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[1]

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GOVERNMENT OF FIJI

MARINE (AMENDMENT) DECREE 2009
(DECREE NO. 1)

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—

Short Title and Commencement

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

Section 5 amended

- 2.—(1) Section 5 (1) of the Marine Act No.35 of 1986 (“the Act”) is amended by—

- (i) deleting the definition “Fiji Islands Maritime Safety Administration”;
- (ii) inserting the definitions—

- (a) after the word “charterer”—

““Chief Executive Officer of MSAF” means the Chief Executive Officer appointed as the head of administration of the Maritime Safety Authority”;

(b) after the word “marine navigational aid”—

““Maritime Safety Authority of Fiji” means the Maritime Safety Authority of Fiji established under the Maritime Safety Authority Decree 2009”;

(c) after the word “territorial sea”—

“Marine Appeals Committee” means the Committee that will be hearing and determining appeals against the decisions of the Chief Executive officer of the Maritime Safety Authority;

(iii) deleting definition and all references, “Director of Maritime Safety”, “Chief Executive Officer”, “Marine Board” and “Board”, wherever it appears and substituting them with “Chief Executive Officer of MSAF”.

(2) Section 5(7) of the Act is amended by deleting “Director” and substituting “Chief Executive Officer of MSAF”.

Object of the Decree

3. The Object of the amendment to the Act—

- (i) the Chief Executive Officer of Maritime Safety Authority of Fiji will be handling all the administrative and operational roles of the Director of Maritime Safety and Marine Board.
- (ii) the dissolving of Fiji Islands Maritimes Safety Administration and the establishment of the Maritime Safety Authority as a commercial statutory authority;

Part 1A—The Fiji Islands Maritime Safety Administration repealed

4. Part 1A of the Marine Act is hereby repealed.

Sections 14 etc, amended

5. Section 14(3), 16, 51, 58, 60, 61, 64, 65, 67, 68, 69, 85, 86, 94, 95, 98, 99(1), 99(3), 100, 101, 109, 111, 102, 113, 121, 123, 129, 130, 139, 140, 143, 151, 160, 161(1) and (4), 162(1), 163, 166(c), 189, 201A, 190, 200, 202, 203, 204, 206, 209, 210, 211(3), 214, 223A, and 224(a) of the Act are amended by deleting “Director” and substituting “Chief Executive Officer of MSAF”, wherever it appears.

Section 18 is repealed

6. Section 18 is repealed.

Section 21 etc amended

7. Section 21, 57, 67, 68, 89(4)(b)(i), 90(2) and (d), 91(2), 91(3), 100(6), 101, 166, 183, 184, 188, 189, 190, 192, 200, 200A of the Act are amended by deleting “Marine Board” and “Board”, and substituting “Chief Executive Officer of MSAF”

Sections 56 amended

8. Sections 56, 56A, 56B, 56C and 56D of the Marine Act are repealed.

Section 66 amended

9. Section 66 of the Act is amended by deleting “Director” and substituting “Chief Executive Officer of MSAF”, and deleting “appointed by the Marine Board”.

Section 68 etc, amended

10. Sections 68, 94, 139, 140, 160, 163, 209, 210, 211, 215, 219, 223A and 224 of the Act are amended wherever it appears, by deleting “Chief Executive Officer” and substituting “Chief Executive Officer of MSAF”.

Section 80A amended

11. Section 80A, 161(2), 164, 166, 201A(6) of the Act are amended by deleting “Fiji Island Maritime Safety Administration” and substituting “Maritime Safety Authority of Fiji”.

Sections 87 – 92 amended

12. Sections 87, 88, 89, 90, 91 of the Act are amended by—

- (i) deleting “Marine Board” and substituting “Chief Executive Officer of the MSAF”;
- (ii) deleting “Director” and substituting “Chief Executive Officer of the MSAF”.

Section 97 amended

13. Section 97 of the Act is amended by deleting “The Minister acting on the recommendation of the Director, may appoint officers of the Fiji Island Maritime Safety Administration to be shipping officers” and substituting “Maritime Safety Authority of Fiji may appoint officers to be shipping officers”.

Section 99 amended

14. Section 99 of the Act is amended by deleting subsection (3) and substituting

“(3) The Chief Executive Officer of MSAF shall, if satisfied with the prescribed matters in relation to the applicant, issue—

- (a) a certificate of competency;
- (b) a certificate of satisfactory service, to the applicant”.

Section 100 amended

15. Section 100 of the Act is amended—

- (a) in subsection (1) by deleting “referring the suspension or cancellation of the certificate to the Marine Board and substituting “suspending or cancelling the certificate”.
- (b) in subsection (3) by deleting “refer the question of the suspension or cancellation of the certificate to the Marine Board” and substituting with “suspend or cancel the holder’s certificate”.
- (c) by deleting sub section (4) and substituting—
“(4) The Chief Executive Officer of MSAF may require the holder of the certificate to provide reasons as to why the reasons outlined in subsection 100(1) do not apply to him or her”
- (d) by deleting subsection (5).

Section 101 amended

16. Section 101(c), 101(2) and 101(3) is amended by deleting the word ‘court’ and substituting with ‘Marine Appeals Committee’.

Sections 161, etc, amended

17. Sections 161(2), 164, 165(1), 200A, of the Act are amended, wherever it appears, by deleting “Fiji Island Maritime Safety Administration” and substituting “Maritime Safety Authority of Fiji”.

Sections 183, 184 and 188 amended

18. Sections 183, 184, 188 of the Act are amended, wherever it appears, by deleting “Marine Board” and substituting “Maritime Safety Authority of Fiji”.

Section 189 amended

19. Sections 189 of the Act are amended—

- (i) in subsection (1) by deleting “Marine Board” and substituting “Maritime Safety Authority of Fiji”;
- (ii) in subsection (2) by deleting “Marine Board” and substituting “Marine Review Committee”.

Section 192 amended

20. Section 192 and 198 of the Act are amended by deleting “Marine Board” and substituting “Maritime Safety Authority of Fiji”, wherever it appears.

Section 199 is amended

21. Section 199 of the Act is amended by deleting sub section (1) and substituting

“(1) Pilotage dues and charges for pilot services in respect of a vessel are payable in accordance with the Regulation.”

Section 211 amended

22. Section 211 of the Act is amended in subsection (1) by deleting ‘Chief Executive Officer’ and substituting ‘Chief Executive Officer of MSAF’.

Section 215 amended

23. Section 215 of the Act is amended by—

- (a) deleting “(b) the Director” and substituting “(b) Chief Executive Officer of MSAF”;
- (b) deleting “Marine Board” and substituting “Maritime Safety Authority of Fiji”;
- (c) deleting “(ba) Chief Executive Officer”.

Section 219 amended

24. Section 219 of the Act is amended in subsection (1) by deleting “the Director, Chief Executive or Registrar, or a delegate of any of them, a Justice of the Peace, or a Commissioner for Oaths” and substituting “Chief Executive Officer of MSAF or his delegate, a Justice of the Peace, or a Commissioner for Oaths”.

Section 223A amended

25. Section 223A is amended by deleting “Chief Executive Officer or Port Master”.

Section 224 amended

26. Section 224 of the Act is amended in sub paragraph (a) by deleting “the Chief Executive Officer, Port Master or the Director” and substituting “Chief Executive Officer of MSAF”.

Miscellaneous

27. The Act is amended by inserting a new section—

“Repealed and Savings

231. Subsidiary legislation made under the amended Act continue in force as if made under this Decree until amended, replaced or repealed under this Decree, unless and to the extent that—

- (1)
 - (a) the matter is provided for in this Decree;
 - (b) the subsidiary legislation is inconsistent with the provisions of this Decree or Maritime Safety Authority of Fiji Decree or any other Act. .
- (2) Provisions of regulations made under the amended Acts dealing with the—
 - (a) issuance of certificates or licences issued by the Marine Board are deemed to have been issued by the Chief Executive Officer of MSAF;
 - (b) issuance of any other certificates or licences issued by the Director are deemed to have been issued by the Chief Executive Officer of MSAF;
 - (c) information kept or roles undertaken by the Registrar is deemed to have been kept and undertaken by the Chief Executive Officer of MSAF. .
- (3) Delegations, directions, notices, agreements and other administrative actions or decisions of the Minister, the Director of Fiji Island Maritime Safety Administration and officers appointed under the repealed Acts which could be issued or made by equivalent officers under this Decree or Maritime Safety Authority of Fiji Decree 2009 and continue to have effect as if issued or made under this Decree or Maritime Safety Authority of Fiji Decree 2009 until varied or revoked under this Decree or Maritime Safety Authority of Fiji Decree 2009”.

DATED this 31st day of December 2009.

EPELI NAILATIKAU
President of the Republic of Fiji