

EXTRAORDINARY
GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

No. 36

WEDNESDAY, 31st DECEMBER

2014

[LEGAL NOTICE NO. 80]

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

Maritime (Aids to Navigation) Regulations 2014

IN exercise of the powers conferred upon me by section 240(*u*) 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 (Aids to Navigation) 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—

“aid” means an aid to navigation as defined under section 2 of the Decree;

“Authority” means the Maritime Safety Authority of Fiji;

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

“Decree” means the Maritime Transport Decree 2013.

Purpose

3. The purpose of these Regulations is to set out the standards and requirements for establishment, maintenance, operation, alteration, removal or relocation of an aid to navigation within Fiji waters.

Application

4. These Regulations shall apply to all aids to navigation that are installed or erected by the State or a private person within Fiji waters.

PART 2—AIDS TO NAVIGATION REQUIREMENTS

Establishment and control of State aid

5.—(1) The Chief Executive Officer may install, maintain, operate, alter, remove or relocate an aid belonging to the State.

(2) The Chief Executive Officer shall be responsible for overseeing the maintenance and operation of any aid belonging to the State.

Establishment and control of private aids

6.—(1) The owner of a private aid who wishes to install, maintain, operate, alter or relocate an aid must make a written application on an approved form to the Chief Executive Officer for his or her approval to do so.

(2) The owner of a private aid who wishes to remove an aid must make a written notification to the Chief Executive Officer.

(3) The owner of any private aid shall not—

- (a) establish;
- (b) maintain;
- (c) add to;
- (d) alter, remove or vary the character of, the mode of operating or the position of,

the aid without the written approval of the Chief Executive Officer.

(4) An owner of an aid who contravenes sub-regulation (3) commits an offence and shall be liable upon conviction—

- (a) in the case of a natural person, to a fine not exceeding \$2,000 or to a term of imprisonment not exceeding 3 months, or to both; and
- (b) in the case of a body corporate, to a fine not exceeding \$10,000.

(5) The Chief Executive Officer may, if in his or her opinion it is desirable for the safety or convenience of maritime navigation to do so, by notice in writing served on the owner of an aid, require the owner of the aid to—

- (a) remove it entirely or relocate it, within the period specified in the notice;
- (b) modify it or alter its character or mode of exhibition to the extent and in the manner specified in the notice, within the period specified in the notice;
- (c) cease using it; or
- (d) not use it except at the time and in the manner specified in the notice.

(6) A person, served with a notice under sub-regulation (5) who fails without reasonable cause, to comply with the requirements specified in the notice shall be liable upon conviction to a fine not exceeding \$2,000 or to a term of imprisonment not exceeding 3 months, or to both.

(7) Where the owner of an aid—

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

the Chief Executive Officer may take possession or control of the aid or do anything which the owner of the aid was required to do under any notice served on him or her under sub-regulation (5).

(8) Costs incurred by the Authority in doing anything in relation to an aid under sub-regulation (6) shall be a debt due to the Authority from the owner of the aid and may be sued for in a court of law of competent jurisdiction.

Registration of all aids

7. The Chief Executive Officer shall maintain a registry of aids installed by private owners or the State in Fiji waters.

Inspection of aids and lights

8.—(1) A person designated by the Chief Executive Officer may, at any time, inspect an aid which, in the Chief Executive Officer's opinion, may affect the safety or convenience of maritime navigation.

(2) A person designated by the Chief Executive Officer may enter a property and transport goods through or over property if it is necessary for the inspection or maintenance of an aid.

(3) A person shall not obstruct or hinder any person authorised under sub-regulation (1) in the exercise of his or her powers or in the performance of his or her duties under sub-regulations (1) and (2).

(4) Any person who contravenes sub-regulation (3) commits an offence and shall be liable upon conviction—

(a) in the case of a natural person, to a fine not exceeding \$3,000 or to a term of imprisonment not exceeding 3 months, or to both; and

(b) in the case of a body corporate, to a fine not exceeding \$10,000.

Damage to an aid

9.—(1) It shall be the responsibility of a master of a ship which has damaged, fouled or destroyed an aid to report the incident within 24 hours to the Chief Executive Officer.

(2) A master of a ship who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$1000 or to a term of imprisonment not exceeding 3 months, or to both.

(3) Where a ship damages, destroys or fouls an aid, that ship may be detained until the cost of repairing or replacing the aid or of rendering the aid effective has been paid to the Authority.

Aid dues

10.—(1) The owner or the master of a ship that enters or leaves Fiji waters shall be required to pay any prescribed navigational aid contribution in respect of the ship, to the Authority or a relevant port management company which is entitled to receive the payment on behalf of the Authority.

(2) The navigational aid contribution is as prescribed in the Maritime (Marine Safety Charges – Aids to Navigation Levy) Regulations 2014 schedule of fees and charges.

(3) The owner or the master of a ship who fails without reasonable cause, to pay any prescribed navigational aid contribution in respect of the vessel within the prescribed time shall be liable upon conviction to a fine not exceeding \$3,000 or to a term of imprisonment not exceeding 3 months, or to both.

Detention of ships which have not paid aid dues

11. Where navigational aid contributions are payable in respect of a ship, the ship may be detained until the contributions have been paid.