed by another approved medical practitioner or recognised medical practitioner unless the Chief Executive Officer is satisfied that such a review will not produce a different result.

Certified copy of certificate

16.—(1) If a person who was issued with a medical fitness certificate, which is still valid, is no longer in possession of that certificate, then upon —

- (a) application being made by that person to the approved medical practitioner or recognised medical practitioner who issued the certificate; and
- (b) payment of the approved medical practitioner or recognised medical practitioner administrative costs of issuing a certified copy,

the approved medical practitioner or recognised medical practitioner who issued the medical fitness certificate may issue to that person a certified copy of the medical fitness certificate.

(2) This regulation shall not apply to a medical fitness certificate which has been surrendered under Regulation 14 (3).

Training and qualifications

17.—(1) A seafarer shall not be permitted to work on a ship except when that seafarer —

- (a) has successfully completed training for personal safety on board the ship; and
- (b) is trained or certified as competent or otherwise qualified to perform the seafarer's duties.

(2) The training and certification requirements under paragraph (1) shall be in accordance with the *Maritime (STCW Convention) Regulations 2014*.

(3) The Authority shall maintain a record of the certified seafarers' trainings and qualifications.

Seafarer recruitment and placement services

18.—(1) This Regulations shall apply to —

- (a) every seafarer recruitment and placement service operated in, or provided from, Fiji; and
- (b) every shipowner of a Fiji ship ordinarily engaged in commercial activities, including such a shipowner who engages seafarer recruitment and placement services operated in, or provided from, a country outside Fiji.

(2) No person shall operate a seafarer recruitment and placement service operated in or provided from Fiji unless he is authorised to do so by the Chief Executive Officer.

(3) A person may apply in such manner as may be determined by the Chief Executive Officer for approval to operate a seafarer recruitment and placement service in Fiji.

(4) If the Chief Executive Officer is satisfied that the applicant is a fit and proper person to operate a seafarer recruitment and placement service, the Chief Executive Officer shall, upon payment of an approved fee, issue a certificate of authorisation to him.

(5) The certificate of authorisation shall be valid for such period as may be specified in the certificate, but that must not exceed 3 years subject to annual verification audit by the Authority.

(6) Any person operating a seafarer recruitment and placement service shall comply with the following conditions:

- (a) Preventing or deterring seafarers employment – a seafarer recruitment and placement service shall not use any means, mechanism or list in order to prevent or deter a seafarer from gaining employment for which he is qualified;
- (b) Fees and costs of seafarer recruitment and placement services –
 - (i) no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers may be born directly or indirectly, by the seafarer, except for the costs obtaining the following:
 - (aa) a medical certificate;
 - (bb) the seafarer’s employment record book; and
 - (cc) passport or other similar personal travel documents, but not including the cost of visas, which must be borne by the shipowner.
 - (ii) publication of any costs which a seafarer will be expected to bear in the recruitment process.
- (c) maintenance of a seafarer recruitment and placement register –
 - (i) A seafarer recruitment and placement service shall establish and maintain an up-to-date register, available for inspection, by a Flag State Inspector or Port State Control Officer or any person duly authorised by the Chief Executive Officer, of seafarers recruited or placed.
 - (ii) The register shall include, but not be limited to, the seafarers’ —
 - (aa) qualifications;
 - (bb) record of employment;
 - (cc) personal data relevant to employment; and
 - (dd) medical data relevant to employment, and shall contain full and complete records of all seafarers to whom the seafarer recruitment and placement service has provided any recruitment and placement services.
 - (iii) The register may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.
 - (iv) The register shall be maintained with due regard to the right to privacy and the need to protect confidentiality.
 - (v) The register shall be kept for at least one year from the date of creation and at least one year after the date on which the seafarer recruitment and placement service last provides services to any applicant.

- (vi) A seafarer recruitment and placement service shall ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost.
- (vii) A seafarer recruitment and placement service shall maintain upto-date lists of the ships for which they provide seafarers and ensure that there is a means by which the seafarer recruitment and placement service can be contacted in an emergency at all hours.

(d) Seafarers employment agreement –

- (i) A seafarer recruitment and placement service shall ensure that a seafarer is informed of his rights and duties under the seafarer's employment agreement prior to or in the process of engagement.
- (ii) A seafarer recruitment and placement service shall ensure that arrangements are made for a seafarer to examine the seafarer's employment agreement before and after it is signed by the seafarer.
- (iii) A seafarer recruitment and placement service shall ensure that arrangements are made for a seafarer to receive a copy of the seafarer's employment agreement after it is signed by the seafarer.
- (iv) A seafarer recruitment and placement service shall ensure that a seafarer is advised of any particular conditions applicable to the job for which he is to be engaged and of the particular shipowners policies in relation to his employment.

(e) Seafarers qualification –

- (i) A seafarer recruitment and placement service shall not recruit or place a seafarer to work on a ship unless confirmation has been obtained on all of the following:
 - (aa) the identity of the seafarer;
 - (bb) the seafarer has the experience, training, qualifications and any authorisation the shipowner considers necessary, or which are required by law or by any professional body, to work in the position which the shipowner seeks to fill;
 - (cc) the seafarer is willing to work in the position which the shipowner seeks to fill;
 - (dd) the seafarer's employment agreement is in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement.
- (ii) A seafarer recruitment and placement service shall have procedures –

- (aa) to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified,
 - (bb) to verify that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization; and
 - (cc) to supply seafarers, as a matter of policy, only to shipowners that offer terms and conditions of employment to seafarers who comply with applicable laws or regulations or collective bargaining agreements;
- (f) ensuring that shipowners have the means to protect seafarers from being stranded in a foreign port –
 - (i) A seafarer recruitment and placement service must maintain up-to-date lists of the ships for which they provide seafarers, ensuring that there is a means by which the agency can be contacted in an emergency at all hours;
 - (ii) procedures must be in place to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost;
- (g) A seafarer recruitment and placement service shall examine and respond to any complaint concerning their services and advise the Chief Executive Officer of any unresolved complaint.
- (h) A seafarer recruitment and placement service shall have procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline of seafarers that were recruited or placed by the seafarer recruitment and placement service, that are consistent with Fiji's laws and practices, and where applicable, with collective bargaining agreements;
- (i) Exploitation of seafarers –
 - (aa) A seafarer recruitment and placement service shall have procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement service or their personnel with regard to the offer of engagement on particular ships or by particular companies.

- (bb) A seafarer recruitment and placement service shall have procedures to prevent opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement service.
 - (j) compensation scheme – A seafarer recruitment and placement service shall establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarer’s employment agreement to meet its obligations to them.
 - (k) Foreign seafarer recruitment and placement services – A shipowner shall ensure that if he uses a seafarer recruitment and placement service located in a State or territory which has acceded to or ratified the Convention, that seafarer recruitment and placement service is authorised or licensed by the relevant authority in that State or territory.
 - (l) inspection of the premises and documents of any seafarer recruitment and placement service.
- (7) A seafarer recruitment and placement service shall not engage any person —
- (a) below 16 years of age to be employed in any capacity on board a ship; or
 - (b) below 18 years of age to be employed as a ship’s cook.
- (8) The Chief Executive Officer or a Flag State Inspector or Port State Control Officer may, at any time, for the purposes of this Regulation —
- (a) enter and inspect any premises of any seafarer recruitment and placement service;
 - (b) require and enforce the production of any book, certificate or document relating to any ship, seafarer or seafarer recruitment and placement service; and
 - (c) summon any person before him and require him to answer questions.
- (9) A shipowner shall not use a seafarer recruitment and placement service located in a State or territory that has not acceded to or ratified the Convention unless he has satisfied the Chief Executive Officer that the seafarer recruitment and placement service is compliant with the requirements of the Convention.

(10) Where the Chief Executive Officer is satisfied that a seafarer recruitment and placement service has failed to comply with any provision of these Regulations, the Chief Executive Officer may, after giving an opportunity to make representations in writing, suspend or withdraw the certificate of authorization in accordance with the provisions of the *Maritime Transport Act 2013*.

(11) Notwithstanding any written law to the contrary, no person shall demand or receive, directly or indirectly, from a seafarer or a person seeking employment as a seafarer (referred to as a prospective employee), or from a person on behalf of a prospective employee, any remuneration whatsoever for providing the prospective employee with employment.

(12) Any person who contravenes any provision of this Regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(13) In this Regulations, unless the context otherwise requires —

“certificate of authorization” means the certificate of authorization to operate a seafarer recruitment and placement service in Fiji which is issued by the Chief Executive Officer under sub-regulation 2;

“register” means the register referred to in sub-regulation (6) of seafarers recruited or placed.

Grievance procedure

19. In the case of a grievance in the workplace, the parties shall resort to grievance procedure in the employment contract or in the absence of such contract, shall use the procedure stipulated in *Schedule 4 of the Employment Relations Act 2007*.

Labour – Management, Consultation and Cooperation Committee (LMCCC)

20.— (1) All shipowners with more than 20 seafarers are required by *sections 9 (1) (d) and 9 (3) of the Employment Relations Act 2007* to have a Labour-Management, Consultation and Cooperation Committee to assist them to review and develop work practices in order to promote good faith employment relations and increase productivity.

Sexual harassment

21. All ship-owners are required to develop and maintain a policy to prevent sexual harassment in the workplace.

PART IV – CONDITIONS OF SEAFARERS' EMPLOYMENT

Definitions

22. In this Part —

“short voyage” means a voyage where, within any 24- hour period, the ship calls at 2 or more terminals, or locations where any loading or unloading of cargo, or embarkation or disembarkation of persons, occurs, and the 24-hour period commences when the ship is first secured at the terminal or location where the voyage begins;

“foreign-going ship” means a Fiji ship on international voyage;

Shipowners to provide seafarers with safe and secure workplace

23. Subject to this Regulations, it shall be the duty and obligation of every shipowner to provide and ensure that every seafarer in his employment shall be provided, in accordance with the requirements of this Regulations and any other written law, with —

- (a) a safe and secure workplace that complies with safety standards;
- (b) fair terms of employment;
- (c) decent working and living conditions on board ship; and
- (d) health protection, medical care and welfare measures.

Manning levels

24.—(1) A ship shall have a sufficient number of seafarers on board to:

- (a) ensure the safety and security of the ship and its personnel, under all operating conditions in accordance with a manning document issued by the Authority; and
- (b) comply with the standards provided for in the *Maritime (STCW Convention) Regulations 2014*.

(2) A ship shall be manned in accordance with the safe manning document issued under the *Maritime Transport Act 2013* and ships to which the requirements of the regulations does not apply shall be manned by seafarers as determined by the Authority.

(3) A shipowner who contravenes the provisions of this regulation commits an offence and is liable on conviction to a fine not exceeding \$5000.

Seafarer's employment agreement

25.—(1) No person shall cause or permit any person without a seafarer's employment agreement to be employed as a seafarer on a ship.

(2) Every shipowner shall —

- (a) ensure that the seafarer's employment agreement is read over and explained to the seafarer;
- (b) ascertain that the seafarer understands the agreement;
- (c) ensure that the seafarer has been given an opportunity to examine and seek advice on the agreement before he signs it;
- (d) ensure that the agreement is signed by both the seafarer and by the shipowner or by a person on behalf of the shipowner; and
- (e) provide the seafarer with a document containing a record of their employment on board a ship and this document shall not contain any statement as to the quality of the seafarers work or as to their wages.

(3) The master or shipowner shall supply to the seafarer a signed original of the seafarer's employment agreement under which the seafarer is employed.

(4) If a seafarer's employment agreement is not in English, a copy of the standard form of the seafarer's employment agreement shall be available in English on board the ship.

(5) Where a collective bargaining agreement forms all or part of a seafarer's employment agreement, a copy of that collective bargaining agreement shall be available on board the ship and, where that collective bargaining agreement is not in English, the portions of that collective bargaining agreement that are subject to an inspection in port as specified in ***Schedule 1*** shall also be available in English.

(6) The Authority shall provide the form of and the matters to be included in the seafarer's employment agreement and the particulars to be entered into it.

(7) Any term of a seafarer's employment agreement that imposes a condition of service which is less favourable to a seafarer than any of the terms contained in this Regulations shall be unenforceable by the shipowner to the extent that it is so less favourable.

(8) Any term in an employment agreement providing for the seafarer to forego any part of the minimum annual leave prescribed under Regulation 38 shall be unenforceable in so far as it purports to deprive the seafarer of that right or to remove or reduce the liability of the shipowner to grant the minimum annual leave prescribed under this Part except under such circumstances as may be prescribed by the Authority.

(9) Either party to a seafarer's employment agreement may at any time give to the other party notice of his intention to terminate the agreement.

(10) The length of such notice shall be the same for both the shipowner and the seafarer and shall be in accordance with the seafarer's employment agreement, provided that such notice shall, not be less than 7 days.

(11) The Chief Executive Officer may permit the length of notice set out in sub-regulation (10) to be less than 7 days where such shorter notice is necessary for compassionate or other urgent reasons and agreed to by both the seafarer and shipowner.

(12) Such notice shall be written and may be given at any time, and the day on which the notice is given shall be included in the period of the notice.

(13) Either party to the seafarer's employment agreement may, without waiting for the expiry of the notice referred to in sub-regulation (10), terminate the agreement by paying to the other party a sum equal to the amount of salary at the gross rate of pay which would have accrued to the seafarer during the period of the notice.

(14) Any person who employs a seafarer or enters into a seafarer's employment agreement with a seafarer in contravention of this Regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Particulars in seafarer's employment agreement

26.—(1) A seafarer's employment agreement shall at a minimum contain the following particulars:

- (a) the seafarer's full name, date of birth or age, birthplace and nationality;
- (b) the shipowner's name and address;
- (c) the place and date when the seafarer's employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the termination of the agreement and the conditions relating to termination, including —
 - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;

- (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
 - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer may be discharged;
 - (h) the health and social security protection benefits to be provided to the seafarer by the shipowner as specified in ***Schedule 3***;
 - (i) the seafarer's entitlement to repatriation; and
 - (j) the reference to the collective bargaining agreement, as applicable.
- (2) A seafarer's employment agreement shall, in addition to the particulars referred to in sub-regulation (1), contain a term that the shipowner shall provide compensation to the seafarer for any loss of his personal effects on board due to the loss of the ship or fire on board the ship, subject to a maximum of \$10,000.
- (3) The seafarer's employment agreement shall be so framed as to allow such stipulations to be adopted at the will of the parties to the agreement, as are not contrary to law.

Information on conditions of employment

27.—(1) A shipowner shall ensure that the information on the conditions of employment including a clear legible copy of each seafarer's employment agreement relating to the ship can be easily obtained on board the ship by each seafarer employed on the ship and is accessible for review by the Chief Executive Officer and authorised officers in port States.

(2) The requirements referred to in sub-regulation (1) may be satisfied by a shipowner who provides an electronic record of the required information, but such electronic records must be readily available for inspection and capable of being printed if required by the Chief Executive Officer or authorised officers in port States.

- (3) Notwithstanding sub-regulation (2), a shipowner shall —
- (a) provide each seafarer with a signed original (in paper form) of the seafarer's employment agreement; and
 - (b) retain a signed original (in paper form) of the seafarer's employment agreement.

Notification of crew list

28.—(1) A shipowner and the master shall notify the Chief Executive Officer, as specified in Regulation 29, of the details of seafarers who are employed on a ship on the following occasions:

- (f) when the ship is registered, provisionally or otherwise, under the *Ship Registration Act 2013*;
- (g) when a seafarer's employment agreement is entered into with any seafarer;
- (h) when any term of the seafarer's employment agreement of a seafarer employed on the ship is altered;
- (i) when a seafarer is discharged from the ship.

(2) Any shipowner or master who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Details of crew list

29.—(1) The shipowner and master shall submit a notification (referred to in this Regulation as the crew list) to the Chief Executive Officer of the details, specified in sub-regulations (2) and (3), of seafarers who are employed on a ship.

(2) The details in the crew list in respect of the ship on which the seafarer is employed shall be as follows:

- (a) name of ship and official number;
- (b) gross tonnage/engine power (kw) ;
- (c) name and address of shipowner;
- (d) description of ship type (e.g. general cargo, bulk carrier, tanker, etc.);
- (e) description of ship's trading area (whether it is the trading area of a foreign-going ship, a domestic ship, or a ship on a special voyage); and
- (f) date and place of submission of the crew list.

(3) The details in the crew list in respect of a seafarer who is employed on the ship shall be as follows:

- (a) name of seafarer;
- (b) date of birth;
- (c) nationality;
- (d) name and relationship of next-of-kin;
- (e) date and place of engagement;
- (f) capacity; and
- (g) date and place of discharge.

(4) The shipowner or master shall, upon the request of the Chief Executive Officer, provide a copy of the seafarer's employment agreement to the Chief Executive Officer.

(5) The shipowner and master shall, within 7 days after the date when the seafarer, including the master himself, is engaged or discharged, notify the Chief Executive Officer of the engagement or discharge on board a ship.

Working hours

29A. The normal working hours for seafarers shall be based on an eight-hour day with one day of rest per week and rest on public holidays.

Hours of rest

30.—(1) Every shipowner shall ensure that every seafarer in his employment is given the hours of rest in accordance with this Regulation.

(2) The minimum hours of rest shall be 10 hours in any 24-hour period and 77 hours in any 7-day period.

(3) The minimum hours of rest may be divided into no more than 2 periods, one of which shall be at least 6 hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

(4) Where a seafarer is employed in work during hours of rest, he shall be compensated with an equivalent period of rest in the next rest period, or if not possible, as soon as practicable after that.

(5) No person shall cause or permit payment to be made in lieu of hours of rest.

(6) The master shall cause —

(a) the schedule of service at sea and service in port;

(b) the minimum hours of rest required by this Regulations; and

(c) all other information on working arrangements that may be required by the Chief Executive Officer from time to time,

for every position to be displayed in English and the working language or languages of the ship shall be in the model format set out in Appendix 3 of the IMO/ILO Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest issued jointly by the International Maritime Organization and the International Labour Organization and posted in an easily accessible place on board the ship.

(7) The master shall maintain a record of each seafarer's daily hours of rest on board the ship, which shall —

(a) be the model format set out in Appendix 4 of the IMO/ILO Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest issued jointly by the International Maritime Organization and the International Labour Organization; and

(b) be in English and, if the working language of the ship is not English, also be in the working language or languages of the ship.

(8) The master shall at the end of each month cause a seafarer to be given a record of his daily hours of rest referred to in sub-regulation (7) that has been endorsed by or on behalf of the master.

(9) The Chief Executive Officer may, in any particular case, permit exceptions to the hours of rest set out in this Regulation in accordance with and subject to the following conditions —

(a) any exceptions to the hours of rest set out in Regulation 30 for seafarers whose duties involve watchkeeping, safety, security or prevention of pollution, or seafarers employed or engaged on a ship on a short voyage, shall be set out in the provisions of a collective bargaining agreement or any other agreement between a seafarer and a shipowner, and such provisions shall be registered with the Chief Executive Officer;

(b) the minimum hours of rest shall not be less than 10 hours in any 24-hour period, and not be less than 70 hours in any 7-day period, and such reduced rest periods shall not be allowed for more than 2 consecutive weeks, and the intervals between any 2 reduced rest periods shall not be less than twice the duration of the preceding rest period;

(c) the minimum hours of rest may be divided into no more than 3 periods, one of which shall be at least 6 hours in length and neither of the other 2 periods shall be less than one hour in length;

(d) the intervals between consecutive periods of rest shall not exceed 14 hours;

(e) there shall not be more than two 24-hour periods of reduced rest in any 7-day period; and

(f) adequate compensatory leave, more frequent or longer leave periods shall be provided.

(10) Nothing in this Regulation shall prevent the master from suspending a seafarer's hours of rest for the purposes of performing work that is necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea provided that the seafarer is compensated with an equivalent period of rest as soon as practicable after the normal situation has been restored.

(11) Musters, fire-fighting and lifeboat drills, and mandatory drills, shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

(12) Any shipowner who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Registration of provisions for exceptions to hours of rest

31.—(1) The Chief Executive Officer may register a provision of a collective bargaining agreement or other agreement between a seafarer and a shipowner providing for exceptions to the hours of rest set out in Regulation 30 —

(a) if the shipowner has furnished the collective bargaining agreement or other agreement to the Chief Executive Officer; and

(b) the provision complies with the conditions set out in Regulation 30 (9).

(2) The Chief Executive Officer may refuse to register any provision referred to in sub-regulation (1) if it is less favourable to the seafarer than the conditions set out in Regulation 30 (9).

Restriction on working hours for young seafarer

32.—(1) Subject to Regulation 30 (10) and sub-regulation (2) —

(a) no person shall require any young seafarer to work more than 8 hours per day or 40 hours per week; and

(b) a shipowner and the master shall ensure that a young seafarer is —

(i) allowed sufficient time for all meals and a break of at least one hour for the main meal of the day; and

(ii) allowed a 15-minute rest period as soon as practicable following every 2 hours of continuous work.

(2) A young seafarer may be required to work under conditions that do not comply with sub-regulation (1) if the master is of the opinion that —

(a) the effective training of the young seafarer in accordance with established programmes and schedules would not be impaired; or

(b) the requirements of sub-regulation (1) are impracticable for the young seafarer assigned to watchkeeping duties or working on a rostered shift-work system in the deck, engine room or catering departments.

(3) The master shall keep a record of all instances where a young seafarer is required under sub-regulation (2) to work under conditions that do not comply with sub-regulation (1), and the record shall state the reasons and be signed by the master.

Restriction on night work for young seafarer

33.—(1) Subject to sub-regulation (2), no person shall cause or permit any young seafarer to be employed in any kind of night work on any ship.

(2) Notwithstanding sub-regulation (1), the Chief Executive Officer may give approval for a young seafarer to be employed in night work if the Chief Executive Officer is of the opinion that —

(a) the effective training of the young seafarer in accordance with established programmes and schedules would not be impaired; or

(b) the specific nature of the work or a recognised training programme requires that the young seafarer perform duties at night and the Chief Executive Officer has determined that the work will not be detrimental to his health or well-being.

(3) Any person who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(4) In this Regulation, “night work” means work done between 9 p.m. and 6 a.m. in the following morning according to the time zone the ship is in.

Application for approval for night work by young seafarers

34.—(1) An application to the Chief Executive Officer for approval for a young seafarer to be employed in night work shall be made in writing and be accompanied by such documents as may be necessary to establish to the satisfaction of the Chief Executive Officer that the conditions referred to in Regulation 33 (2) are met.

(2) The documents referred to in sub-regulation (1) shall as a minimum cover the following:

- (a) the nature and duration of the night work;
- (b) the reasons for the requirement for night work; and
- (c) where applicable, the details of the relation between the night work and the training of the young seafarer.

Prohibition on hazardous work for young seafarer

35.—(1) No person shall cause or permit any young seafarer to be employed in any hazardous work on any ship.

(2) Any person who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(3) In this Regulation, “hazardous work” means any of the following work:

- (a) lifting, moving or carrying of heavy loads or objects;
- (b) entry into boilers, tanks and cofferdams;
- (c) exposure to harmful noise and vibration levels;
- (d) operating hoisting and other power machinery and tools, or acting as signalers to operators of such equipment;
- (e) handling mooring or tow lines or ground tackle;
- (f) rigging;
- (g) work aloft or on deck in heavy weather;
- (h) servicing of electrical equipment;
- (i) exposure to potentially harmful materials or harmful physical agents such as dangerous or toxic substances and ionizing radiation;
- (j) the cleaning of catering machinery;
- (k) the handling or taking charge of ship’s boats.

Wages

36.—(1) Except as otherwise provided in ***Schedule 14*** or any other written law, the wages due to a seafarer under a seafarer’s employment agreement shall be paid to him in full on a monthly basis, before the expiry of the last day of the month in respect of which the salary is payable, with the Minimum Wages Rate and yearly increment to be as agreed between the Ship Owners and Seafarers Association.

(2) If any amount which, under sub-regulation (1), is payable to a seafarer is not paid at the time at which it is so payable, the seafarer shall be entitled to wages at the rate last

payable under the seafarer's employment agreement for every day on which it remains unpaid until the full amount is paid.

(3) Sub-regulation (2) shall not apply if the failure to pay was due to any reasonable dispute as to liability or to the act or default of the seafarer or to any other cause, not being the wrongful act or default of the person liable to pay his wages or of his employee or agent.

(4) The master of a ship shall deliver to each seafarer employed on the ship under a seafarer's employment agreement, a monthly account of wages due to him under that agreement, including but not limited to basic wage, basic leave wage, overtime pay and other allowances stated in the agreement, and additional payments and deductions subject to which the wages are payable (referred to in this Regulation as the account).

(5) Where the payment is made in a currency or at a rate that is different from the one agreed to, the account should also indicate the rate of exchange used, which shall either be the prevailing market rate of the bank designated by the seafarer or the exchange rate set out in the collective bargaining agreement for the duration of the agreement, provided that such exchange rate is not unfavourable to the seafarer.

(6) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered before the expiry of the last day of the month in respect of which the salary is payable.

(7) If the amounts stated in the account require adjustment, the person who employed the seafarer shall deliver to him a further account stating the adjusted amounts, and that account shall be delivered to him before the expiry of the last day of the next month in respect of which the salary is payable.

(8) Any person who fails, without reasonable cause, to comply with sub-regulation (4), (6) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Allotment notes

37.—(1) Subject to this Regulation, a seafarer may, by means of an allotment note, allot directly to any person or persons nominated by the seafarer, by bank transfer or similar means, all or part of the wages to which he will become entitled in the course of his employment on a ship.

(2) A person to whom any part of a seafarer's wages has been allotted by an allotment note issued in accordance with this Regulation shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seafarer has for the recovery of his wages.

- (3) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seafarer's wages has been allotted, it shall be presumed, unless the contrary is proved, that the seafarer is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.
- (4) Unless the shipowner and the seafarer otherwise agree —
- (a) the first sum payable under an allotment note shall be payable not less than one month from the date on which the allotment note is issued and subsequent sums shall become payable at regular intervals of not less than one month reckoned from the date when the first sum is payable; and
 - (b) no sum shall be payable under an allotment note before the seafarer has earned any of the wages allotted by it.
- (5) A person providing services for the allotment of wages in accordance with this Regulation may charge the seafarer a fee in accordance with the following conditions:
- (a) such fee charged shall be reasonable; and
 - (b) the exchange rate used shall either be the prevailing market rate of the bank designated by the seafarer or the exchange rate set out in the collective bargaining agreement for the duration of the agreement, provided that such exchange rate is not unfavourable to the seafarer.

Entitlement to annual leave

- 38.—(1) A seafarer shall be entitled to paid annual leave, taken at such time as may be agreed between the seafarer and the shipowner in accordance with the terms of the seafarer's employment agreement, of no less than 2.5 days per month of continuous service with the shipowner which shall be in addition to leave that the seafarer is entitled under sub-regulation (4).
- (2) A seafarer shall be entitled to his gross rate of pay for every day of annual leave.
- (3) A seafarer who has served a shipowner for a period shorter than 12 months of continuous service in any year or in the event of termination of employment otherwise than for misconduct, shall be entitled to annual leave in proportion to the number of completed months of service in that year.
- (4) Leave of absence granted for the following purposes shall not be counted as part of a seafarer's annual leave —
- (a) seafarer in transit to or from a ship, or on active standby for immediate deployment;

- (b) time-off for illness, injury, bereavement, or maternity;
 - (c) temporary shore leave by agreement between the shipowner and the seafarer under the seafarer's employment agreement;
 - (d) public holidays designated under the *Employment Relations Act 2007*;
 - (e) absence from work to attend a maritime vocation training course that is approved by the Chief Executive Officer;
 - (f) time spent awaiting repatriation and travel time during repatriation;
 - (g) leave granted under conditions that may be determined by the Chief Executive Officer from time to time.
- (5) Where a seafarer is granted leave of absence without pay by the shipowner at the request of the seafarer, the period of the leave shall be disregarded for the purpose of computing continuous service under this Regulation.
- (6) A seafarer shall be entitled to take annual leave in the place to which he has a substantial connection or is entitled to be repatriated.
- (7) No person shall require a seafarer to take annual leave in a place otherwise than that provided in the seafarer's employment agreement unless —
- (a) the seafarer gives his consent;
 - (b) the shipowner bears the costs of transporting the seafarer to the place where he was engaged or recruited, whichever is nearer his home; and
 - (c) the shipowner bears the subsistence and all other directly related costs.
- (8) No person shall recall a seafarer who is on paid annual leave except in cases of extreme emergency as may be determined by the Chief Executive Officer from time to time and provided that the seafarer's consent has been obtained.
- (9) The shipowner shall grant and the seafarer shall take annual leave not later than 12 months after the end of every 12 months of continuous service and any seafarer who fails to take that leave by the end of such period shall thereupon cease to be entitled thereto.
- (10) Subject to sub-regulation (9) and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, the seafarer shall be entitled to an uninterrupted period of annual leave.

(11) In calculating the proportionate annual leave under sub-regulation (3), any fraction of a day which is less than one-half of a day shall be disregarded and where the fraction of the day is one-half or more it shall be regarded as one day.

Repatriation of seafarers

39.—(1) Subject to sub-regulations (3) and (4), no person who employs a seafarer on a ship shall require the seafarer to work for a period of 12 months or longer before being entitled to repatriation.

(2) A shipowner shall repatriate a seafarer employed on a ship in the following circumstances:

- (a) where the seafarer's employment agreement of the seafarer concerned has expired;
- (b) where the seafarer's employment agreement has been terminated by the seafarer for justified reasons or by the shipowner;
- (c) where the seafarer is no longer able to carry out his duties under his seafarer's employment agreement or cannot be expected to carry them out, in the following circumstances:
 - (i) the seafarer has an illness or injury or other medical condition which requires his repatriation when found medically fit to travel;
 - (ii) the seafarer is taken to any country in the event of shipwreck;
 - (iii) the shipowner is not able to continue to fulfil his legal or contractual obligations as an employer of the seafarer by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
 - (iv) the ship is bound for a war zone, as defined by written law or the seafarer's employment agreement, to which the seafarer does not consent to go;
 - (v) termination or interruption of employment in accordance with an industrial award or collective bargaining agreement;
 - (vi) the seafarer is left behind in any country for any reason.

(3) A shipowner shall repatriate a young seafarer who has served for 6 months, or any shorter period of time as determined under his seafarer's employment agreement or a collective bargaining agreement, without leave on board a ship that has not returned to his country of residence during that time and will not return to his country of residence in the next 3 months.

(4) A young seafarer who is found to be unsuited to life at sea after having served on a ship for at least 4 months during his first foreign-going voyage, shall be given the opportunity to be repatriated at no expense to himself and in accordance with this Regulation from the first suitable port of call in which there are consular services of Fiji or of the State of his nationality or residence.

(5) A shipowner shall notify the Authority of the State which issued the papers enabling the young seafarer concerned to take up seagoing employment, of such repatriation referred to in sub-regulation (4) and the reasons therefor.

(6) A seafarer shall be entitled to be repatriated to any of the following places with which he has a substantial connection:

- (a) the place at which the seafarer agreed to enter into the engagement;
- (b) the place stipulated by an applicable collective bargaining agreement;
- (c) the seafarer's country of residence;
- (d) such other place as may be mutually agreed at the time of engagement;
- (e) such other place as may be determined by the Chief Executive Officer as appropriate.

(7) A seafarer shall have a right to choose from among the destinations referred to in sub-regulation (6), the place to which he is to be repatriated.

(8) A seafarer shall be entitled to be repatriated by appropriate and expeditious means.

(9) A shipowner shall bear the costs of repatriating a seafarer in his employment until the seafarer is landed at a destination in accordance with sub-regulation (6), including expenses for such items as may be prescribed.

(10) No person shall require any seafarer to make an advance payment towards the costs of repatriation or be entitled to recover, or to make any deduction for, the costs of repatriation from the seafarer's wages or other entitlements except where the seafarer has been found after due inquiry by the Chief Executive Officer to have been in serious default of his employment obligations.

(11) Where a seafarer referred to in sub-regulation (2)(c)(ii) or (vi) remains in the country mentioned therein after the end of a period of 3 months, the person who last employed him as a seafarer shall not be liable under this Regulation to make provision for the seafarer's return or for any matter arising after the end of that period, unless he has, before the end of that period, been under an obligation imposed on him under this Regulation to make provision with respect to the seafarer.

(12) Where it appears to the Chief Executive Officer that a shipowner is unable to make, has failed to make or fails to continue to make provisions necessary for the repatriation of a seafarer in his employment under this Regulation, the Chief Executive Officer may, in his discretion, make such provision and recover from the shipowner any costs and expense incurred by the Chief Executive Officer in making such provision.

(13) Nothing in this Regulation shall prejudice any right of a shipowner to recover the costs of repatriation under third-party contractual arrangements.

(14) A shipowner shall cause a legible copy of this Regulation and any regulations relating to the repatriation of seafarers made under this Regulations in English, and the working language of the ship if it is not English, to be carried on board the ship and to be made available to seafarers.

Financial Security

39A.—(1) A shipowner shall ensure that they have in place financial security to assist seafarers in the event of their abandonment.

(2) For the purpose of this Regulation, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of the Convention or the terms of the seafarer's employment agreement, the shipowner –

- (a) fails to cover the cost of the seafarer's repatriation; or
- (b) has left the seafarer without the necessary maintenance and support; or
- (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

(4) The financial security system may be in the form of an insurance scheme which will provide direct access, sufficient coverage and expedited financial assistance to any abandoned seafarer on a Fiji ship.

(5) For the purpose of sub regulation 3 (b), necessary maintenance and support of seafarers shall include adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.

(6) The shipowner or operator shall ensure that a certificate or other documentary evidence of financial security issued by the financial security provider is carried on board and a copy shall be posted in a conspicuous place on board where it is available to the seafarers and where more than one financial security provider provides cover, the

document provided by each provider shall be carried on board and a copy shall be posted in a conspicuous place on board where it is available to the seafarers.

(7) The certificate or other documentary evidence of financial security shall contain the information required in Schedule 2 and shall be in English or accompanied by an English translation.

(8) Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarers' nominated representative and supported by the necessary justification of entitlement in accordance with sub regulation 2.

(9) Having regard to Regulation 36 and 39, assistance provided by the financial security system shall be sufficient to cover the following –

(a) Outstanding wages or other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;

(b) All expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in sub regulation 10; and

(c) The essential needs of the seafarer including such items as adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarers' arrival home.

(10) The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

(11) The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the Authority.

(12) If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Regulation, such provider shall, up to the amount it

has paid, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

(13) Nothing in this Regulation shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

(14) The provisions in this Regulation are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. Any amounts payable under this Regulation can be offset against amounts received from other sources arising from any rights, claims or remedies that may be subject to compensation under this Regulation.

Seafarer compensation for the ship's loss or foundering

39B.—(1) Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

(2) In every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.

(3) For the purpose of sub regulation (2), this shall be without prejudice to any other rights a seafarer may have under other written law concerned for losses or injuries arising from a ship's loss or foundering.

(4) The indemnity against unemployment resulting from a ship's foundering or loss shall be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the employment agreement, but the total indemnity payable to any one seafarer may be limited to two months' wages.

(5) Seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

Costs to be borne by shipowners for repatriation of seafarers

40. A shipowner, who is under a duty to repatriate a seafarer under Regulation 39, shall bear the costs of repatriation of the seafarer including the costs of the following:

- (a) the passage to the destination selected by the seafarer for repatriation in accordance with Regulation 39 (6) and (7);
- (b) the accommodation and food from the time the seafarer leaves the ship until he reaches the repatriation destination;

- (c) the pay and allowances from the time the seafarer leaves the ship until he reaches the repatriation destination;
- (d) the transportation of the seafarer's personal luggage not exceeding 30 kg to the repatriation destination; and
- (e) the medical treatment when necessary until the seafarer is medically fit to travel to the repatriation destination.

Costs to be borne by shipowners for relief and maintenance of seafarers

41.—(1) A shipowner who is under a duty to repatriate a seafarer under Regulation 39 shall make such provision as is necessary for the relief and maintenance of the seafarer pending his repatriation.

(2) In determining what provision is required under sub-regulation (1), the shipowner shall have regard to the seafarer's personal circumstances and requirements.

(3) Without prejudice to the generality of sub-regulation (1), the provision for relief and maintenance shall include all of the following:

- (a) clothing;
- (b) toiletries and other personal necessities;
- (c) surgical or medical treatment and such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency;
- (d) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the seafarer for his relief and maintenance.

(4) The shipowner's liability under sub-regulation (1) ends when the shipowner's duty under Regulation 39 ends.

Period of liability for costs

42. A shipowner, who is under a duty to repatriate a seafarer under Regulation 39, shall continue to bear the costs of repatriation specified in Regulations 40, 41 and 43 until the earliest of the following dates:

- (a) the date the duty imposed on the shipowner under Regulation 39 ends;
- (b) the seafarer is landed at a destination referred to in Regulation 39 (6) in accordance with the seafarer's choice, if any, under Regulation 39 (7);
- (c) the seafarer is provided with suitable employment on board a ship proceeding to a destination referred to in Regulation 39 (6) in accordance with the seafarer's choice, if any, under Regulation 38 (7).

Shipowner to bear supplementary costs

43. The provisions to be made by a shipowner in accordance with Regulations 40 and 41 shall include —

- (a) the payment of expenses incurred in bringing a seafarer ashore and maintaining him until he is brought ashore; and
- (b) the payment of expenses of the burial or cremation of a seafarer who dies before he can be repatriated to a destination referred to in Regulation 39 (6) in accordance with the seafarer's choice, if any, under Regulation 39 (7) or the expenses of returning the seafarer's body to his home.

Seafarers' paid leave

44. The time spent awaiting repatriation by a seafarer to whom these Regulations apply and the repatriation travel time shall not be deducted from paid leave accrued to the seafarer.

Limitations on and exceptions to duty to repatriate

45. The duty of a shipowner to repatriate, as required under Regulation 39 (2), ends when —

- (a) the seafarer is repatriated to a destination referred to in Regulation 39 (6) in accordance with the seafarer's choice, if any, under Regulation 39 (7);
- (b) the shipowner has made reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;
- (c) notwithstanding the reasonable endeavours of the shipowner to contact the seafarer, the seafarer has without reasonable excuse, failed to respond to such endeavours for a period of 3 months or more; or
- (d) the seafarer confirms in writing to the shipowner that repatriation is not required.

Provision of particulars

46.—(1) The shipowner of a seafarer to whom these Regulations apply shall within 48 hours after the seafarer is left behind or it has come to his notice that the seafarer has been brought ashore after being shipwrecked, as the case may be, or if it is not practicable within that time, as soon as practicable thereafter, make provision to ensure that the Chief Executive Officer is informed of the particulars specified in sub-regulation (2).

(2) The particulars referred to in sub-regulation (1) are —

- (a) the name of the seafarer;
- (b) his home address;
- (c) the name and address of his next-of-kin; and
- (d) in the case of a seafarer left behind —
 - (i) the name of the ship from which he was left behind;

- (ii) the date on which he was left behind;
 - (iii) the place where he was left behind and, if known to the shipowner, the present whereabouts of the seafarer;
 - (iv) the reason (if known to the shipowner) for his being left behind; and
 - (v) the name and address of the shipowner and the name and address of the shipowner's agent, if any, at or nearest to the place where the seafarer was left behind; or
- (e) in the case of a shipwrecked seafarer —
- (i) the name of the ship from which he was shipwrecked;
 - (ii) the dates on which he was shipwrecked and on which he was brought ashore;
 - (iii) the place where he was brought ashore and (if known to the shipowner), the name and address of the person by whom he was brought ashore and the present whereabouts of the seafarer; and
 - (iv) the name and address of the shipowner and the name and address of the shipowner's agent, if any, at or nearest to the place where the seafarer was brought ashore.

Information on arrangements made for seafarers

47. A shipowner shall ensure that the Chief Executive Officer is kept informed of the arrangements he has made (including any changes in those arrangements) pursuant to his obligations under Regulations 40, 41 and 43 to make provision for the return, relief and maintenance of seafarers to whom these Regulations apply.

Conveyance orders and directions

48.—(1) Where a seafarer to whom these Regulations apply is in distress and is willing to enter into an undertaking to work on board any ship for his conveyance in lieu of pay, the Chief Executive Officer may —

- (a) by means of a conveyance order in writing require the master or shipowner of a ship to convey the seafarer from any place specified in the order to such other place so specified as lies on a reasonable route between the place specified in the order and the destination referred to in Regulation 39 (6) in accordance with the seafarer's choice, if any, under Regulation 39 (7); and
 - (b) give to the master or shipowner of that ship such directions as may be necessary for the purpose of that requirement,
- and more than one such order may be made in the course of the seafarer's return.

(2) A master or shipowner shall not be required under sub-regulation (1) to convey a seafarer in his ship or obey any direction given for the purpose of the requirement —

- (a) if any provision of a written law or an instrument would be infringed by reason of that seafarer being conveyed in his ship in addition to the other persons carried in his ship;
- (b) if his ship would be required to go to any place to which it would not otherwise go in the course of the voyage then being undertaken or about to be undertaken;
- (c) if, by reason of compliance with such requirement or direction, his ship would be unreasonably delayed; or
- (d) if the master has other reasonable cause for objecting to the requirement or direction, as the case may be.

Recording of conveyance orders and directions

49. A master shall make entries in the official log book recording the particulars of any requirements made of him under Regulation 48 and of any direction given to him by the Chief Executive Officer for the purpose of that requirement.

Work by seafarer being conveyed

50. The duties to be given by the master of the ship to a seafarer being conveyed in accordance with Regulation 48 shall be appropriate to his qualifications or vocation and the hours of work to be performed shall not exceed the quantity —

- (a) ordinarily performed by a seafarer in that capacity; and
- (b) which is sufficient as payment for the seafarer's conveyance.

Delivery of wages

51. The wages due under a seafarer's employment agreement to a seafarer to whom these Regulations apply shall be paid to him in full and accounts of such wages shall be delivered in accordance with Regulation 36.

Applicable agreement

52. The wages due under an agreement, other than a seafarer's employment agreement, to a seafarer to whom these Regulations apply shall be dealt with under the provisions of the agreement under which he is employed.

Delivery of wages in other instances

53. Where the wages cannot be paid to the seafarer in accordance with Regulations 51 and 52 and the seafarer is not known to be dead, then, notwithstanding anything contained in these Regulations, the wages shall be paid and an account thereof delivered to the person named as the seafarer's next-of-kin, as soon as is practicable after the expiration of 4 months from the time of payment.

Other records and accounts

54. A shipowner shall keep records of all expenses incurred and the sums paid by him in the discharge of his obligations under these Regulations.

Property of seafarers

55.—(1) Subject to sub-regulation (2), this regulation applies to any property (including money) left on board a ship by a seafarer to whom these Regulations apply.

(2) In the case of any such property left on board a ship by a seafarer who has been shipwrecked —

- (a) if the ship is lost, this regulation shall have no effect; and
- (b) if the ship is not lost, but, as a result of the shipwreck, no person is master of this ship, the duties and powers imposed on the master under this regulation (except for sub-regulations (3) (b) and (5)) shall instead be imposed on the shipowner.

(3) The master shall —

- (a) take charge of that property; and
- (b) enter in the official log book —
 - (i) a list of property so taken into his charge;
 - (ii) in the case of a sale under sub-regulation (4) (a) of any part of the property, a description of each article sold and the sum received for it; and
 - (iii) in the case of the destruction or disposal of each article destroyed or disposed of and the name of any person to whom disposal was made.

(4) The master may at any time —

- (a) sell, by auction or otherwise, any part of the property which is of a perishable or deteriorating nature and the proceeds of sale shall form part of the property; and
- (b) destroy or otherwise dispose of any part of the property which, in his opinion, endangers or is likely to endanger the health or safety of any person on board the ship.

(5) The master shall, when directed by the shipowner, cause the property to be delivered —

- (a) to the seafarer at his last known address;
- (b) if the seafarer's wages are payable by virtue of Regulation 53, to his next-of-kin; or
- (c) to any other place which may be agreed between the seafarer and the shipowner,

and the cost of such delivery shall be borne by the shipowner.

(6) The shipowner, when delivering the property to the seafarer or his next-of-kin in accordance with sub-regulation (5), shall deliver to the seafarer or his next-of-kin, as the case may be, a record of all property delivered and —

- (a) where any property has been sold under sub-regulation (4) (a), a description of each article sold and the sum received for it; and
- (b) where any property has been destroyed or disposed of under sub-regulation (4) (b), a description of each such article.

Official log book entries

56. All entries in the official log book required to be made by the master under Regulations 49 and 55 (3) (b) shall be signed by the master and by a seafarer.

Offences and penalties

57.—(1) A shipowner who contravenes Regulation 40, 41, 46, 47 or 55 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(2) A master or shipowner who fails to comply with a requirement made of him by a conveyance order made under Regulation 48 (1) (a) or with a direction given to him under Regulation 48 (1) (b) for the purpose of that requirement, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(3) A master who contravenes Regulation 49 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2000.

(4) A master who contravenes —

- (a) Regulation 55 (3) (a) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2000; or
- (b) Regulation 55 (3) (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2000.

Compensation to seafarers in event of wreck or loss of ship, etc.

58.—(1) Where a ship is wrecked or lost, a seafarer whose employment on the ship is thereby terminated before the date contemplated in the seafarer's employment agreement under which he is so employed shall, subject to this Regulation, be entitled to wages, at the rate payable under the agreement at the date of the wreck or loss, for every day on which he is unemployed in the 2 months following that date.

(2) Where a ship is sold or ceases to be registered in Fiji and a seafarer's employment on the ship is thereby terminated before the date contemplated in the seafarer's employment agreement under which he is so employed, then, unless otherwise provided in the agreement, the seafarer shall, subject to sub-regulation (3), be entitled to wages at

the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the 2 months following that date.

(3) A seafarer shall not be entitled to wages by virtue of sub-regulation (1) or (2) for a day on which he was unemployed, if it is shown —

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be registered in Fiji; or

(b) that the seafarer was able to obtain suitable employment for that day but unreasonably refused to take it.

(4) The master and a seafarer employed on a ship shall have the same lien and remedies for his wages payable under this Regulation, as a seaman has for his wages.

(5) Nothing in this Regulation shall affect the rights a seafarer may have under any other rule of law.

Procedure on discharge

59.—(1) Sub-regulations (2), (3) and (4) shall apply where a seafarer is present when he is discharged.

(2) The master, or one of the ship's officers authorised by the master, shall, before the seafarer is discharged —

(a) where the seafarer produces the seafarer's discharge book to him, record in it —

(i) the name of the ship, its port of registry, gross or registered tonnage and official number;

(ii) the description of the voyage;

(iii) the capacity in which the seafarer has been employed in the ship and the date and place at which the seafarer began to be so employed; and

(iv) the date and place of the seafarer's discharge; or

(b) where the seafarer does not produce the seafarer's discharge book to him, give to the seafarer a certificate of discharge or other record of employment, containing the particulars referred to in paragraph (a).

(3) The master shall ensure that the seafarer is discharged in the presence of —

(a) the master himself; or

(b) a ship's officers authorised on behalf of the master.

(4) The person referred to in sub-regulation (3) in whose presence the seafarer is discharged, shall make and sign an entry in the official log book recording the place, date and time of the seafarer's discharge.

(5) Where a seafarer is not present when he is discharged, the master, or a person authorised in that behalf by the master, shall make the entries referred to in sub-regulation (4).

(6) No person shall make an entry in a discharge book or a certificate of discharge any statement as to the quality of the seafarer's work or indicating whether the seafarer has fully discharged his obligations under his contract of employment.

Career and skill development and opportunities for seafarers

60.—(1) For the purposes of providing the maritime sector with a stable and competent workforce, the Authority shall develop national policies to:

- (a) promote employment in the maritime sector; and
- (b) encourage career and skill development; and
- (c) encourage employment opportunities for seafarers.

(2) The objective of these policies shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

PART V – ACCOMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Definitions

61. In this Part —

“catering department” means the galley, mess rooms and any other areas on board intended or used for the storage or preparation of food for seafarers or the service of meals to seafarers;

“catering staff” means seafarers whose normal duties include the preparation and storage of food, the service of meals to seafarers on board a ship or other work in the galley or in areas where food is stored or handled;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 25th June 2010 and any amendment thereto which has come into force and has been accepted by the Government;

“trainee cook” means a person who is not a qualified ship’s cook but is undergoing instruction in the duties of a ship’s cook;

“qualified ship’s cook” means a person who has been issued with a certificate of proficiency referred to in Regulation 66 which has not expired or been cancelled or suspended.

Accommodation and Recreational Facilities

62. – (1) Shipowners must provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers’ health and well-being.

(2) With respect to the requirements of this Regulation which relate to ship construction and equipment, ships constructed after 10th October 2014 when the Convention comes into force for Fiji shall comply with the following requirements:

- (a) the general requirement in sub-regulation (1) above;
- (b) the requirements relating to ship construction and equipment as prescribed in the *Maritime (Fiji Maritime Code) Regulation 2014*;
- (c) where the requirements relating to ship construction and equipment in the *Maritime (Fiji Maritime Code) Regulation 2014* is not consistent with the requirements in this Regulation, the requirements in this Regulation prevails to the extent of this inconsistency.

(3) A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

(4) Ships must:

- (a) meet the minimum standards for on-board accommodation and recreational facilities in this Regulation including the provisions set out on health and safety protection and accident prevention, to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent in light of the specific needs of seafarers that both live and work on board ship.
- (b) be inspected to ensure initial and ongoing compliance with those standards.

(5) Frequent inspections must be carried out on board ships by, or under the authority of, the master, to ensure that seafarer accommodation is clean, decently habitable and maintained . The results of each such inspection must be recorded and be available for review.

(6) Where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the Authority may permit fairly applied variations in respect of the requirements in these provisions on condition that such variations do not result in overall facilities less favourable than those which would result from the application of those requirements.

(7) The Chief Executive Officer may exempt ships of less than 200 gross tonnage from certain requirements as specified provided that all of the following conditions are met:

- (a) the exemption must be expressly permitted below with respect to the requirement concerned;
- (b) the exemption must be reasonable, taking account of the size of the ship and the number of persons on board;
- (c) the exemption can be clearly justified on strong grounds due to particular circumstances; and
- (d) the exemption is subject to the need to protect the seafarers' health and safety.

(8) With respect to the general requirements for design and construction:

- (a) there must be adequate headroom in all seafarer accommodation; the minimum permitted headroom where full and free movement is necessary shall be not less than 203 centimetres; the Authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:

- (i) is reasonable; and
 - (ii) will not result in discomfort to the seafarers;

- (b) the accommodation shall be adequately insulated;
- (c) in ships other than passenger ships, as defined in Regulation 2 (e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention), sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;
- (d) in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions (hereinafter called "special purpose ships"), the Authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;

- (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight;
- (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings must be suitable for the purpose and conducive to ensuring a healthy environment;
- (g) external bulkheads of sleeping rooms and mess rooms must be adequately insulated; all machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced must be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways; measures must also be taken to provide protection from heat effects of steam or hot-water service pipes or both;
- (h) sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space must be adequately insulated to prevent condensation or overheating;
- (i) the bulkhead surfaces and deckheads must be of material with a surface easily kept clean; no form of construction likely to harbour vermin shall be used; the bulkhead surfaces and deckheads in sleeping rooms and mess rooms must be capable of being easily kept clean and light in colour with a durable, nontoxic finish.
- (j) the decks in all seafarer accommodation must be of approved material and construction and must provide a non-slip surface impervious to damp and easily kept clean; where the floorings are made of composite materials, the joints with the sides must be profiled to avoid crevices;
- (k) proper lighting and sufficient drainage must be provided; and
- (l) accommodation and recreational and catering facilities must meet the requirements on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and on-board living environment for seafarers. In particular:
 - (i) accommodation and recreational and catering facilities must be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus;
 - (ii) acoustic insulation or other appropriate sound-absorbing materials must be used in the construction and finishing of bulkheads, deckheads and

decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces;

- (iii) engine rooms and other machinery spaces must be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel; working spaces, such as the machine shop, must be insulated, as far as practicable, from the general engine-room noise and measures must be taken to reduce noise in the operation of machinery.
- (iv) the limits for noise levels for working and living spaces must be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled “Ambient factors in the workplace, 2001”, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships; a copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers;
- (v) accommodation or recreational or catering facilities must not be exposed to excessive vibration;
- (vi) ships regularly trading to mosquito-infested ports must be fitted with appropriate devices.

(9) With respect to requirements for ventilation and heating:

- (a) sleeping rooms and mess rooms must be adequately ventilated; the system of ventilation for sleeping rooms and mess rooms must be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate;
- (b) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, must be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room; in particular, air-conditioning systems, whether of a centralized or individual unit type, must be designed to:
 - (i) maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations; and
 - (ii) facilitate easy cleaning and disinfection to prevent or control the spread of disease.

- (c) all sanitary spaces must have ventilation to the open air, independently of any other part of the accommodation;
- (d) adequate heat through an appropriate heating system must be provided, except in ships exclusively on voyages in tropical climates; furthermore:
 - (i) the system of heating the seafarer accommodation must be in operation at all times when seafarers are living or working on board and conditions require its use;
 - (ii) in all ships in which a heating system is required, the heating must be by means of hot water, warm air, electricity, steam or equivalent except that within the accommodation area, steam must not be used as a medium for heat transmission;
 - (iii) the heating system must be capable of maintaining the temperature in seafarer accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged;
 - (iv) radiators and other heating apparatus must be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants; and
- (e) power for the operation of the air conditioning and other aids to ventilation required must be available at all times when seafarers are living or working on board and conditions so require; however, this power need not be provided from an emergency source.

(10) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation (7), be exempted from the requirement in sub-regulation (9) (b).

(11) With respect to requirements for lighting, subject to such special arrangements as may be permitted by the Authority for passenger ships, sleeping rooms and mess rooms must be lit by natural light and provided with adequate artificial light. In particular:

- (a) electric light must be provided in seafarers' accommodation;
- (b) if there are not two independent sources of electricity for lighting, additional lighting must be provided by properly constructed lamps or lighting apparatus for emergency use;
- (c) in seafarers' sleeping rooms an electric reading lamp must be installed at the head of each berth;
- (d) all seafarer accommodation must comply with the requirements of natural and artificial lighting fixed by the Authority.

(12) When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:

- (a) in ships other than passenger ships, an individual sleeping room must be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the Authority;
- (b) Subject to the minimum floor area requirements set out below in sub-regulation (13):
 - (i) on ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers;
 - (ii) on passenger ships, sleeping rooms may be occupied by a maximum of four seafarers not carrying out the duties of ships' officers; in the case of seafarers performing the duty of petty officers, there must be no more than two persons per sleeping room;
 - (iii) on special purpose ships sleeping rooms may accommodate more than four persons;
- (c) separate sleeping rooms must be provided for men and for women;
- (d) as far as practicable, sleeping rooms of seafarers must be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers;
- (e) sleeping rooms must be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness; accordingly:
 - (i) where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms must be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness;
 - (ii) for each occupant, the furniture, which must be of smooth, hard material not liable to warp or corrode, must include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker must be 500 litres; it must be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;

- (iii) each sleeping room must be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary;
 - (iv) sleeping rooms must be fitted with curtains or equivalent for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks;
- (f) berths must meet the following standards:
- (i) a separate berth for each seafarer must in all circumstances be provided;
 - (ii) the minimum inside dimensions of a berth must be at least 198 centimetres by 80 centimetres;
 - (iii) there must be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer;
 - (iv) berths must not be arranged in tiers of more than two; in the case of berths placed along the ship's side, there must be only a single tier where a sidelight is situated above a berth;
 - (v) the lower berth in a double tier must be not less than 30 centimetres above the floor; the upper berth must be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams;
 - (vi) the framework and the lee-board, if any, of a berth must be of approved material, hard, smooth, and not likely to corrode or to harbour vermin;
 - (vii) if tubular frames are used for the construction of berths, they must be completely sealed and without perforations which would give access to vermin;
 - (viii) each berth must be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress; the mattress and cushioning material used must be made of approved material.

- (ix) stuffing of material likely to harbour vermin must not be used;
- (x) when one berth is placed over another, a dust-proof bottom must be fitted beneath the bottom mattress or spring bottom of the upper berth;
- (xi) clean good quality bedding must be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers must be responsible for their return at times specified by the master and on completion of service in the ship.

(13) Unless otherwise provided, sleeping rooms must have the minimum floor areas set out below space occupied by berths and lockers, chests of drawers and seats must be included in the measurement of the floor area; small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture must be excluded:

- (a) in single berth seafarers' sleeping rooms the floor area must not be less than:
 - (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 7 square metres in ships of 10,000 gross tonnage or over;
- (b) in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the Authority may allow a reduced floor area;
- (c) in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, where sleeping rooms are occupied by two seafarers, the floor area of such sleeping rooms must not be less than 7 square metres;
- (d) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers must not be less than:
 - (i) 7.5 square metres in rooms accommodating two persons;
 - (ii) 11.5 square metres in rooms accommodating three persons;

- (iii) 14.5 square metres in rooms accommodating four persons;
 - (e) on special purpose ships sleeping rooms where more than four seafarers are accommodated, the floor area must not be less than 3.6 square metres per person;
 - (f) on ships other than passenger ships and special purpose ships, for seafarers who perform the duties of ships' officers where no private sitting room or day room is provided, the floor area per person must not be less than:
 - (i) 7.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 10 square metres in ships of 10,000 gross tonnage or over;
 - (g) on passenger ships and special purpose ships, the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers must not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;
 - (h) the master, the chief engineer and the chief navigating officer, and the second engineer officer, must have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the Authority from this requirement;
- (14) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation (7), be exempted from the requirements in sub-regulations (13) (a) and (c) relating to floor area.
- (15) Mess rooms must comply with the following standards:
- (a) they must be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the Authority from this requirement;

- (b) they must be of adequate size and comfort and properly furnished and equipped including ongoing facilities for refreshment, taking account of the number of seafarers likely to use them at any one time;
- (c) provision must be made for separate or common mess room facilities as appropriate;
- (d) where separate mess room facilities are to be provided to seafarers, then separate mess rooms must be provided for the master and officers and for petty officers and other seafarers;
- (e) on ships other than passenger ships, the floor area of mess rooms for seafarers must be not less than 1.5 square metres per person of the planned seating capacity;
- (f) in all ships, mess rooms must be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time;
- (g) the tops of tables and seats must be of damp-resistant material;
- (h) there must be available at all times when seafarers are on board:
 - (i) a refrigerator, which must be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
 - (ii) facilities for hot beverages and cool water;
 - (iii) where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils must be provided;
 - (iv) mess utensils, including plates, cups and other mess utensils, of approved material which can be easily cleaned, must be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers must be responsible for their return at times specified by the master and on completion of service in the ship.

(16) With respect to requirements for sanitary facilities:

- (a) all seafarers must have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;
- (b) there must be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine control room; ships of less than 3,000 gross tonnage may be exempted by the Authority from this requirement;
- (c) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities must be provided at a convenient location;
- (d) with the exception of passenger ships, each sleeping room must be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided. Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation (7), be exempted from this requirement;
- (e) where separate facilities for engine department personnel to change their clothes are provided, they must be located outside the machinery space but with easy access to it; and must be fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water;
- (f) in passenger ships normally engaged on voyages of not more than four hours' duration, the Authority may approve special arrangements or a reduction in the number of facilities required;
- (g) hot and cold running fresh water must be available in all wash places;
- (h) wash basins and tub baths must be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode;
- (i) all toilets must be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable;
- (j) sanitary accommodation intended for the use of more than one person must comply with the following:

- (i) floors must be of approved durable material, impervious to damp, and must be properly drained;
- (ii) bulkheads must be of steel or other approved material and must be watertight up to at least 23 centimetres above the level of the deck;
- (iii) the accommodation must be sufficiently lit, heated and ventilated;
- (iv) toilets must be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four seafarers;
- (v) where there is more than one toilet in a compartment, they must be sufficiently screened to ensure privacy;
- (vi) towels, soap and toilet paper for all seafarers must be provided by the shipowner.

(17) Ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration must provide separate hospital accommodation to be used exclusively for medical purposes and complying with the following requirements:

- (a) hospital accommodation must, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention; in particular:
 - (i) it must be designed so as to facilitate consultation and the giving of medical first aid and to help prevent the spread of infectious diseases;
 - (ii) the arrangement of the entrance, berths, lighting, ventilation, heating and water supply must be designed to ensure the comfort and facilitate the treatment of the occupants;
 - (iii) the number of hospital berths required will be prescribed by the Authority;
- (b) sanitary accommodation must be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto; such sanitary accommodation must comprise a minimum of one toilet, one washbasin and one tub or shower.

(18) Appropriately situated and furnished laundry facilities must be available. The laundry facilities must include:

- (a) washing machines;
- (b) drying machines or adequately heated and ventilated drying rooms; and
- (c) irons and ironing boards or their equivalent.

(19) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation (7), be exempted from the requirement in sub-regulation (18).

(20) Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, must be provided on board for the benefit of all seafarers, taking into account the provisions on health and safety protection and accident prevention in these Regulation. Recreational facilities and services must be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry. In particular, ships must:

- (a) have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board;
- (b) be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the Authority;
- (c) provide furnishings for recreational facilities that as a minimum include a bookcase and facilities for reading, writing and, where practicable, games, and where appropriate, a canteen;
- (d) include the following facilities at no cost to the seafarer, where practicable:
 - (i) a smoking room;
 - (ii) television viewing and the reception of radio broadcasts;
 - (iii) showing of films, the stock of which must be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;

- (iv) sports equipment including exercise equipment, table games and deck games;
 - (v) facilities for swimming;
 - (vi) a library containing vocational and other books, the stock of which must be adequate for the duration of the voyage and changed at reasonable intervals;
 - (vii) facilities for recreational handicrafts;
 - (viii) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;
 - (ix) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and
 - (x) reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount;
- (e) ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible; efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control;
- (f) whenever possible and reasonable, expeditiously grant seafarers permission to have their partners, relatives and friends as visitors on board their ship when in port; such measures must meet any concerns for security clearances;
- (g) allow seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable; such partners must carry adequate insurance cover against accident and illness; the shipowners must give every assistance to the seafarer to effect such insurance.

Food

63. – (1) Ships must, in accordance with sub-regulations (2) and(3), carry on board and serve food and drinking water that is of appropriate quality, nutritional value and quantity and adequately covers the requirements of the ship.

(2) Seafarers on board a ship must be provided with food free of charge during the period of engagement.

(3) The following minimum standards for food and catering apply –

(a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, must be suitable in respect of quantity, nutritional value, quality and variety; and

(b) the organization and equipment of the catering department must be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions. For ships operating domestically, the minimum value of FJD \$15.00 a day per seafarer (for domestic operations), subject to inflation, shall be applicable.

(4) The master or a ship officer designated by the master shall —

(a) inspect the following at intervals not exceeding seven days;

(i) supplies of food and drinking water;

(ii) spaces and equipment used for the storage and handling of food and drinking water; and

(iii) the galley and other equipment for the preparation and service of meals;

(b) be accompanied by a minimum of one member of the crew during the inspection referred to under subparagraph (a); and

(c) cause to be entered in the ship's official log book —

(i) the time and date of the inspection,

(ii) the names and ranks of the persons conducting the inspection, and

(iii) the particulars of the area inspected that are not compliant with these Regulations or any other relevant law.

(5) The ship's official log book shall be made available for review by an authorised officer.

(6) A ship-owner or master who contravenes the provisions of this regulation commits an offence and is liable on conviction to a fine not exceeding \$5000.

Requirement to carry qualified ship's cook

64.—(1) Subject to sub-regulations (2) and (3), the shipowner and the master of a Fiji ship which ordinarily operates with 10 or more seafarers on board shall ensure that the ship does not proceed to sea unless a qualified ship's cook is on board.

(2) In circumstances of exceptional necessity, the Chief Executive Officer may grant an exemption from sub-regulation (1) —

(a) until the next port of call; or

(b) for a period not exceeding one month, but only if there is a person on board the ship who is trained or instructed in areas including food and personal hygiene and handling and storage of food in accordance with this Regulations.

(3) The shipowner and the master may, instead of complying with the requirement in sub-regulation (1) to have a qualified ship's cook on board, comply with such other requirement or requirements as the Chief Executive Officer may approve in respect of a particular ship, or ships of a particular description, being requirements that the Chief Executive Officer considers are substantially equivalent to the requirement in sub-regulation (1) when considered together with the conditions and limitations to which the approval may be subject.

(4) An exemption or approval by the Chief Executive Officer under this Regulation shall be given in writing, may be given subject to such conditions and limitations as he may specify, and may be altered or cancelled.

(5) Any shipowner or master who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Training requirements for catering staff and other persons processing food in galley

65. A shipowner and the master of a ship shall ensure that —

(a) each member of the catering staff is properly trained or instructed for his position in accordance with the prescribed requirements; and

(b) any person processing food in the galley is properly trained or instructed in areas including food and personal hygiene and handling and storage of food in accordance with the prescribed requirements.

Certificate of proficiency as ship's cook

66. A person may apply to the Authority for a certificate of proficiency as a ship's cook if he meets the following requirements:

(a) he has served at sea for not less than such period as may be prescribed, or such other period as may be determined by the Chief Executive Officer taking into account any existing qualifications and relevant experience; and

- (b) he has successfully completed the prescribed training course for cooks and passed the prescribed examination.

Requirements for issue of certificate of proficiency as ship's cook

67.—(1) No person shall be issued a certificate of proficiency as a ship's cook unless he is 18 years of age and above and has been certified as medically fit in accordance with Regulation 7, and —

(a) he has attained all the following qualifications:

- (i) has completed basic safety and security training in accordance with regulations VI/1 and VI/6 of the STCW Convention;
- (ii) has successfully completed cook's training in a recognised training institution which has been conducted in accordance with sub-regulation (2);
- (iii) has served at sea for not less than 6 months as a catering staff or a trainee cook performing service relevant for the issue of cook's certificate; or

(b) he holds such qualification and experience which the Chief Executive Officer may recognize as being substantially equivalent to any qualification or experience referred to in paragraph (a).

(2) A training course for cooks shall cover practical cookery, food and personal hygiene, food storage, stock control, environmental protection and catering health and safety and such other areas as may be determined by the Chief Executive Officer.

(3) An application by a person under Regulation 63 for a certificate of proficiency as ship's cook, shall be made in writing and be accompanied by such documents as may be necessary to establish to the satisfaction of the Chief Executive Officer that the applicant meets the criteria prescribed in sub-regulation (1).

(4) The Chief Executive Officer may publish the areas determined by him under sub-regulation (2) in such manner as he thinks fit.

Recognition of ship's cook certificate

68.—(1) The Chief Executive Officer may, at his discretion and upon such conditions as he may determine, recognise any valid certificate attesting the completion of training of ships' cooks issued by or on behalf of or recognised by a foreign maritime administration, as being equivalent to a certificate of proficiency as a ship's cook issued under these Regulations.

(2) The recognition of any certificate issued by or on behalf of or recognised by a foreign maritime administration is subject to the condition that the Chief Executive Officer is satisfied that the holder of the certificate is a fit and proper person to be employed on a Fiji ship.

(3) The list of foreign maritime administrations whose certificates are recognised by the Chief Executive Officer under sub-regulation (1) shall be published by the Chief Executive Officer in such manner as he thinks fit.

Cancellation or suspension of certificate of proficiency and cessation of recognition of ship's cook certificate

69.—(1) Subject to sub-regulation (2), the Chief Executive Officer may cancel or suspend a certificate of proficiency as a ship's cook or cease to recognize a ship's cook certificate if the Chief Executive Officer is of the opinion that the holder of the certificate —

- (a) is not a fit and proper person to be employed on a Fiji ship;
- (b) has breached any condition upon which his certificate is issued; or
- (c) has failed to comply with any of the provisions of these Regulations.

(2) The Chief Executive Officer shall issue a written notice to the holder of a certificate informing the holder of the Chief Executive Officer's intention to —

- (a) cancel or suspend his certificate of proficiency as a ship's cook; or
- (b) cease to recognise his ship's cook certificate.

(3) The notice referred to in sub-regulation (2) shall state the reasons for the proposed cancellation, suspension or cessation of recognition of the certificate and shall give an opportunity for the holder of the certificate to show cause, within the period specified in the notice, why his certificate should not be cancelled, suspended or cease to be recognised, as the case may be.

(4) Where the Chief Executive Officer is satisfied that no cause or insufficient cause is shown, the Chief Executive Officer shall issue a written notice to the holder of the certificate informing him that his certificate of proficiency as a ship's cook will be cancelled or suspended or his ship's cook certificate will cease to be recognised, as the case may be, from a specified date and giving the reasons for the Chief Executive Officer's decision.

(5) The holder whose certificate has been cancelled or suspended or ceased to be recognised under this regulation shall not, before the expiry of the time specified in sub-regulation (7) for the lodging of an appeal, be required to surrender his certificate or

any endorsement of the Chief Executive Officer attesting to the recognition of his certificate, unless the Chief Executive Officer requires otherwise.

(6) Any person who fails to surrender his certificate or any endorsement of the Chief Executive Officer attesting to the recognition of his certificate, within the time specified by the Chief Executive Officer where the Chief Executive Officer has required its surrender under sub-regulation (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

(7) Any person aggrieved by any decision of the Chief Executive Officer to cancel or suspend his certificate of proficiency as a ship's cook or cease to recognise his ship's cook certificate may, not later than 30 days after the date of the notice referred to in sub-regulation (4), appeal, in writing, to the Maritime Appeal Tribunal.

(8) An appeal made under sub-regulation (7) shall not operate as a stay of the decision of the Chief Executive Officer to cancel or suspend the appellant's certificate of proficiency as a ship's cook or cease to recognise his ship's cook certificate unless the Chief Executive Officer consents in writing.

Training requirements for catering staff

70. Every member of the catering staff on a ship shall be properly trained and instructed in the subjects and matters specified in the training syllabus set out ***Schedule 4***.

Holder of certificate with disease or disability

71.—(1) Where the Chief Executive Officer is satisfied that the holder of a certificate of proficiency as a ship's cook or a ship's cook certificate is suffering from a disease or disability which, in the opinion of the Chief Executive Officer, makes the holder incapable of adequately discharging his duties as a qualified ship's cook, the Chief Executive Officer may issue a written notice to the holder —

- (a) to immediately suspend his certificate of proficiency;
- (b) to cancel his certificate of proficiency (which may include a certificate which had been suspended earlier) from a specified date; or
- (c) to immediately cease to recognise his ship's cook certificate.

(2) The written notice referred to in sub-regulation (1) shall state the reasons for the suspension, the proposed cancellation or the cessation of recognition of the certificate and shall give an opportunity for the holder of the certificate to show cause, within the period specified in the notice, why his certificate should not be suspended, cancelled or cease to be recognised.

(3) The holder of the certificate who is given an opportunity to show cause may do so in writing addressed to the Chief Executive Officer or may, at the discretion of the Chief Executive Officer, appear before an authorised officer appointed by the Chief Executive Officer to investigate the matter.

(4) Where the Chief Executive Officer is satisfied that no cause or insufficient cause is shown, the Chief Executive Officer shall issue a written notice to the holder of the certificate informing him that his certificate of proficiency as a ship's cook will be cancelled from a specified date, or remain suspended or that his ship's cook certificate will continue to cease to be recognised, and giving the reasons for the Chief Executive Officer's decision.

(5) The holder of the certificate that has been suspended, cancelled or ceased to be recognised shall, as soon as practicable after being so required by the Chief Executive Officer, surrender to the Chief Executive Officer his certificate or any endorsement of the Chief Executive Officer attesting to the recognition of such certificate.

(6) Any person who contravenes sub-regulation (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

Holding of certificate

72. Any certificate required to be held by a qualified ship's cook shall be kept available by the master or shipowner in its original form on board the ship on which the qualified ship's cook is serving.

Loss of certificate

73. If the holder of a certificate of proficiency as a ship's cook proves to the satisfaction of the Chief Executive Officer that he has, without fault on his part, lost or been deprived of his certificate, the Chief Executive Officer may, upon payment of the prescribed fee, issue to him —

- (a) a certified copy of the certificate; or
- (b) a certificate equivalent to the certificate which he lost or has been deprived of.

Cancellation of certificate upon death of holder

74.—(1) Every valid certificate of proficiency as a ship's cook issued by the Chief Executive Officer under these Regulations shall, as soon as practicable after the death of the person to whom the certificate was issued, be surrendered by the master or shipowner to the Chief Executive Officer for cancellation.

(2) A master or shipowner who, without reasonable excuse, fails to comply with sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

PART VI – MEDICAL CARE AND TREATMENT

Definitions

75. In this Part –

“domestic ship” means any ship that operates only in Fiji waters;

“foreign-going ship” means a Fiji ship on international voyage;

“medicine cabinet” means a medicine cabinet required to be kept on board a ship without a approved medical practitioner under Regulation 94;

“medicine register” means a medicine register required to be kept on board a ship under Regulation 98;

“passenger” means a person carried on board a ship with the knowledge or consent of the owner, manager, charterer, operator, agent or master of the ship for hire or reward, not being —

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship pursuant to an obligation imposed on the master by any law (including a law of a country other than Fiji) to convey persons left behind in any country on being shipwrecked, distressed or by reason of circumstances that could not have been prevented or forestalled by the owner, manager, charterer, operator, agent or master of the ship;
- (c) a person temporarily employed on the ship in port; or
- (d) a child below one year of age;

“passenger ship” means a ship which carries more than 12 passengers;

“registered pharmacist” means a person who is registered as a pharmacist under the national laws or a person who possesses such qualification as may be approved by the Chief Executive Officer;

Medical care

76. It shall be the duty of a shipowner to take, so far as is reasonably practicable, such measures as are necessary to ensure the safety and health of all seafarers employed by him on board his ship including —

- (a) measures on occupational health protection and medical care relevant to the seafarer’s duties;
- (b) ensuring that arrangements are made, where practicable, for seafarers to visit any qualified medical doctor or dentist without delay in ports of call; and
- (c) providing medical care and health protection services for any seafarer on board the ship or on land without charge to the seafarer.

Medical report forms

77.—(1) A shipowner shall make available on board his ship, for the purposes of facilitating the treatment of seafarers, such medical report forms specified in ***Schedule 5***.

(2) Every medical report form, or any part thereof, when completed or any information contained in the completed form shall be kept confidential and shall not, without the consent of the seafarer concerned, be released to any person other than for the purposes of facilitating the treatment of that seafarer.

(3) Any person who contravenes sub-regulation (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Medicine Cabinet

78.—(1) A medicine Cabinet with readily understandable instructions shall be carried on board every ship.

(2) The master of a ship shall ensure that the medicine cabinet and its contents, as well as the medical equipment and medical guide, are properly maintained and inspected at such regular intervals as prescribed in Regulation 97.

Medical treatment on board ship

79.—(1) Where a ship is not required under the Regulations to carry an approved medical practitioner on board, the shipowner shall make arrangements for securing that —

- (a) a ship which is ordinarily capable of reaching qualified medical care and medical facilities within 8 hours shall carry on board a seafarer who has

- completed such training in medical first-aid shall meet the standard of competence for seafarers designated to provide medical first-aid on board ship specified in section A-VI/4 paragraphs 1 to 3 of the STCW Code or such other qualification as may be approved by the Chief Executive Officer, and is appointed by the shipowner to be in charge of medical first-aid training and administration of medicine on board the ship; and
- (b) any ship, other than a ship referred to in paragraph (a), shall carry on board a seafarer who has completed such training in medical care shall meet the standard of competence for seafarers designated to take charge of medical care on board ship specified in section A-VI/4 paragraphs 4 to 6 of the STCW Code or such other qualification as may be approved by the Chief Executive Officer, and who is appointed by the shipowner to be in charge of medical care on board the ship.

(2) The holders of the training qualifications referred to in sub-regulations (1) shall be required, at intervals not exceeding 5 years, to provide evidence of having maintained continued standards of competence to undertake the duties referred to in those sub-regulations by completing refresher training requirements approved by the Chief Executive Officer.

(3) The Chief Executive Officer may publish, in such manner as he thinks fit, the qualifications approved under sub-regulations (1) and the refresher training requirements approved under sub-regulation (2).

Medical advice through radio stations

80.—(1) A shipowner shall ensure that a complete and up-to-date list of radio stations through which medical advice can be obtained is carried on board his ship.

(2) The shipowner of a ship that is equipped with a system of satellite communication shall ensure that an up-to-date and complete list of coast earth stations through which medical advice can be obtained is carried on board the ship.

Access to medical care ashore

81. A shipowner shall take such measures as are necessary and practicable to ensure that seafarers employed on his ship have access when in port to —

- (a) outpatient treatment for sickness and injury;
- (b) hospitalisation when necessary; and
- (c) facilities for dental treatment.

Financial security requirement

82.—(1) A shipowner must not allow his ship —

- (a) to put to sea; or
- (b) if it is already at sea, to remain at sea,

unless the requirement in sub-regulation (2) is met.

(2) Subject to subsection (5), the requirement referred to in sub-regulation (1) is that there is in force a contract of insurance or other security adequate to ensure that the shipowner will be able to meet any liabilities the shipowner may have arising from repatriation of a seafarer or to provide compensation in the event of death or long term disability to seafarers arising from occupational injury, illness or hazard. The evidence of financial security shall contain information as reflected in ***Schedule 2***.

(3) The liabilities of the shipowner referred to in sub-regulation (2) include liabilities arising under —

- (a) Regulations 39 (9), 40 (1), 83, 84 and 85;
- (b) the *Workmen's Compensation Act 1975*; and
- (c) the seafarer's employment agreements of seafarers working on the ship.

(4) Any person who contravenes sub-regulation (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) For the purpose of sub regulation (2), Ship owners and operators shall comply after 6 months from the date of Gazettal of this Regulations.

Shipowner's duty to make provision for seafarer medical and other expenses

83.—(1) Subject to Regulation 86 and sub-regulations (3) and (4), a shipowner shall be liable to meet any expenses reasonably incurred in connection with a seafarer's sickness or injury which —

- (a) first occurs during a period which starts on the date on which the seafarer's employment agreement of that seafarer commences and ends on the date on which the shipowner's duty to repatriate that seafarer under Regulation 39 ends; or
- (b) first occurs subsequent to the period referred to in paragraph (a) but is caused by circumstances or events arising during that period.

(2) Expenses incurred in connection with a sickness or an injury include —

- (a) expenses of surgical, medical, dental or optical treatment (including the repair or replacement of any appliance); and
 - (b) expenses for board and lodging.
- (3) The duty in sub-regulation (1) shall not affect any duty imposed on the shipowner under Regulation 39, and shall not apply in respect of any expenses met by the shipowner under that duty.
- (4) The duty in sub-regulation (1) is limited to expenses incurred during a period beginning on the day on which the sickness or injury first occurs and ending on the expiry of 16 weeks after that date.
- (5) If any expenses are incurred by a seafarer to which the duty in sub-regulation (1) applies, the seafarer may recover those expenses from the shipowner as a civil debt.

Shipowner's liability for wages following sickness or injury sustained by seafarer

84.—(1) Subject to Regulation 86, this Regulation applies in relation to a seafarer who experiences sickness or injury which —

- (a) first occurs during a period which starts on the date on which the seafarer's employment agreement of that seafarer commences and ends on the date on which the shipowner's duty to repatriate that seafarer under Regulation 39 ends, or if there is no such duty, the date on which the seafarer employment agreement ends; or
- (b) first occurs subsequent to the period referred to in paragraph (a) but is caused by circumstances or events arising during that period,

and results in the seafarer's incapacity for work.

(2) If the seafarer does not receive the full wages payable under the seafarer's employment agreement for the period starting on the date of the injury or the first day of the sickness referred to in sub-regulation (1) and ending on the date on which the seafarer is repatriated under Regulation 39 or otherwise leaves the ship, the shipowner shall pay to the seafarer the amount equal to the difference between —

- (a) any wages received by the seafarer for that period under that agreement; and
 - (b) the full wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period.
- (3) Subject to sub-regulation (4), if the seafarer remains incapacitated for work for the reason described in sub-regulation (1) after being repatriated under Regulation 39 or otherwise leaving the ship, and does not receive the full wages payable under the

seafarer's employment agreement for the period starting on the day after repatriation or departure from the ship and ending on the date on which the seafarer is again fit for work, the shipowner shall pay to the seafarer the amount equal to the difference between —

- (a) any wages received by the seafarer for that period under that agreement; and
 - (b) the full wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period.
- (4) The duty in sub-regulation (3) ends on the expiry of the period of 16 weeks commencing on the day following the date of the injury or the first day of the sickness referred to in sub-regulation (1).
- (5) The amount payable to the seafarer under sub-regulations (2) and (3) must be paid in the same manner and at the same frequency as wages payable under the seafarer's employment agreement.
- (6) A seafarer may recover any amount of money due from the shipowner under sub-regulation (2) or (3) as a civil debt.
- (7) A shipowner shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

Shipowner's liability in respect of burial or cremation of seafarer

85. A shipowner shall be liable to pay any expenses reasonably incurred in connection with a seafarer's burial or cremation, if the seafarer dies on board or ashore while employed to work on his ship.

Exclusion from liability under Regulations 83, 84 and 85

86. Regulations 83, 84 and 85 shall not apply to a seafarer where —

- (a) the injury referred to in Regulation 83 or 84 was incurred otherwise than in the service of the ship;
- (b) the injury or sickness referred to in Regulation 83 or 84 was incurred due to the seafarer's wilful misconduct; or
- (c) the sickness or incapacity for work existed on the date on which the seafarer entered the seafarer's employment agreement, and the seafarer deliberately concealed the sickness or incapacity from the shipowner.

Limitation of seafarer's right to recover

87.—(1) Where a seafarer has received compensation under the *Workmen's Compensation Act 1975* for the cost of medical treatment in respect of any sickness or

injury, the amount of compensation payable to the seafarer under Regulation 83 for the expenses incurred in connection with the sickness or injury shall be reduced by the amount so received.

(2) Where a seafarer has received compensation under the *Workmen's Compensation Act 1975* for any temporary incapacity resulting from any sickness or injury, the amount of compensation payable to the seafarer under Regulation 84 for loss of wages in respect of the sickness or injury shall be reduced by the amount so received.

(3) Subject to sub-regulations (1) and (2) and the *Workmen's Compensation Act 1975*, Regulations 83 and 84 are without prejudice to any other legal remedies that a seafarer may have under any other rule of law in respect of the sickness or injury, but provided that —

(a) if a seafarer brings any action for damages in a court in respect of any sickness or injury, any judgment, award or order that may be made against a shipowner in such an action shall take into account the payment made under Regulation 83 or 84; and

(b) a seafarer shall not be compensated more than once in respect of the same expense or wages.

Master's and shipowner's responsibilities

88.—(1) The master of a ship to which these Regulations apply shall ensure that the provisions of these Regulations are complied with in relation to his ship.

(2) The shipowner of a ship to which these Regulations apply shall, upon the request of the master of his ship, provide such assistance as is necessary for compliance with the provisions of these Regulations in relation to his ship.

(3) Any person who contravenes sub-regulation (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(4) It shall be a defence for any person charged for an offence under sub-regulation (3) to prove —

(a) that the deficiency in medicines or medical equipment was caused by medicines and medical equipment being used for their proper purposes and that it has not been reasonably practicable to replace them; or

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Medical guide

89. Every ship shall carry on board a copy of the following:

- (a) International Medical Guide for Ships;
- (b) Ship Captain's Medical Guide;
- (c) Medical First Aid Guide for Use in Accidents Involving Dangerous Goods;
- (d) Document for Guidance — An International Maritime Training Guide; and
- (e) International Code of Signals.

Medicines and medical equipment for foreign-going ships

90. Every foreign-going ship shall keep on board medical stores as provided in the *Maritime (Ships Medical Requirements) Regulations 2014*.

Medicines and medical equipment for domestic ships

91. Every domestic ship shall keep on board medical requirements as provided in the *Maritime (Ships Medical Requirements) Regulations 2014*.

Medicines and medical equipment for ships plying upon domestic voyage

92. The General Guidelines and the list in the *Maritime (Ships Medical Requirements) Regulations 2014* on medical stores on board ships shall assist a ship operator in determining the medical supplies appropriate for any particular situation.

Ships carrying dangerous cargo

93. Every ship carrying dangerous cargo shall, in addition to the medicines in the medicine chest, and the medical equipment required to be carried under Regulation 90, 91 or 92, carry on board such additional medicines and medical equipment as are specified in the *Maritime (Ships Medical Requirements) Regulations 2014*.

Ships without qualified medical practitioners

94.—(1) Every ship going to sea carrying more than 12 passengers but without an approved medical practitioner as a seafarer shall (in addition to the medicines in the medicine chest and the medical equipment the ship is required to carry under Regulation 90, 91 or 92) carry in a medicine case the medicines and the medical equipment specified in the *Maritime (Ships Medical Requirements) Regulations 2014*.

(2) Any item which cannot be included in the medicine case shall —

- (a) where possible, be strapped to it; or
- (b) otherwise, be kept in a place adjacent to the medicine case.

(3) The medicine case shall be locked, and be kept in a locked cabinet, and the key to the medicine case shall be kept in the possession of the master or someone nominated by him.

- (4) The medicine case shall be labelled clearly as follows:
“The medicines in this case are to be used only by an approved medical practitioner or a person under the direct supervision of an approved medical practitioner who is on board the ship or who is conveying medical advice by radio or satellite communication.”.

Ships with qualified medical practitioners

95. There shall be kept on board every ship on a voyage on which an approved medical practitioner is engaged to provide medical care to persons on board, any additional supplies which such medical practitioner may reasonably require having regard to the size of the crew, the number of passengers on board and the intended voyage.

First-aid kit

96. Every ship that is a passenger ship shall carry first-aid kit as specified in the *Maritime (Ships Medical Requirements) Regulations 2014*.

Inspection of medicines and medical equipment

97.—(1) For the purposes of Regulation 78, the medicines in the medicine cabinet and medicine case, if any, the medical equipment and the first-aid kits on board a ship shall be inspected at least once in every 12 months by a registered pharmacist.

(2) The registered pharmacist shall, if he is satisfied after the inspection that the ship is provided with the medicines and medical equipment in accordance with the appropriate scale as required under these Regulations, including such medicine case and first-aid kits as may be required in accordance with the requirements of Regulations 94 and 96, respectively, issue a certificate to that effect.

- (3) The certificate issued under sub-regulation (2) shall contain the following details:
- (a) the name of the ship;
 - (b) the trading area of the ship;
 - (c) the name and official seal of the registered pharmacist;
 - (d) the scale applied by the registered pharmacist for the inspection of the medicines in the medicine chest and medical equipment carried on board;
 - (e) the number of first-aid kits carried on board, if applicable;
 - (f) the date of inspection; and
 - (g) the registered pharmacist’s certification that the contents of the medicines in the medicine chest and the medicine case, if any, the medical equipment and the first-aid kits, if any, are in a satisfactory condition.

(4) Upon completion of each inspection, the certificate referred to in sub-regulation (2) shall be submitted by the master to the Chief Executive Officer, for endorsement.

(5) The Chief Executive Officer may, upon such conditions as he thinks fit, attest to his recognition of such certificate by endorsing on the certificate or by providing a document attesting to such recognition.

(6) The certificate shall be readily available for inspection on board the ship, and shall be produced, on request, to seafarers employed on that ship, the Chief Executive Officer, a person authorised by the Chief Executive Officer, a Flag State Inspector or Port State Control Officer and authorised officers in port States.

Medicine register and preservation of prescriptions

98.—(1) Every ship shall carry on board a medicine register containing the information specified in ***Schedule 6***.

(2) An entry, signed by the master, shall be made in the medicine register of the supply of any medicine on board the ship to any seafarer.

(3) The medicine register shall be preserved on board every ship for a period of 3 years from the date on which the last entry is made.

(4) Every prescription for the supply of any medicine or medical equipment for use on board a ship shall be preserved for a period of 3 years from the date on which the last delivery under it was made.

(5) The control of certain drugs shall be in accordance with *Regulation 9* of the *Maritime (Ships Medical Requirements) Regulations 2014*.

Alternative medicines and medical equipment

99.—(1) Where any medicine required by these Regulations to be kept on board a ship is not readily available for supply, the master shall obtain suitable alternatives from a registered pharmacist or an approved medical practitioner.

(2) Where any medical equipment required by these Regulations to be kept on board a ship is not readily available for supply, the master shall obtain suitable alternatives from an approved medical practitioner and may, where the ship is not in Fiji, obtain suitable alternatives from a registered pharmacist or a approved medical practitioner.

(3) The shipowner of a ship to which these Regulations apply shall, upon the request of the master of his ship, provide such assistance as is necessary to obtain suitable alternatives for his ship in accordance with sub-regulation (1) or (2).

Standards of medicines kept on board

100. The contents of all medicines kept on board a ship in accordance with these Regulations shall conform to the standards and requirements set out in the Australian Standards.

Packaging and labelling

101.—(1) Without prejudice to any other written law, the container of any medicine or medical equipment required by these Regulations to be kept on board a ship —

- (a) shall bear a label stating, in English, the particulars specified in sub-regulation (3) ;
- (b) in the case of a container of tablets or capsules, shall be capable of re-closure to prevent ingress of moisture;
- (c) in the case of a container of disinfectant, shall not show deleterious reaction with the disinfectant after storage in normal conditions for 6 months;
- (d) in the case of insecticide, shall be air-tight, water-tight, packed in a suitable and sturdy case and, if the container is a pressure canister, have a cap or other means of protecting the valve against accidental opening when the canister is not in use; and
- (e) in the case of medicine or disinfectant not in the container supplied by its manufacturer, shall be packed in a sturdy, brown-coloured or non-translucent container.

(2) Any label referred to in sub-regulation (1) (a) shall either be firmly affixed to the container and rendered resistant to moisture by varnish or other effective means or be an integral part of the container.

(3) The particulars required by sub-regulation (1) (a) to be shown on labels are —

- (a) the name by which the medicine is referred to in the *Maritime (Ships Medical Requirements) Regulations 2014*;
- (b) any storage requirements laid down in any of the publications referred to in these Regulations;
- (c) if the medicine or medical equipment is perishable, the expiry date as defined in Regulation 103 (1) (b) ;
- (d) the name and address of the supplier of the medicine and medical equipment, the product licence number and batch number;

- (e) in the case of any container of a disinfectant or of an antiseptic prescribed in the *Maritime (Ships Medical Requirements) Regulations 2014*, the dilution recommended for any purposes stated thereon;
- (f) in the case of any container of an insecticide prescribed in the *Maritime (Ships Medical Requirements) Regulations 2014*, instructions for use and precautions to be taken as specified in the **Schedule 7**; and
- (g) in the case of a container of hypochlorite, a notice indicating that the chemical may combust spontaneously and that the hypochlorite should be stored in a cool dark place.

Storage of medicines and medical equipment

102.—(1) Any medicine and medical equipment shall be stored in accordance with the instructions on its container.

(2) Any medicine and medical equipment shall, unless it is required to be kept in a refrigerator or in a first-aid kit, be stored in a cool, dry, locked cabinet or locked container and in accordance with the *Maritime (Ships Medical Requirements) Regulations 2014*.

Replenishment of dated medicine and medical equipment

103.—(1) Where —

- (a) a ship is required to have on board any medicine and medical equipment in accordance with these Regulations; and
- (b) any label required by Regulation 101 (1) (a) to be borne by any container or any medicine or medical equipment indicates a date after which the medicine or medical equipment contained in it is not to be used (referred to in this regulation as the expiry date),

that medicine and medical equipment shall be replaced at the earliest possible date after the expiry date, and in any event within 3 months of the expiry date.

(2) Any medicine or medical equipment which has passed the expiry date shall, once replacements have been obtained, or after 3 months, whichever is the earlier, be disposed of in accordance with Regulation 104.

Disposal of medicines and medical equipment

104. All medicines and medical equipment shall, where applicable, be disposed of properly in accordance with **Schedule 8**.

PART VII - HEALTH AND SAFETY PROTECTION AND ACCIDENT PREVENTION

Definition

105. In this Part, “International Safety Management Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention 2002 adopted by the International Maritime Organization and any amendment thereto which has come into force and has been accepted by the Government.

Duties of shipowner to ensure safety and health of seafarers

106.—(1) It shall be the duty of a shipowner to take, so far as is reasonably practicable, such measures as are necessary, to ensure the safety and health of the seafarers on board his ship.

(2) For the purposes of sub-regulation (1), the measures necessary to ensure the safety and health of seafarers on board a ship include —

- (a) providing and maintaining for seafarers a work environment which is safe, without risk to health and adequate as regards facilities and arrangements for their welfare at work;
- (b) ensuring that adequate safety measures are taken to prevent occupational accidents, injuries and diseases;
- (c) developing and implementing procedures for inspection, reporting and dealing with emergencies that may arise on board the ship; and
- (d) ensuring that the master and seafarers on board the ship have adequate instruction, information, training and supervision, especially with regard to young seafarers, as is necessary for them to comply with the measures as may be prescribed.

3. For the purpose of sub regulation (1), any other matter in relation to health and safety of the seafarers on board his ship, the *Health and Safety at Work Act 1996* shall apply.

Duty of master to implement measures

107.—(1) It shall be the duty of the master to ensure that the measures taken by the shipowner as referred to in Regulation 106, are implemented on board the ship.

(2) The master, or a person designated by the master, shall at intervals of 7 days, inspect and correct unsafe conditions on board the ship, and shall report such occurrences to the shipowner.

Duties of seafarers at work on board a ship

108. It shall be the duty of every seafarer at work on board a ship —

- (a) to comply with the safety measures referred to in Regulation 106 (2) (b) as taken by the shipowner and the *Health and Safety at Work Act 1996*; and
- (b) to co-operate with the shipowner or the master to the extent as will enable the shipowner or the master, as the case may be, to comply with the provisions of this Regulations.

Safety Committee

109.—(1) Every ship which operates with 5 or more seafarers on board shall have a safety committee for that ship.

(2) Every safety committee shall comprise the master, any person designated by the master and seafarer representatives.

(3) The functions of the safety committee appointed for a ship shall be —

- (a) to keep under review circumstances on board the ship which affect or may affect the safety or health of the seafarers;
- (b) to carry out inspections of the scene of any accident in the interest of the safety and health of the seafarers; and
- (c) to exercise such other functions and duties as may be necessary to assist the shipowner in discharging his duties under this Part.

(4) The Safety Committee in accordance with this regulation, is deemed to be the Committee in accordance with *Part III* of the *Health and Safety at Work Act 1996*.

Codes of practice

110.—(1) For the purpose of providing practical guidance with respect to the requirements of this Part relating to measures necessary to ensure the safety and health of seafarers, including measures on occupational health protection and medical care, the Authority may, from time to time, do all or any of the following:

- (a) issue one or more codes of practice, which may include any code of practice issued or approved under another written law if the Authority considers that code of practice suitable for this purpose;
- (b) approve as a code of practice any document prepared by any person or organisation other than the Authority if the Authority considers the document as a suitable document for this purpose;
- (c) amend or revoke any code of practice issued or approved under this Regulation.

(2) The power of the Authority under sub-regulation (1) (a) or (b) to issue or approve a code of practice that is either a code of practice issued or approved under another written law or a document prepared by any person or organisation other than the Authority shall include the power to issue or approve a part of such a code of practice or document.

(3) Where a code of practice is issued, approved, amended or revoked by the Authority under sub-regulation (1), the Authority shall —

(a) publish a notice of the issue, approval, amendment or revocation, as the case may be, of the code of practice in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

(b) specify in the notice referred to in paragraph (a) —

(i) the date of issue, approval, amendment or revocation, as the case may be;

(ii) the class of hazards, activities or articles in respect of which the code of practice is issued, approved, amended or revoked; and

(iii) the place at and the time during which, or the Internet website where, the code of practice which is the subject of the notice may be inspected; and

(c) ensure that, so long as the code of practice remains in force, copies of that code, and of all amendments to that code, are available for inspection by shipowners or seafarers free of charge.

(4) No code of practice, no amendment to an approved code of practice, and no revocation of any such approved code of practice, shall have any force or effect until the notice relating thereto is published in accordance with sub-regulation (3).

(5) An approved code of practice that is also either a code of practice issued or approved under another written law or a document prepared by any person or organisation other than the Authority shall consist of the contents of that code or document as that code or document existed on the date it was issued or approved as an approved code of practice under this Regulation.

(6) If any provision of any approved code of practice is inconsistent with any provision of this Regulations, such provision, to the extent of the inconsistency —

(a) shall have effect subject to the provisions of this Regulations; or

(b) having regard to the provisions of this Regulations, shall not have effect.

- (7) Any approved code of practice shall be deemed not to be subsidiary legislation.

Use of approved codes of practice in criminal proceedings

111.—(1) A person shall not be liable to any criminal proceedings by reason only that he has failed to observe any approved code of practice.

(2) In any proceedings for an offence under this Regulations, an approved code of practice that is relevant to any matter which is necessary for the prosecution to prove in order to establish the commission of the offence shall be admissible in evidence in the proceedings.

(3) Without affecting any other method of proof, in any proceedings for an offence under this Regulations —

- (a) the production of a document purporting to be a copy of a notice published by the Authority under Regulation 110 (3) (a) shall be taken to be such a notice until the contrary is proved; and
- (b) the production of a code of practice, or an amendment or a revocation of a code of practice, purporting to be the subject of a notice under Regulation 110 (3) (a) shall be taken to be the subject of that notice until the contrary is proved.

Investigation into occupational accidents, injuries and diseases on board ships

112.—(1) Where the Chief Executive Officer becomes aware of any occupational accident, injury or disease arising from service on board any ship, the Chief Executive Officer may appoint an Inspector to investigate the cause and circumstances of the occupational accident, injury or disease.

(2) The Chief Executive Officer or an Inspector appointed by the Chief Executive Officer under sub-regulation (1) may, for the purposes of an investigation under this Regulation —

- (a) board any ship;
- (b) inspect any ship;
- (c) summon any person before him and require him to answer questions;
- (d) require any person to furnish a sworn statement relating to the cause or circumstances of the occupational accident, injury or disease; and

- (e) require the production of any book, log book, certificate, register, document or other information relating to any ship or persons on board the ship.
- (3) Except with the permission of the Chief Executive Officer, no person shall, unless necessary for the prevention of any accident or for the safe navigation of a ship —
- (a) alter, replace, remove or add to any machinery, equipment or article which may have contributed to the cause of any occupational accident, injury or disease; or
 - (b) modify the scene of the occupational accident or injury or the place where the occupational disease occurred.

Safeguards and safety measures

113.—(1) It shall be the duty of the shipowner to develop and implement on board such occupational health and safety measures to prevent occupational accidents, injuries and diseases as are specified in sub-regulation (2).

(2) The occupational health and safety measures referred to in sub-regulation (1) shall either —

- (a) meet the requirements of an approved ship safety management system under the International Safety Management Code; or
- (b) include all of the following:
 - (i) provision and maintenance of plant, machinery and equipment and systems of work that are, so far as is reasonably practicable, safe and without risk to health;
 - (ii) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances;
 - (iii) provision of necessary personal protective equipment for seafarers;
 - (iv) arrangements as are appropriate, having regard to the nature of, and the substances used in, the activities and size of the operation, for the effective planning, organisation, control, monitoring and review of preventive and protective measures;
 - (v) arrangements to ensure, so far as is reasonably practicable, that no person has access to any area of the ship to which it is necessary to restrict access on grounds of health and safety unless the individual concerned has received adequate and appropriate health and safety instruction.

Training of seafarers

114.—(1) A shipowner shall provide a seafarer with adequate and appropriate health and safety training and instruction —

- (a) before the seafarer is assigned to shipboard duties; and
- (b) on the seafarer being exposed to new or increased risks because of —
 - (i) a requirement to take on any responsibility on board the ship that is not familiar to him;
 - (ii) the absence or lack of practical knowledge of the operation of any equipment;
 - (iii) the introduction of new technology; or
 - (iv) the introduction of any new shipboard practice or a new system of work.

(2) The training and instruction referred to in sub-regulation (1) shall —

- (a) be repeated periodically where appropriate;
- (b) take into account any new or changed risks to the health or safety of the seafarer concerned; and
- (c) take place during the working hours of the seafarer concerned.

Risk evaluation

115.—(1) A shipowner shall conduct a risk evaluation in relation to the management of occupational health and safety on board the ship.

(2) The risk evaluation referred to in sub-regulation (1) shall cover —

- (a) the avoidance of risks, which among other things include the combating of risks at source and the replacement of dangerous practices, substances or equipment by non-dangerous or less dangerous practices, substances or equipment;
- (b) the evaluation of unavoidable risks and the taking of action to reduce them; and
- (c) the review of appropriate statistical information from the shipowner's ships and such general statistics as may be provided by the Authority from time to time.

(3) The shipowner shall ensure that the risk evaluation referred to in sub-regulation (1) is reviewed —

- (a) at suitable intervals; or
- (b) whenever there is any significant change in the working conditions on board the ship.

Reporting requirements by shipowners and masters

116.—(1) It shall be the duty of a shipowner and master to report to the Chief Executive Officer any occupational accident, injury or disease arising from service on board any ship.

(2) The report shall be made in the form set out in ***Schedule 9***.

Duty of the shipowner and master

116A. It shall be the duty of the shipowner and master to also report pursuant to the *Workmen Compensation Act 1964* and the *Health and Safety at Work Act 1996*.

Investigation

117. An Inspector, appointed by the Chief Executive Officer under Regulation 112 (1) to investigate the cause and circumstances of any occupational accident, injury or disease, shall submit a report to the Chief Executive Officer not later than one month after the investigation has been concluded.

Penalties

118. Any person who contravenes Regulation 106, 107, 108, 113, 114, 115 or 116 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

PART VIII – INSPECTION AND CERTIFICATION

Application and interpretation of this Part

119.—(1) This Part (with the exception of Regulation 121) shall apply 1 year after the date of publication in the *Gazette* to any Fiji ship, ordinarily engaged in commercial activities, which is of 500 gross tonnage or above, engaged in international voyages, or operating from a port or between ports in another country, wherever the ship may be.

(2) Regulation 121 shall apply to any Fiji ship, ordinarily engaged in commercial activities, wherever the ship may be.

(3) In this Part —

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant certificate;

Maritime Labour Certificate and Declaration of Maritime Labour Compliance

120.—(1) No ship shall go to sea unless —

(a) the shipowner or the master has been issued with a valid Maritime Labour Certificate or interim Maritime Labour Certificate in respect of the ship; and

(b) the shipowner causes to be carried on board his ship a Declaration of Maritime Labour Compliance written in English.

(2) If any ship goes or attempts to go to sea in contravention of sub-regulation (1), the shipowner and the master shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$10,000.

(3) The Chief Executive Officer or the Port State Control Officer may detain a ship until the documents referred to in sub-regulation (1) are produced.

Power to inspect ships

121.—(1) Every inspection of a ship shall be carried out in the manner provided in this Regulations.

(2) The inspection of ships, as regards compliance with the requirements of this Regulations and other relevant written law, may be carried out by the Chief Executive Officer, a Flag State Inspector or a Recognised Organization.

(3) Any other inspection where applicable will be carried out by the Health Safety Inspector pursuant to the *Health and Safety at Work Act 1996* and its subsidiary legislation.

(3) The Chief Executive Officer or a Flag State Inspector may for the purposes of an inspection —

- (a) board any ship, without previous notice to the shipowner, master or person in charge of that ship, for the purposes of inspecting that ship;
- (b) inspect any ship, after giving previous notice to the shipowner, master or person in charge of that ship;
- (c) summon any person before him and require him to answer questions;
- (d) require the production of any book, log book, certificate, register, document or other information relating to any ship;
- (e) take samples of any products, cargo, drinking water, provisions, materials or substances used or handled in the possession of any person on board any ship, as may be necessary with a view to analyze these samples;
- (f) require the display of notices, certificates or documents required by this Regulations or other relevant written law; and
- (g) require rectification of deficiencies that may be identified in the seafarers' working and living conditions on any ship.

(4) Any sample taken under this Regulation shall be disposed of and accounted for in such manner as the Chief Executive Officer may direct.

(5) If in the opinion of the Chief Executive Officer or a Flag State Inspector, the working and living conditions on board a ship do not conform to the requirements of this Regulations or other relevant written law, the Chief Executive Officer or Flag State Inspector may by notice in writing require the shipowner to rectify the non-conformity within such time as may be specified in the notice.

(6) Any shipowner who fails, without reasonable excuse, to comply with a notice issued to him under sub-regulation (5) within such time as may be specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Declaration of Maritime Labour Compliance

122.—(1) The Chief Executive Officer or a Recognised Organisation may issue a Declaration of Maritime Labour Compliance if satisfied that the shipowner has adopted measures to ensure ongoing compliance with the requirements of this Regulations and other relevant written law.

(2) The Declaration of Maritime Labour Compliance shall be in accordance with Regulation 127, and shall comprise —

- (a) Part I which shall be issued by the Chief Executive Officer or a Recognised Organisation and shall identify the list of matters for inspection, the relevant provisions of this Regulations and other relevant written law, any ship-type specific requirements, any substantially equivalent provisions adopted, and any exemption granted by the Authority; and
- (b) Part II which shall be drawn up by the shipowner and shall identify measures undertaken by the shipowner to ensure ongoing compliance with the provisions of this Regulations and other relevant written law during the period between inspections, and measures proposed to ensure continuous improvement.

Interim Maritime Labour Certificate

123.—(1) Subject to sub-regulation (2), the Chief Executive Officer or a Recognised Organisation may issue an interim Maritime Labour Certificate in respect of a ship when —

- (a) the ship is a newly delivered ship;
- (b) the ship changes flag; or

- (c) a shipowner assumes responsibility for the operation of the ship which is new to that shipowner.
- (2) An interim Maritime Labour Certificate may be issued in respect of a ship for a period not exceeding 6 months if —
- (a) the Chief Executive Officer or a Recognised Organisation determines that the ship is, as far as reasonably practicable, in compliance with this Regulations and other relevant written law;
 - (b) the shipowner has demonstrated to the Chief Executive Officer or Recognised Organization, as the case may be, that —
 - (i) the ship has in place adequate procedures to comply with this Regulations and other relevant written law; and
 - (ii) the master is familiar with the requirements of this Regulations and other relevant written law; and
 - (c) the shipowner has submitted to the Chief Executive Officer or Recognised Organization, as the case may be, the necessary information to enable a Declaration of Maritime Labour Compliance to be issued.
- (3) A shipowner shall, prior to the date of expiry of the interim Maritime Labour Certificate issued in respect of his ship, cause a full inspection of his ship to be carried out, to enable the issuance of a Maritime Labour Certificate.
- (4) Only one interim Maritime Labour Certificate may be issued to a shipowner in respect of a particular ship.

Issue of Maritime Labour Certificate

- 124.—(1) The Chief Executive Officer or a Recognised Organisation may issue a Maritime Labour Certificate in respect of a ship if —
- (a) he is fully satisfied, after an initial or a renewal inspection of the ship, as the case may be, that the ship complies with the requirements of this Regulations and other relevant written law; and
 - (b) there is issued in respect of the ship, a Declaration of Maritime Labour Compliance.
- (2) A ship shall be subject to —
- (a) an initial inspection before the ship is put in service;

- (b) an intermediate inspection not later than the third anniversary date of the Maritime Labour Certificate; and
 - (c) a renewal inspection at intervals of 5 years from the issue of the Maritime Labour Certificate.
- (3) An inspection referred to in sub-regulation (2) shall encompass a complete inspection of the working and living conditions on board the ship such as to ensure that the working and living conditions on board the ship fully comply with the requirements of this Regulations and other relevant written law.
- (4) The satisfactory completion of an intermediate inspection referred to in this Regulation shall be endorsed on the Maritime Labour Certificate.

Validity of Maritime Labour Certificate

- 125.—(1) Subject to sub-regulation (6), a Maritime Labour Certificate shall, unless suspended or withdrawn, be valid for a period not exceeding 5 years.
- (2) Subject to sub-regulation (12), if a ship is found not to be in compliance with the requirements of this Regulations or other relevant written law, the Chief Executive Officer or a Recognised Organisation shall suspend the Maritime Labour Certificate until such time corrective action is taken to the satisfaction of the Chief Executive Officer or Recognised Organisation, as the case may be.
- (3) If the corrective action referred to in sub-regulation (2) is not taken to the satisfaction of the Chief Executive Officer or Recognised Organisation, as the case may be, within such period of time as specified by the Chief Executive Officer or Recognised Organisation, as the case may be, the Chief Executive Officer may withdraw the Maritime Labour Certificate.
- (4) Where the Chief Executive Officer or Recognised Organisation suspends or revalidates a Maritime Labour Certificate in respect of a ship, or where the Chief Executive Officer withdraws a Maritime Labour Certificate in respect of a ship, the Chief Executive Officer or Recognised Organisation, as the case may be, shall immediately notify the following persons of the suspension, withdrawal or revalidation, as the case may be, of the Maritime Labour Certificate:
- (a) the Chief Executive Officer (where the suspension or revalidation was carried out by a Recognised Organisation);
 - (b) the Recognised Organisation that issued that Maritime Labour Certificate in respect of the ship (where the withdrawal, suspension or revalidation was carried out by the Chief Executive Officer);

- (c) the shipowner;
 - (d) the master of the ship.
- (5) When a Maritime Labour Certificate is suspended or withdrawn, the shipowner and master of the ship shall on demand deliver up the certificate to the Chief Executive Officer or Recognised Organisation, as the case may be.
- (6) When the renewal inspection is completed not more than 3 months before the expiry of the Maritime Labour Certificate, the new Maritime Labour Certificate shall be valid from the date of completion of the renewal inspection to a date not exceeding 5 years after the date of expiry of the existing Maritime Labour Certificate.
- (7) When the renewal inspection is completed more than 3 months before the expiry of the Maritime Labour Certificate, the new Maritime Labour Certificate shall be valid from the date of completion of the renewal inspection to a date not exceeding 5 years after the date of completion of the renewal inspection.
- (8) A Maritime Labour Certificate and an interim Maritime Labour Certificate issued under this Part shall be in accordance with Regulation 128.
- (9) A Maritime Labour Certificate issued under Regulation 124 shall cease to be valid in any of the following circumstances:
- (a) if the intermediate inspection is not completed within the period specified in Regulation 124 (2) (b) ;
 - (b) if the certificate is not endorsed in accordance with Regulation 124 (4) ;
 - (c) upon the transfer of the ship to the flag of another country;
 - (d) if the shipowner ceases to assume responsibility for the operation of the ship;
 - (e) when substantial changes have been made to the structure or equipment of the ship relating to accommodation, recreation, food or catering;
 - (f) if the certificate is suspended, during the period of suspension;
 - (g) if the certificate is withdrawn.
- (10) An interim Maritime Labour Certificate issued under Regulation 123 shall cease to be valid in any of the circumstances referred to in sub-regulation (9) (c) to (g).
- (11) A shipowner or master who becomes aware that his ship does not comply with any requirement of this Regulations or other relevant written law, shall notify the Chief Executive Officer of the nature of non-compliance without delay.

(12) Upon the application of the shipowner or master, the Chief Executive Officer may, if he is satisfied that due to any unforeseen circumstances, it is not reasonably practicable for the shipowner or master to comply with a requirement of this Regulations or other relevant written law, and that the working and living conditions of the seafarers on board will not be adversely affected, grant a dispensation of that requirement —

(a) until the next port of call; or

(b) for a specified period, provided that such period of dispensation shall not exceed one month.

(13) The Chief Executive Officer may, in granting a dispensation under sub-regulation (12), impose any condition as he thinks fit.

Display of Maritime Labour Certificate and Declaration of Maritime Labour Compliance

126.—(1) A shipowner shall cause to be displayed in a conspicuous place on board his ship where it is available to seafarers —

(a) a valid Maritime Labour Certificate and a valid Declaration of Maritime Labour Compliance in respect of that ship; or

(b) a valid interim Maritime Labour Certificate in respect of that ship, as the case may be.

(2) A shipowner shall cause to be carried on board his ship —

(a) a copy of the Convention; and

(b) a copy of this Regulations.

(3) The documents referred to in sub-regulations (1) and (2) shall be readily available for inspection on board the ship, and shall be produced, on request, to seafarers employed on that ship, the Chief Executive Officer, a Flag State Inspector, authorised officers in port States and shipowners' and seafarers' representatives.

Form of Declaration of Maritime Labour Compliance

127.—(1) The Declaration of Maritime Labour Compliance issued under Regulation 119 shall be in the form set out in ***Schedule 10***.

(2) Unless otherwise required —

- (a) the Declaration of Maritime Labour Compliance shall be completed neatly and legibly in accordance with such directions as may be specified in the form; and
 - (b) all particulars to be inserted in the Declaration of Maritime Labour Compliance shall be in the English language, and may be typewritten or written by hand in ink in block letters.
- (3) The Chief Executive Officer may, if he thinks fit, accept any Declaration of Maritime Labour Compliance that is not in compliance with these Regulations, if satisfied that such non-compliance is not substantial, and may refuse to accept any document that is not in compliance with these Regulations.

Form of certificates

128.—(1) The interim Maritime Labour Certificate issued under Regulation 123 shall be in the form set out in ***Schedule 11***.

(2) The Maritime Labour Certificate issued under Regulation 124 shall be in the form set out in ***Schedule 12***.

Replacement of lost documents

129.—(1) When any certificate or other document issued by the Chief Executive Officer or the Authority for the purposes these Regulations is lost, destroyed or so defaced that the particulars are no longer legible, the shipowner shall report the loss, destruction or defacement to the Authority within 14 days.

(2) Subject to the shipowner fulfilling any condition imposed by the Authority and on his paying to the Authority the prescribed fee, a replacement certificate or document may be issued to him by the Chief Executive Officer or the Authority, as the case may be.

(3) No fee is payable for the replacement of a certificate or other document that is lost, destroyed or defaced as a result of shipwreck or other marine hazard.

Fees

130.—(1) There shall be paid to the Authority the appropriate fees in respect of the matters specified in ***Schedule 13***.

(2) The fees payable to the Authority in respect of the issuance or submission of any document shall be paid at the time the document is issued or lodged, unless otherwise determined by the Chief Executive Officer.

(3) The fees shall be paid in such manner as may be determined by the Chief Executive Officer.

(4) No fee so paid shall be refundable in respect of any document surrendered or cancelled under the provisions of the Regulations.

PART IX – COMPLAINTS

On-board complaint procedures

131.—(1) A shipowner shall ensure that there are on board his ship appropriate procedures to allow seafarers to make a complaint against any person in connection with any possible breach of any provision under this Regulations or other relevant written law.

(2) The procedures referred to in sub-regulation (1) shall include —

(a) a right to lodge a complaint directly with the master of the ship;

(b) a right to be represented or accompanied; and

(c) adequate safeguards to ensure that the rights of the seafarers are not prejudiced by the making of complaints.

(3) Upon the receipt of a complaint, the master shall investigate the complaint.

(4) If a seafarer is not satisfied with the action taken by the master as a result of his investigation, or by his failure to take any action, the seafarer may state his dissatisfaction to the master and indicate that he wishes to lodge a complaint to the Chief Executive Officer or if the ship is not in Fiji, to a port State authority.

(5) Upon being notified of the seafarer's dissatisfaction under sub-regulation (4), the master shall make adequate arrangements to enable the seafarer to lodge a complaint as soon as the service of the ship permits.

(6) The Chief Executive Officer shall, upon receiving the complaint referred to in sub-regulation (4), investigate the complaint.

(7) A master of a ship who fails, without reasonable cause, to comply with this Regulation, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

Provision of complaint procedures and other information

132.—(1) A shipowner shall cause a copy of the procedures referred to in Regulation 131 to be provided to each seafarer employed on his ship.

(2) The copy of the procedures provided to the seafarers shall be in English and, if the working language of the ship is not English, also be in the working language or languages of the ship, and shall include the following information:

- (a) contact information of the Authority;
- (b) contact information of the competent authority in the seafarer's country of residence; and
- (c) the names of persons on board the ship who may assist any seafarer with and advise him on his complaint.

PART X – INSPECTIONS IN PORT

Application of this Part

133. This Part shall apply to —

- (a) any Fiji ship, ordinarily engaged in commercial activities; and
- (b) any ship in Fiji, not being a Fiji ship, whether publicly or privately owned, ordinarily engaged in commercial activities.

Inspection of ships in port

134.—(1) A ship shall be subject to inspection by a Flag State Inspector or Port State Control Officer or any person duly authorised by the Chief Executive Officer.

(2) Subject to sub-regulation (3), any such inspection shall be limited to verifying that there are carried on board the ship —

- (a) a valid Maritime Labour Certificate or a valid interim Maritime Labour Certificate; and
- (b) a valid Declaration of Maritime Labour Compliance, issued under this Regulations in respect of a Fiji ship, or their equivalent issued under the national laws of the flag State of the ship if that ship is not a Fiji ship.

(3) If any of the conditions mentioned in sub-regulation (4) apply, the ship may be subject to a detailed inspection by a Flag State Inspector or Port State Control Officer or a person duly authorised by the Chief Executive Officer, to determine whether the ship —

- (a) being a Fiji ship, is in compliance with the requirements of this Regulations and other relevant written law; or

- (b) being a ship that is not a Fiji ship, is in compliance with the requirements of the Convention.
- (4) The conditions referred to in sub-regulation (3) are as follows:
- (a) the documents referred to in sub-regulation (2) are not produced;
 - (b) the documents referred to in sub-regulation (2) are invalid, are not maintained, are falsely maintained, or do not contain particulars or information required by this Regulations or the Convention, as the case may be;
 - (c) there are clear grounds for believing that the working and living conditions on board the ship do not conform to the requirements of this Regulations or other relevant written law, or of the Convention, as the case may be;
 - (d) there are reasonable grounds for believing that the ship has changed flag for the purpose of avoiding compliance with this Regulations or the Convention, as the case may be;
 - (e) there is a complaint alleging that specific working and living conditions on board the ship do not comply with the requirements of this Regulations or other relevant written law, or of the Convention, as the case may be;
 - (f) the working and living conditions present could constitute a clear hazard to the safety, health or security of seafarers;
 - (g) the Flag State Inspector or Port State Control Officer or the person duly authorised by the Chief Executive Officer has grounds to believe that any deficiencies present constitute a serious breach of the requirements of this Regulations or other relevant written law, or of the Convention, as the case may be.
- (5) In this Regulation, “complaint” means any information submitted by any seafarer, professional body, association, trade union, or person with an interest in the safety of the ship or the safety and health of the seafarers on board any ship.
- (6) An inspection conducted on a ship that is not a Fiji ship pursuant to sub-regulation (4) (a), (b), (c) or (d) shall in principle cover the matters specified in ***Schedule 1***.
- (7) An inspection conducted pursuant to sub-regulation (4) (e) shall generally be limited to the scope of the complaint.
- (8) The Flag State Inspector or Port State Control Officer or the person duly authorised by the Chief Executive Officer may for the purposes of an inspection —
- (a) board any ship, without previous notice to the shipowner, master or person in charge of that ship, for the purposes of inspecting that ship;

- (b) inspect any ship, after giving previous notice to the shipowner, master or person in charge of that ship;
 - (c) summon any person before him and require him to answer questions;
 - (d) require the production of any book, log book, certificate, register, document or other information relating to any ship;
 - (e) take samples of any products, cargo, drinking water, provisions, materials or substances used or handled in the possession of any person on board any ship, as may be necessary with a view to analysing these samples;
 - (f) require the display of notices, certificates or documents required by this Regulations or other relevant written law, or the Convention, as the case may be; and
 - (g) require rectification of deficiencies that may be identified in the seafarers' working and living conditions on any ship.
- (9) Any sample taken under this Regulation shall be disposed of and accounted for in such manner as the Chief Executive Officer may direct.

Power to detain ships

135.—(1) Where, following a more detailed inspection referred to in Regulation 134 (3), a ship is found not to conform to the requirements of this Regulations or other relevant written law, or of the Convention, as the case may be, and —

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the non-conformity constitutes a serious or repeated breach of the requirements (inclusive of seafarers' rights) of this Regulations or other relevant written law, or of the Convention, as the case may be,

the Chief Executive Officer shall serve on the shipowner and the master of the ship, a notice of detention requiring that the ship shall not proceed to sea until any non-conformity that falls within the scope of paragraph (a) or (b) has been rectified, or until the Chief Executive Officer has accepted a plan of action to rectify such non-conformity and is satisfied that the plan will be implemented in an expeditious manner.

(2) If the ship, after service of the notice of detention, goes to sea before it is released by the Chief Executive Officer, the shipowner and the master shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) If it is proven that a ship was unduly detained or delayed under this Regulation, the Authority shall be liable to pay to the shipowner his costs of and incidental to the detention of the ship, and also compensation for any loss or damage sustained by him by reason of the detention.

PART XI – MISCELLANEOUS

Offences by bodies corporate, etc.

136.—(1) Where an offence under these Regulations committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his part, the officer as well as the body corporate shall be guilty of the offence and shall be liable to prosecution.

(2) Where the affairs of a body corporate are managed by its members, sub-regulation (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a Chief Executive Officer of the body corporate.

(3) Where an offence under this Regulations committed by a partnership is proved —

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his part, the partner as well as the partnership shall be guilty of the offence and shall be liable to prosecution.

(4) Where an offence under these Regulations committed by an unincorporated association (other than a partnership) is proved —

- (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to prosecution.

(5) In this Regulation —

“body corporate” includes a limited liability partnership as per the national laws;

“officer” —

- (a) in relation to a body corporate, means any Chief Executive Officer, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Authority may, with the approval of the Minister, provide for the application of any provision of this Regulation, with such modifications as the Authority considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Fiji.

Forgery, etc., of documents and fraudulent use

137.—(1) Any person who forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures or suffers to be forged or fraudulently altered —

(a) any seafarer’s employment agreement, certificate, declaration or other document prescribed by this Regulations (including replacement or certified copies thereof or certified extracts therefrom) or any entry or endorsement prescribed by this Regulations to be made in or on any of those documents; or

(b) any document produced to the Chief Executive Officer for the purposes of obtaining for himself or any other person any certificate, book or other document issued under this Regulations (including replacement or certified copies thereof) or for the purposes of obtaining an entry or endorsement in or on any of those documents,

shall be guilty of an offence.

(2) Any person who fraudulently uses or allows any other person to fraudulently use —

(a) any of the documents mentioned in sub-regulation (1) which is forged, altered or otherwise false or misleading in any material particular; or

(b) any of the documents mentioned in sub-regulation (1) (a) which has expired or has been cancelled or suspended, or has become invalid for any reason,

shall be guilty of an offence.

(3) Any person who fraudulently uses any document mentioned in sub-regulation (1)(a) which is issued to or issued in relation to a person and he is not that person named in the document or to which the document relates, shall be guilty of an offence.

(4) Any person who allows any other person to fraudulently use any of the documents mentioned in sub-regulation (1) (a) which is issued to or issued in relation to a person and that other person is not the person named in that document or to which the document relates, shall be guilty of an offence.

(5) Any person guilty of an offence under this Regulation shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Document obtained by fraud

138. The Chief Executive Officer may cancel any certificate issued under this Regulations which is fraudulently obtained and the person to whom the certificate has been issued shall, upon being notified by the Chief Executive Officer of its cancellation, forthwith deliver it or cause it to be delivered to the Chief Executive Officer.

Interfering with person in carrying out duty, etc.

139. Any person who —

- (a) by violence, threat or intimidation, hinders or interferes with or otherwise obstructs the master or an officer of a ship in performing his duty under this Regulations; or
- (b) resists or wilfully obstructs, assaults, molests or otherwise intimidates a person who is carrying out or exercising any duty, function, right or power imposed on him by this Regulations,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

Misleading officer, refusal to answer questions, produce documents, etc.

140. Any person who —

- (a) misleads any other person on whom a duty, function or power is imposed on him under this Regulations in any material particular which is likely to affect the discharge thereof;
- (b) refuses to answer any question lawfully put to him, or to produce documents in his possession or custody lawfully demanded of him;
- (c) refuses to give all reasonable assistance to any person who is carrying out any duty, function or power imposed on him under this Regulations; or
- (d) refuses to attend as a witness before the Chief Executive Officer, an Inspector, a Flag State Inspector or Port State Control Officer or a person duly authorised by the Chief Executive Officer under Regulation 134, or to

furnish a sworn statement when required by the Chief Executive Officer or an inspector,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

Taking person performing duty to sea

141.—(1) If any person performing his duties or functions under this Regulations is taken to sea in a ship without his consent, the shipowner and the master shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$10,000.

(2) Upon the conviction of the shipowner and master for an offence under sub-regulation (1), the shipowner and the master shall be jointly and severally liable to pay all expenses incidental to the person's return to duty.

Provision as to jurisdiction in case of offences

142. For the purpose of conferring jurisdiction under this Regulations, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the offence actually was committed or arose or in any place in which the offender or person complained against may be.

Jurisdiction in case of offences on board ship

143. Where any person is charged with having committed any offence on board any Fiji ship on the high seas or elsewhere outside Fiji and that person is found within the jurisdiction of any court in Fiji which would have had cognizance of the offence if it had been committed on board a Fiji ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.

Prosecution of offences

144. The prosecution for an offence against these Regulations shall be in accordance with *Section 253* of the *Maritime Transport Act 2013*.

Composition of offences

145.—(1) The Chief Executive Officer may, in his discretion, compound any offence under this Regulations which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following sums:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) a sum of \$3,000.

- (2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.
- (3) The Authority may, with the approval of the Minister, prescribe the offences which may be compounded.
- (4) All sums collected under this Regulation shall be paid to the Authority.
- (5) For the purpose of this Regulation, compoundable offences are those offences where, the Authority enters into a compromise, and agrees to have the charges dropped against the accused. Once an offence has been compounded, it shall have the same effect, as if, the charges have been withdrawn.

Sums ordered to be paid leviable by distress on ship

146. Where any court has power to make an order directing payment to be made of any seafarer's wages, fines or other sums of money, then, if the party so directed to pay the same is the shipowner employing the seafarer, and the same is not paid at the time and in the manner prescribed in the order, the court which made the order may, in addition to payment, direct the amount remaining unpaid to be levied by distress and sale of the ship and its equipment.

Depositions to be received in evidence when witness cannot be produced

147.—(1) Whenever in the course of any legal proceedings instituted before any court, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of that proceedings, then upon due proof that the witness cannot be found in Fiji, any deposition that the witness has previously made on oath in relation to the same subject-matter before any judge, magistrate or any consular officer elsewhere shall be admissible in evidence subject to the following provisions:

- (a) if the deposition was made in Fiji, it shall not be admissible in any proceedings instituted in Fiji; and
 - (b) if the proceedings are criminal, it shall not be admissible unless it was made in the presence of the person accused.
- (2) A deposition so made shall be authenticated by the signature of the judge, magistrate or consular officer before whom it is made; and the judge, magistrate or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.
- (3) A deposition so made shall be deemed to be duly authenticated if it purports to be signed by the judge, magistrate or consular officer before whom it is made.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceedings a certificate under this Regulation shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(5) Nothing herein shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any written law or interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Proof of attestation not required

148. Where any document is required by this Regulations to be executed in the presence of or to be attested by any witness, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness.

Admissibility of documents in evidence

149.—(1) The following documents shall be admissible in evidence:

- (a) any register under the *Ship Registration Act 2013* on its production from the custody of the Registrar of Fiji ships or other person having lawful custody thereof;
- (b) a certificate of registry under the *Ship Registration Act 2013* purporting to be signed by the Registrar of Fiji ships;
- (c) any amendment to a certificate of registry purporting to be signed by the Registrar of Fiji ships;
- (d) every declaration made in pursuance of *Ship Registration Act 2013* in respect of a Fiji ship;
- (e) a declaration issued under Regulation 122 ;
- (f) a certificate issued or purported to be issued in accordance with Regulations 66, 123 and 124.

(2) The documents mentioned in sub-regulation (1) shall, on their production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence, and, subject to all just exceptions, shall be evidence of the matters stated therein in pursuance of this Regulations or by any officer in pursuance of his duties as such officer.

(3) A copy of any such document or extract therefrom shall also be so admissible in evidence, if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the certified copy or extract, upon payment of such fee prescribed in *Schedule 13*.

Service of documents

150.—(1) Where for the purposes of this Regulations, any document is to be served on any person, that document may be served —

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the copy at his last known place of residence or place of business;
 - (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the document for him on board that ship with the person being in command or in charge of the ship; and
 - (c) if the document is to be served to the master of a ship, where there is no master, and the ship is in Fiji, on the operator of the ship, or on some agent of the owner residing in Fiji, or by affixing a copy thereof at the means of access to the ship, or in any place on board the ship which appears to be frequented by people.
- (2) Any person who obstructs the service to the master, operator or agent of a ship of any document shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.
- (3) Any shipowner or master of the ship who is party or privy to such obstruction shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

Mode of making declarations

151.—(1) Any declaration required by this Regulations may be made before the Chief Executive Officer, a Justice of the Peace, a Commissioner for Oaths, a Flag State Inspector or Port State Control Officer or any other person authorised to take or receive a declaration by any law in force in Fiji.

(2) Any declaration required by this Regulations may be made on behalf of a body corporate by the Chief Executive Officer, manager, secretary or other officer, or any other agent of the body corporate authorised by the body corporate for that purpose.

Chief Executive Officer may authorise person to exercise powers and duties

152. The powers conferred and the duties imposed on the Chief Executive Officer under this Regulations may, subject to his directions, be exercised and carried out by any officer of the Authority generally or specially authorised by name or office by the Chief Executive Officer.

Protection from personal liability

153. No liability shall lie personally against the Chief Executive Officer or any member, officer or employee of the Authority acting under the direction of the Chief Executive Officer or the Authority for anything done or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Regulations;
- (b) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Regulations; or
- (c) the compliance or purported compliance with this Regulations.

Powers of Authority to prescribe fees, recovery of fees and application of moneys

154.—(1) The prescribed fees in ***Schedule 13*** is to be paid in respect of the issue or recording of any certificate or other document or the doing of any other thing in pursuance of this Regulations.

- (2) All fees prescribed under these Regulations shall be paid to the Authority.
- (3) All fees due to or which may be recovered by the Authority under these Regulations shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.
- (4) The Authority may, where it considers appropriate in a particular case, waive, refund or remit the whole or any part of any fee paid or payable to it.
- (5) For the purposes of this Regulation, “fees” includes —
 - (a) the fees in respect of any certificate or document issued under this Regulations; and
 - (b) the fees in respect of services rendered to or in relation to a ship by the Chief Executive Officer or a person authorised by the Chief Executive Officer.
- (6) All moneys recovered or received under these Regulations shall be paid to the Authority.

Exemption on application

155.—(1) The Chief Executive Officer may, on the application of any person, exempt that person from complying with any requirement of these Regulations.

(2) An exemption under sub-regulation (1) —

- (a) shall not be inconsistent with Fiji's obligations under the Convention;
- (b) may be granted subject to such terms or conditions as the Chief Executive Officer considers appropriate;
- (c) shall have effect for such period as the Chief Executive Officer considers appropriate; and
- (d) shall be in writing and sent by the Chief Executive Officer to the person to whom the exemption is granted.

(3) The Chief Executive Officer shall notify any applicant in writing of its decision under sub-regulation (1) not to grant an exemption.

(4) An exemption under sub-regulation (1) shall, unless previously revoked in accordance with the terms of such exemption or under sub-regulation (5), continue in force for such period as may be specified in the exemption.

(5) The Chief Executive Officer may, on the application of any person —

- (a) extend the period for which an exemption granted under sub-regulation (1) has effect;
- (b) vary or revoke any existing term or condition specified in an exemption granted under sub-regulation (1);
- (c) revoke, whether wholly or partly, any exemption granted to a person under sub-regulation (1); or
- (d) impose additional terms or conditions in an exemption granted under sub-regulation (1).

SCHEDULE 1
(Regulations 25 (5))

GENERAL AREAS SUBJECT TO DETAILED INSPECTION

1. Minimum age.
2. Medical certification.
3. Qualifications of seafarers.
4. Seafarer's employment agreements.
5. Use of any licensed or certified or regulated private recruitment and placement service.
6. Hours of work or rest.
7. Manning levels for the ship.
8. Accommodation.
9. On-board recreational facilities.
10. Food and catering.
11. Health and safety and accident prevention.

12. On-board medical care.
13. On-board complaint procedures.
14. Payment of wages.
15. Financial security for repatriation.
16. Financial security relating to shipowners' liability.

SCHEDULE 2
(Regulation 82)

EVIDENCE OF FINANCIAL SECURITY

The certificate or other documentary evidence referred to in Regulation 82 shall include the following information:

- (a) Name of the ship;
- (b) Port of registry of the ship;
- (c) Call sign of the ship;
- (d) IMO number of the ship;
- (e) Name and address of the provider or providers of the financial security;
- (f) Contact details of the person or entity responsible for handling seafarers' requests for relief;
- (g) Name of the shipowner;
- (h) Period of validity of the financial security; and
- (i) An attestation from the financial security provider that the financial security meets the requirements of Regulation 82.

SCHEDULE 3
(Regulations 26 (1) (h))

SOCIAL SECURITY PROTECTIONS AFFORDED TO SEAFARERS

1. Sickness Benefit –all seafarers are entitled to 1.5 calendar days in a month to take as sick leave. Sick leave entitlement is not accumulated and unused sick leave lapses after each year.
2. Maternity Benefit – all female seafarers are entitled to 84 consecutive days in a year to be on paid maternity leave subject to providing her employer with a certificate from a registered medical practitioner specifying the possible date of birth.
3. Old Age Benefit –this is referred to as pension which is provided for and implemented by the Fiji National Provident Fund and which all ship-owners must provide to its seafarers.

4. Employment injury benefit – workers injured at the workplace must be compensated by the shipowner whom the injured seafarer was employed by as per the *Workmen's Compensation Act 1975*.
5. Survivor's benefit –when a seafarer dies during the course of employment, the shipowner whom the deceased seafarer was employed under must compensate the deceased seafarer's next of kin as per the *Workmen's Compensation Act 1975*.
6. Unemployment Benefit – all seafarers are entitled to unemployment benefit provided by the Fiji National Provident Fund provided that the seafarer meets the necessary requirements.

SCHEDULE 4

(Regulations 70)

TRAINING SYLLABUS

1. The need to observe galley safety procedures and good housekeeping within the galley including safe stowage of stores, proper securing of doors, maintenance of grease traps, ventilators and operation of electrical, mechanical equipment, gas, electric stoves, ovens, microwave ovens and dangers associated therewith.
2. General health and hygiene practices and requirements of the individual including personal cleanliness, appropriate dress for work, avoidance of excessive alcohol and illegal drugs and importance of adequate sleep.
3. The necessity to wash hands regularly before entering the galley or before handling any food and avoidance of direct handling of food.

4. The precautions to take when suffering from cuts, sores or other ailments such as diarrhoea.
5. Food safety, including —
 - (a) knowledge of bacterial food contamination and precautions to take to avoid food poisoning; and
 - (b) knowledge of segregation of raw and cooked food.
6. Precautions to be observed in refrigerated rooms and knowledge of alarm systems.
7. Environmental responsibilities including knowledge of appropriate measures to take for disposal of garbage generated from galleys and store-rooms.
8. Knowledge of ingredients and stock control for the intended voyages.
9. Multicultural and religious awareness regarding food.
10. Practical cooking abilities, including cooking different types of meats, poultry, vegetables and salads.
11. Ability to draw up well-balanced, nutritious and varied daily menus.

SCHEDULE 5

(Regulations 77)

MEDICAL REPORT FORM

Date and time of report _____

Ship information and location

Ship Name _____

Shipowner/Shipmanager _____

Type of ship and cargo _____

Name and address of on-shore agent at Port of Call _____

Position (latitude and longitude; name of port, if applicable) at onset of illness/injury:

Destination and ETA (expected time of arrival)

Particulars of patient

Name as in passport: _____

Sex: Male ☐ Female ☐

Date of birth (dd-mm-yyyy) _____

Nationality _____

Seafarer passport number _____

Shipboard job title (and specify type of work) _____

Hour and date when taken off work _____

Hour and date when returned to work _____

Injury or illness

Hour and date of injury or onset of illness _____

Hour and date of first examination/treatment on board _____

Location on board ship where injury occurred: _____

Circumstances of illness/injury: _____

Symptoms _____

Findings of physical examination _____

Overall on board impression before treatment _____

Treatment given on board _____

Telemedical consultation

Hour and date of initial contact _____

Mode of communication (radio, telephone, fax, other) _____

Surname and first name of telemedical consultant or name of medical company

Details of telemedical advice given _____

N.B. Attach all relevant medical reports to this report form.

Clinical consultation

Clinical diagnosis: _____

Clinical treatment given or examination: _____

Is the illness due to an accident: Yes/No

Patient unfit for work from: _____ to _____

Clinical treatment terminated or follow up required: _____

Place of consultation: Clinic/Hospital

Date of consultation: _____ Doctor's Name and Signature: _____

SCHEDULE 6

(Regulations 98 (1))

MEDICINE REGISTER

The following information shall be recorded in the medicine register:

- (a) The type, quantity, date and the supplier of medicine and medical equipment received by the ship.
- (b) The doses given, including the name of the person ordering the dose, the name of the person giving it and the name of the person receiving it.
- (c) Date and time when a dose is lost or spoiled (e.g. broken ampoule, medicine prepared, but not injected, etc.).
- (d) A running count of remaining stocks, updated after each use.
- (e) A count, made at least weekly, of remaining ampoules, tablets, etc., in store, to be checked against records of use and the running count.
- (f) Information on disposal of all medicines and medical equipment, including method, medicine and equipment type, amount, date, time, receipts and witness documentation, including signatures.

SCHEDULE 7

(Regulations 101 (3) (f))

SPECIFICATION OF INSECTICIDES AND MEANS OF APPLICATION

1. Insecticide formulations —
 - (a) when used in accordance with instructions for use which shall be specified on the label affixed to the container of an insecticide spray solution or insecticide powder —
 - (i) shall be effective for the purpose specified in those instructions; and
 - (ii) shall not be harmful to human being;
 - (b) shall be suitable for use in crew and passenger accommodation and in spaces used for the preparation of food; and
 - (c) shall be free from offensive odour and, so far as possible, shall be non-staining.
2. Insecticide formulations shall be —
 - (a) in the form of a spray solution not having a flash point lower than 48.9 °C (120°F) when tested by the Abel method and containing an effective concentration of insecticide, when applied as a space spray or as a residual spray in accordance with instructions referred to in paragraph 1(a) by either —
 - (i) a hand-operated, continuous-action sprayer fitted with a nozzle capable of producing a fine mist without coarse droplets; or
 - (ii) a pre-packed press-button pressure canister; and
 - (b) in the form of a powder packed in a dredger and effective when applied to the body or clothing of an infected person in accordance with the instructions referred to in paragraph 1 (a).

SCHEDULE 8

DISPOSAL OF MEDICINES AND MEDICAL EQUIPMENT

Disposal of medicines and medical equipment

1. Expired medicines and medical equipment shall be —
 - (a) returned to the supplier where possible; or
 - (b) sent to an approved shore-side contractor for disposal.
2. If disposal under paragraph 1 is not possible, expired medicines and medical equipment may be incinerated at sea where a ship has in place a written waste disposal policy and program that includes incineration at appropriate temperatures by exclusively authorised persons.
3. Records of such incinerated medicines and medical equipment shall be kept as part of the medicine register.

Disposal of morphine

4. Morphine should be disposed by —
 - (a) being returned to a person who may lawfully supply them, such as a qualified medical practitioner or registered pharmacist;
 - (b) incineration;
 - (c) waste encapsulation; or (d) inertisation.
5. Whichever method of disposing of morphine is utilised, all the following conditions must be met:
 - (a) the method must be properly implemented;
 - (b) the entire process from unpacking throughout the final destructions of morphine must be witnessed by at least 2 persons and documented in the medicine register.

SCHEDULE 9

(Regulations 116)

REPORT FORM: OCCUPATIONAL ACCIDENTS, INJURIES AND DISEASES AFFECTING SEAFARERS ON BOARD

1. Ship's name and IMO number:
2. Date and time of occurrence:
3. Ship's position at time of occurrence (Lat-Long/Name of location):
4. Personnel involved: Name: Gender: Age: Nationality and Passport No.: If seafarer, specify designation: If other persons, specify nationality and status e.g. passenger: If more than one personnel involved, please include in separate sheet.
5. Account of the occurrence: Covering, where applicable, circumstances leading to occurrence, nature of injuries/conditions, occurrence of fatality, degree of incapacity (temporary or permanent), duration of occurrence, location of occurrence on board, and medical treatment given.
6. Indicate any immediate action taken in response to the occurrence:
7. Any other relevant information (including statements from witnesses):

8. Declare whether all statutory requirements were in order prior to the occurrence; otherwise provide details of the non-compliance(s) and actions taken:

Declaration (to be made by Master or most senior officer available):

I declare that this Report (consisting of pages) is true to the best of my knowledge and I make it knowing that, if it is tendered in evidence, I may be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Name:

Designation:

Passport No.:

Date:

Signature

SCHEDULE 10
(Regulations 127 (1))

PART I – DECLARATION OF MARITIME LABOUR COMPLIANCE
(Note: This Declaration must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of Maritime Safety Authority of Fiji

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided under the corresponding national requirement listed below;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

- 1. Minimum age (Regulation 5)
- 2. Medical certification (Regulation 7)
- 3. Qualifications of seafarers (Regulation 17)
- 4. Seafarers' employment agreements (Regulation 25)
- 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 18)
- 6. Hours of work or rest (Regulation 29A and 30)
- 7. Manning levels for the ship (Regulation 24)
- 8. Accommodation (Regulation 62)
- 9. On-board recreational facilities (Regulation 62)

10. Food and catering (Regulation 63)
11. Health and safety and accident prevention (Part VIII)
12. On-board medical care (Regulation 79)
13. On-board complaint procedures (Part IX)
14. Payment of wages (Regulation 36)
15. Financial security for repatriation (Regulation 39A).....
16. Financial security relating to shipowners' liability (Regulation 82)

Name:
 Title:
 Signature:
 Place:
 Date:
 (Seal or stamp of the authority, as appropriate)

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted *(insert description if applicable)*:

.....

No equivalency has been granted.

Name:
 Title:
 Signature:
 Place:
 Date:
 (Seal or stamp of the authority, as appropriate)

Exemptions

(Note: Strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....

No exemption has been granted.

Name:
 Title:
 Signature:
 Place:

Date:
(Seal or stamp of the authority, as appropriate)

PART II – DECLARATION OF MARITIME LABOUR COMPLIANCE

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

- | | |
|------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. Minimum age (Regulation 5) | <input type="checkbox"/> |
| | |
| 2. Medical certification (Regulation 7) | <input type="checkbox"/> |
| | |
| 3. Qualifications of seafarers (Regulation 17) | <input type="checkbox"/> |
| | |
| 4. Seafarers' employment agreements (Regulation 25) | <input type="checkbox"/> |
| | |
| 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 18) | <input type="checkbox"/> |
| | |
| 6. Hours of work or rest (Regulation 29A and 30) | <input type="checkbox"/> |
| | |
| 7. Manning levels for the ship (Regulation 24) | <input type="checkbox"/> |
| | |
| 8. Accommodation (Regulation 62) | <input type="checkbox"/> |
| | |
| 9. On-board recreational facilities (Regulation 62) | <input type="checkbox"/> |
| | |
| 10. Food and catering (Regulation 63) | <input type="checkbox"/> |
| | |
| 11. Health and safety and accident prevention (Part VIII) | <input type="checkbox"/> |
| | |
| 12. On-board medical care (Regulation 79) | <input type="checkbox"/> |
| | |
| 13. On-board complaint procedures (Part IX) | <input type="checkbox"/> |

.....
14. Payment of wages (Regulation 36) ☐

.....
15. Financial security for repatriation (Regulation 39A) ☐

.....
16. Financial security relating to shipowners' liability (Regulation 8) ☐

.....
I hereby certify that the above measures have been drawn up to ensure ongoing compliance,
between inspections, with the requirements listed in Part I.

Name of shipowner:¹

.....
Company address:

.....
Name of the authorized signatory:

.....
Title:

Signature of the authorized signatory:

.....
Date:

(Stamp or seal of the shipowner³)

The above measures have been reviewed by (*insert name of competent authority or duly recognized organization*) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

.....
Signature:

Place:

Date:

¹Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. See Article II (1) (j) of the Convention.

(Seal or stamp of the authority, as appropriate)

SCHEDULE 11

(Regulations 128 (1))

INTERIM MARITIME LABOUR CERTIFICATE

Issued under the provisions of Article V and Title 5 of the Maritime Labour Convention, 2006 (referred to below as “the Convention”) under the authority of the Government of the Republic of Fiji

by

(full designation and address of the Chief Executive Officer or Recognised Organisation duly authorised under the provisions of the Convention)

Particulars of the ship

Name of ship

Distinctive number or letters

Port of registry

Date of registry

Gross tonnage

IMO number

Type of ship

Name and address of the shipowner²

This is to certify for the purpose of Standard A5.1.3, paragraph 7, of the Convention, that:

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under (b), (c) and (d) below;

- (b) the shipowner has demonstrated to the competent authority or recognised organisation that the ship has adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognised organisation to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was

Issued at on

Signature of the duly authorised official issuing the interim certificate

.....

(Seal or stamp of issuing authority, as appropriate)

SCHEDULE 12
(Regulations 128 (2))

MARITIME LABOUR CERTIFICATE

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)



Issued under the provisions of Article V and Title 5 of the
INTERNATIONAL MARITIME LABOUR CONVENTION 2006,

Under the authority of the Government of

FIJI

By

(Signature of CEO MSAF or Recognised Organisation)

Appendix A5-I

Particulars of the ship

Name of ship
Distinctive number or letters
Port of registry
Date of registry
Gross tonnage²
IMO number
Type of ship
Name and address of the shipowner³
.....
.....

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.
2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the above mentioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at on is attached.

Completion date of the inspection on which this Certificate is based was
Issued at on

²For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

³*Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

.....
Signature of the duly authorized official issuing the Certificate
(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection:
(to be completed between the second
and third anniversary dates)

Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Additional inspection:
(if required)

Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

SCHEDULE 13
(Regulations 130)

FEEs

- | | |
|--------------------------------------------------------------------------------------------------------|--------------------------|
| 1. Issue/Renewal of Part I of the Declaration of Maritime Labour Compliance | \$2000 |
| 2. Replacement of Part I of the Declaration of Maritime Labour Compliance | \$500 (inclusive of VAT) |
| 3. Issue of certificate of authorisation to operate a seafarer recruitment and placement service | \$1000 |
| 4. Replacement of certificate of authorisation to operate a seafarer recruitment and placement service | \$500 (inclusive of VAT) |
| 5. Application for a certificate of proficiency as a ship's cook | \$25 |

- | | |
|-----------------------------------------------------------------|-------------------------|
| 6. Issue of a certificate of proficiency as a ship's cook | \$50 |
| 7. Replacement of a certificate of proficiency as a ship's cook | \$25 (inclusive of VAT) |

SCHEDULE 14

Column 1	Col. 2	Column 3	Col. 4	Col. 5	Column 6	Col. 7
Territorial Waters Voyage	ITF Differential Value	Minimum Safe Manning	Class 5 M Minimum Wage	Class 4 15% up of Class 5	class 3 30% up of Class 5	Class 2 45% up of Class 5
Position						
Master	3.369		\$ 1,349.85			
Chief Engineer	3.062		\$ 1,226.84			
Chief Officer	2.175		\$ 871.45			
2nd Engineer	2.175		\$ 871.45			
2nd Officer	1.742		\$ 697.96			
3rd Engineer	1.742		\$ 697.96			
Radio Officer	1.742		\$ 697.96			
Electrician Engineer	1.742		\$ 697.96			
Chief Steward/Purser	1.742		\$ 697.96			
3rd Officer	1.679		\$ 672.72			
4th Engineer	1.679		\$ 672.72			
Electrician	1.498		\$ 600.20			
Bosun	1.117		\$ 447.55			
Carpenter	1.117		\$ 447.55			
Fitter/Repairer	1.117		\$ 447.55			
Chief Cook	1.117		\$ 447.55			
AB/DWR	1		\$ 400.67			
Greaser/Motorman	1		\$ 400.67			
Steward	1		\$ 400.67			
2nd Cook	0.852		\$ 341.37			
Messroom Steward	0.852		\$ 341.37			
Ordinary Seafarer	0.744		\$ 298.10			
Cabin Steward	0.744		\$ 298.10			
Catering	0.599		\$ 240.00			
Total						

Minimum Wage Rate:

at \$5.00 per hr for 48 hrs per week

\$ 240.00