

BERMUDA STATUTORY INSTRUMENT

SR&O 10/1963

MARINE BOARD (AQUA-LUNG) DIVING REGULATIONS 1963

*[made under section 102 of the Marine Board Act 1962 [title 22 item 3] and
brought into operation on 1 April 1963]*

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Interpretation

1 In these Regulations—

"diver" means any person who, for hire or reward, offers his services as a diving instructor or as a diving guide;

"diving" means remaining below the surface of the water with the assistance of under-water breathing apparatus;

"diving boat" means any type of craft, raft, float or other device from which diving can be conducted and which is used for that purpose;

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"diving equipment" means any equipment, apparatus or device which enables a person to remain under water for an extended period and includes the pump, compressor, hose, tank, valves, regulator, air-supplied mask, helmet, harness, weighted belt or boots; but it does not include fins, face plates or snorkel masks;

"diving guide" means a person who, for hire or reward, undertakes to guide other persons to areas suitable for diving, or to accompany them under water when such persons are diving;

"diving instructor" means a person who, for hire or reward, undertakes to instruct other persons in diving or in the use of diving equipment;

"inspecting officer" means any person duly authorised by the Minister to inspect diving equipment;

"person in charge of a diving operation" means the person in charge in accordance with paragraph (4) of regulation 3.

"prescribed fee" means the fee prescribed under the Government Fees Act 1965 [*title 15 item 18*].

Licensing of divers

2 (1) No person shall act or offer his services as a diver unless he has satisfied the Minister as to his competence and is in possession of a valid licence issued by the Minister to that effect (hereinafter called "a diving licence").

(2) The Minister may refuse to issue a diving licence or may issue a licence subject to such conditions as he may deem fit to impose, and every licence so issued shall be endorsed with a statement—

- (i) of the functions which may lawfully be performed by the licensee; and
- (ii) of the particular type or types of diving equipment which the licensee may operate when acting as a diver.

(3) A diving licence issued in accordance with this regulation shall remain valid until cancelled or suspended under these Regulations.

(4) Where the Minister is satisfied that the holder of a diving licence—

- (i) is no longer a fit and proper person to hold a diving licence; or
- (ii) has been guilty of misconduct in the exercise of his duties as a diver,

he may by notice published in the Gazette and delivered to the licensee cancel or suspend his diving licence, and upon receipt of such notice the licensee shall forthwith deliver to the Minister the licence so cancelled or suspended.

(5) The prescribed fee shall be payable to the Minister in respect of every diving licence issued under this regulation, and the prescribed fee shall be payable in respect of every endorsement made to a diving licence after the date of its issue.

(6) Where a person requires more than one diving licence for the purposes of regulation 9, the Minister shall supply him with additional copies of the licence for which the prescribed fee shall be payable in respect of each additional copy.

Powers and duties of divers

3 (1) Where a diver has been engaged for a diving operation, the person in charge—

- (i) shall be responsible for the control of all persons taking part in the diving operation and for ensuring that all precautions for their safety are duly observed;
- (ii) shall be responsible for checking the efficiency of all diving equipment before it is used in the diving operation; and
- (iii) shall have the power to forbid any particular person or persons to enter the water or to order any particular person or persons to leave the water.

(2) Any person after taking part in a diving operation who claims to be competent or experienced in diving shall sign a statement to that effect and absolving the person in charge from all responsibility in respect of any injury caused to him while diving, other than any injury resulting from the condition of the diving equipment (if any) issued to him.

(3) Where a person taking part in a diving operation—

- (i) fails to obey an order given by the person in charge; and
- (ii) has failed to sign the statement referred to in paragraph (2),

the person in charge shall take all measures reasonably necessary to enforce his orders and shall thereafter be absolved from all responsibility in respect of the safety of that person.

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(4) For the purposes of these Regulations, unless express arrangements are made to the contrary, "the person in charge" means the diver or, if more than one, the senior diver and a diving instructor shall be deemed to be senior to a diving guide, and as between diving instructors or diving guides, seniority shall rank in accordance with the date of issue of the diving licence.

Diving flags

4 (1) The person in charge of a diving operation shall, while diving is in progress, cause to be flown from the diving boat, a square red flag having a diagonal white stripe, (in this section called "a diving flag") and diving flags shall be set in the water in such a manner as to enclose the area under water in which diving is taking place.

(2) Any person approaching a diving boat flying a diving flag or approaching the area of water on which diving flags have been set shall proceed with extreme caution having regard to the safety of the persons taking part in the diving operation.

Inspection of diving equipment

5 (1) Diving equipment issued to any person for hire or reward shall be inspected by an inspecting officer at intervals not exceeding twelve months.

(2) The inspecting officer shall ensure that all parts of the diving equipment are in good working condition, and the inspection shall include a test of the quality of the air supplied by compressors for the replenishment of tanks.

(3) Where the inspecting officer is satisfied that diving equipment is fit for use, he shall affix to all the items thereof a distinctive mark of a type specified by the Minister and showing the last date of inspection.

(4) No person shall, for hire or reward, cause or allow any other person to use any diving equipment unless such equipment has been inspected and passed fit for use within a period of twelve months immediately preceding such use.

Inspection fee

6 A fee to be determined by the Minister shall be payable in respect of the inspection of any diving equipment or any part thereof.

Regulators

7 No person shall, for hire or reward, cause or allow any person to use a regulator unless the diving operation is conducted under the charge of a licensed diving instructor or diving guide:

Provided that nothing in this regulation shall be construed so as to prevent the sale of a regulator to any person.

Diving areas

8 (1) The Minister may, by notice published in the Gazette, declare any area of water to be—

- (i) a prohibited area in which no diving shall be carried out; or
- (ii) an area of water in which diving may be carried out subject to such restrictions as may be specified in such notice.

(2) No person shall dive in an area of water declared to be a prohibited area under this regulation, and no person shall dive in an area of water in contravention of any restrictions specified in the notice published in the Gazette in respect of that area of water.

Display of licence

9 The holder of a diving licence shall display it prominently or a copy thereof in every boat belonging to him which is used for diving operations and if the holder of the licence occupies premises in connection with his diving operations, he shall display the licence or a copy thereof prominently in such premises.

Penalties

10 Any person who neglects or fails to comply with any of the provisions of these Regulations commits an offence against these Regulations:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$360 and the court may in addition to any other sentence order the diving licence (if any) to be cancelled or to be suspended for a term not exceeding two years.

Minister not liable for damages

11 Nothing in these Regulations shall impose on the Minister any liability for damages arising from the issuing of a diving licence or from the inspection of diving equipment.

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[Amended by

1970 : 32

SR&O 3/1973

1975 : 16]