

[LEGAL NOTICE NO. 97]

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

Maritime (Infringement Offences and Penalties) Regulations 2014

IN exercise of the powers conferred upon me by section 246 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 (Infringement Offences and Penalties) 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,—

“Authorised Officer” shall have the same meaning as in section 2 of the Decree;

“Authority” means the Maritime Safety Authority of Fiji;

“cargo manifest” means the document containing the number of tonnage of cargo carried on board a ship which is usually checked before departure and upon arrival;

“Chief Executive Officer” means the Chief Executive Officer of the Authority;

“Decree” means the Maritime Transport Decree 2013;

“infringement notice” means the notice set out in Schedule 2;

“infringement offence” shall have the same meaning as in section 262(1) of the Decree; and

“letter of dispensation” means a letter issued by the Authority to any shipping company that applies for dispensation.

Objective

3. The objective of these Regulations is to prescribe the infringement offences under the Decree, the maritime Regulations and the marine environment protection Regulations.

Infringement offences and penalties

4. In accordance with section 262 of the Decree, Schedule 1 sets out the infringement offences and penalties.

Infringement notice

5. In accordance with section 262 of the Decree, an authorised officer may issue an infringement notice set out in Schedule 2, to a person who commits an infringement offence under the relevant provisions in the maritime Regulations.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE 1
(Regulation 4)

INFRINGEMENT OFFENCES AND PENALTIES

TABLE A

<i>Section 5(5) of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
		Ships less than 15 metres	15 metres and above but less than 50 metres	Ships 50 metres and Above
1.	No Survey Certificate	\$200.00	\$250.00	\$500.00
2.	Expired Survey Certificate	\$180.00	\$200.00	\$450.00
3.	Invalid or no Minimum Safe Manning Certificate	\$180.00	\$200.00	\$450.00
4.	No Registration Certificate	\$200.00	\$250.00	\$500.00
5.	Expired or no Certificate of Competency or licence for the Master.	\$200.00	\$250.00	\$500.00
6.	Expired or no Certificate of Competency for ship's crew	\$180.00 per crew member	\$200.00 per crew member	\$250.00 per crew member
7.	No Safety Certificates for ship's crew	\$150.00 per crew member	\$180.00 per crew member	\$200.00 per crew member
8.	Breaching of Survey Certificate requirements and endorsement	\$100.00	\$150.00	\$500.00
9.	Breaching of Minimum Safe Manning requirements and endorsement	\$100.00	\$150.00	\$500.00

<i>Section 5(5) of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
10.	Passenger overloading	\$200.00 plus \$100.00 for every extra passenger	\$300.00 plus \$200.00 for every extra passenger	\$500.00 plus \$250.00 for every extra passenger
11.	None or expired Coasting-trade Licence or Coasting-trade Permit (CTL or CTP)	\$150.00	\$200.00	\$450.00
12.	Invalid Fumigation Certificate	\$100.00	\$150.00	\$300.00
13.	Invalid Radio Service Certificate	\$100.00	\$150.00	\$300.00
14.	Submerged load line mark	\$200.00	\$250.00	\$400.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

TABLE B

<i>Section 21 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
	Master of a Fiji ship or a foreign ship who fails to report any danger to navigation.	Ships less than 15 metres	Ships 15 metres and more but less than 50 metres	Ships 50 metres and above
1.	Passenger ship	\$100.00	\$200.00	\$450.00
2.	Cargo ship	\$100.00	\$200.00	\$450.00
3.	Cargo/passenger ship	\$150.00	\$250.00	\$500.00
4.	Fishing ship	\$100.00	\$200.00	\$350.00
5.	Pleasure craft	\$100.00	\$150.00	\$250.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

TABLE C

<i>Section 26 of the Decree</i>				
	<i>OFFENCES</i>	<i>PENALTIES</i>		
1.	The condition of the ship or maritime equipment does not correspond with the particulars of any document relating to the ship or maritime equipment.	Ships less than 15 metres	Ships 15 metres and more but less than 50 metres	Ships 50 metres and above
	Passenger ships	\$200.00	\$350.00	\$700.00
	Cargo ships	\$200.00	\$350.00	\$700.00
	Cargo/passenger ships	\$200.00	\$350.00	\$700.00
	Fishing ships	\$200.00	\$350.00	\$700.00
	Pleasure craft	\$200.00	\$350.00	\$700.00
2.	The condition of the ship or maritime equipment has not been maintained in accordance with the provisions of any requirements leading to the issue of that document.	Ships less than 15 metres	Ships 15 metres and more but less than 50 metres	Ships 50 metres and above
	Passenger ships	\$200.00	\$350.00	\$700.00
	Cargo ships	\$200.00	\$350.00	\$700.00
	Cargo/passenger ships	\$200.00	\$350.00	\$700.00
	Fishing ships	\$200.00	\$350.00	\$700.00
	Pleasure craft	\$200.00	\$350.00	\$700.00
3.	The ship is not in all respects fit to proceed to sea without danger to the ship or the persons on board or without presenting an unreasonable threat of harm to the marine environment.	Ships less than 15 metres	Ships 15 metres and more but less than 50 metres	Ships 50 metres and above
	Passenger ships	\$200.00	\$350.00	\$700.00
	Cargo ships	\$200.00	\$350.00	\$700.00
	Cargo/passenger ships	\$200.00	\$350.00	\$700.00
	Fishing ships	\$200.00	\$350.00	\$700.00
	Pleasure craft	\$200.00	\$350.00	\$700.00
4.	The ship or maritime equipment has been materially altered without the sanction of the State other than Fiji that issued or approved the document.	Ships less than 15 metres	Ships 15 metres and more but less than 50 metres	Ships 50 metres and above
	Passenger ships	\$200.00	\$250.00	\$500.00

	Cargo ships	\$200.00	\$250.00	\$500.00
	Cargo/passenger ships	\$200.00	\$250.00	\$500.00
	Fishing ships	\$200.00	\$250.00	\$500.00
	Pleasure craft	\$200.00	\$250.00	\$500.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.
5.	The document has been fraudulently obtained.	\$2,000.00	\$4,000.00	\$10,000.00
			Note: \$30.00 is added to every extra meter between 15 to 50 metres.	Note: \$50.00 is added to every extra meter above 50 metres.
6.	The holder of the document is not the person to whom the document was originally issued.	\$700.00		

TABLE D

<i>Section 27 of the Decree</i>			
<i>OFFENCES</i>		<i>PENALTIES</i>	
		<i>Individual</i>	<i>Body corporate</i>
1.	The holder has failed to comply with the conditions of the relevant maritime document or with the requirements of the Decree.	\$300.00	\$2,500.00
2.	The holder has contravened or failed to comply with section 250.	\$500.00	\$2,500.00
3.	The holder has failed to satisfy the Chief Executive Officer that such action is necessary to ensure compliance with any provisions of the Decree or any Regulations made under the Decree;	\$500.00	\$2,500.00
4.	The holder has failed to consider that the privileges or duties for which the document has been granted, or the relevant document has been recognised as a maritime document, are being carried out by the holder in a careless or incompetent manner; or	\$500.00	\$4,500.00
5.	The holder has failed to consider that there is reasonable doubt as to the seaworthiness of the ship or as to the quality or safety of the maritime equipment to which the document relates.	\$1,000.00	\$4,500.00

TABLE E

<i>Section 37 of the Decree</i>			
<i>OFFENCES</i>		<i>PENALTIES</i>	
		<i>Individual</i>	<i>Body corporate</i>
1.	Person employed on board a Fiji ship during suspension under section 36	\$500.00	-
2.	A corporate body that employed a person on board a Fiji ship during suspension under section 36	-	
	Employed on ships less than 15 metres		\$2,000.00
	Employed on ships of 15 - 50 metres		\$3,500.00
	Employed on ships more than 50 metres		\$5,000.00

TABLE F

<i>Section 38 of the Decree</i>			
<i>OFFENCES</i>		<i>PENALTIES</i>	
		<i>Individual</i>	<i>Body corporate</i>
1.	Withholding any documents requested or relevant during inspections or audits.	\$500.00	\$2,500.00
2.	Failure to demonstrate competence in operating, maintaining and servicing any ship or maritime document.	\$500.00	\$5,000.00
3.	Failure to demonstrate the familiarity of the master or crew with essential shipboard procedures for the safe operation of the ship.	\$500.00	\$5,000.00

TABLE G

<i>Section 39 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
		Ships less than 15 metres	Ships more than 15 metres but less than 50 meters	Ships 50 metres and above
1.	No valid Survey Certificate	\$200.00	\$250.00	\$450.00
2.	No valid Safe Manning Certificate	\$180.00	\$200.00	\$450.00
3.	No valid Registration Certificate	\$200.00	\$250.00	\$400.00
4.	No valid Certificate of Competency or Licence	\$200.00	\$250.00	\$500.00
5.	No valid Safety Certificate	\$150.00/crew	\$180.00/crew	\$200.00/crew
6.	No valid Fumigation Certificate	\$100.00	\$150.00	\$300.00
7.	No valid Firefighting Equipment Service Certificate	\$200.00	\$250.00	\$300.00
8.	No valid Radio Certificate	\$100.00	\$150.00	\$300.00

<i>Section 39 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
9.	Fails to produce any valid letter of dispensation	\$200.00	\$250.00	\$300.00
10.	Fails to produce or provide passengers list	\$200.00	\$250.00	\$300.00
11.	Fails to produce or provide cargo manifest	\$200.00	\$250.00	\$300.00
12.	No Coasting-trade Licence or Coasting-trade Permit	\$150.00	\$200.00	\$450.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

TABLE H

<i>Section 44 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
		Ships less than 15 metres	Ships more than 15 metres but less than 50 metres	Ships 50 metres and above
1.	Information provided by the complainant is subsequently found to be frivolous or vexatious, causing the detention of the ship.	\$500.00	\$1000.00	\$2,500.00
2.	Information provided by the complainant is subsequently found to be frivolous or vexatious, causing the delaying of the ship.	\$500.00	\$800.00	\$2,000.00
3.	Information provided by the complainant is subsequently found to be frivolous or vexatious, maintaining the seizure of maritime equipment.	\$500.00	\$1000.00	\$2,500.00
4.	Information provided by the complainant is subsequently found to be frivolous or vexatious, delaying the use of maritime equipment.	\$500.00	\$800.00	\$2,000.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

TABLE I

<i>Section 46 of the Decree</i>		
<i>OFFENCES</i>		<i>PENALTIES</i>
1.	Any person who fails to provide the following documents or information that may lead to the discovery of the cause of an accident, incident, mishap, death or serious injury.	
i	any writing on or in any material;	\$500.00
ii	information recorded or stored by means of a tape recorder, computer, or other device; and material subsequently derived from information so recorded or stored;	\$500.00
iii	a record, book, graph, or drawing; and	\$500.00
iv	a photograph, film, negative, tape, disk, or other device in which one or more visual images are embodied or stored so as to be capable with or without the aid of equipment, of being reproduced.	\$500.00

TABLE J

<i>Section 96 of the Decree</i>		
<i>OFFENCES</i>		<i>PENALTIES</i>
1.	Failure to comply with the notice provided by the Authority regarding the removal of hazard to navigation.	\$500.00
	If the offence is a continuing one, for every day or part thereof during which the offence is continued.	\$250.00

TABLE K

<i>Section 114 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
		Ships less than 15 metres	Ships 15 metres and above but less than 50 metres	Ships 50 metres and above
1.	Any person who fails to hold a Coasting-trade Licence when operating commercially.	\$250.00	\$500.00	\$750.00
2.	Any person who fails to hold a Coasting-trade Permit when operating commercially.	\$250.00	\$500.00	\$750.00
3.	Failing to furnish the Authority with such information as is prescribed about the shipping service in respect of which the licence or permit is granted or issued.	\$200.00	\$400.00	\$500.00
4.	Preventing an authorised officer to go on board a ship to enquire about the Coasting-trade Licence or Coasting-trade Permit.	\$200.00	\$400.00	\$500.00

5.	Preventing an authorised officer to check on cargo or passengers carried on-board a ship	\$200.00	\$400.00	\$500.00
6.	Preventing an authorised officer to examine any accounts, shipping documents, manifests and other documents relating to the ship.	\$200.00	\$400.00	\$500.00
7.	Breaching the conditions of the Coasting-trade Licence regarding —			
	(i) Safety			
	– No Certificate or expired Survey Certificate	\$200.00	\$250.00	\$500.00
	– Not being registered	\$200.00	\$250.00	\$500.00
	– No or expired safety equipment service certificates	\$200.00	\$200.00	\$300.00
	– No or carrying less number of life raft or lifejackets and other safety equipment requirements as per Survey Certificate requirements	\$200.00	\$250.00	\$300.00
	– Passengers over loading	\$200.00 plus \$100.00 for every extra passenger	\$300.00 plus \$200.00 for every extra passenger	\$500.00 plus \$250.00 for every extra passenger
	– Submerged load line mark	\$200.00	\$250.00	\$300.00
	(ii) Manning			
	– No Certificate or expired certificates for the Master	\$200.00	\$250.00	\$500.00
	– Master with lower Certificate of Competency as required by the Safe Manning Certificate or Survey Certificate.	\$200.00	\$250.00	\$350.00
	– Safety Certificate	\$150.00 per crew	\$180.00 per crew	\$200.00 per crew
	– No Safe Manning Certificate or Expired Manning Certificate.	\$200.00	\$400.00	\$500.00
	– Non-Compliance to Safe Manning Certificate.	\$200.00	\$400.00	\$500.00
	(iii) Areas of Operations			
	– Breaching the areas of operation as stated in the Coasting-trade Licence.	\$200.00	\$500.00	\$2,500.00
	– Breaching the areas of operation as stated in the Coasting-trade Permit.	\$500.00	\$1000.00	\$4000.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

TABLE L

<i>Section 135 of the Decree</i>		
<i>OFFENCES</i>		<i>PENALTIES</i>
1.	Any ships of 15 metres or less in registered length discharging sewage within 3 nautical miles from the nearest reef system.	\$500.00
2.	Any ship of more than 15 metres in registered length discharging sewage within 12 nautical miles from the nearest reef system.	\$1000
3.	Any offshore installations or device caught discharging sewage within 12 nautical miles from the nearest reef system.	\$5,000.00

TABLE M

<i>Section 137 of the Decree</i>				
<i>OFFENCES</i>		<i>PENALTIES</i>		
		Ships less than 15 metres	Ships 15 metres and above but less than 50 metres	Ships 50 metres and above
1.	Any person who discharges garbage which has not been ground to a particle size of 25 millimetres or less within Fiji waters from any ship.	\$150.00	\$300.00	\$500.00
2.	Any ship commits an offence when discharging garbage which has not been ground to a particle size of 25 millimetres or less.	\$300.00	\$500.00	\$800.00
3.	Any ship commits an offence when discharging garbage which has not been ground to a particle size of 25 millimetres or less and discharging 3 nautical miles from the nearest reef system.	\$450.00	\$700.00	\$1200.00
4.	Any ship commits an offence when discharging garbage which has not been ground to a particle size of 25 millimetres or less and discharging 0.5 nautical miles from any offshore installation or device.	\$300.00	\$500.00	\$800.00
			Note: \$10.00 is added to every extra meter between 15 to 50 metres.	Note: \$20.00 is added to every extra meter above 50 metres.

5.	Any offshore installation or device commits an offence when discharging garbage which has not been ground to a particle size of 25 millimetres or less.	\$2500.00 or \$20.00 per GRT
6.	Any offshore installation or device commits an offence when discharging garbage which has not been ground to a particle size of 25 millimetres or less and discharging 3 nautical miles from the nearest reef system is prohibited.	\$4500.00 or \$20.00 per GRT

TABLE N

<i>Section 141 of the Decree</i>			
<i>OFFENCES</i>		<i>PENALTIES</i>	
		Less than 15 metres in length	15 metres or more in length
1.	Any master or owner of a ship not giving notice of arrival at a port in Fiji when carrying oil and noxious liquid substance in bulk as a cargo commits an offence.	\$1000.00	\$2500.00

TABLE O

<i>Section 144 of the Decree</i>		
<i>OFFENCES</i>		<i>PENALTIES</i>
1.	Any person who fails to provide information that may lead to the discovery of the cause of the discharge, escape or pollution incident.	\$250.00
2.	Any person who fails to attend at the time and place specified in the summons and give evidence, and to produce any documents or things in that person's possession or under that person's control that are relevant to the subject of the investigation.	\$500.00
3.	Any person failing to abide by a Court order for an authorised officer to take possession of and remove any such document from the place where it is kept for such period of time as is reasonable in the circumstances.	\$350.00
4.	Any person failing to allow an authorised person to reproduce, in usable form any information recorded or stored on a document electronically or by other means.	\$350.00

SCHEDULE 2
(Regulation 5)

INFRINGEMENT NOTICE

Issued under section 263 of the Maritime Transport Decree 2013

Enforcement authority [specify enforcement authority]

To:

Forenames

Surname

Full name:

Full address:

.....

Occupation:	Date of birth:	Maritime Document No:..... (Where applicable)
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Alleged infringement offence(s) details

Date: Time: Place:

Ship name: Ship description:

Offence Number	Offence	Infringement Penalty payable
1		\$.....
2		\$.....
3		\$.....

Payment of infringement penalty

The infringement penalty is payable within 28 days after.....
[date this notice is delivered personally, or served by post].

The infringement penalty should be paid

To: [specify address of enforcement authority]

.....

.....

DO NOT DETACH

Please present both copies of this notice when making payment.

Cheques or money orders should be made out to the [specify enforcement authority] and should be crossed and marked "NOT TRANSFERABLE" or "ACCOUNT PAYEE ONLY".

Issued by:

being an Authorised Officer, duly authorised by the Chief Executive Officer of the Authority, a constable, the provincial council, or other local and municipal authority in whose region or district the offence was committed.

Important — Please read the statement of rights printed overleaf
Statement of rights

Note: If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.

1. This notice sets out one or more alleged infringement offences. Each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.

Payments

2. If you pay the infringement penalty for an alleged offence within 28 days of the service on you of this notice, no further enforcement action will be taken for that offence. Payments should be made at places indicated on the front page of this notice.

Defence

3. You have a complete defence against proceedings for an alleged offence if the infringement penalty for that offence has been paid to the enforcement authority at the address shown on the front page of this notice within 28 days after service on you of a reminder notice. Late payment or payment made to any other address will not constitute a defence.

Further action

4. If you wish to—
 - (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority;
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraph 6 and 9),

you should write to the enforcement authority at the address shown on the front page of this notice. Any such letter should be personally signed.

5. If you deny liability for the offence and request a hearing, the enforcement authority will, unless it decides not to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court.

Note: That if the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

6. If you admit liability for the offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter to the enforcement authority—

- (a) request a hearing;
- (b) admit liability; and
- (c) set out the written submissions you wish to be considered by the court.

The enforcement authority will then file your letter with the court (unless it decides not to commence court proceedings in respect of the offence). There is no provision for an oral hearing before the court if you follow this course of action.

Note: That costs will be imposed in addition to any penalty.

Non-payment of penalty

7. If you do not pay the infringement penalty and do not request a hearing in respect of an alleged offence within 28 days after the service on you of this notice you will (unless the enforcement authority decides otherwise) be served with a reminder notice.
8. If you do not pay the infringement penalty and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay **COSTS IN ADDITION TO THE INFRINGEMENT PENALTY**, unless the enforcement authority decides not to commence proceedings against you.

Queries/correspondence

9. When writing or making payment of an infringement penalty, please indicate—
 - (a) the date of the infringement offence;
 - (b) the infringement notice number;
 - (c) the identifying number of each alleged offence and the course of action you are taking in respect of it (if this notice sets out more than 1 offence and you are not paying all the infringement penalties for all the alleged offences); and
 - (d) your address for replies (if you are not paying all the infringement penalties for all the alleged offences).

If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on the front page of this notice.

Note: All queries and/or correspondence regarding the infringement offence(s) must be directed to the enforcement authority named in this notice at the address shown.