



Queensland

Safety in Recreational Water Activities Amendment Regulation (No. 1) 2013

Subordinate Legislation 2013 No. 117

made under the

Safety in Recreational Water Activities Act 2011

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1 Short title

This regulation may be cited as the *Safety in Recreational Water Activities Amendment Regulation (No. 1) 2013*.

2 Regulation amended

This regulation amends the *Safety in Recreational Water Activities Regulation 2011*.

3 Amendment of s 6 (Count of all persons on board to be made and recorded)

(1) Section 6(5)—

renumber as section 6(7).

(2) Section 6(2) to (4)—

omit, insert—

(2) Before the boat departs for the site, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—

- (a) independently count all persons on board;
- (b) compare the counts to ensure the counts agree;
- (c) make a written record of the counts;

Note—

Under the *Acts Interpretation Act 1954*, writing includes any mode of representing or reproducing words in a visible form.

(d) verify the counts—

- (i) by signing the record; or
- (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Example of a record made electronically—

a record made on a computer

Maximum penalty—12½ penalty units.

- (3) If anyone leaves the boat permanently for alternative transport to shore or another vessel, or if an additional person permanently joins the boat, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—
- (a) independently count the persons leaving the boat as they leave it;
 - (b) independently count the persons boarding the boat as they board it;
 - (c) compare the counts to ensure the counts agree;
 - (d) make a written record of the counts;
 - (e) make a written record of the number of all persons currently on board;
 - (f) verify the information recorded under paragraph (d) or (e)—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Maximum penalty—12½ penalty units.

- (4) Before the boat departs from the site or its vicinity, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—
- (a) independently count the persons on board;
 - (b) compare the counts to ensure the counts agree;

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- (c) make a written record of the counts;
- (d) compare the counts with the last counts recorded under this section to ensure the counts agree;
- (e) make a written record of the comparison done under paragraph (d);
- (f) verify the information recorded under paragraph (c) and the information recorded under paragraph (e)—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Maximum penalty—12½ penalty units.

- (5) However, if only 1 crew member is aboard the boat, the crew member must do the count mentioned in subsection (2)(a), (3)(a) or (b) or (4)(a) twice, using—
 - (a) an active count system for 1 count; and
 - (b) a different active count system or a passive count system for the other count.

Examples of an active count system—

- completion of a sheet of diver's signatures
- a roll call

Example of a passive count system—

a head count

- (6) The duty holder must keep each record made under this section for at least 1 year.

Maximum penalty for subsection (6)—12½ penalty units.

4 Insertion of new pt 2A

After section 10—

insert—

**Part 2A Conducting entry-level
certificate diving**

10A Definition for pt 2A

In this part—

entry-level certificate diving means recreational diving, other than resort diving, by a person who is undertaking initial training by a dive instructor, at the conclusion of which a certificate is to be issued to the diver.

10B Application

This part applies to the provision of entry-level certificate diving by a duty holder.

**10C Duty holder to obtain entry level certificate
diving medical declaration**

- (1) This section applies if a duty holder intends to provide entry-level certificate diving for a person.
- (2) The duty holder may allow the person to do entry-level certificate diving only if—
 - (a) the person first gives the duty holder a medical declaration about the person's medical fitness to dive; and
 - (b) the duty holder, or someone on the duty holder's behalf—
 - (i) has read the declaration; and

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- (ii) does not know or suspect that the declaration is false or misleading; and
- (iii) has assessed the person's fitness to dive, having regard to the declaration; and
- (iv) decides it is reasonable to allow the person to dive.

Maximum penalty—30 penalty units.

- (3) The duty holder must keep a copy of the medical declaration for at least 1 year.

Maximum penalty—12½ penalty units.

10D Duty holder to ensure medical certificate is provided

- (1) This section applies if a duty holder intends to provide entry-level certificate diving for a person who has disclosed, in the medical declaration given by the person to the duty holder under section 10C, that the person—
 - (a) has or has had any of the medical conditions mentioned in the declaration; or
 - (b) is over 45 years old; or
 - (c) has a body mass index of more than 30 and a waist circumference of more than 102cm for males or 88cm for females.
- (2) The duty holder must, before providing entry-level certificate diving for the person, ensure the person provides a medical certificate by a doctor certifying that the person is medically fit to dive.

Maximum penalty—30 penalty units.

- (3) The duty holder must keep a copy of the medical certificate for at least 1 year.

Maximum penalty—12½ penalty units.

5 Amendment of s 12 (Count of all persons on board to be made and recorded)

(1) Section 12(5)—

renumber as section 12(7).

(2) Section 12(2) to (4)—

omit, insert—

(2) Before the boat departs for the site, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—

- (a) independently count all persons on board;
- (b) compare the counts to ensure the counts agree;
- (c) make a written record of the counts;

Note—

Under the *Acts Interpretation Act 1954*, writing includes any mode of representing or reproducing words in a visible form.

(d) verify the counts—

- (i) by signing the record; or
- (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Example of a record made electronically—

a record made on a computer

Maximum penalty—12½ penalty units.

(3) If anyone leaves the boat permanently for alternative transport to shore or another vessel, or if an additional person permanently joins the boat, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—

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- (a) independently count the persons leaving the boat as they leave it;
- (b) independently count the persons boarding the boat as they board it;
- (c) compare the counts to ensure the counts agree;
- (d) make a written record of the counts;
- (e) make a written record of the number of all persons currently on board;
- (f) verify the information recorded under paragraph (d) or (e)—
 - (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Maximum penalty—12½ penalty units.

- (4) Before the boat departs from the site or its vicinity, the duty holder must nominate at least 2 crew members and ensure those crew members do all of the following—
 - (a) independently count the persons on board;
 - (b) compare the counts to ensure the counts agree;
 - (c) make a written record of the counts;
 - (d) compare the counts with the last counts recorded under this section to ensure the counts agree;
 - (e) make a written record of the comparison done under paragraph (d);
 - (f) verify the information recorded under paragraph (c) and the information recorded under paragraph (e)—

-
- (i) by signing the record; or
 - (ii) if the record is made electronically—by entering in the record the name of, and a unique identifier for, each crew member.

Maximum penalty—12½ penalty units.

- (5) However, if 1 only one crew member is aboard the boat, the crew member must do the count mentioned in subsection (2)(a), (3)(a) or (b) or (4)(a) twice, using—
 - (a) an active count system for 1 count; and
 - (b) a different active count system or a passive count system for the other count.

Examples of an active count system—

- completion of a sheet of diver's signatures
- a roll call

Example of a passive count system—

a head count

- (6) The duty holder must keep each record made under this section for at least 1 year.

Maximum penalty for subsection (6)—12½ penalty units.

6 Amendment of schedule (Dictionary)

Schedule—

insert—

active count system means a system of counting that requires the persons being counted to actively participate in the counting process.

Examples—

roll calls, tagging and signing systems

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entry-level certificate diving, for part 2A, see section 10A.

passive count system means a head count conducted with no active participation by the persons being counted.

ENDNOTES

- 1 Made by the Governor in Council on 27 June 2013.
- 2 Notified in the gazette on 28 June 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.

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