

[LEGAL NOTICE NO. 98]

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

Maritime (Cargo Stowage and Securing) Regulations 2014

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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 (Cargo Stowage and Securing) 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 organisation” means an organisation that has entered into a memorandum of agreement with the Chief Executive Officer or with the Authority in compliance with the International Maritime Organisation Assembly Resolution A.739 (18) and the annex as amended by Resolution MSC 208(81), entitled “Adoption of Amendments to the Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration” whereby that organisation may carry out surveys and audits and issue certificates on behalf of the Authority;

“authorised person” means a person employed by an authorised organisation and appointed under section 38(1) of the Decree to carry out such inspections and audits as the Authority considers necessary for the purposes of these Regulations;

“Authority” means the Maritime Safety Authority of Fiji;

“cargo” or “cargoes” means cargo units and general cargo other than—

- (a) liquid or solid bulk cargoes;
- (b) grain cargoes;
- (c) timber deck cargoes;
- (d) livestock other than livestock carried in a road vehicle; and
- (e) fish, whales, seals or other living resources of the sea caught during the voyage by a fishing ship;

“cargo items of abnormal physical dimensions” means cargo items with physical dimensions that are ‘abnormal’ in relation to the dimensions of the space available for stowage of that cargo item or the dimensions of the cargo items normally carried by the ship;

“cargo securing manual” means a manual prescribed under Chapter VI of the International Convention for the Safety of Life at Sea (SOLAS) 1974 and in accordance with the IMO Code of Safe Practice for Cargo Stowage and Securing;

“cargo transport unit” or “CTU” means a freight container, swap-body, vehicle or any other similar unit;

“cargo unit” includes—

- (a) a road freight vehicle;
- (b) a road tank vehicle;
- (c) a road livestock vehicle;
- (d) cars, trailers, caravans, camper vans and all similar vehicles;
- (e) wheel based rolling cargoes;
- (f) a freight container;
- (g) a portable tank;
- (h) cargoes consolidated on a flat or pallet;
- (i) single cargo items;
- (j) unit loads; and
- (k) flexible intermediate bulk containers (FIBCs);

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

“coastal voyage” means a voyage by a ship from one Fiji port or offshore installation to another Fiji port or offshore installation or back to the same Fiji port or offshore installation during which the ship proceeds beyond Fiji waters but does not undertake an international voyage;

“container” or “freight container”—

- (a) means an article of transport equipment that is—
 - (i) of permanent character and strong enough to be suitable for repeated use;
 - (ii) specifically designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading; and
 - (iii) designed to be secured or readily handled or both, having fittings for these purposes;
- (b) includes a container carried on a chassis; and
- (c) does not include a vehicle or packaging;

“CSS Code” means the Code of Safe Practice for Cargo Stowage and Securing (1992 edition) adopted by the IMO Assembly by resolution A.714(17) and the Code of Safe Practice for Cargo Stowage and Securing (1994/95 Amendments) approved by the International Maritime Organisation’s Maritime Safety Committee and published as circulars MSC/Circ.664 and MSC/Circ.691 and subsequent amendments;

“Decree” means the Maritime Transport Decree 2013;

- “Fiji ship” has the same meaning as in the Ship Registration Decree 2013;
- “foreign ship” has the same meaning as in the Decree;
- “Guidelines for the Preparation of the Cargo Securing Manual” means the Guidelines for the Preparation of the cargo securing manual approved by the International Maritime Organisations’s Maritime Safety Committee and published in circular MSC/Circ.745 and subsequent amendments;
- “Guidelines for Packing of Cargo Transport Units (CTUs)” means the Guidelines for Packing of Cargo Transport Units (CTUs) approved by the IMO’s Maritime Safety Committee and published in circular MSC/Circ.787 and subsequent amendments;
- “gross mass” means in respect of a vehicle, the sum of the vehicle’s tare mass and payload mass;
- “heavy cargo” means cargo with a gross mass of 45 tonnes or more;
- “horse float” means a vehicle for transporting one or more horses;
- “IMDG Code” means the International Maritime Dangerous Goods Code published by the International Maritime Organisation, as amended from time to time;
- “IMO” means the International Maritime Organization;
- “in bulk” means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging;
- “international voyage” means a voyage to or from a port outside Fiji;
- “offshore installation” has the same meaning as in the Decree;
- “offshore supply ship” means a ship that is used for the transportation of stores, materials, equipment or personnel to, from and between offshore installations;
- “OSV Code” means the Code of Safe Practice for the Carriage of Cargoes and Persons by Offshore Supply Vessels adopted by IMO Assembly by resolution A.863 (20) as amended by Resolution MSC. 237(82) and subsequent amendments;
- “portable tank” means a tank —
- (a) having a capacity of 450 litres or more whose shell is fitted with items of service equipment and structural equipment necessary for the transport of solids, liquids or liquefied gas;
 - (b) that has stabilising members external to the shell and is not permanently secured on board the ship;
 - (c) the contents of which are not loaded or discharged while the tank remains on board;

(d) capable of being loaded and discharged without the need of removal of its structural equipment; and

(e) capable of being lifted on and off the ship when loaded;

“purpose built container ship” means a ship that is specifically designed and fitted with cellular guides or other permanent arrangements for securing containers below and above deck;

“receptacle” means any containment vessel for receiving and holding substances or articles, including any vehicle and any means of closing;

“road freight vehicle” means a vehicle designed for the primary purpose of freighting goods by road, but does not include—

- (a) a vehicle of 3.5 tonnes or less in mass;
- (b) a caravan, motor home or other similar type vehicle;
- (c) a road tank vehicle; or
- (d) a road livestock vehicle;

“road livestock vehicle” means a vehicle designed for the primary purpose of transporting livestock by road, but does not include a vehicle of 3.5 tonnes or less in mass or a horse float;

“road tank vehicle” means a vehicle, the design of which incorporates a tank, or tanks and the primary purpose of which is to transport or deliver gases, liquids or powders in bulk by road, but does not include—

- (a) a fire appliance;
- (b) a vehicle of less than 3.5 tonnes gross mass; or
- (c) a vehicle of any mass, incorporating a tank, or tanks, that are ancillary to the primary purpose of that vehicle;

“ro-ro cargo spaces” means spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which goods (packaged or in bulk, in or on rail or road cars, vehicles (including road or rail tankers), trailers, containers, pallets, demountable tanks or in or on similar stowage units or other receptacles) can be loaded or unloaded normally in a horizontal direction;

“ro-ro ship” means a passenger ship with ro-ro cargo spaces or special category spaces as defined by the International Convention for the Safety of Life at Sea, 1974, as amended;

“roll-trailer” means a low vehicle for the carriage of cargo with one or more wheel axles on the rear and a support on the front end, which is towed or pushed in the port to and from its stowage on board the ship by a special tow-vehicle;

“safety approval plate” means a plate which is attached to the container that specifies the maximum weight to be loaded;

- “semi-trailer” means any vehicle that is designed to be coupled to a semi-trailer towing vehicle and imposes a substantial part of its total weight on the towing vehicle;
- “shipper” means any person who offers goods for carriage by sea, and includes any person who arranges for the carriage of goods by sea on behalf of any other person;
- “surveyor” means a flag state surveyor appointed under section 101 of the Decree or an authorised person;
- “swap-body” means a CTU not permanently attached to an underframe and wheels or chassis and wheels, with at least 4 twist-locks;
- “unit load” means that a number of packages are either—
- (a) placed or stacked, and secured by strapping, shrink wrapping or other suitable means, on a load board such as a pallet;
 - (b) placed in a protective outer packaging such as a pallet box; or
 - (c) permanently secured together in a sling;
- “vehicle” means any road vehicle, rail vehicle or other wheel based cargo unit;
- “vehicle securing point” means the location of a lashing point on a vehicle, suitably reinforced to withstand the lashing forces;
- “wheel based cargoes” means all cargoes which are fitted with wheels or tracks, including those which are used for the stowage and transport of other cargoes, except trailers and road-trains, and includes buses, military vehicles, tractors, earth-moving equipment and roll-trailers.

Objectives

3. The objectives of these Regulations are to—
- (a) prescribe requirements for the stowage and securing of all cargoes other than liquid, gas or solid bulk cargoes, grain, timber deck cargoes and livestock (except livestock carried in road vehicles);
 - (b) implement the stowage and cargo securing requirements for ships carrying cargoes on international voyages, in accordance with Regulation 5, Chapter VI of the International Convention for the Safety of Life at Sea (SOLAS) 1974 as amended;
 - (c) require Fiji ships and foreign ships of 50 metres or more in length, that undertake coastal voyages after loading cargo at a Fiji port to—
 - (i) stow and secure the cargo in accordance with the appropriate requirements of the International Maritime Organisation Code of Practice for Cargo Stowage and Securing; and
 - (ii) have an approved cargo securing manual within 12 months of the entry into force of these Regulations;

- (d) ensure compliance with the requirements under International Maritime Organisation Code of Safe Practice for the Carriage of Cargoes and Persons by Offshore Supply Ships;
- (e) ensure that the master is held accountable for accepting, stowing and securing of cargo units, heavy or abnormal cargoes, containers, portable tanks and wheel-based cargoes on any ship;
- (f) prescribe general requirements relating to stowage of cargo on all ships, to maintain personnel and navigational safety and training in respect of the requirements of the cargo securing manual and packaging of cargo units and inspection and testing of cargo securing devices on all ships; and
- (g) prescribe the requirements for shippers in respect of the packing and securing of cargo within cargo units and verifying and declaring the weight of cargo units.

Application

4.—(1) Subject to sub-regulation (2), these Regulations apply to a—

- (a) Fiji ship that carries cargo; and
- (b) foreign ship—
 - (i) loading cargo at a port or offshore installation in Fiji; and
 - (ii) carrying cargo on a coastal voyage in Fiji.

(2) These Regulations do not apply to a—

- (a) foreign ship in respect of cargo that has been loaded at a port beyond Fiji and is to be discharged either at a port or offshore installation in Fiji or beyond Fiji;
- (b) warship;
- (c) pleasure craft.

PART 2—CARGO

Cargo information

5.—(1) The shipper of cargo to be carried on a ship, that is undertaking an international voyage shall—

- (a) provide the master or the master's representative with information on the cargo that includes—
 - (i) a general description of the cargo;
 - (ii) the gross mass of the cargo or of the cargo units; and
 - (iii) any relevant special properties of the cargo; and
- (b) ensure that the information is—
 - (i) provided sufficiently in advance of loading the cargo to enable the precautions that may be necessary for proper stowage and safe carriage of the cargo to be put into effect;

- (ii) confirmed in writing; and
- (iii) confirmed by appropriate shipping documents prior to loading the cargo on the ship.

(2) The shipper of any cargo unit of 1.0 tonne or more gross mass to be carried on a ship that is undertaking a coastal voyage shall provide the master or the master's representative with details of the gross mass of the cargo unit and any special properties of that cargo in advance of loading.

(3) The shipper shall ensure that the gross mass of a cargo unit is the same as the gross mass declared in accordance with the requirement of sub-regulation (1) or (2), prior to loading the unit on board a ship.

(4) The master of a ship shall not accept cargo on board if the master is not satisfied that it can be transported safely.

(5) Any shipper who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Cargo securing manual

6.—(1) The owner and the master of—

- (a) a ship that undertakes an international voyage; or
- (b) a ship of 50 metres or more in length that undertakes a coastal voyage, shall ensure that the ship carries a cargo securing manual that is—
 - (i) prepared in accordance with the requirements of the Guidelines for the Preparation of the cargo securing manual; and
 - (ii) approved by the Chief Executive Officer or an authorised organisation.

(2) The master shall ensure that all cargo units, including containers, are loaded, stowed and secured throughout the voyage in accordance with the ship's approved cargo securing manual.

(3) If the cargo securing manual does not adequately provide for a particular cargo, the master shall ensure that cargo is loaded, stowed and secured in accordance with the requirements of the CSS Code.

(4) The master of a ro-ro ship shall ensure that all cargo units are secured in accordance with the requirements of the cargo securing manual before the ship commences a voyage.

(5) Any person who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

PART 3—STOWAGE AND SECURING OF CARGO

Packing and securing of cargo within cargo units

7.—(1) The shipper shall ensure that cargo carried in a cargo unit is packed and secured in the unit to prevent—

- (a) damage or hazard to the ship; and
- (b) hazard to the persons on board the ship,

throughout the voyage.

(2) The shipper shall ensure that a container is not loaded to more than the maximum gross weight indicated on the container's safety approval plate.

(3) Any shipper who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Stowage and securing arrangements

8.—(1) The owner of a ship that carries cargo on a voyage shall ensure that the ship is provided with stowage and securing arrangements and equipment that are sufficient and capable of safely restraining the cargoes being carried.

(2) Any owner that contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Loading, stowing and securing of cargo and cargo units

9.—(1) The master of a ship shall ensure that cargo and cargo units carried on or under deck are loaded, stowed and secured in such a manner, which prevents, as far as practicable throughout the voyage—

- (a) damage or hazard to the ship;
- (b) a hazard to persons on board the ship;
- (c) damage of other cargo or cargo units on board; and
- (d) loss of cargo or cargo units overboard.

(2) Any master that contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Heavy or abnormal size cargo items

10.—(1) The master of a ship shall ensure that transportation of heavy cargo items or cargo items of abnormal physical dimensions are loaded and transported in such a manner that prevents structural damage to the ship.

(2) Any master that contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Roll on roll off ships

11.—(1) The master of a ro-ro ship shall take appropriate precautions, during the loading and transport of cargo units on board the ship, to ensure that the cargo units remain secure throughout the intended voyage and the master shall have regard to the—

- (a) securing arrangements on the ship;
- (b) securing arrangements on the cargo unit; and
- (c) strength of the securing points and lashings.

(2) The shipper of a road freight vehicle, road tank vehicle, or road livestock vehicle shall not offer the vehicle for shipment on a ro-ro ship to which regulation 15 applies unless it is—

- (a) fitted with vehicle securing points; and
- (b) marked with an information plate.

(3) The master of a ro-ro ship shall ensure that a road freight vehicle, road tank vehicle, or road livestock vehicle taken on board a ro-ro ship to which regulation 15 applies—

- (a) is marked with an information plate; and
- (b) has vehicle securing points that are adequate to secure the cargo for the intended voyage.

(4) The master of a ro-ro ship shall ensure that there is adequate space between each vehicle on the deck to ensure persons can safely enter and exit the vehicle.

(5) For the purposes of sub-regulations (2) and (3), Part 2 of NZS 5444: 2005 – Load Anchorage Points for Vehicles shall be deemed to apply to all vehicles with a gross mass of 3.5 tonne or more in weight.

(6) Any person that contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Ships carrying containers

12.—(1) The master of a ship other than a purpose built container ship shall ensure that—

- (a) containers do not overstress the deck or hatches on which the containers are stowed;
- (b) bottom-tier containers, when not resting on stacking devices, are stowed on timber or other material of substantial thickness that is arranged in such a way as to transfer the stack load evenly on to the structure of the stowage area;
- (c) when stacking containers, use is made of locking devices, cones or similar stacking aids, as may be appropriate;
- (d) containers do not extend over the ship's sides;
- (e) containers are stowed on decks or hatches, having regard to the availability, position and strength of securing points; and

- (f) all containers are effectively secured in such a way as to protect them from sliding and tipping.

(2) Any master who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Portable tanks

13.—(1) The shipper shall not offer for shipment any portable tank that is—

- (a) not capable of being safely lifted on and off a ship; or
- (b) in an ullage condition liable to produce an unacceptable hydraulic force due to surge within the tank.

(2) The master of a ship shall, when determining the manner in which the portable tank is to be stowed and secured, take into account the—

- (a) typical distribution of accelerations of a ship; and
- (b) strength of the deck or hatch on which the portable tank may be stowed.

(3) Any person who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or imprisonment for a term of 3 months or both.

Wheel-based (rolling) cargoes

14.—(1) The master of a ship shall ensure that—

- (a) wheel-based cargoes that are not fitted with rubber wheels or tracks with friction-increasing lower surface are always stowed on wooden dunnage or other friction increasing material;
- (b) where wheel-based cargoes are fitted with brakes, the brakes are applied when a wheel-based unit is in the stowage position;
- (c) the wheels of wheel-based cargoes are blocked to prevent shifting; and
- (d) wheel-based cargoes carried as part cargo are stowed close to the side of the ship, close to each other or blocked off by other suitable cargo units.

(2) The shipper shall ensure that wheel-based cargoes are fitted with adequate and clearly marked securing points and clearly marked places where lashings may be safely applied.

(3) Any person that contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

PART 4—CSS CODE AND OSV CODE

Ships undertaking international and coastal voyages

15.—(1) The owner of a ship—

- (a) that carries cargo on an international voyage; or

(b) of 50 metres or more in length that carries cargo on a coastal voyage, shall ensure that the ship is provided with stowage and securing arrangements and equipment in accordance with the requirements of the CSS Code for the cargo carried.

(2) The shipper of cargo on a ship—

(a) that is undertaking an international voyage; or

(b) of 50 metres or more in length that is undertaking a coastal voyage,

shall ensure that the cargo or cargo unit complies with any relevant requirements of the CSS Code before it is forwarded to the ship.

(3) The master of a ship—

(a) that is undertaking an international voyage; or

(b) of 50 metres or more in length that is undertaking a coastal voyage,

shall ensure that cargoes carried on the ship are stowed and secured throughout the voyage in accordance with the relevant requirements of the CSS Code.

(4) Any person who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.

Offshore supply vessels

16. Notwithstanding any other relevant requirements under these Regulations, the owner and the master of an offshore supply ship and the shipper of cargo on an offshore supply ship shall comply with any additional cargo stowage, securing and packaging provisions of the OSV Code.

PART 5—PERSONNEL AND NAVIGATIONAL SAFETY

Personnel safety

17.—(1) The master of a ship shall not allow cargo to be stowed on the deck of a ship unless—

(a) clear access is provided between every exit from—

(i) passenger or crew accommodation and every life-saving appliance; and

(ii) crew accommodation and every space required for the normal and emergency working of the ship;

(b) access ways are at least 600 millimeters wide, of adequate height and kept free of obstruction at all times; and

(c) adequate access is provided for pilots.

(2) Any master who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$2000 or to imprisonment for a term of 3 months or both.

Navigational safety

18. The master of a ship shall not allow cargo to be stowed on the deck of a ship unless—

- (a) adequate visibility is maintained from the bridge and all lookout positions; and
- (b) provision is made to prevent navigation lights from being obscured.

PART 6—TRAINING

Application and content of cargo securing manual

19.—(1) The owner and the master of a ship shall ensure that all personnel who plan or supervise the stowage and securing of cargo have a sound practical knowledge of the application and content of the cargo securing manual.

(2) Any person that contravenes this regulation commits an offence and is liable upon conviction to a fine not exceeding \$3000 or imprisonment of 3 months or both.

Packing of cargo in CTUs

20. The shipper of a cargo transport unit shall ensure that every person who is responsible for packing a CTU is trained and familiar with—

- (a) the forces likely to be experienced by the cargo during transport;
- (b) the basic principles of cargo packing and securing;
- (c) the environmental risks during shipping;
- (d) the properties and any inherent hazards in respect of the cargoes being packed; and
- (e) any symbols, labeling and documentation relating to cargoes being packed.

PART 7—INSPECTIONS AND MAINTENANCE

Ships that are required to have a cargo securing manual

21.—(1) The owner and the master of a ship to which regulation 6(1) applies shall ensure that—

- (a) cargo securing devices on board the ship are inspected and maintained in accordance with the requirements of the approved cargo securing manual; and
- (b) cargo securing devices are tested and inspected by an authorised organisation.

(2) Any person who contravenes this regulation commits an offence and shall be liable upon conviction to a fine not exceeding \$3000 or to imprisonment for a term of 3 months or both.