

[LEGAL NOTICE NO. 93]

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

Marine (Pollution Levy) Regulations 2014

IN exercise of the powers conferred upon me by section 241(1) of the Maritime Transport Decree 2013, I hereby make these Regulations—

Short title and commencement

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

Interpretation

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

- “Authority” means the Maritime Safety Authority of Fiji;
- “Chief Executive Officer” means the Chief Executive Officer of the Authority;
- “Coasting-trade Licence” shall have the same meaning as under regulation 2 of the Maritime (Coasting-trade) Regulations 2014;
- “Decree” means the Maritime Transport Decree 2013;
- “floating platform” means any floating platform or floating docks in Fiji waters, carrying 2 or more tonnes of fuel or noxious liquid substance;
- “marine spill” shall have the same meaning as under section 128 of the Decree;
- “offshore installation” or “device” shall have the same meaning as under section 2 of the Decree;
- “noxious liquid substance” shall have the same meaning as under regulation 3 of the Marine (Pollution Prevention & Management) Regulations 2014;
- “pollution levy” for the purpose of these Regulations, means charges collected by the Authority for the provision of marine spill containment equipment, marine spill response, training and marine spill related activities in Fiji waters but does not include removal of wrecks; and
- “transfer site” or “site” means any port facility, land, site, building, structure, or facility whether on land or above the seabed that is used to transfer oil or noxious liquid substance at or from which oil or noxious liquid substance is transferred to or from a ship or offshore installation.

Objectives

3. The objectives of these Regulations are to—

- (a) prescribe the fees payable by ships, transfer sites, oil companies, offshore installations and floating platforms for the provision of marine spill containment equipment, marine spill response, training and marine spill related activities as prescribed in the Decree and the National Marine Spill Contingency Plan;

- (b) prescribe how and when the pollution levy is payable; and
- (c) exclude certain ships from the payment of pollution levy.

Application

4. Subject to regulation 6, these Regulations apply to—
- (a) all Fiji ships and foreign ships calling –
 - (i) into any port in Fiji; and
 - (ii) from one port to another port in Fiji;
 - (b) all oil companies operating in Fiji;
 - (c) all transfer sites in Fiji;
 - (d) offshore installations in Fiji waters; and
 - (e) floating platforms in Fiji waters.

Scale of pollution levy

5.—(1) The owner of the ship, other than a ship specified in regulation 6, shall be liable to pay pollution levy each time the ship enters a port in Fiji in accordance with the scale set out in the Schedule.

(2) The owner or the operator of oil companies, transfer sites, offshore installations and operator of a floating platform in Fiji or a ship in respect of which a Coasting-trade Licence is in force, shall be liable to pay pollution levy once a year in accordance with the scale set out in the Schedule.

Exempt ship

6. The following ships are exempt from the payment of pollution levy—
- (a) a Government ship not operating commercially;
 - (b) a Government defence ship;
 - (c) a ship obliged to return to a port through stress of weather for repair or for any other similar unforeseeable circumstance;
 - (d) a ship that has come from a place in Fiji that is a punt or lighter or any other ship that is propelled by sail or mechanical power and does not carry on-board 2 or more tonnes of fuel or other noxious liquid substances; and
 - (e) yachts not engaged in any commercial activity, excluding superyachts under the Superyacht Charter Decree 2010.

Calculating pollution levy

7.—(1) For the purpose of the Schedule but subject to sub-regulation (2), the pollution levy shall be calculated by a ship's—

- (a) registered gross tonnage as stated on the ship's Tonnage Certificate; or
- (b) where no Tonnage Certificate has been issued in respect of a ship, the gross tonnage of the ship as calculated by the Chief Executive Officer in accordance with the provisions of the International Convention of Tonnage Measurement of Ships 1969.

(2) If goods are carried in any space on a ship not included in its registered tonnage, the tonnage of the space occupied by the goods shall be added to the registered tonnage of the ship.

(3) For the purpose of sub-regulation (2), the tonnage space occupied by the goods shall be ascertained by multiplying the mean length, breadth and depth of that space in metres and dividing the result by 2.83 and the figure obtained shall be the tonnage of that space.

(4) In calculating the amount of pollution levy payable by a ship where its tonnage is not a multiple of 10, any tonnes in excess of a multiple of 10 not exceeding 5 tonnes shall be ignored and any such tonnes in excess of 5 tonnes shall be rounded up to the next multiple of 10.

(5) A ship carried on-board a visiting cruise ship for the purpose of the Schedule shall be required to pay the pollution levy if the ship's transfer vessels carry 2 or more tonnes of fuel or noxious liquid substance.

Application of pollution levy

8. The pollution levy shall only be used for those purposes specified in section 201 of the Decree.

Payment of pollution levy

9. Pollution levy payable in respect of a ship, oil companies, oil transfer sites and offshore installations are payable to the Authority and are due for payment on the arrival of the ship in a port.

Made this 14th day of December 2014.

P. TIKODUADUA

Minister for Infrastructure and Transport

SCHEDULE
(Regulation 5)

SCALE OF POLLUTION LEVY

<i>Items</i>	<i>Type of ships/ Oil Companies/Oil Transfer Sites/ Offshore installations</i>	<i>Levy Per Gross Tonnage</i>
1	Ships not on a voyage from beyond Fiji— Calling at any port, wharf or marina in Fiji	\$4.00 per grt (per year)
2	Ships on a voyage from beyond Fiji— Calling at any port, wharf or marina in Fiji	\$1.00 per grt (per visit)
3	Transfer vessels for cruise ships	\$4.00 per grt (per visit)
4	Oil companies	\$5000.00 per year
5	Transfer site	\$5000.00 per year
6	Offshore installations	\$10,000.00 per year
7	Floating platforms	\$1,000.00 per year