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STATUTORY INSTRUMENT.

No. *4* of 2014.

National Maritime Safety (Regulatory Functions Levy) Regulation 2014.

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STATUTORY INSTRUMENT.

No. of 2014.

National Maritime Safety (Regulatory Functions Levy) Regulation 2014.

Being a Regulation, to repeal the *Merchant Shipping (Regulatory Functions Levy) Regulation 2007* and for related purposes,

MADE by the Head of State, acting with, and in accordance with the advice of the National Executive Council under the *National Maritime Safety Authority Act 2003*.

1. INTERPRETATION.

In this Regulation unless the contrary intention appears -

“Act” means the *National Maritime Safety Authority Act 2003*;

“Authority” means the National Maritime Safety Authority of Papua New Guinea established by the *National Maritime Safety Authority Act 2003*;

“coasting trade” means the engagement of a ship on voyages that begin in one port or place in the country and end in another port or place in the country;

“Collector” means a person appointed as collector under Section 6;

“country” means Papua New Guinea;

“court” means the District Courts, or the National Courts of Papua New Guinea;

“dumb barge” a non self-propelled barge in tow of a tug used for the carriage of cargo;

“exempt ship” means a ship referred to in Section 3;

“international voyage” means a voyage -

(a) when a ship leaves a port or place within the country and arrives in a port or place outside the country; or

(b) when a ship leaves a port or place outside the country and arrives in a port or place within the country;

“gross tonnes” is a function of the volume of all ships enclosed spaces measured to the outside of the hull framing;

“laid up” means a ship that is moored or at anchor in a harbour and not engaged in the ordinary commercial employment of a merchant ship, including the loading and unloading of passengers or cargo;

“length”, in relation to a ship that is -

(a) registered under the *Merchant Shipping Act* (Chapter 242) or under the law of another country, means the length of the ship as recorded on the Certificate of Registry of the ship; and

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(b) not registered under the *Merchant Shipping Act* (Chapter 242) or under the law of another country, means the distance measured from the fore part of the stem to the **National Maritime Safety (Regulatory Functions Levy)** side of the head of the stern post in a direct line over the fore and aft centre line or, in a ship not having a stern post, to the fore side of the rudder stock at the point where the rudder stock passes out of the hull;

“levy” means the Maritime Safety Regulatory Functions Levy referred to in Section 41 of the *National Maritime Safety Authority Act 2003*;

“Maritime Safety Regulatory Function Levy” is the levy referred to in Section 41 of the *National Maritime Safety Authority Act 2003*;

“person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its consequent subdivisions;

“place” means an area other than a port where a ship may berth or anchor;

“pleasure craft” has the same meaning as in the *Merchant Shipping Act* (Chapter 242);

“port” means a declared port, or a port as defined under the *Harbours Act* (Chapter 214);

“quarter” means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any year.

2. APPLICATION.

This regulation applies to a ship that is -

- (a) a domestic registered ship; or
- (b) a foreign registered ship calling in to a port or place in Papua New Guinea; or
- (c) a foreign registered ship engaged solely in coastal trade and is issued a valid Coasting Trade License but does not include a ship that is -
 - (i) laid up; or
 - (ii) a pleasure craft; or
 - (iii) an exempt ship.

3. EXEMPT SHIP.

For the purposes of this Regulation, where a ship -

- (a) belongs to the Defence Force or the Defence Force of any other country and is not engaged in trade; or
- (b) is, in the opinion of the Authority, of Papua New Guinea traditional build; or
- (c) having entered and left a port or place in the country to -
 - (i) disembark a person for urgent medical treatment; or
 - (ii) obtain urgently required medical treatment for a person on board; or
 - (iii) seek shelter due to stress of weather or force majeure,

that ship is an exempt ship.

4. DUMB BARGES.

This Regulation shall apply to Dumb Barges at a rate determined and approved by the Authority with each dumb barge paying 50% of the rates specified in each category in the schedule.

5. REVIEW OF RATES.

The Rates for the Regulatory Functions Levy shall increase by up to 10% per annum after the first year of implementation of this Regulation based on review and subject to inflation and any increase in Consumer Price Index.

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6. COLLECTOR.

(1) The Authority may, by notice in the National Gazette, appoint a person to be a Collector for the purposes of this Regulation.

(2) The Authority may, by instrument in writing, delegate to a person all or any of his powers under this Regulation, except the power to delegate, and those powers and functions may be exercised and performed by the delegate in relation to the matters specified in the instrument.

7. IMPOSITION OF LEVY.

(1) Where, at any time during a year, a foreign registered ship to which this Regulation applies calls in a port or place in Papua New Guinea, a Maritime Safety Regulatory Function Levy shall be imposed upon the ship on a per voyage basis set out in Table 1 of the Schedule.

(2) Where a foreign registered ship is issued a valid coasting trade license and engages solely in Coastal Trade that foreign registered ship shall pay the levy set out in Table 2 of the Schedule.

(3) A ship registered in Papua New Guinea under the *Merchant Shipping Act* (Chapter 242) shall pay an annual levy.

(4) The levy payable under Subsections (1) and (2) shall be calculated on the amount -
(a) for each gross tonne; or
(b) part of a gross tonne,
and rounded up to the next full gross tonne.

(5) Where the levy is payable in respect of a ship, the amount of the levy is the amount set out in the Schedule.

8. METHOD OF PAYMENT OF LEVY.

(1) Where a levy is payable in respect of a ship and the ship has called at a port or place in the country, that ship shall pay the levy before it leaves the port or place.

(2) Where a ship calls at -
(a) a port declared under Section 2 of the *Harbours Act* (Chapter 240), the levy payable in respect of the ship may be paid -
(i) by one of the methods listed in Subsection (3); or
(ii) directly to the Authority's bank account; or
(iii) through an authorised collector; or
(b) any other place, the levy payable in respect of that ship may be paid -
(i) by one of the methods listed in Subsection (3); or
(ii) through an authorised collector, acting as agent for the Authority,
and the levy shall be paid directly into the Authority's bank account.

(3) Payment of the levy may be made -
(a) in person to the Authority or the authorised Collector; or
(b) by bank cheque made out to the Authority; or
(c) by telegraphic transfer direct to the Authority; or
(d) by any other means approved by the Authority in writing.

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9. TIME OF PAYMENT OF LEVY.

- (1) Where a ship engages on an international voyage, the -
- (a) owner of the ship; or
 - (b) master of the ship; or
 - (c) agent of the ship,

shall pay a per voyage levy within 48 hours of the time of its first arrival at a port or place in Papua New Guinea.

(2) A Certificate of Clearance shall not be issued unless the levy of the ship is paid before the ship leaves the port or place in Papua New Guinea.

(3) Where a levy is payable in respect of a foreign registered ship engaged solely in coastal trade and is issued with a valid Coasting Trade Licence, the -

- (a) agent of the ship; or
- (b) owner of the ship; or
- (c) master of the ship,

shall pay the levy every quarter of the year to the Authority or the Authority's authorised collector within 7 days of the commencement of each quarter.

10. LIABILITY TO PAY LEVY.

(1) The following are jointly and severally liable to pay the levy that is payable in respect of a ship -

- (a) the agent of the ship; or
- (b) the owner of the ship; or
- (c) the master of the ship; or
- (d) the agent or consignee of the ship.

(2) The Agent or a Consignee of a ship who pays an amount of levy in respect of a ship may, out of any money received on account of that ship or belonging to the owner of the ship, retain an amount that is not more than the levy paid.

11. DETENTION OF SHIP.

A ship, to which a levy is payable, may be detained by an officer of the Authority or a Customs Officer at any port or place in Papua New Guinea until the levy is paid.

12. RECOVERY OF LEVY.

The levy payable in respect of a ship may be recovered in Court by bringing proceedings against the ship, its agent, owner and (or) master in the name of the Authority or its authorised Collector.

13. IMPOSITION OF REGULATORY FUNCTIONS LEVY.

The regulatory functions levy to be imposed is per gross tone or part of a gross tonne to be rounded up to the next full gross tonne of the ship as provided in the Schedule.

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SCHEDULE.

Table 1.

Foreign-Registered ship that calls in a port or place in Papua New Guinea

Gross Tonnage of Ship.			Levy per Gross Tonne per Voyage.		
10	-	50			K 0.00
51	-	100			K 0.00
101	-	250			K16.24
251	-	500	K 2,420	+	K 9.28
501	-	900	K 4,730	+	K 4.64
901	-	1,500	K 6,580	+	K 2.67
1,501	-	2,500	K 8,180	+	K 1.62
2,501	-	3,500	K 9,800	+	K 1.39
3,501	-	5,000	K11,190	+	K 1.28
5,001	-	10,000	K13,110	+	K 0.70
10,001	-	20,000	K16,610	+	K 0.46
20,001	+		K21,210	+	K 0.46

Table 2.

Foreign-Registered ship engaged in coastal trade.

Gross Tonnage of Ship.			Levy per Gross Tonne per Voyage.		
10	-	50			K5.22
51	-	100	K 210	+	K10.44
101	-	250	K 720	+	K 9.24
251	-	500	K 2,100	+	K17.40
501	-	900	K 6,430	+	K16.24
901	-	1,500	K13,000	+	K 3.48
1,501	-	2,500	K15,000	+	K 2.78
2,501	-	3,500	K17,780	+	K 2.55
3,501	-	5,000	K20,320	+	K 2.32
5,001	-	10,000	K23,800	+	K 1.86
10,001	-	20,000	K33,100	+	K 1.16
20,001	+		K44,700	+	K 0.70

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Table (3).

Domestic Registered Ship.

Gross Tonnage of Ship.			Levy per Gross Tonne per Voyage.		
10	-	50			K 0.00
51	-	100			K 0.00
101	-	250			K23.20
251	-	500	K 3,460	+	K 5.80
501	-	1,000	K 4,900	+	K 3.48
1,001	-	2,000	K 6,640	+	K 1.86
2,001	-	3,500	K 8,500	+	K 1.28
3,501	+		K10,410	+	K139

MADE this

day of

, 2014.

GOVERNOR-GENERAL.

