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## MARITIME SAFETY AUTHORITY OF FIJI DECREE 2009

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### GOVERNMENT OF FIJI

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#### MARITIME SAFETY AUTHORITY OF FIJI DECREE 2009 (DECREE NO. 2)

IN exercise of the powers vested in me as President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority Decree 2009, I hereby make the following Decree—

#### PART 1—PRELIMINARY

##### *Short title and commencement*

- 1.—(1) This Decree may be cited as the Maritime Safety Authority of Fiji Decree 2009.
- (2) This Decree shall come into force on the date or dates as the Minister may, by notification in the *Gazette*, appoint.

##### *Interpretation*

- 2. In this Decree, unless the context otherwise requires—
  - “Authority” means the Maritime Safety Authority of Fiji, established under section 7;
  - “Board of Directors” mean those persons appointed by the Minister in accordance with section 8;
  - “Chairman” means the chairman of the Authority appointed under section 9 or of a committee appointed under section 29;
  - “Chief Executive Officer” means the person appointed as such under section 31;

“Commercial statutory authority” means an authority declared as such under the Public Enterprises Act;

“Committee” means a committee appointed under section 29;

“Member” means a member of the Authority or of a committee appointed under section 29(3);

“Minister” means the relevant Minister as defined under section 78 of the Public Enterprise Act in this instance is the Minister for Transport;

“Public Enterprises Act” means the Act of 1996 including any amendments thereafter.

*Object of the Decree*

3. The object of this Decree is to establish a Maritime Safety Authority to operate as a commercial statutory authority.

*Decree to bind State*

4. This Decree binds the State.

*Administration of Decree*

5. This Decree shall be administered by the Maritime Safety Authority of Fiji.

*Application of Decree*

6. This Decree applies throughout the Fiji Islands, including any person in the Fiji islands irrespective of the person’s nationality or citizenship, subject to any exemptions under this Decree.

## Part 2—MARITIME SAFETY AUTHORITY

### Division 1—Establishment, Membership, and Meetings of Authority

*Establishment of Maritime Safety Authority of Fiji*

7.—(1) This section establishes the Maritime Safety Authority of Fiji as a commercial statutory authority with perpetual succession and a common seal which may—

- (a) sue and be sued;
- (b) purchase, acquire, hold, or alienate real or personal property;
- (c) do or perform such other acts or things as commercial statutory authorities may under the Law do or perform.

*Composition of Authority*

8.—(1) The Authority shall consist of five members appointed by the Minister.

(2) The members shall be persons who, in the opinion of the Minister, have adequate experience in public administration, in financial, in admiralty, commercial, and legal matters.

(3) Before appointing a person as a member, the Minister shall have regard to any potential conflicts of interest that the person may have.

*Chairman of Authority*

9.—(1) The Minister will appoint any of the members of the Authority to be the Chairman.

(2) The Chairman may, in concurrence with the Minister, authorise in writing any member to exercise any power or perform any function conferred on the Chairman by or under this Decree.

*Tenure of Office*

10. A member appointed under section 8 shall hold office for a term not exceeding 3 years and is eligible for reappointment.

*Revocation and resignation*

11.—(1) The Minister may, at any time, revoke the appointment of a member.

(2) A member may at any time resign, by giving notice in writing to the Minister.

*Vacation of office*

12.—(1) The office of a member shall become vacant if the member—

- (a) has been absent, without leave of the Authority, from 3 consecutive meetings of the Authority;
- (b) becomes or has, in Fiji or elsewhere, been declared bankrupt and has not been discharged;

- (c) has, in Fiji or elsewhere, been convicted of an offence involving dishonesty in any Act or an offence under the Marine Act;
- (d) has, in Fiji or elsewhere, been disqualified or suspended from practicing his profession by any competent authority by reason of misconduct.

(2) The Authority may act notwithstanding a vacancy in its membership.

*Remuneration of members*

13.—(1) Members of the Authority or persons invited to attend a meeting of the Authorities under section 14 are entitled to such remuneration as the Minister may fix in accordance with the Board of Director's Remuneration Level as approved by Cabinet.

(2) The total remuneration paid under subsection (1) in respect of any financial year shall not exceed an amount approved for that purpose.

*Meetings*

14.—(1) The Authority shall meet as often as may be necessary for the performance of its functions.

(2) At any meeting the quorum of the Authority shall be four.

(3) Notice of a meeting of the Authority shall be given to each member and shall be delivered by hand or sent by post, telex, facsimile or other written message to an address supplied to the Authority for the purpose.

(4) Decisions at meetings of the Authority shall be by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman or member presiding shall have a casting vote in addition to his original vote.

(5) Subject to this section, the Authority may regulate its procedure in such manner as it thinks fit.

*Authority may invite others to meetings*

15. The Authority may invite a person to attend a meeting of the Authority for the purpose of advising it on any matter under discussion, but the person so attending shall have no right to vote at the meeting.

*Disclosure of Interest*

16.—(1) A member of the Authority or of a committee who is, directly or indirectly, interested in a matter under discussion by the Authority or committee shall disclose to the Authority or committee the fact and nature of his interest.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Authority or committee.

(3) After a disclosure under subsection (1) the member in question—

- (a) shall not take part in nor be present during any discussion, deliberation or decision of the Authority or committee; but
- (b) may be counted for the purpose of forming a quorum of the Authority or committee.

(4) A member who fails to disclose his interest as required by subsection (1) commits an offence and, is liable on conviction to a fine of \$10,000.00 and to imprisonment for 7 years.

*Minutes*

17.—(1) The Authority and every committee shall keep minutes of all its meetings in a proper form.

(2) Any minutes, if duly signed by the Chairman or person presiding, shall, in any legal proceedings, be admissible as evidence of the facts stated in them and a meeting of the Authority or committee in respect of which minutes have been so signed is deemed to have been duly convened and held and the members present at it to have been duly appointed to act.

*Common Seal*

18.—(1) The Authority shall have a common seal of such design as it may decide.

(2) The common seal shall be kept by the Chairman and its affixing shall be authenticated by any two members generally or specifically authorized by the Authority for the purpose, or by one such member and the Chairman.

(3) All deeds, documents, and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall, unless the contrary is proved, be presumed to have been validly executed.

(4) The common seal of the Authority shall be officially and judicially noticed for all purposes.

*Validity of Proceedings*

19. The validity of any proceedings or act of the Authority or of a committee shall not be affected by any defect in the appointment of any member.

### Part 3—TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES

*Transfer of assets and liabilities to the Authority*

20.—(1) As from the commencement of this Decree, all movable property vested in the State immediately before that date and used or managed by the Fiji Islands Maritime Safety Administration, and all assets, interests, rights, privileges, liabilities and obligations of the State relating to that Administration shall be transferred to and shall vest in the Authority without any conveyance, assignment, or transfer.

(2) Every right and liability vested under subsection (1) in the Authority may, on and after the commencement of this Decree, be sued on, recovered or enforced by or against the Authority in its own name and it shall not be necessary for the Authority or the State to give notice to any person whose right or liability is affected by the vesting.

(3) On and after the commencement of this Decree, any agreement relating to any property, rights and liabilities transferred to and vested in the Authority under subsection (1) to which the State was a party immediately before the commencement of this Decree, whether in writing or not, and whether or not of such a nature that rights and liabilities could be assigned by the State, shall have effect as if the Authority had been a party to the agreement.

(4) If a question arises as to whether any particular property, asset, interest, right, privilege, liability, or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

(5) Sections 1, 3, 4, 5, 6, and 7 of the Rules for Transferring Assets and Liabilities under Schedule 2F1, and the General Provisions under Schedule 2F2 of the Public Enterprises Act, shall be applied during the transfer of assets and liabilities.

*Transfer of Employees*

21.—(1) As from the commencement of this Decree, persons employed immediately before that date in the Fiji Islands Maritime Safety Administration whose services are required by the Authority for the performance of its functions under this Act shall be transferred to the service of the Authority on terms not less favorable than those enjoyed by them immediately prior to their transfer.

(2) Until such time as terms and conditions of service, including rules as to the conduct and discipline of its employees, are drawn up by the Authority, the terms and conditions of service of State employees, including rules as to the conduct and discipline of State employees, shall continue to apply to every person transferred under subsection (1).

(3) In drawing up the terms and conditions of employment including rules as to the conduct and discipline of its employees, the Authority shall take into consideration the Employment Industrial Relations Plan stipulated in section 80 of the Public Enterprise Act

(4) Nothing in this Act shall affect the rights, duties, or obligations of an employee not transferred to the Authority.

*Rights of transferred employees*

22. For the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of a transferred employee, the contract of employment of that employee is deemed to have been unbroken and the period of service with the State is for all purposes deemed to have been a period of service with the Authority.

*Existing Contracts*

23. All deeds, bonds, agreements, instruments and arrangements to which the State is a party subsisting immediately before the commencement of this Decree and relating to the Fiji Islands Maritime Safety Administration or to any transferred employee shall continue in force after that date and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the State.

*Continuation of proceedings*

24. Any action, arbitration, proceedings or cause of action that relates to a transferred asset, liability, or employee and that immediately before the commencement of this Decree is pending or existing by, against, or in favor of the State or to which the State is a party, may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against, or in favor of the Authority.

*No benefits in respect of abolition or reorganization of office*

25. A person who is transferred to the service of the Authority is not entitled to claim any benefit on the ground that he has been retired from the service of the State on account of abolition or reorganization of office in consequence of the establishment and incorporation of the Authority.

## Part 4—FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

*Functions of the Authority*

26. Notwithstanding section 84(a) of the Public Enterprises Act, the functions of the Authority are—

- (a) to provide services in administering and enforcing the laws specified in the Marine Act and any other law relating to the regulation, registration and safety of shipping;
- (b) to exercise all functions and perform all duties carried out by the Fiji Islands Maritime Safety Administration immediately prior to the commencement of this Decree;
- (c) to advise the State on matters relating to maritime safety and maritime security and to liaise with appropriate Ministries and statutory bodies on such matters; and
- (d) to represent the State internationally in respect of matters relating to maritime affairs, subject to protocol clearance.

*Powers of the Authority*

27.—(1) The Authority shall have all such powers as may be reasonably necessary or convenient for the purpose of carrying out its functions under this Decree and regulating its own procedure.

(2) The powers of the Authority do not include the powers of the Registrar which is conferred by virtue of section 31(2) on the Chief Executive Officer.

*Delegation of Powers*

28.—(1) The Authority may from time to time, by writing under the hand of the Chairman, delegate to any person or committee any of the Authority's powers under this Decree.

(2) A delegation under this section may be made to a specified person or persons or committee or to the holder for the time being of a specified office or to the holders of offices of a specified class.

(3) A delegation may be made subject to such restrictions and conditions as the Authority thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(4) Any person or committee purporting to exercise any power of the Authority by virtue of a delegation under this section shall, when required to do so, produce evidence of his or its authority to exercise the power.

*Appointment of Committees*

29.—(1) At the beginning of each financial year the Authority shall appoint an Audit Committee which shall have the following functions:

- (a) to develop a program for the internal auditing of the Authority's accounts and practices for submission and approval by the Minister for Public Enterprise; and
- (b) to investigate allegations of corruption against members or employees of the Authority and to report its findings to the Authority, whereupon the Authority shall submit a copy of the report to the Minister.



(2) The Authority shall appoint a Marine Appeals Committee which shall hear and determine appeals against the decisions of the Chief Executive officer in matters concerning the registration of vessels, survey certification of vessels, and certification of seafarers under Parts 3, 4 and 5 of the Marine Act, and any other matter prescribed by the Minister by regulations.

(3) The Authority may —

- (a) establish other committees to assist the Authority in the performance of its functions under this Decree;
- (b) appoint any person to be a member of a committee established under subsections (1) or (2); and
- (c) appoint a chairman of any such committee.

(4) Persons who are disqualified by this Decree from being members of the Authority shall also be disqualified from being members of a committee.

(5) A committee established under this section may regulate its own procedure but shall be subject to any directions given by the Authority.

(6) A committee established under this section shall meet at such times and places as the chairman may determine.

(7) A committee may invite any person to attend any meeting for the purpose of advising it on any matter and a person so invited is not entitled to vote.

(8) Members of a committee and persons invited under subsection (7) to attend are entitled to such allowances and expenses as the Authority may fix.

*Appointment of employees, agents and consultants*

30. The Authority may appoint on such terms and conditions as it thinks fit such employees, agents, or consultants as may be necessary or expedient for carrying out its functions and duties.

*Appointment of Chief Executive Officer*

31.—(1) The Authority shall, after consultation with the Minister, by notification in the *Gazette*, appoint a Chief Executive Officer on such terms and conditions as the Authority may determine.

(2) The Chief Executive Officer shall —

- (a) hold office as the Registrar under the Marine Act;
- (b) administer the operational roles of the former Marine Board under the Marine Act, apart from the adjudicative role of that which will be handled by the Marine Appeals Committee;
- (c) be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority;
- (d) be responsible to the Authority for the administration and enforcement of, and collection of Fees, Charges, and Prescribed Penalties under the Marine Act;
- (e) perform such other functions or duties as the Authority, from time to time, may determine;
- (f) not be removed from office without consulting the Minister.

(3) If the Chief Executive Officer is temporarily absent from Fiji, or is temporarily unable to perform his duties for any other reason, the Authority may, after the Chairman has consulted the relevant Minister, appoint a person to act in the place of the Chief Executive Officer during that period.

(4) Despite anything written in any other law, the Chief Executive Officer may delegate to any other officer or employee of the Authority any of his powers under this Decree or under the Marine Act except the power of delegation under this subsection.

*Regulations with respect to discipline*

32.—(1) The Authority may make regulations with respect to the conduct and discipline of its officers and employees.

(2) Regulations made under this section may, amongst other things, provide for —

- (a) interdiction with reduction in salary or in other remuneration; and
- (b) suspension without salary or other remuneration;

of an officer or employee of the Authority while disciplinary proceedings against the officer or employee are pending.

(3) The regulations made under this section shall provide for an opportunity to be given to the officer or employee concerned to make representations before a decision is arrived at by the Authority.

*Imposition of surcharge*

33.—(1) If—

- (a) the Authority is satisfied that any officer or employee—
  - (i) is or was responsible for the improper payment of moneys or for the payment of such moneys which is not duly vouched; or
  - (ii) is or was responsible for any deficiency in, or for the destruction of, moneys, securities, stores or other property of the Authority; and
  - (iii) if a satisfactory explanation is not furnished within a period specified by the Authority,

the Authority may surcharge against the officer or employee a sum not exceeding the amount of any such payment, deficiency or loss, or the value of the property destroyed, as the case may be.

(2) If—

- (a) the Authority is satisfied that any officer or employee—
  - (i) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
  - (ii) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the Authority to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Authority; and
- (b) a satisfactory explanation is not furnished within a period specified by the Authority, the Authority may surcharge against the said person such sum as the Authority may think fit.

(3) Upon a surcharge being made under subsection (1) or (2), the Chairman shall notify the person surcharged.

(4) The Authority may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made.

(5) The amount of any surcharge imposed under subsection (1) and not withdrawn under subsection (4) shall be a debt due to the Authority from the person against whom it is imposed and may be sued for and recovered in any court at the suit of the Authority and may also be recovered by deduction from the salary or pension of the person surcharged by equal monthly installments not exceeding one quarter of that person's total monthly salary or pension.

*Minister and the Minister for Public Enterprise may give directions and require information*

34.—(I) The Minister and the Minister for Public Enterprise may, in writing, give to the Authority directions of a general character not inconsistent with this Decree relating to the performance of the Authority's functions and the Authority shall give effect to such directions.

(2) The Authority shall provide to the Minister or the Minister for Public Enterprise such information as he may, from time to time, require.

*Limitation of liability*

35.—(1) No proceedings, civil or criminal, shall lie against the Authority for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that it did not act in good faith or with reasonable care.

(2) No proceedings, civil or criminal, shall lie against any member, officer, or employee of the Authority for anything done or said, or any failure to do or say anything in the course of the operation of the Authority, unless it is shown that the person did not act in good faith or with reasonable care.



*Public Servants*

36. All members of the Authority and any of its committees and all officers, employees, or agents of the Authority, while discharging their duties, shall be deemed to be public servants within the meaning of the Penal Code.

Part 5—FINANCIAL PROVISIONS

*Money to be appropriated by Cabinet*

37. All sums payable to the Authority for services it renders in accordance with section 26, shall be payable out of money to be appropriated by Cabinet for the purpose.

*Funds of the Authority*

38. The funds of the Authority shall consist of—

- (a) money appropriated by Cabinet and paid to the Authority for services it renders pursuant to section 26;
- (b) money received by it for services it renders to other persons;
- (c) money received by the Authority by way of grants;
- (d) money derived from the disposal, lease or hire of, or any other dealing with, any property acquired by the Authority;
- (e) money borrowed by the Authority in accordance with this Decree;
- (f) income from investments by the Authority made under this Decree;
- (g) fees, charges or prescribed penalties imposed by the Authority under this Decree or authorized under the Marine Act and payable to the Registrar;
- (h) other money which may become payable to the Authority in respect of any matter incidental to its functions and powers.

*Bank accounts*

39.—(1) The Authority shall open at one or more banks such accounts as are necessary for the exercise of its functions and powers.

(2) Money received by the Authority or by any officer or employee on behalf of the Authority shall, as soon as practicable after it has been received, be paid into such bank accounts opened under subsection (1) as the Authority from time to time determines.

(3) Subsection (2) does not affect the requirements under sections 81(6) and 81(1) of the Public Enterprises Act for the Authority to make payments of dividends and interim dividends respectively, to government.

(4) The withdrawal or payment of money from an account opened under subsection (1) shall be authorized by prior resolution of the Authority or shall be submitted to the Authority for confirmation in a meeting as soon as practicable after the withdrawal or payment.

(5) The withdrawal or payment of money from an account opened under subsection (1) shall be effected only by such person or persons as the Authority may from time to time authorise.

*Investment*

40. The Authority may invest part of its funds in so far as the funds are not required to be expended by the Authority.

*Power to borrow*

41.—(1) The Authority may borrow, subject to the approval of the Minister for Public Enterprise, any sums required by the Authority to meet any of its obligations or to perform any of its functions.

(2) Borrowings under subsection (1) require the approval of the Minister for Public Enterprise, except for overdraft facilities required for working capital purposes.

*Conservation of funds*

42. The Authority shall conserve its funds by performing its functions and exercising its powers under this Decree so as to ensure that the total income of the Authority are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital.

*Expenditure to be charged on funds of the Authority*

43. The funds of the Authority shall be expended for the purposes of—

- (a) paying any expenditure lawfully incurred by the Authority in the performance of its functions or the exercise of its powers under this Decree;
- (b) discharging any obligations and liabilities of the Authority and making any payments which the Authority is required or authorized to make;
- (c) generally paying any expenses for carrying into effect the provisions of this Decree.

*Payment of Dividend to the State*

44. The Authority's obligation to pay dividends and interim dividends to the State shall be undertaken in accordance with section 81 and section 82 of the Public Enterprises Act.

## Part 6—REPORTING AND ACCOUNTABILITY

*Financial Year*

45. The Authority's financial year shall be from the 1st day of January to the 31st day of December of each year.

*Half yearly reports*

46.—(1) The Authority shall furnish the Minister for Public Enterprise with a report on its activities for the first half of each financial year (in this Part referred to as the half yearly report).

(2) The half yearly report shall be given to the Minister for Public Enterprise by the end of August or on such a later date as may be agreed between the Authority and the Minister.

(3) The half yearly report shall include the information required by the Authority's statement of corporate intent to be given in the report.

*Annual Report*

47.—(1) Within 4 months after the end of each financial year the Authority shall in accordance with its statement of corporate intent prepare a report of its activities during that financial year (in this Part referred to as the Annual Report).

(2) The Authority shall send a copy of the Annual Report to the Minister for Public Enterprise who shall cause it to be laid before Cabinet as soon as practicable.

(3) The Annual Report required by subsection (1) shall contain, among other things:

- (a) an audited statement of accounts prepared in accordance with generally accepted accounting practice as determined by the Fiji Institute of Accountants;
- (b) a statement of financial performance, including a statement of the financial position of the Authority;
- (c) a statement of cash flows;
- (d) such other information as is required to give a true and fair view of the Authority's financial affairs; and
- (e) a copy of the auditor's report.

(4) The Annual Report shall include the information required by the Authority's statement of corporate intent to be given in it.

(5) The statement of accounts of the Authority shall be audited by such auditor as the Minister for Public Enterprise appoints upon the recommendation of the Audit Committee.

*Authority to have a corporate plan*

48.—(1) The Authority shall in each year publish a corporate plan setting out plans for the future operations of the Authority and shall act in accordance with it.

(2) The Minister for Public Enterprise may issue guidelines as to the format and content of the corporate plan and the Authority shall comply with the guidelines except as otherwise agreed in writing by the Minister for Public Enterprise.

(3) A corporate plan shall, except as otherwise agreed in writing by the Minister for Public Enterprise, contain—

- (a) a forecast of profit and loss accounts, balance sheets and cash flows for the current and following 2 financial years; and
- (b) a statement of the assumptions on which the forecasts are based.

(4) The corporate plan shall be consistent with the Authority's statement of corporate intent.

*Draft corporate plan*

49.—(1) The Authority shall, not later than 3 months before the commencement of each financial year, prepare a draft corporate plan.

(2) The draft corporate plan shall, as soon as possible, be sent to the Minister for Public Enterprise, who shall within 1 month give his comments in writing or inform the Authority that he has no comments.

(3) If the Minister for Public Enterprise has no comments on the draft corporate plan, the plan shall be treated as approved.

(4) If the Minister for Public Enterprise comments on the draft corporate plan, the Authority shall give effect to the comments and deliver the authorize corporate plan to the Minister for Public Enterprise, within 1 month after receiving them, for approval.

*Authority to have statement of corporate intent*

50.—(1) The Authority shall, in each year, publish a statement of corporate intent containing a summary of the corporate plan and setting out the financial and non-financial performance targets of the Authority for that year.

(2) In addition to the matters mentioned in subsection (1), the statement of corporate intent shall include—

- (a) an outline of the objectives of the Authority;
- (b) an outline of the nature and scope of the activities proposed to be undertaken by the Authority;
- (c) an outline of the Authority's main undertakings;
- (d) an outline of the borrowings made and proposed to be made by the Authority, and the corresponding sources of funds;
- (e) an outline of the Authority's policies and procedures relating to the acquisition and disposal of major assets;
- (f) a description of the Authority's accounting policies;
- (g) a description of the financial information to be given to the Minister for Public Enterprise in the half yearly report and Annual Report;
- (h) a description of measures by which the performance of the Authority may be judged in relation to its objectives, in addition to the performance targets required by subsection (1);
- (i) such other matters as are agreed by the Minister for Public Enterprise and the Authority or are directed by the Minister for Public Enterprise to be included in the statement of corporate intent.

(3) The Minister for Public Enterprise may, in writing, exempt the Authority from including in its statement of corporate intent any matter, or any aspect of a matter, mentioned in subsection (2).

*Draft statement of corporate intent*

51.—(1) The Authority shall, not later than 3 months before the commencement of each financial year, prepare a draft statement of corporate intent.

(2) The draft statement of corporate intent shall, as soon as possible, be sent to the Minister for Public Enterprise who shall, within 1 month, give his comments in writing on the draft statement of corporate intent or inform the Authority that he has no comments.

(3) If the Minister for Public Enterprise has no comments on the draft statement of corporate intent, the statement shall be treated as approved.

(4) If the Minister for Public Enterprise comments on the draft statement of corporate intent, the Authority shall give effect to the comments and deliver the authorize statement of corporate intent to the Minister for Public Enterprise, within one month after receiving them, for approval.

*Commencement and modification of corporate plan and statement of corporate intent*

52.—(1) The corporate plan and the statement of corporate intent come into effect when approved by the Minister for Public Enterprise.

(2) A corporate plan or a statement of corporate intent may, with the agreement of the Minister for Public Enterprise; be modified during the relevant financial year.

(3) The Minister for Public Enterprise may, in writing, direct the Authority to modify its corporate plan or statement of corporate intent during the relevant financial year.

Part 7—MISCELLANEOUS

*Proceedings conducted by officers of Authority*

53. Any officer or employee of the Authority authorized in writing by the Chief Executive Officer may—

- (a) conduct any prosecution in the Magistrates Court of any offence under this Decree or under the Marine Act.
- (b) appear in any civil proceedings in the Magistrates Court for the recovery of any Fee or Levy payable under the Marine Act.

*Secrecy*

54.—(1) No person who is or has been a member, officer, employee, or agent of the Authority or a committee nor any person invited to a meeting of the Authority or of a committee shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions except—

- (a) as may be necessary for the performance of his duties or exercise of his functions;
- (b) when required to do so by or under any written law; or
- (c) as may be necessary for any of the purposes of the Marine Act.

(2) A person who receives any information relating to the affairs of the Authority shall not use the information to his or any other person's financial gain.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine of \$10,000 and to imprisonment for 7 years.

*Exemption from taxes and duties*

55.—(1) The income of the Authority shall be exempt from income tax for the first three years commencing from the date specified by the Minister.

(2) The Authority shall within the first three years commencing from the date specified by the Minister, be exempt from stamp duty on all instruments executed by it or on its behalf.

*Regulations*

56. The Authority may, with the approval of the relevant Minister, make regulations for the better carrying out of the provisions of this Decree.

*Repeals and amendments*

57.—(1) The Marine Act of 1986 is amended.

(2) Unless the context otherwise requires, where in any written law reference is made to the Fiji Islands Maritime Safety Administration then such references shall, without further amendment, be construed as referring to the Authority.

GIVEN under my hand this 31st day of December 2009.

EPELI NAILATIKAU  
President of the Republic of Fiji