

[LEGAL NOTICE No. 89]

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

Maritime (Carriage of Dangerous Goods) Regulations 2014

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

MARITIME (CARRIAGE OF DANGEROUS GOODS) REGULATIONS 2014

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

PART 1—PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Maritime (Carriage of Dangerous Goods) Regulations 2014 and shall come into force on a date appointed by the Minister by notice in the *Gazette*.

Interpretation

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

“Authority” means the Maritime Safety Authority of Fiji;

“authorised officer” means any person or persons authorised for any purpose under the Decree by the Chief Executive Officer;

“Bulk Chemical Code” or “BCH Code” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the International Maritime Organization by Assembly Resolution A.212 (VII), as amended by Resolutions A.490(12), MSC 9(53), MSC 15(57), MSC 18(58), MSC 29(61), MSC 51(66), MSC 106(73);

“cargo” includes mail and passengers’ baggage;

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

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

“Consolidator” means a person who packs or supervises the packing of cargo for various shippers into a container or vehicle for transport by sea;

“consignment” means any package or packages, or load of dangerous goods, presented by a person, organisation or government for transport;

“container” or “freight container” means an article of transport equipment that is—

- (a) of permanent character and accordingly strong enough to be suitable for repeated use; and
- (b) specially designed to facilitate the transport of goods, by one; or
- (c) designed to be secured or readily handled or both, having fittings for these purposes,

and shall not include a vehicle or packaging but shall include a container that is carried on a chassis;

“constructed” in respect of a ship means a stage of construction where—

- (a) the keel of the ship is laid;
- (b) construction identifiable with the specific ship has begun; or
- (c) assembly of that ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;

“dangerous goods” means—

- (a) any substance, in packaged form or in solid form in bulk, listed and classified according to its hazards in the IMDG Code;
- (b) any harmful substance; and
- (c) empty receptacles that have been used for substances specified in paragraph (a), unless the receptacles have been cleaned, subsequently dried, and, where appropriate, gas freed but does not include goods forming part of the equipment or stores of the ship in which they are carried;

“dangerous goods transport document” means a certificate for a consignment of dangerous goods containing the information required by Volume 1, Section 5.4 of the IMDG Code;

“dangerous goods list or manifest” means—

- (a) a special list or manifest setting out the dangerous goods on board and their location on board; or
- (b) a detailed stowage plan that identifies by class, and sets out the location of, all dangerous goods on board;

“Decree” means the Maritime Transport Decree 2013;

“Gas carrier” means a non-passenger ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the IGC Code;

“Gas Carrier Code” means the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the International Maritime Organization Resolution MSC.5 (48), as amended by Resolution MSC 17(58), MSC 30(61), MSC 59(67), MSC 103(73), and MSC 220 (82) from time to time;

“Jetty Master” means any person appointed as a Jetty Master under section 101 of the Maritime Transport Decree 2013;

“harmful substance” means—

- (a) any substance in packaged form for the time being identified as a marine pollutant in the IMDG Code; and

- (b) any empty packaging that has been used previously for the carriage of a substance specified in paragraph (a), unless adequate precautions have been taken to ensure that the packaging contains no residue that is harmful to the marine environment but does not include a ship's stores and equipment;

"in bulk" means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging;

"Intermediate Bulk Container" or "IBC" means any rigid, semi-rigid or flexible portable packaging, other than those specified in Volume 1, Parts 4 and 6 of the IMDG Code, that—

- (a) has a capacity of—
 - (i) not more than 3.0 cubic metres (3000 litres) for solids and liquids of packaging group II and III;
 - (ii) not more than 1.5 cubic metres for solids of packaging group I when packed in flexible, rigid plastics, composite, fibreboard or wooden IBCs; or
 - (iii) not more than 3.0 cubic metres for solids of packaging group I when packed in metal IBCs;
- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in handling and transport, as determined by the applicable tests specified in Volume 1, Part 6 of the IMDG Code but does not include any portable tank;

"International Bulk Chemical Code" or "IBC Code" means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environmental Protection Committee of the International Maritime Organization by Resolution MEPC.19 (22), as amended by Resolution MEPC. 90(45) in 2000;

"International Gas Carrier Code" or "IGC Code" means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the Maritime Safety Committee of the International Maritime Organization by Resolution MSC.5(48) as amended by Resolution MSC 17(58), MSC 30(61), MSC 59(67), MSC 103(73), MSC 220(82), from time to time;

"International Maritime Dangerous Goods Code" or "IMDG Code" means the International Maritime Dangerous Goods Code published by the International Maritime Organization, as amended by that organisation from time to time;

"labelling" means to clearly identify with distinctive labels or stencils of the labels, dangerous properties of a good;

“leakage and spillage” includes—

- (a) any leakage and spillage of liquid and dry contents; and
- (b) emission of radiation at levels that are either directly or indirectly injurious to human health;

“marking” means to clearly mark an item with the proper shipping name—

- (a) of the contents, and, when assigned, the corresponding United Nations (UN) Number; and
- (b) number preceded by the letters “UN”;

“Fiji waters” means all the waters of Fiji comprising of—

- (a) the territorial seas;
- (b) the archipelagic waters;
- (c) the internal waters; and
- (d) all inland waters;

“offshore installation” or “installation” means any installation, or equipment or other property whatsoever that is constructive, erected or placed in Fiji waters for the purpose of the exploration of the seabed or subsoil or the exploitation of mineral resources or natural resources thereof but does not include a pipeline;

“package” and “packages” are the complete product of the packing operation, consisting of the packaging and its contents prepared for transport;

“packaged form” in relation to harmful substances means the forms of containment specified for harmful substances in the IMDG Code;

“packaging” refers to receptacles and any other component or material necessary for the receptacle to perform its containment function;

“passenger ship” means a ship that carries more than 12 passengers on a voyage within or beyond Fiji waters;

“placarding” means affixing an enlarged label (a placard) to the exterior surfaces of a cargo transport unit, unit load, or overpack to provide warning that the contents of the unit are dangerous goods and present risks, unless the labels or marks affixed to the packages are clearly visible from the exterior of the unit;

“portable tank” means a tank having a capacity of more than 450 litres whose shell is fitted with items of service equipment and structural equipment necessary for the transport of dangerous substances whose vapour pressure is not more than 3-bar (absolute) at a temperature of 50°C. It is a tank that has stabilising members external to the shell and is not permanently secured on board the ship. Its contents should not be loaded or discharged while the tank remains on board. It should be capable of being loaded and discharged without the need for removal of its structural equipment and be capable of being lifted on and off the ship when loaded;

- “proper shipping name” in respect of any dangerous good, means the name specified in column 2 of the Dangerous Goods List in Part 3 of the IMDG Code;
- “receptacle” means any containment vessel for receiving and holding substances or articles, including any vehicle, and any means of closing;
- “reward” means any remuneration, recompense, or other payment, whether of money or money’s worth;
- “shipper” means any person by whom or in whose name or on whose behalf a contract of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea;
- “SOLAS” means the International Convention for the Safety of Life at Sea 1974, as amended from time to time;
- “UN number” means the number assigned to an item of dangerous goods in the IMDG Code;
- “vehicle” means any road freight, tank vehicle, railway freight or tank wagon permanently attached to an under frame and wheels, or chassis and wheels, that is loaded and unloaded as a unit. It also includes a trailer, semi-trailer or similar mobile unit, except those used solely for the purposes of loading and unloading;
- “voyage” means a journey by water from one port—
- (a) to another port; or
 - (b) back to the same port without calling at any other port.

Purpose

3. These Regulations prescribe the following—
- (a) responsibilities of seafarers, ship owners, shippers, consolidators, shipping agents and packers in respect of dangerous goods to be carried by sea;
 - (b) the carriage of dangerous goods requirements of Chapter VII of the International Convention for the Safety of Life at Sea 1974, which covers the carriage of dangerous goods in packaged form or in solid form, in bulk where carriage is to be in accordance with the packaging and stowage requirements of the International Maritime Dangerous Goods Code (IMDG Code); and
 - (c) the requirements for the reporting and handling of incidents involving dangerous goods which include the international reporting provisions of SOLAS relating to loss of dangerous goods packages at sea, leakage or spillage at Fiji ports, and a requirement for plans for dealing with dangerous goods incidents in Fiji ports, and which apply to any commercial ship which is a Fiji ship or a foreign ship in Fiji waters.

Application

4.—(1) Regulations 5 to 10 and 12 to 17 shall apply to any—

- (a) commercial ship that is –
 - (i) a Fiji ship; or
 - (ii) a foreign ship in Fiji waters; and
- (b) Fiji ship that is a pleasure craft, and any foreign ship, within Fiji's jurisdiction, that is carrying any dangerous good.

(2) Dangerous goods in packaged form or in solid form in bulk, shall be the responsibility of the shipper or in the case an individual is taking on board dangerous goods, shall be the responsibility of the individual.

(3) For foreign ships, Port State Control measures shall be applicable in instances of a contravention of these Regulations.

PART 2—RESPONSIBILITIES

Master

5.—(1) The master of any ship to which this regulation applies shall be responsible for ensuring—

- (a) dangerous goods be loaded on the ship only upon receipt by the master or any person authorised by the master, of documentation as set out in paragraph 1.4.1 of Schedule 1;
- (b) dangerous goods be loaded on the ship once the master has received from the owner a list or manifest of the dangerous goods to be loaded;
- (c) the documentation received complies fully with the requirements set out in paragraph 1.4.1 of Schedule 1;
- (d) that dangerous goods are stowed on the ship in accordance with paragraph 1.5 of Schedule 1;
- (e) the segregation of incompatible dangerous goods that are liable to interact with each other as required under paragraph 1.5 of Schedule 1;
- (f) all dangerous goods on board are identified on a dangerous goods list or manifest in accordance with the classification provided in paragraph 1.1 of Schedule 1;
- (g) the position of any dangerous goods on board the ship is noted on the dangerous goods list or manifest; and
- (h) indication is given on the dangerous goods list or manifest where a dangerous good is also a harmful substance in packaged form.

(2) The master of any ship shall not permit the loading of any package, container or receptacle onto the ship if he or she determines that the package, container or receptacle—

- (a) contains dangerous goods; and

(b) is not packaged, marked, labelled, and documented in accordance with paragraphs 1.2 to 1.4 of Schedule 1.

(3) Any master who contravenes sub-regulations (1) and (2) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

(4) The master of any ship to which this regulation applies arriving from a voyage in the unlimited area that is carrying dangerous goods must ensure that notice of the arrival of the ship is given to the Authority and the Harbour Master at least 48 hours prior to arrival and before the vessel enters the port limits.

(5) Any master who contravenes sub-regulation (4) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$1,000.

Dangerous goods list or manifest

6.—(1) The master of any ship to which this regulation applies that is carrying any dangerous good shall be required to ensure—

- (a) the dangerous goods list or manifest referred to in regulation 5 is available on board the ship; and
- (b) if the ship departs from a port or offshore installation, a copy of the dangerous goods list or manifest is left with the owner of the ship.

(2) The master shall be required to make available, upon request, to any authorised officer—

- (a) the dangerous goods transport documents referred to in paragraph 1.4 of Schedule 1; and
- (b) the dangerous goods list or manifest referred to in sub-regulation 1.

(3) The master shall also be required, upon request, to make available the documents specified in sub-regulation (2) during an incident involving a dangerous good, to any—

- (i) authorised officer;
- (ii) officer of National Fire Authority; and
- (iii) officer of the armed forces of Fiji.

(4) Any master who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$1,000.

Shipper

7.—(1) The shipper of any container or vehicle containing dangerous goods being shipped only by that shipper on any ship shall be required to—

- (a) complete the documentation itemised in paragraph 1.4.1 of Schedule 1;
- (b) ensure the documentation received complies with the requirements under Schedule 1; and
- (c) provide to the owner or the master of that ship, the completed documentation itemised in paragraph 1.4.1 of Schedule 1.

(2) The shipper of any dangerous goods that are to be taken on board any ship as a part load in a container or vehicle shall be required to—

- (a) complete the documentation itemised in paragraph 1.4.1(a) and (b) of Schedule 1;
- (b) ensure that the documentation itemised in paragraph 1.4.1(a) and (b) of Schedule 1 complies with paragraphs 1.4.2 to 1.4.5 of Schedule 1; and
- (c) provide to the consolidator the completed documentation itemised in paragraph 1.4.1(a) and (b) of Schedule 1.

(3) The shipper shall be required to provide documentation required under sub-regulation (1) or (2) to the owner or master of a ship as soon as practicable and before the dangerous goods are loaded on the ship.

(4) The shipper of any dangerous goods to be taken on board any ship shall also be required to ensure that all packaging used for the goods, including IBCs, complies with the requirements of Schedule 1.

(5) Any shipper who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

Owner

8.—(1) The owner of a ship to which this regulation applies shall be required to ensure that dangerous goods are not taken on board the ship until—

- (a) the master or a person appointed by the master for that purpose has received documentation required in paragraph 1.4.1 of Schedule 1 for those dangerous goods; and
- (b) the owner has delivered to the master of the ship the list or manifest of dangerous goods to be loaded, referred to in regulation 6(2)(b), as soon as practicable and before the dangerous goods are loaded on the ship.

(2) The owner of any ship arriving from a voyage in the unlimited area or from a Fiji port that is carrying dangerous goods shall be required to ensure that a copy of the dangerous goods list or manifest for the arrival condition of the ship including—

- (a) the UN number and class of every dangerous good; and
- (b) the quantity of every dangerous good,

is supplied to the Chief Executive Officer or authorised officer—

- (i) at least 48 hours prior to the ship's arrival; or
- (ii) in the case of a ship arriving from a Fiji port, as soon as practicable and before the ship enters the port limits.

(3) Pursuant to regulation 6(1)(b)(i), any owner who receives a copy of the dangerous goods list or manifest shall be required to keep such copy available for inspection by the Chief Executive Officer or authorised officer at all times—

- (a) until the ship is known to have arrived safely at its destination and has safely discharged the cargo; or

(b) for 6 months,

whichever is the shorter period.

(4) It shall be the responsibility of the owner of any ship to ensure —

- (a) that dangerous goods are stowed and kept stowed on the ship in accordance with paragraph 1.5 of Schedule 1; and
- (b) the segregation of incompatible dangerous goods that are liable to interact with each other as required by paragraph 1.5 of Schedule 1.

(5) The owner of any ship shall not allow the loading of any package, container or receptacle onto the ship if he or she believes that the package, container or receptacle —

- (a) contains dangerous goods; and
- (b) is not packaged, marked, labelled, and documented in accordance with Schedule 1.

(6) Any owner of a ship who contravenes sub-regulations (1), (3), (4) or (5) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

(7) The owner of a ship that does not proceed beyond sheltered and inshore waters shall not be required to comply with sub-regulation (2), provided the ship's Safe Ship Management system has adequate documentation procedures for the carriage of dangerous goods.

(8) Any owner who contravenes sub-regulation (7) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Authorised officers

9. Any authorised officer who receives a copy of the dangerous goods list or manifest shall be required to keep such copy available for inspection by the Chief Executive Officer at all times until the ship is known to have discharged the dangerous goods safely at its destination.

Consolidators and packers

10.—(1) Any consolidator or packer of a container or vehicle containing dangerous goods intended for shipment in any ship to which this regulation applies shall—

- (a) not pack the dangerous goods into a container or vehicle unless that person is in receipt of the documentation completed by the shipper; and
- (b) complete and forward all documentation required by paragraph 1.4.1 of Schedule 1 to the shipper or carrier.

(2) Any consolidator or packer of a container or vehicle intended for carriage on any ship shall not load any package into the container or vehicle if he or she believes that the package—

- (a) contains dangerous goods; and
- (b) is not packaged, marked, labelled, and documented in accordance with Schedule 1.

(3) Any person who completes packing, for one shipper, any container or vehicle containing dangerous goods intended to be shipped on any ship to which this regulation applies shall be required to—

- (a) ensure that all packaging, including intermediate bulk containers, comply with the requirements of paragraphs 1.2 of Schedule 1;
- (b) ensure that all marking, labelling, and placarding is in accordance with paragraph 1.3 of Schedule 1; and
- (c) complete and forward to the shipper documentation required by paragraph 1.4 of Schedule 1.

(4) Any consolidator or packer who contravenes this regulation commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

Manufacturers of intermediate bulk containers and packaging

11. Manufacturers of packaging, including intermediate bulk containers, used for transporting dangerous goods on ships shall be required to ensure that each item of packaging is constructed and approved in accordance with the requirements in paragraph 1.2 of Schedule 1.

All persons

12.—(1) Any person who offers any dangerous good for carriage in, or causes or allows any dangerous good to be loaded into a ship, shall be required to ensure that the dangerous goods are—

- (a) properly marked and labelled in accordance with paragraph 1.3 of Schedule 1; and
- (b) packaged in such a manner as to withstand the ordinary risks of handling and transport by sea, having regard to the nature and properties of the goods.

(2) A person shall not cause or allow any dangerous good intended for carriage by sea to be packed in any container, vehicle, or other form of secondary containment, unless the container, vehicle, or other form of secondary containment is marked and labelled in accordance with the requirements in paragraph 1.3 of Schedule 1.

(3) A person shall not cause any dangerous good to be loaded onto a ship if—

- (a) the package or receptacle is damaged sufficiently to—
 - (i) permit leakage and spillage; or
 - (ii) be of reduced effectiveness in preventing leakage and spillage; or
- (b) there is evidence of leakage or spillage of the contents; and
- (c) that person knows, or is required to know, that the goods cannot be carried safely to the destination to which they are consigned while stowed in bulk.

(4) Any person who contravenes sub-regulation (3) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$2,000.

(5) In connection with the handling, stowage, and carriage of dangerous goods on a Fiji ship, a person shall not—

- (a) intentionally or recklessly interfere with or misuse anything provided on that ship; or
- (b) disobey instructions displayed in the interest of health or safety on that ship.

(6) Any shipper who contravenes sub-regulation (5) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

(7) The employer of a person involved in the transportation or handling of dangerous goods intended for carriage on a ship, shall be required to ensure that the person or employee whichever the case, has received training in accordance with Schedule 2.

(8) Any person who contravenes sub-regulation (7) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

PART 3—SHIPS

Explosives in passenger ships

13.—(1) Subject to sub-regulation (3), the owner and the master of any passenger ship shall not be permitted to carry explosives on board the ship, except explosives in division 1.4, compatibility group S as defined by the IMDG Code, and either—

- (a) explosive articles for life-saving purposes, if the total net explosives mass of such articles does not exceed 50kg per ship;
- (b) explosives in compatibility groups C, D and E, if the total net explosives mass does not exceed 10kg per ship;
- (c) explosive articles in compatibility group G other than those requiring special stowage, if the total net explosives mass does not exceed 10kg per ship; or
- (d) explosive articles in compatibility group B, if the total net explosives mass does not exceed 5kg per ship.

(2) Any person who contravenes sub-regulation (1) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

(3) Additional quantities or types of explosives to those referred to in sub-regulation (1) may be carried in any passenger ship to which this regulation applies when special safety measures approved by the Chief Executive Officer have been carried out by the ship owner and master of the ship.

(4) Any person who contravenes sub-regulation (3) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$5,000.

Ships carrying dangerous liquid chemicals in bulk – requirements for new chemical carriers

14. The owner and the master of any ship to which this regulation applies which is—

- (a) a chemical tanker constructed on or after 1 July 1986; or
- (b) a ship irrespective of the date of construction, for which conversion to a chemical tanker was commenced on or after 1 July 1986,

shall be required to ensure that the requirements of the IBC Code are complied with.

Requirements for existing chemical carriers

15. The owner and the master of any ship to which this regulation applies that is a chemical tanker constructed before 1 July 1986 shall be required to ensure that—

- (a) the requirements of the BCH Code are complied with; and
- (b) any repairs, alterations, and modifications to the ship of a major character, and any outfitting related thereto, meet the requirements of the IBC Code.

Ships carrying liquefied gases in bulk – requirements for new gas carriers

16. The owner and the master of any ship to which this regulation applies that is—

- (a) a gas carrier constructed on or after 1 July 1986; or
- (b) a ship irrespective of the date of construction, for which conversion to a gas carrier was commenced on or after 1 July 1986,

shall be required to ensure that the requirements of the IGC Code are complied with.

Requirements for existing gas carriers

17.—(1) The owner and the master of any ship to which this regulation applies, which is a gas carrier constructed before 1 July 1986 and for which—

- (a) delivery is after 30 June 1980; or
- (b) a major conversion has occurred that was completed after 30 June 1980,

shall be required to ensure that requirements of the Gas Carrier Code are complied with.

(2) The owner and the master of any ship to which this regulation applies that is a gas carrier constructed before 1 July 1986 and to which—

- (a) the IGC Code; and
- (b) the Gas Carrier Code

do not apply, shall be required to ensure that all of requirements of the appropriate Code for such ships are complied with.

(3) The owner and the master of any ship to which this regulation applies that is a gas carrier constructed before 1 July 1986 shall be required to ensure that any repair, alteration, and modification to the ship of a major character, and any outfitting related thereto, meet the requirements of the IGC Code.

PART 4—REPORT AND HANDLING OF DANGEROUS GOODS INCIDENTS

Dangerous goods that have been offered to a ship in a Fiji port or at a Fiji offshore terminal

18.—(1) The master of any ship to which this regulation applies shall be required to notify the Chief Executive Officer of any dangerous goods that do not comply with its requirements and which have been offered for carriage on the ship in a Fiji port.

(2) Any master who contravenes sub-regulation (1) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Dangerous goods incidents on a ship in a Fiji port or at a Fiji offshore terminal

19.—(1) The master of any ship to which this regulation applies shall be required to ensure that where a ship is in a Fiji port or at a Fiji offshore terminal and has on board a package or receptacle from which there is actual or probable leakage or spillage of dangerous goods—

- (a) the authorised officer or Port Master are notified as soon as possible of such leakage or spillage; and
- (b) subject to sub-regulation (2), ensure that where appropriate—
 - (i) the package or receptacle and any dangerous goods that have leaked or spilled from it are not handled;
 - (ii) if the package or receptacle is stowed in an underdeck space, the other cargo is not handled in that space;
 - (iii) if the package or receptacle is stowed on a deck space, other cargo is not handled on or over the deck space; and
 - (iv) if the package or receptacle is stowed in an underdeck space, no pumping of the bilges or wells in the space is carried out until the master is satisfied that it is safe to do so,

until the master or person authorised by the master, has inspected the package or receptacle and an agreement has been reached with the authorised officer and Port Master determining the circumstances under which handling of the package or receptacle may occur.

(2) Any master who contravenes sub-regulation (1) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

(3) Subject to sub-regulation (5), the master of any ship in a Fiji port or at a Fiji offshore terminal shall be required to ensure that no person is in or on a part of the ship where leaked or spilled dangerous goods are situated until an agreement has been reached with the authorised officer and the Port Master, on giving permission for access to the area.

(4) Any master who contravenes sub-regulation (3) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$2,000.

(5) The master of any ship or the Port Master, may authorise any person access to a part of a ship where spilled dangerous goods are situated.

(6) The master of any ship that is in a Fiji port or at a Fiji offshore terminal and that has on board a package or receptacle that for any reason does not comply with the requirements of this regulation must as soon as possible notify—

- (a) the Port Master; or
- (b) the Chief Executive Officer

of such non-compliance.

(7) Any master who contravenes sub-regulation (6) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$1,000.

Dangerous goods incidents at sea

20.—(1) The master of any ship shall be required to report the particulars of the following incidents to the Chief Executive Officer immediately upon arrival in port and to the fullest possible extent—

- (a) any actual or probable loss or spillage into the sea of dangerous goods from any ship in Fiji waters;
- (b) any actual or probable loss or spillage into the sea of dangerous goods from a Fiji ship in any waters; and
- (c) dangerous goods for which their receptacles have been found damaged on a ship coming to a Fiji port or Fiji offshore terminal, or on a Fiji ship in any waters.

(2) Any master who contravenes sub-regulation (1) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$1,000.

(3) Where an incident takes place involving any actual or probable loss or spillage of dangerous goods into the sea from a Fiji ship in waters outside Fiji waters, the master shall be required to report the particulars to the nearest coastal state as soon as possible and to the fullest possible extent.

(4) In the event of any ship being evacuated while carrying dangerous goods, or in the event of a report from such a ship being incomplete or unobtainable, the owner shall be required to make or complete the report, and forward it to the Port Master or Chief Executive Officer within 48 hours and to the fullest possible extent.

(5) Any owner who contravenes sub-regulation (4) commits an infringement offence in accordance with section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Obligation to have incident plans

21. The operator of a port facility that handles any ship which carries dangerous goods shall be required to—

- (a) develop;
- (b) maintain;

(c) publicise; and

(d) exercise

plans for any foreseeable incident concerning dangerous goods on a ship to which these Regulations apply in the port area.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE 1

CARRIAGE OF DANGEROUS GOODS IN PACKAGED FORM OR IN SOLID FORM IN BULK

1.1 Classification

Dangerous goods must be divided into the following classes –

- (a) Class 1 – Explosives;
- (b) Class 2 – Gases: compressed, liquefied or dissolved under pressure;
- (c) Class 3 – Flammable liquids;
- (d) Class 4 – Flammable solids;
- (e) Class 5 – Oxidising substances and organic peroxide ;
- (f) Class 6 – Toxic and infectious substances;
- (g) Class 7 – Radioactive materials;
- (h) Class 8 – Corrosives substances; and
- (i) Class 9 – Miscellaneous dangerous substances and articles.

1.2 Packaging

1.2.1 Packaging of dangerous goods must comply with the specifications of Volume 1 Parts 4 and 6 of the IMDG Code and—

- (a) be well made and in good condition;
- (b) be of such a character that any interior surface with which the contents may come in contact is not dangerously affected by the substance being conveyed;
- (c) be capable of withstanding the ordinary risks of handling and carriage by sea; and
- (d) when used for harmful substances, be adequate to minimize the hazard to the marine environment, having regard to the specific contents.

- 1.2.2 Where absorbent or cushioning material is used in the packaging of liquids in receptacles, that material must be—
- (a) capable of minimising the dangers to which the liquid may give rise;
 - (b) so disposed as to prevent movement and ensure that the receptacle remains surrounded; and
 - (c) where reasonably possible, of sufficient quantity to absorb the liquid in the event of breakage of the receptacle.
- 1.2.3 Receptacles containing dangerous liquids must have ullage at the filling temperature sufficient to allow for the highest temperature during the course of normal carriage.
- 1.2.4 Cylinders or receptacles for gases under pressure must be adequately constructed, tested, maintained, and correctly filled.
- 1.2.5 Any packaging of a dangerous good that is an intermediate bulk container manufactured in Fiji for use in transporting dangerous goods must be—
- (a) constructed in accordance with Volume 1 Part 6 of the IMDG Code;
 - (b) tested, certified, and marked to show that the intermediate bulk container meets the packaging requirements of the IMDG Code; and
 - (c) approved by the Chief Executive Officer.

Intermediate bulk containers not manufactured in Fiji must comply with the requirements of the administration of the country in which they were manufactured and must be tested, certified and marked to show that the container meets the packaging requirements of the IMDG Code.

- 1.2.6 Any packaging for dangerous goods used for international shipping manufactured in Fiji must comply with Annex I of the General Introduction to the IMDG Code. It must be constructed in accordance with the design criteria of the IMDG Code, tested, certified, and marked to show that it meets the packaging requirements of the IMDG Code and then approved by the Chief Executive Officer.

Packaging for dangerous goods not manufactured in Fiji used for international shipping must comply with the requirements of the administration of the country in which they were manufactured and must be constructed in accordance with the design criteria of the IMDG Code, and be tested, certified, and marked to show that they meet the packaging requirements of the IMDG Code.

- 1.2.7 Any packaging for dangerous goods used only within Fiji waters manufactured in Fiji must—
- (a) comply with one of the following sets of requirements—
 - (i) the IMDG Code;
 - (ii) the United Nations Recommendations on the Transport of Dangerous Goods;
 - (iii) the International Civil Aviation Organisation's Technical Instructions for the Safe Transport of Dangerous Goods by Air; and

- (b) if required under the respective code or standard, be constructed in accordance with its design, tested, certified and marked to show that they meet the packaging requirements and then approved by the Chief Executive Officer.

Packaging for dangerous goods not manufactured in Fiji used only within Fiji waters must comply with the requirements of the administration of the country in which they were manufactured and must comply with one of the sets of codes specified in paragraph (a).

- 1.2.8 Packaging manufactured in Fiji must be designed, manufactured, remanufactured, maintained, reused, or reconditioned under AS/NZS 9000:1994 Quality System requirements.
- 1.2.9 The approval of packaging for dangerous goods is subject to evidence of satisfactory service as found by normal handling during loading and unloading operations.
- 1.2.10 Packaging of dangerous goods of Classes 3, 4, 5.1, 6.1, 8 and 9, do not require approval, provided the packaging complies with the quantity limits as specified in Table 1 and—
- (a) is appropriate for the nature and quantity of the dangerous goods and the packaging material in contact with the dangerous goods does not contaminate or react with them; and
- (b) is sufficiently robust to remain intact, and continue to contain the dangerous goods safely, for normal conditions of loading, transport and unloading, allowing also for reasonably foreseeable changes in temperature, humidity, and pressure.

Table 1

<i>Limits of quantities of dangerous goods whose packaging does not require certification or testing</i>		
<i>Class</i>	<i>Packaging Group</i>	<i>Maximum Quantity</i>
3, 4, 5.1, 6.1, 8, 9	I	1 kg or 1 litre
4, 5.1, 6.1, 8, 9	II	3 kg or 3 litres
3	II	5 litres
3, 4, 5.1, 6.1, 8, 9	III	5 kg or 5 litres

1.3 Marking, labelling and placarding

- 1.3.1 Marking, labelling and placarding must comply with the specifications of Volume I, Part 5 of the IMDG Code, as amended from time to time.
- 1.3.2 (a) Packages containing dangerous goods must be durably marked with the proper shipping name; trade names alone must not be used.

- (b) Packages containing a harmful substance must be durably marked or labelled to indicate that the substance is a marine pollutant.
- 1.3.3 To make clear the class or classes and therefore the dangerous properties of the goods contained therein, packages containing dangerous goods must be provided as appropriate with distinctive—
- (a) labels;
 - (b) stencils of the labels; or
 - (c) placards.
- 1.3.4 (a) The method of—
- (i) marking the proper shipping name and of affixing labels;
 - (ii) applying stencils of labels; and
 - (iii) affixing placards on packages containing dangerous goods must be such that this information will still be identifiable on packages surviving at least 3 months immersion in the sea.
- (b) In considering suitable marking, labelling, and placarding methods, account must be taken of the durability of the materials used and of the surface of the package.
- 1.3.5 The following dangerous good packages do not have to meet the labelling requirements specified in Schedule 1 —
- (a) packages containing dangerous goods of a low degree of hazard or packed in limited quantities as allowed by the specific exemptions provided in the IMDG code; or
 - (b) packages that are stowed and handled in units that are identified by labels or placards in special circumstances specifically provided for in the IMDG code permit.
- 1.4 Documents**
- 1.4.1 A dangerous goods transport document shall comprise any of the following—
- (a) a signed certificate or declaration completed by the shipper that a consignment or shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate, and in proper condition for carriage;
 - (b) a signed container packing certificate or vehicle packing declaration stating that—
 - (i) the cargo in the unit has been properly packed;
 - (ii) the cargo in the unit has been properly secured; and
 - (iii) all applicable transport requirements have been met; or
 - (c) any additional information and document required to transport dangerous goods as applicable.

- 1.4.2 If the documentation referred to in paragraph 1.4.1(b) relates to a harmful substance, the signed certificate or declaration must state that the shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate, and in proper condition for carriage, to minimise the hazard to the marine environment.
- 1.4.3 In all documents relating to the carriage of dangerous goods by sea where the goods are named, the proper shipping name of the goods must be used (trade names alone must not be used) and the correct description given in accordance with the classification set out in paragraph 1.2.
- 1.4.4 On all documents relating to the carriage of harmful substances, the words "MARINE POLLUTANT" must be added.
- 1.4.5 All documents required to be completed for the shipment of dangerous goods must be in English.

1.5 Stowage Requirements

- 1.5.1 (a) Dangerous goods must be loaded, stowed, and secured safely and appropriately in accordance with the nature of the goods and the requirements of Volume I, Part 7 of the IMDG Code.
- (b) Incompatible dangerous goods must be segregated from one another as required by Volume I, Part 7 of the IMDG Code.
- 1.5.2 Cargo transport units, including freight containers, must be loaded, stowed and secured throughout the voyage in accordance with the ship's Cargo Securing Manual required by the Maritime (Cargo Stowage and Securing) Regulations 2014.
- 1.5.3 (a) Explosives (except ammunition) that present a serious risk must be—
- (i) stowed in a magazine that is kept securely closed while at sea; and
- (ii) segregated from detonators.
- (b) Electrical apparatus and cables in any compartment in which explosives are carried must be so designed and used as to minimise the risk of fire or explosion.
- 1.5.4 (a) Dangerous goods in packaged form that give off dangerous vapours must be stowed in a mechanically ventilated space or on deck.
- (b) Dangerous goods in solid form in bulk that give off dangerous vapours must be stowed in a well-ventilated space.
- 1.5.5 In ships carrying flammable liquids or gases, special precaution must be taken to prevent fire or explosion.
- 1.5.6 Substances that are liable to spontaneous heating or combustion must not be loaded unless adequate precaution have been taken to minimise the likelihood of the outbreak of fire.
- 1.5.7 Harmful substances must be properly stowed and secured to minimise hazards to the marine environment without impairing the safety of the ship and persons on board.

SCHEDULE 2

TRAINING AND COMPETENCY

- 1.1 A person other than a passenger involved in the documentation, handling, segregation, packing, stowing, loading or unloading and transportation or handling of dangerous goods that is carried or intended to be carried on a ship in accordance with Chapter 1.3 of the IMDG Code—
- (a) the safe transportation of dangerous goods;
 - (b) the safe handling of dangerous goods; and
 - (c) refresher training.
- 1.2 A person or organisation that engages a person to perform a function referred to in paragraph 1.1 must ensure that before a person undertakes the function unsupervised, adequate training is provided to enable the person to carry out that function safely and competently.
- 1.3 The training required by paragraph 1.1 must include the following—
- (a) classifying dangerous goods and identifying proper shipping of dangerous goods;
 - (b) packing of dangerous goods;
 - (c) marking, labelling or placarding of dangerous goods;
 - (d) loading and unloading of cargo transport units;
 - (e) preparation of transport documents of dangerous goods;
 - (f) offering and accepting dangerous goods for transport;
 - (g) handling and carrying dangerous goods in transport;
 - (h) preparing dangerous goods loading and stowage plans;
 - (i) loading and unloading of dangerous goods into and from ships; and
 - (j) enforcement, survey or inspection of compliance with these Regulations and the IMDG Code.
- 1.4 The training required by paragraph 1.1 must include safety training, as applicable to an individual's duties, on—
- (a) methods and procedures for accident avoidance, such as proper use of package handling equipment and appropriate methods of stowage of dangerous goods;
 - (b) available emergency response information and how to use it;
 - (c) general dangers presented by the various classes of dangerous goods and how to prevent exposure to those hazards, including if appropriate, the use of personal protection clothing and equipment; and

- (d)* immediate procedures to be followed in the event of an unintentional release of dangerous goods, including any emergency response procedures for which the person is responsible and personal protection procedures to be followed.
 - 1.5 Each person or organisation referred to in paragraph 1.2 must ensure that—
 - (a)* records of training are kept and made available to the person being trained and the Chief Executive Officer or the authorised officer; and
 - (b)* training records are maintained and kept for a minimum period of 1 year after a person ceases to be engaged by that person or organisation.
 - 1.6 For the purpose of assessing training, the Chief Executive Officer may from time to time, require a person or organisation to provide to the Chief Executive Officer such documents, records and any information that he or she requires.
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