

[LEGAL NOTICE NO. 101]

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

Maritime (Commercial Boating) Regulations 2014

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IN exercise of the powers conferred upon me by section 240(1)(j) 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 (Commercial Boating) Regulations 2014 and shall come into force on 1st January, 2015.

Interpretation

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

“approved body” is a body that is approved by the Authority to carry out training and certification of boating guides and national boat assessors;

“Authority” means the Maritime Safety Authority of Fiji;

“boat” means an inflatable or rigid boat maneuvered by—

(a) oars or paddles; or

(b) a combination of oars and paddles,

and includes inflatable or rigid kayaks, rafts and canoes;

“boat trip” means a journey on a river using a boat;

“boating guide” means a person who holds a National Boat Guide Certificate issued by an approved body or a Boat Guide Certificate issued by another state and recognised by the Chief Executive Officer;

“Certificate of Compliance” means a certificate issued by the Chief Executive Officer to a commercial boating operator who has met the requirements of these Regulations and has the same meaning as a maritime document as defined under section 2 of the Decree;

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

“commercial boat” means any boat or device that is used to transport fare paying passengers and guests within the inland waters of Fiji;

“commercial boating operator”—

(a) means the person who is, for the time being, responsible for the management of the commercial boating operation; and

- (b) does not include a person who is only involved in a commercial boating operation as a guide;

“commercial boating operation” means a business that carries passengers for hire or monetary exchange or equivalent on inland waters of Fiji;

“Decree” means the Maritime Transport Decree 2013;

“demarcated area of operation” refers to that area of inland water approved by the Chief Executive Officer to which the Certificate of Compliance makes reference to;

“group guide commercial boating” means—

- (a) 1 or more boats where at least 1 boat has no on-board guide; and
- (b) the boat or boats without a guide on board are being guided by a guide who is located on another boat, safety boat, or the adjacent river bank;

“impaired” means affected by fatigue, injuries, medical condition, or by the consumption of alcohol or other drug such as kava to such a degree that the person may be a risk to the safety of himself or herself or to any other person on the boat;

“inland waters” means waters which terminates at the shoreline of any island of Fiji and includes rivers, lakes and dams;

“major modification”, in relation to a commercial boat, means an alteration or modification of the commercial boat that involves the replacement, removal, or addition of any—

- (a) part of the commercial boat that is likely to significantly affect the structural integrity, passenger capacity, watertight subdivision or stability; or
- (b) safety equipment of the commercial boat, other than the direct replacement of equipment;

“multi-chambered” means a commercial boat that has multiple pontoon chambers that are separated by baffles, each of which has its own valve or bulkheads in solid frame or rigid boats;

“multiple boat trips” means a boat trip consisting of 2 or more commercial boats;

“National Boating Assessor” means a person certified as a National Boating Assessor by an approved body or a person certified as a National Boating Assessor by another state that is recognised by the Chief Executive Officer;

“operation” means the commercial boating operation which is subject to ongoing periodic inspections and audits by the Chief Executive Officer to ensure that the operation continues to meet the standards prescribed in these Regulations;

- “passengers” in relation to a commercial boat, means any person carried on board a commercial boat, other than a guide, a trainee guide, or any other employee of the commercial boating operation;
- “personal flotation device” means a buoyancy aid that complies with the New Zealand or Australian standards or equivalent standards for buoyancy aids recognised by the Authority;
- “rapids” means parts or sections of a river where the current is very fast and turbulent;
- “Recognised Authority” means an entity recognised by the Chief Executive Officer as being competent to verify buoyancy aids standard;
- “Risk Management Operational Plan” or “Plan” means the Risk Management Operational Plan required for managing risk of commercial boating operations prepared in accordance with these Regulations and approved by the Chief Executive Officer under regulation 6;
- “safety boat” means a kayak, river sledge, or a boat used to support the safety management of a boat trip, that meets the requirement of regulation 33;
- “sole-guided commercial boat trip” means a boat trip led by a single guide in 1 boat without the support of another boat guide or a safety boat;
- “specialist personal flotation device” means a buoyancy aid that complies with New Zealand or Australian standards or equivalent standards for buoyancy aids used only by the guides that is recognised by the Authority;
- “sporting event” means any organised games, competition, or other event involving competitors;
- “trainee guide” means a person who is currently completing the training requirements specified for a National Boat Guide Certificate or Recognised National Boat Guide Certificate of another state; and
- “trip leader” means a guide in overall control of a boat trip.

Objectives

3. The objectives of these Regulations are to—
- (a) provide for the management of risk in boating related activities that include but are not limited to, boating, kayaking and canoeing in inland waters;
 - (b) ensure safety of commercial operations travelling on a river;
 - (c) ensure safety management of commercial boating operations and guide training, in educational settings and on-the-job training in commercial boating operations; and
 - (d) require all commercial boating operators to have a Risk Management Operational Plan that details how it will manage risk in its operations.

Application

4.—(1) These Regulations apply to all commercial boating operations in the inland waters of Fiji, but does not apply to a sporting event that is carried out on the inland waters of Fiji.

(2) Parts 2 and 5 of these Regulations apply to any commercial boat.

(3) Part 6 of these Regulations applies to any commercial boat used for the vocational training of guides.

(4) Part 7 of these Regulations applies to the hire of a boat by a person who is not a commercial boating operator.

PART 2 – RISK MANAGEMENT OPERATIONAL PLAN
AND CERTIFICATE OF COMPLIANCE

Commercial boating operator shall prepare Risk Management Operational Plan

5.—(1) A commercial boating operator shall prepare a Plan for each commercial boating operation it manages.

(2) The Plan shall—

- (a) include the information prescribed in Schedule 2;
- (b) be prepared in accordance with the requirement of this part; and
- (c) include the safety practice, if any, that applies to the particular river and other inland waters on which the boating operations are to be carried out.

(3) The safety practices referred to in sub-regulation (2)(c) shall be determined by the Chief Executive Officer, after consultation with the person or organisation that he or she considers appropriate, to ensure commercial boating operations can be safely carried out on the chosen inland waters.

Requirements for approval of Risk Management Operational Plan

6.—(1) A Plan shall be approved by the Chief Executive Officer before a commercial boating operation begins.

(2) Before approving a Plan, the Chief Executive Officer shall be satisfied that the—

- (a) Plan complies with these Regulations; and
- (b) result of any inspection or audit of the commercial boating operation to which the Plan relates are satisfactory.

(3) If the Chief Executive Officer considers that the Plan should not be approved, he or she shall—

- (a) notify the commercial boating operator, in writing, the reasons for declining the Plan; and
- (b) specify the time within which the commercial boating operators shall re-submit the Plan.

(4) The Chief Executive Officer shall require—

- (a) any additional information that he or she considers necessary to support the approval of the Plan; and
- (b) the commercial boating operator to make such amendments to the Plan as he or she considers necessary in the interests of safety.

Review of approved Risk Management Operational Plan

7.—(1) A commercial boating operator shall ensure that the approved Plan is reviewed—

- (a) at least once in every 12 months period; and
- (b) as soon as practicable after every accident, incident, or mishap.

(2) A commercial boating operator shall ensure that every review of his or her approved Plan is recorded in writing, and includes—

- (a) a summary of conclusions; and
- (b) every mitigating action taken as a result of the review.

(3) A commercial boating operator shall make his or her approved Plan available to the Chief Executive Officer at all reasonable times.

Modification of approved Risk Management Operational Plan

8.—(1) Except as provided under sub-regulation (3), the commercial boating operator shall apply to the Chief Executive Officer for approval before making any modification to an approved Plan, including a modification to—

- (a) extend beyond the demarcated area of boating operations; and
- (b) change in on-river communication or back-up arrangements.

(2) Regulations 5(2)(c) and 5(3) shall apply to an application for a modification to an approved Plan.

(3) The commercial boating operator may make the following changes to an approved Plan without the prior approval of the Chief Executive Officer—

- (a) change to the contact list for emergency call-out;
- (b) reassignment of personal responsibilities; or
- (c) change to system and procedures used for identification, control and review of operational hazard.

(4) The changes made to the approved Plan under sub-regulation (3) are to be communicated to the Chief Executive Officer.

Notification of termination of operation

9. A commercial boating operator who terminates a commercial boating operation shall notify the Chief Executive Officer in writing, of the termination within 30 days of the date of termination.

Inspection and audit of commercial boats and commercial boating operation

10. The Chief Executive Officer shall require a commercial boating operator and his or her commercial boating operation to undergo such inspections and audit as the Chief Executive Officer considers necessary in the interests of safety.

Commercial boating operator shall hold a current Certificate of Compliance

11. A commercial boating operator shall hold a current Certificate of Compliance issued in accordance with these Regulations and in the form prescribed under Schedule 4.

Information about Certificate of Compliance

12.—(1) A Certificate of Compliance issued by the Chief Executive Officer under section 24 of the Decree shall certify that the commercial boating operator is authorised to conduct commercial boating operation on the river stated on the Certificate of Compliance.

(2) A Certificate of Compliance shall remain in force for 3 years, but subject to suspension or revocation by the Chief Executive Officer in accordance with section 27 or 28 of the Decree and is subject to annual verification audits.

(3) A Certificate of Compliance—

- (a) shall not be transferable; and
- (b) ceases to have effect immediately on the change of ownership or control of the commercial boating operation.

(4) A commercial boating operator shall immediately inform the Chief Executive Officer of any changes to his or her details as recorded on the Certificate of Compliance, including—

- (a) a change of name;
- (b) a change of address; or
- (c) a change of contact details.

Requirements for issue of a Certificate of Compliance

13.—(1) A commercial boating operator who wishes to apply for a Certificate of Compliance shall make an application to the Chief Executive Officer in accordance with section 23 of the Decree, in an approved form and with the prescribed fees in Schedule 1.

(2) Every applicant under sub-regulation (1) shall include the following with his or her application—

- (a) the name of the legal owner of the proposed commercial boating operation;
- (b) the name of the commercial boating operator for the proposed commercial boating operation;
- (c) a Plan;
- (d) the business or trading name of the proposed commercial boating operator;
- (e) the applicant's postal address and email address, if applicable;
- (f) the name and section of every river included in the Plan that is to be noted on the Certificate of Compliance; and

- (g) any additional information required by the Chief Executive Officer that is necessary to support the application.

(3) Where the Chief Executive Officer is satisfied with the result of any audit and inspection of the commercial boating operation and is satisfied with and approves the Plan for the commercial boating operator, the Chief Executive Officer shall issue a Certificate of Compliance for the commercial boating operation.

PART 3—BOATING GUIDE

Responsibility of commercial boating operator in relation to guide

14. A commercial boating operator shall not use any guide in the operation of any commercial boat who does not meet the requirements of these Regulations.

Guide to comply with approved Risk Management Operational Plan

15. A guide of a commercial boat shall ensure that the commercial boat is operated in accordance with the approved Plan.

Guide to be medically and physically fit

16.—(1) A guide of a commercial boat shall demonstrate to his or her employer that he or she is physically fit to work as a guide.

(2) A guide of a commercial boat shall disclose to his or her employer any medical condition or injuries which may affect his or her ability to work as a guide.

(3) A commercial boating operator shall not allow a boat trip to proceed if, in the opinion of that commercial boating operator, the guide for that boat trip is impaired.

Guide to hold relevant qualification

17.—(1) A person shall not act as a guide of a commercial boat trip unless that person is certified for the section of inland waters by an approved body or certified by another state recognised by the Chief Executive Officer.

(2) A guide who carries out trip leader duties shall attend training to maintain current in-river rescue skills at intervals of no more than 36 months, and—

- (a) such training shall be to a level consistent with the river rescue skills requirement; and
- (b) evidence that the training requirements have been met shall be confirmed by—
 - (i) a certificate of completion of a course of training in river rescue skills; or
 - (ii) completion of a course of training in river rescue skills, verified in writing by a national boating assessor.

(3) The evidence required shall be kept with the Plan, or the Plan shall state the location of the evidence.

Guide to hold current first aid certificate

18.—(1) A guide who carries out guide duties shall hold a valid First Aid Certificate.

(2) The Chief Executive Officer may accept an alternative First Aid Certificate if satisfied that the holder has received training to an equivalent or higher standard as specified in the Authority's medical standard.

Clothing

19. A guide or trainee guide on board a commercial boat shall wear the following—

- (a) a personal flotation device;
- (b) a helmet, except if the operator's approved Plan provides that helmets are not required; and
- (c) appropriate thermal wear or footwear.

Recognition of recognised organisations

20.—(1) The Chief Executive Officer may recognise an organisation for the purposes of issuing National Boat Guide Certificate and Senior National Boat Guide Certificate.

(2) The Chief Executive Officer may at any time, with due cause, revoke the recognition certificate.

(3) The Chief Executive Officer shall provide in writing, the reasons for revoking a recognition certificate and shall provide guidance as to how a person may re-apply for the recognition certificate.

Audit of recognised organisation

21. The Chief Executive Officer may audit the certification processes and procedures of a recognised body.

PART 4—PASSENGERS*Information about safety risk*

22. A commercial boating operator shall ensure that the following information, or information with substantially the same effect, is communicated to each passenger—

“Boating is an activity with a degree of risk which increases with exposure to the grade of rapids, proximity to shore or harbour, weather and any other hazards. Participants should be aware that the commercial boating operator cannot guarantee your safety.”

Additional information for passengers on group-guided commercial boat trips

23. Before booking a group-guided commercial boat trip, a commercial boating operator shall ensure that every passenger is informed that—

- (a) the boat trip that the passengers intend to book is group-guided;
- (b) the commercial boat that the passengers will be on may not have an on-board guide; and
- (c) where language barriers may exist, it is the responsibility of the commercial boating operator to ensure that passengers understand the risk management

directions provided by the commercial boating operator and explain the risk of the activity and the responsibility of the passengers in signing the assumption of risk waiver.

Instruction in river awareness and boat handling procedures

24. Before each boat trip, the guide shall ensure passengers are adequately instructed in river awareness and boat handling procedures, commensurate to the nature of the rapids encountered, shared passenger responsibility as specified in regulation 23(c) including as appropriate—

- (a) familiarisation with and warning of the hazards of the waters to be boated;
- (b) procedures for routine boat handling;
- (c) procedures for emergencies, associated with boating activity to include events such as wrapping, capsizing, person overboard;
- (d) general safety precautions; and
- (e) seating assignments and any changes to these assignments.

Safety briefing card

25. A commercial boating operator shall ensure that a safety briefing card is readily available to any passenger who, in the guide's opinion, has difficulty understanding the verbal briefing or demonstration.

Safe seating of passengers

26. A commercial boating operator shall ensure that there is sufficient room to enable every passenger on the boat to be safely seated.

Personal flotation device

27.—(1) A commercial boating operator shall provide every passenger on board a commercial boat with a personal flotation device.

(2) Subject to sub-regulation (6), every passenger on board a commercial boat shall wear a personal flotation device when the boat is on the river, unless the guide or trip leader expressly directs, in accordance with the operator's approved Plan, the personal flotation devices need not be worn.

(3) The personal flotation device shall be of a type suitable for adults and children.

(4) The Chief Executive Officer may accept other types of personal flotation device if the Chief Executive Officer is satisfied that the personal flotation device complies with a national or international standard as verified by a Recognised Authority and is designed for the specific use for which it was designed.

(5) A guide of a commercial boat shall ensure that passengers correctly wear personal flotation devices before passengers board the boat.

(6) A guide of a commercial boat shall ensure that every passenger on board the boat wears a personal flotation device while transiting rapids or unsuitable waters and that the device is worn properly throughout such transit.

Helmets

28.—(1) A commercial boating operator shall ensure that every passenger on board a commercial boat is provided with a helmet suitable for water boating except where, the operator's approved Plan provides that helmets are not required.

(2) A guide of a commercial boat shall check that every helmet is properly fitted to the passenger before that passenger boards the boat.

(3) Subject to sub-regulation (1), a guide of a commercial boat shall ensure that every passenger on board the commercial boat wears a helmet while transiting rapids and the helmet is worn properly throughout such transit.

Clothing and footwear

29.—(1) A commercial boating operator shall ensure that every passenger is equipped with a wetsuit or other appropriate wear and footwear, having regard to the prevailing water temperature and weather conditions.

(2) For overnight trips, it is the responsibility of the commercial boating operator to ensure that—

- (a) passengers or guests are aware of the clothing required to be worn by them to be comfortable with respect to prevailing weather conditions; and
- (b) the commercial boating operator should provide an equipment list as part of their Plan.

PART 5—COMMERCIAL BOAT TRIPS

*Division 1 – Requirements on commercial boats and their equipment**Commercial boats and equipment to be kept in good order*

30.—(1) A commercial boating operator shall ensure that all commercial boats used by the commercial boating operator, and the fitting and equipment for those commercial boats, are fit for the purpose intended.

(2) In the case of a commercial boat on hire or loan from another commercial boating operation, the commercial boating operator shall ensure that the boat, its fitting and equipment are designed and fit for the purpose intended.

(3) Every commercial boating operator shall ensure that the boats used are of the type approved by the Chief Executive Officer for use by the commercial boating operations.

Other risk management requirements for commercial boats

31. A commercial boating operator shall ensure that—

- (a) every commercial inflatable boat used is multi-chambered unless otherwise directed by the Chief Executive Officer;
- (b) every commercial boat used by the commercial boating operator will retain the pressure necessary for proper buoyancy for its risk management operation throughout the duration of the trip;
- (c) every commercial boat that is out of service is separated from any serviceable boat or is clearly and visibly marked by words indicating that the boat is out of service; and

- (d) in the case of a commercial boat that is manually powered by oars or paddles, there is enough room inside the boat to allow the guide to control the boat.

Equipment carried on commercial boat

32.—(1) Subject to sub-regulation (2), a commercial boating operator shall ensure that the following equipment is carried on every commercial boat and in all cases includes—

- (a) a rescue throw-bag with floating line of sufficient length and size to be effective for the body of inland waters being boated;
- (b) forward and aft security line of sufficient length and size to be effective for the body of inland waters where commercial boating is carried out;
- (c) lifeline properly secured to the boat within reach of swimmers alongside the boat;
- (d) a rescue kit appropriate for the body of inland waters where commercial boating is carried out; and
- (e) a first aid kit,

however, in the case of a boat with a rowing frame, this includes—

- (a) a minimum of 3 oars and adequate rowlocks, oarlocks, pins and clips; or
- (b) an adequate number of paddles.

(2) A commercial boating operator shall ensure that at least 1 boat repair kit, capable of repairing punctures in buoyancy chamber is available, 1 topping up pump and at least 1 rescue kit is—

- (a) carried on the boat;
- (b) carried on one of the boats in the case of a multiple boat trip; or
- (c) if provided for in the operator's approved Plan, readily available from an accompanying support vehicle or from a cache at a location accessible by guides.

(3) In the case of multiple boat trips, the commercial boating operator shall ensure that a first aid kit sufficient for passengers or guests on board is maintained for the duration of the boating trip.

(4) In the case of a group-guided commercial boat trip only using boats which are less than 3 metres in length, each boat may have only 1 securing line.

Safety boat requirements

33.—(1) A commercial boating operator shall ensure that a—

- (a) kayak or river sledge functioning as a safety boat is under the control of a person who is appropriately skilled, experienced, and equipped to be able to safely navigate in support of the commercial boating trip;

- (b) boat functioning as a safety boat shall be under the control of the guide who has been assessed as capable of carrying trainee guides, other guides, or employees of the commercial boating operator on the river and performing the required safety functions; and
 - (c) boat functioning as a safety boat does not carry passengers.
- (2) The use of a river sledge as a safety boat shall be approved by the Chief Executive Officer.

Division 2—Requirements for all boat trips

No commercial boating operations on grade 6 rapids

34. A commercial boating operator shall not operate commercial boating operations during limited visibility half an hour before sunset and sunrise, unless boating outside of those hours is—

- (a) the specific purpose of the trip; and
- (b) provided for in the operator’s approved Risk Management Operation Plan.

River and weather conditions

35. A commercial boating operator shall ensure that the prevailing and forecasted river and weather conditions are suitable before commencing a boat trip.

Other checks before trip

36. Before a commercial boat is operated on a given body of inland water, a guide shall—

- (a) inspect the boat for wear, damage, and proper inflation; and
- (b) ensure that any impact or entrapment hazards are minimised by properly stowing and securing all loose equipment, containers and other objects, including loops and ends of rope, or other tie down materials.

Responsible person off-water

37. A commercial boating operator and each guide of a commercial boat trip shall ensure that, throughout the trip, there is a responsible person off-water who is—

- (a) aware of the trip details, including the—
 - (i) guides involved;
 - (ii) number of passengers and a list of their names;
 - (iii) body of inland waters operated on and the section being run; and
 - (iv) estimated time to return; and
- (b) able to initiate any emergency action in accordance with the operator’s approved Plan.

Sole-guides shall always have adequate back-up

38. A commercial boating operator shall ensure, in the case of a sole-guided commercial boat trip, that the responsible person off-water is able to provide required back-up or emergency service, if the—

- (a) guide becomes incapacitated;
- (b) guide becomes separated from the passengers; or
- (c) guide is for any other reason, unable to continue to guide the trip safely.

Persons on board commercial boats to manage risks in accordance with these Regulations

39.—(1) A commercial boating operator shall ensure that necessary procedures are in place to prevent any person from taking part in a boat trip where, in the opinion of the commercial boating operator the person is impaired.

(2) A guide of a commercial boat trip shall not permit any person to take part, or continue to take part, in a boat trip where, in the opinion of the guide, that person is impaired.

Record keeping

40.—(1) A commercial boating operator shall keep a written record of all the following information—

- (a) every commercial boat trip undertaken;
- (b) the name of the guide of every commercial boat trip;
- (c) the names of the passengers on every commercial boat trip;
- (d) every accident, incident, or mishap on board or involving a commercial boat belonging to the commercial boating operation;
- (e) the first aid qualification held by each guide, and the expiry date of the qualification;
- (f) the fulfilment of the requirement specified in the operator's approved Plan for—
 - (i) staff selection;
 - (ii) training and supervision of staff; and
 - (iii) staff acting as sole-guide or the trip leader; and
- (g) qualifications held and training completed by guides.

(2) A commercial boating operator shall retain, and make available to the Chief Executive Officer at all reasonable times if requested, the information specified in—

- (a) sub-regulation (1)(a) to (c), for 12 months after the trip;
- (b) sub-regulation (1)(d), permanently; and
- (c) sub-regulation (1)(e) to (g), for the period of each guide's employment with the commercial boating operator.

Division 3—Requirements for sole-guided boat trips

Grade 1-2 rapids

41. A commercial boating operator shall ensure that the guide, who is undertaking a sole-guided commercial boat trip on a particular section or body of inland water, holds at least one of the following—

- (a) a national boat guide qualification of grades 1 and 2 rapids, and—
 - (i) has passed an assessment against a standard for river rescue for that specific river section where commercial boating is being carried out to the satisfaction of the Chief Executive Officer; and
 - (ii) meets the requirements specified in the operator’s approved Risk Management Operational Plan for staff selection, training, and supervision; or
- (b) holds a senior national boat guide qualification or higher.

Grade 3-4 rapids

42.—(1) A commercial boating operator shall ensure that the sole-guided commercial boat is only conducted on grade 3-4 rapids if—

- (a) the operator’s approved Plan provides for that type of boat trip; and
- (b) a senior guide holding the appropriate qualification for this grade of rapids is guiding the boat throughout the trip.

(2) A guide of a sole-guided commercial boat trip shall ensure that any trip on grade 3-4 rapids is conducted only in accordance with sub-regulation (1).

No sole-guided boat trip on grade 5 rapids

43.—(1) A commercial boating operator shall ensure that a sole-guided commercial boat trip is not conducted on grade 5 rapids.

(2) A guide of a sole-guided commercial boat trip shall ensure that the boat trip is not conducted on grade 5 rapids.

Division 4—Requirements for multiple boat trips

Trip leader guide – grade 1 or 2 rapids

44.—(1) A commercial boating operator shall ensure that commercial multiple boating trip on grade 1 or 2 rapids are led by a guide who holds at least 1 of the following—

- (a) a national boating guide qualification specific to the body of water guided and the appropriate experience for that particular rapid, and challenges faced, and—
 - (i) has passed an assessment against a standard for boating rescue relevant to the body of water boated upon and that the Chief Executive Officer is satisfied that the training is equivalent to the national standard for the specific body of water being boated; and
 - (ii) meet the requirements specified in the operator’s approved Plan for staff selection, training and supervision; or

- (b) a senior nation boat guide qualification or higher, and meets the requirements specified in the operator's approved Plan for staff selection, training and supervision.

(2) The trip leader of a commercial multiple boat trip shall ensure that any trip on grade 1 and 2 rapids is conducted only in accordance with sub-regulation (1).

Trip leader guide – grade 3, 4 or 5 rapids

45.—(1) A commercial boating operator shall ensure that commercial multiple boat trips—

- (a) on grade 3 rapids are led by a guide who holds a senior national boat guide qualification of grade 3 certificate or higher; and
- (b) on grade 4 or 5 rapids are led by a guide who holds a senior national boat guide qualification of grade 4 or 5 certificate.

(2) The trip leader of a commercial boat trip shall ensure that any trip on grades 3, 4 and 5 rapids is conducted only in accordance with sub-regulation (1).

Other guides – grade 1 or 2 rapids

46. A commercial boating operator shall ensure that every boat taking part in a commercial multiple boat trip on grade 1 or 2 rapids has on board a guide who holds a national boat guide qualification of grade 2 certificate or higher.

Other guides – grade 3, 4 or 5 rapids

47. A commercial boating operator shall ensure that commercial multiple boat trips –

- (a) on grade 3 rapids, have on board every commercial boat except where the Chief Executive Officer makes an exception for boats such as kayaks, a guide who holds the required certification for grade 3 rapids or higher for the body of water being boated; and
- (b) on grade 4 or 5 rapids, have on board every commercial boat a guide who holds a boat guide qualification of grade 4 or 5 rapids certificate or higher.

Multiple operator boat trips

48. A trip leader on a multiple boat trip involving boats or more than 1 commercial boating operation shall be identified in accordance with the arrangement set out in the respective operator's Plan.

Division 5—Requirements for group-guided boat trips

Grades 1 and 2 rapids

49.—(1) A commercial boating operator shall ensure that a group-guided commercial boating is conducted only on grade 1 or grade 2 rapids.

(2) A commercial boating operator shall ensure that, for group-guided commercial boating on grade 1 and grade 2 rapids—

- (a) there is at least 1 guide for every 3 boats;
- (b) there is at least 1 guide for every 12 passengers; and

- (c) if only 1 guide is required, that guide holds a—
 - (i) boat guide qualification of grade 2 rapids; or
 - (ii) national boat guide qualification of grade 3 certificate or higher.

Grade 3 rapids

50.—(1) A commercial boating operator shall ensure that a group-guided commercial boating is conducted on grade 3 rapids only if the operator's approved Plan provides for the type of boating.

(2) A guide of a group-guided commercial boating trip on grade 3 rapids shall ensure that the boat trip is conducted only in accordance with sub-regulation (1).

(3) A commercial boating operator shall ensure that, for group-guided commercial boat trips on grade 3 rapids—

- (a) there is at least 1 guide for every 6 passengers; and
- (b) if only 1 guide is required, that guide holds a senior boat guide qualification of grade 3 or higher.

No group-guided trips on grade 4 rapids or higher

51. A commercial boating operator shall not permit a group-guided commercial boat to take place on rapids of grade 4 or higher.

Position of guides

52.—(1) A guide that is undertaking a group-guided commercial boating trip shall maintain visual contact with the boats and guides immediately upstream and downstream of their boats, who are undertaking the same trip.

(2) A guide on a group-guided commercial boat trip shall be positioned so that he or she can address any safety matters when navigating rapids.

Rapids with difficult passage

53. A guide of a group-guided commercial boat trip shall ensure, for rapid passage that may be difficult to recognise, or if specific manoeuvring to negotiate the rapids is required, or if the rapids present a specific hazard, that—

- (a) the rapids are scouted and analysed before boating;
- (b) a route through the rapid is shared with other guides; and
- (c) any additional safety precautions required are in place before running the rapid, including, as appropriate—
 - (i) a boating strategy;
 - (ii) guides prepared to recover a person from the rapids;
 - (iii) instructing passengers on self-rescue techniques; and
 - (iv) portage option.

Division 6—Classification of rapids

Information about classification of rapids

54. The Chief Executive Officer may, after consultation with groups and individuals, and if the Chief Executive Officer considers appropriate, allocate or re-allocate a grade of rapids to a particular river or body of water, taking into account the classification of rapids as set out in Schedule 3.

PART 6—VOCATIONAL TRAINING FOR TRAINEE GUIDES

Organisations providing vocational training

55.—(1) The Chief Executive Officer may require an organisation that provides vocational training for trainee guides, to undergo such inspections and audits as the Chief Executive Officer considers necessary in the interests of safety.

(2) Every commercial boating operator that provides vocational training for trainee guides shall ensure that the parameters and procedures referred to in regulation 56(1) are included in the operator's approved Risk Management Operational Plan, if the activities to which they relate are undertaken.

Supervision of trainee guides

56.—(1) An organisation that provides vocational training for trainee guides shall define—

- (a) parameters within which trainee guides may undertake trips without on-water supervision where the only other persons on the boat are trainee guides;
 - (b) parameters within which trainee guides may be carried on a commercial boat when river or water conditions exceed those specified in the commercial boating operator's approved Plan for the carriage of passengers;
 - (c) procedures for permitting a trainee guide to control a boat without a guide on board;
 - (d) procedures to be followed when trainee guides participate in simulated incidents and mishaps to test rescue, recovery, and emergency response skills; and
 - (e) procedures to ensure the necessary equipment is carried or worn by trainee guides.
- (2) If a trainee guide is guiding a boat carrying passengers—
- (a) a guide, who, to the satisfaction of the commercial boating operator, has sufficient experience shall also be on board to manage the trainee and maintain overall control of the boat; and
 - (b) an incident or mishap shall not be simulated unless the passengers are advised of the risks, and consent is given to being involved before embarking on the boat trip.

PART 7—HIRE OF BOATS (RENTAL OPERATIONS RESTRICTED
TO BODY OF WATER NOT OPERATED COMMERCIALY)

Boat hire approval

57.—(1) A person shall not give any boat for hire unless that person holds a current boat hire approval issued by the Chief Executive Officer under Part 5.

(2) A boat may only be hired in accordance with the terms of the boat hire approval.

Information about boat hire approvals

58.—(1) A boat hire approval may be issued or renewed for a period of not more than 24 months.

(2) A boat hire approval—

- (a) is limited only to the holder of the approval and is not transferable; and
- (b) ceases to have effect immediately on the change of ownership or control of the boat hire operation.

(3) A holder of a boat hire approval shall immediately inform the Chief Executive Officer of any change to that holder's details as recorded on the boat hire approval document, including—

- (a) change of name;
- (b) change of address; or
- (c) change of contact details.

Requirements for issue and renewal of boat hire approval

59.—(1) Before issuing or renewing a boat hire approval, the Chief Executive Officer shall—

- (a) carry out an inspection of all boats offered for hire and the inspection shall include fittings and equipment for those boats, and be satisfied that the boats, equipment and fittings are, or remain, fit for the purpose intended; and
- (b) ensure that the conditions and operating parameters meet the requirements for the hire of boat, as required by sub-regulation (2).

(2) An application for the issue, or renewal, of a boat hire approval shall include any conditions and operating parameters for the hire of the boat that include, as a minimum, arrangements for the following—

- (a) screening customers for knowledge and skills in relation to the intended boat trip;
- (b) briefing customers on hazards and other environmental factors that could influence the safety of the intended trip; and
- (c) trip reporting, communications, and emergency plans.

Review of conditions and operating parameters

60.—(1) The holder of a boat hire approval shall review the conditions and operating parameters of hire at least once every 12 months period, and take into account operational experience and lessons learnt from analysis of any accidents, incidents or mishaps and make any appropriate adjustments.

(2) The holder of a boat hire approval shall keep a record of all reviews carried out and any adjustments made in accordance with sub-regulation (1).

PART 8—OFFENCES AND PENALTIES

Offences and penalties

61.—(1) Any person or commercial boating operator shall comply with the provisions of these Regulations.

(2) Any person or owner or commercial boating operator who contravenes any provision of these Regulations commits an infringement offence under section 262 of the Decree and shall be liable to a fine not exceeding \$3,000.

Made this 14th day of December 2014.

P. TIKODUADUA
Minister for Infrastructure and Transport

SCHEDULE 1
(Regulation 13)

FEES AND CHARGES FOR COMMERCIAL BOATING OPERATIONS

| <i>Item No.</i> | <i>Prescribed fees</i> | <i>Rate \$ (VAT Exclusive)</i> |
|-----------------|--|--------------------------------|
| 1. | Application and approval fees, include— Receiving and processing application Assessment of application Processing and issuance of Certificate of Compliance | 75.00 |
| 2. | Initial audit of safety standards, Risk Management Operational Plan and facilities | 500.00 |
| 3. | Annual verifications, audits of safety standards, Risk Management Operational Plan and facilities | 250.00 |
| 4. | Approval for modification to approved Risk Management Operational Plan | 75.00 |
| 5. | Assessment of application and approval of recognised organisation | 75.00 |
| 6. | Initial audit of recognised organisation | 500.00 |
| 7. | Annual verifications, audits of recognised organisation | 250.00 |

SCHEDULE 2
(Regulation 5)

INFORMATION TO BE INCLUDED IN RISK MANAGEMENT
OPERATIONAL PLAN

Commercial boating operations

1. *Commercial boating operator and areas of commercial boating operations*
 - (1) Commercial boating operator—
 - (a) legal owner name and contact details;
 - (b) trading name of commercial boating operation; and
 - (c) name of person responsible for the approved Risk Management Operational Plan.
 - (2) Areas of commercial boating operations—
 - (a) maps or plans detailing the areas of commercial boating operations and their environment showing at least the following information—
 - (i) river trip start points;
 - (ii) river trip finish points;
 - (iii) access/egress points to the body of water in emergencies such as roads, tracks and helicopter landing areas;
 - (iv) camp and stop-over points;
 - (v) pick up routes for shuttle drivers;
 - (vi) significant rapids;
 - (vii) significant hazards on the river; and
 - (viii) reception areas for cellular telephone, radio, other communication devices, and position indicating systems.

Commercial boats

2. *Design specifications and types of commercial boats*
 - (1) The design specifications for, and types of, commercial boats required to safely negotiate the rivers and bodies of water on which the commercial boats are to operate.
 - (2) The policies for ensuring that only the commercial boats referred to in (1), and approved in the Risk Management Operational Plan, are operated.
3. *Ensuring no sub-standard commercial boats are operated*
 - (1) A description of how the commercial boating operator will ensure that a commercial boat is not operated in a sub-standard condition (for example, a schedule of inspection and maintenance, a retirement policy for boats, and a procedure for taking boats out of service).

4. *Equipment*

- (1) Design specifications and types of equipment and clothing—
 - (a) the design specifications and types of equipment and clothing that are required to ensure that persons are properly equipped to lead and participate in commercial boating operations on the rivers and bodies of waters being boated by the commercial boating operation; and
 - (b) the operator's policies to ensure provision of all equipment and clothing is of a type specified, (for example, paddles, personal flotation devices, helmets, throw-lines, wetsuits, thermal wear, footwear, repair equipment, and first-aid kits).

5. *Ensuring all equipment and clothing are up to standard*

- (1) A description of how the commercial boating operator will ensure that all equipment and clothing used for the commercial boating operation is –
 - (a) kept in good condition;
 - (b) supplied in sufficient quantity;
 - (c) available in an adequate range of sizes; and
 - (d) kept separate from equipment that is not in use.

6. *Equipment carried by guides*

- (1) The procedures for ensuring that guides carry or wear personal rescue equipment appropriate to the body of water where commercial boating is being carried out, for example, a knife suitable for cutting boats, a whistle, at least 2 karabiners, at least 2 prussic cords, a flip line, a throw bag.

7. *Clothing*

- (1) A description of the clothing to be worn by guides, trainee guides and passengers to ensure compliance with these Regulations.
- (2) Where clothing requirements may differ between rivers, bodies of water or types of trips, a description of the clothing requirements, and procedures for ensuring compliance with these Regulations.

Guides

8. *Skills and experience required by guides*

- (1) The skills and experience required by guides who are to participate in the commercial boating operations.
- (2) The policies for employing persons who have the skills and experience referred to in (1).

9. *Ensuring guides can safely lead boat trips*

- (1) A description of how the commercial boating operator will ensure that every person they employ as a guide can safely lead boat trips on the bodies of waters boated by that commercial boating operation.

- (2) The ways in which the commercial boating operator ensures that their guides can safely lead boat trips including, for example, its arrangements for the following—
 - (a) training required;
 - (b) assessments;
 - (c) qualifications;
 - (d) supervision;
 - (e) limitations on the use of guides holding certain qualifications;
 - (f) reviews;
 - (g) induction training;
 - (h) skill development;
 - (i) minimum trips.

10. Position descriptions of guides

- (1) The position descriptions of the guides that the commercial boating operator employs, including, in relation to risk management, the principal tasks and responsibilities of the guides and the commercial boating operator.

11. Ensuring guides are medically and physically fit to work as guides

- (1) A description of how the commercial boating operator will ensure that guides are medically and physically fit to work as guides, including arrangements the commercial boating operator has in place to ensure that guides do not take part in any boating trip where, in the opinion of the commercial boating operator, a guide is impaired. The procedures for a guide to follow where, in the opinion of the guide, it is no longer safe to permit another guide to take part, or continue to take part, in a boating trip because that guide is impaired.

12. Procedure for refusing to work as guide on safety grounds

- (1) The procedure to be followed if a guide refuses to work on the grounds of compromised safety to themselves, other boating guides, or passengers, including how to recognise a situation to which the procedure applies.

Passengers

13. Enabling passengers to book a suitable boat trip

- (1) A description of how the commercial boating operator will provide all passengers with enough information to enable them to book a boating excursion that is suitable to their needs and abilities. The same responsibility applies to the tour desk and other points of sale operations where booking is handled by someone other than the commercial boating operator.

14. Screening of passengers for safety reasons

- (1) A description of how the commercial boating operator will screen each passenger on a boat trip to ensure that the safety of the passenger and other passengers on the boat trip will not be compromised.

15. *Effective communication with passengers*

- (1) A description of how the commercial boating operator will ensure that all passengers receive and understand the information they need to participate safely in the boat trip¹ which should include a provision of safety briefing or talks, liability waivers and other necessary information in the English language.

16. *Passenger safety when sole guide becomes incapacitated or separated from passengers*

- (1) A description of how the commercial boating operator will manage passenger safety if a sole guide is incapacitated or becomes separated from the passengers.

On-water management

17. *Communication systems*

- (1) The communication systems used, including those between on-water guides and off-water support personnel for both operational and emergency support.
- (2) The arrangements in place to ensure that there is at least one means of effective emergency communication at all times², except where technology, relay, and repeaters are not available, other emergency communication may be limited to a runner for assistance.
- (3) Back-up arrangements in case the primary means of emergency communication fails, including actions to be taken in the event of non-arrival of a boating group at a pre-arranged time and place.

18. *Ensuring boat trips are managing their risk effectively and efficiently in all operating conditions—*

- (1) A description of how the commercial boating operator will ensure that each boat trip will manage its risk accordingly in all operating conditions³, including how the commercial boating operator intends to manage—
 - (a) passenger to guide ratios;
 - (b) number of guides on each trip;
 - (c) safety briefings;
 - (d) age of passengers; and
 - (e) boat departure times.

19. *Additional information*

- (1) If safety practices applying to a particular body of water require certain equipment to be provided or carried, a description of the following shall also be included, as appropriate—
 - (a) the provision of safety boats;

¹For example, safety briefings, demonstrations, and information to passengers who do not speak English.

²For example, a distress beacon or radio (VHF, HF or UHF as appropriate to the river); or cell phone or satellite phone. To be effective, arrangements need to ensure communications in the area in which the boat trip is taking place (e.g. a cell-phone will not be effective if the area being boated has no cell-phone coverage).

³The details may vary from operation to operation and one body of water to another body of water. The commercial boat operator may also place different emphasis on various areas, but only if overall safety is maintained.

- (b) ways of dealing with specific hazards;
- (c) inspection of sections of the river during a boat trip; and
- (d) responsibilities of any person driving a support motor vehicle.

20. *Changes to commercial boating operations*

- (1) A description of how the commercial boating operation deals with changed or changing circumstances including the following—
 - (a) boating infrequently visited bodies of water;
 - (b) new passenger groups;
 - (c) increased water traffic in particular body of water; and
 - (d) alterations to riverbed topography.

Safe river flows and weather conditions

21. *Safe river flows*

- (1) The river flows that are safe for the commercial boating operation.
- (2) The sources of the information referred to in (1).
- (3) The requirements to operate within those safe river flows.
- (4) Other conditions on other bodies of water that may require the same or different type of oversight.

22. *Safe weather conditions*

- (1) The types of weather conditions that are safe for the commercial boating operation.
- (2) The sources of information referred to in (1).
- (3) The requirements to operate within those safe weather conditions.

Health and safety responsibilities

23. *Managing hazards*

- (1) A description of how the commercial boating operator intends to meet its health and safety responsibilities under the Health and Safety At Work Act 1996, including, but not limited to—
 - (a) the process used by the commercial boating operator to identify the operational hazards that may cause harm to a person; and
 - (b) the way in which the commercial boating operator will review operational hazards and how they are dealt with, including how boat guides are made aware of new hazards before guides and passengers are exposed to them, (for example, day-to-day changes in river conditions); and

- (c) a description of how the commercial boating operator will ensure participation of guides in the process of identification, control, and review of operational hazards, including—
 - (i) following instructions given by the employer relating to health and safety;
 - (ii) using appropriate personal protective clothing and equipment and following instructions for its correct use;
 - (iii) not misusing or damaging boats and their equipment;
 - (iv) reporting accidents and significant hazards and mishaps to the commercial boating operator; and
 - (v) complying with the monitoring system that the commercial boating operator uses to ensure that the Risk Management Operational Plan is adhered to in day-to-day operations.

Emergencies

24. Emergency plans

- (1) An emergency plan that—
 - (a) identifies potential emergencies;
 - (b) outlines procedures to minimise the adverse consequences of these events;
 - (c) includes procedures for—
 - (i) situation management;
 - (ii) call-out;
 - (iii) evacuation;
 - (iv) identification and allocation of resources; and
 - (v) procedures for notification of water police and other rescue services; and
 - (d) specifies training and exercises to ensure the effectiveness of the plan and prepares employees for an emergency.

Accidents, incidents, and mishaps

25. Recording and reporting procedures

- (1) The recording and notification procedures for accidents, incidents, and mishaps, which shall comply with section 19 of the Decree.

26. Investigation procedures

- (1) The procedures for investigating accidents, incidents, and mishaps.

27. Reviews

- (1) The procedures for reviewing accidents, incidents, and mishaps for causes and trends.

SCHEDULE 3
(Regulation 54)

CLASSIFICATION OF RAPIDS⁴

Grade 1 rapids

Grade 1 rapids have—

- (a) small regular waves; and
- (b) a clear passage that is easy to recognise and negotiate, although care may be needed with obstacles such as fallen trees and bridge piers.

Grade 2 rapids

Grade 2 rapids have—

- (a) regular medium-sized waves of less than 1 metre;
- (b) low ledges or drops, easy eddies, and gradual bends; and
- (c) a passage that is—
 - (i) easy to recognise; and
 - (ii) generally unobstructed, although there may be rocks in the main current, overhanging branches, or log jams.

Grade 3 rapids

Grade 3 rapids—

- (a) have fairly high waves of 1 to 2 metres;
- (b) have broken water, stoppers and strong eddies, exposed rocks, and small falls;
- (c) have a passage that may be difficult to recognise from the river; and
- (d) require manoeuvring to negotiate the rapids.

Grade 4 rapids

Grade 4 rapids are difficult rapids that—

- (a) have high, powerful, irregular waves, broken water, often boiling eddies, strong stoppers, ledges, drops, and dangerous exposed rocks;
- (b) have a passage that is often difficult to recognise; and
- (c) require precise and sequential manoeuvring to negotiate the rapids.

Grade 5 rapids

Grade 5 rapids are very powerful rapids that—

- (a) have very confused and broken water, large drops, violent and fast currents, abrupt turns, difficult powerful stoppers, and fast boiling eddies;

⁴The classification of rapids is based on a rapids grading system. The grade of each rapid is approximate. The difficulty and seriousness of a section of water can alter dramatically within a short space of time through factors such as increased or decreased flow, new obstacles, and changes in riverbed topography.

- (b) have numerous obstacles in the main current;
- (c) require complex, precise, powerful, and sequential manoeuvring to negotiate the rapids; and
- (d) pose a definite risk to personal safety.

Grade 6 rapids

Grade 6 rapids—

- (a) are significantly life threatening if swum;
- (b) are unrunnable by all but a few experts;
- (c) have impracticable difficulties and obstacles; and
- (d) have very confused and violent water, which make controlled navigation by boat virtually impossible.

SCHEDULE 4

CERTIFICATE OF COMPLIANCE

Republic of Fiji

Maritime Safety Authority of Fiji



CERTIFICATE OF COMPLIANCE FOR COMMERCIAL BOATING OPERATORS

Certificate Number: _____

Issued in accordance with Regulation 11

The Government of: _____

Name of Business or Operation: _____

Address of Business or Operation: _____

THIS IS TO CERTIFY that your operation is in compliance with the provisions of this regulation.

This Certificate of Compliance authorises the commercial boating operator to carry out his or her operation in _____

(demarcated area of operation)

