



Safety in Recreational Water Activities Act 2011

Safety in Recreational Water Activities Regulation 2011

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Queensland

Safety in Recreational Water Activities Regulation 2011

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Safety in Recreational Water Activities Regulation 2011

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Safety in Recreational Water Activities Regulation 2011*.

2 Commencement

This regulation commences on the commencement of section 45 of the Act.

3 Definitions

The dictionary in the schedule defines particular words used in this regulation.

4 Application

- (1) This regulation sets out the way in which the duty of a person conducting a business or undertaking under the Act, section 16, (the *duty holder*) is to be performed in relation to the matters and to the extent set out in this regulation.
- (2) This regulation also imposes duties on persons other than the duty holder.
- (3) A duty imposed on a person under a provision of this regulation in relation to health and safety does not limit or affect any duty the person has under the Act or, unless otherwise expressly provided, any other provision of this regulation.

Part 2 **Conducting recreational diving or recreational technical diving**

5 Application

This part applies to the provision of recreational diving or recreational technical diving by a duty holder.

6 Count of all persons on board to be made and recorded

- (1) This section applies if the duty holder uses a boat to transport persons to, or to the vicinity of, a recreational diving or recreational technical diving site.
- (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;
 - (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

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- (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—12½ penalty units.

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

Maximum penalty—12½ penalty units.

7 Medical conditions of resort divers

- (1) This section applies if a duty holder intends to provide resort diving for a person.
- (2) The duty holder may allow the person to do resort diving only if—
- (a) the person first gives the duty holder a medical declaration in the form approved by the regulator about his or her medical fitness to dive; and
- (b) the duty holder, or someone on his or her behalf—

- (i) has read the declaration; and
- (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.

Example of the process of assessment and decision—

A declaration discloses a medical condition. The duty holder then seeks medical advice. In accordance with the medical advice, the duty holder decides that it is reasonable to allow the person to dive.

Maximum penalty—30 penalty units.

8 Lookout and rescuer

- (1) This section applies if a duty holder is conducting recreational diving or recreational technical diving for 1 or more persons.
- (2) The duty holder may allow the persons to do the diving only while there is at least 1 person acting as lookout for the diving as required under subsections (3) and (4).

Maximum penalty—30 penalty units.

- (3) The lookout must—
 - (a) be positioned out of the water where the lookout can see the whole area where the diving is taking place; and
 - (b) be solely engaged in being the lookout; and
 - (c) be able to recognise relevant hazards and divers in difficulty; and
 - (d) be able to either—
 - (i) rescue a diver; or
 - (ii) direct a person who is immediately available and capable of rescuing a diver to rescue a diver; and
 - (e) be able to either—

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- (i) provide first aid including expired air resuscitation, oxygen resuscitation and external cardiac compression; or
 - (ii) direct a person who is immediately available and capable of providing the first aid to provide the first aid.
- (4) A lookout is taken to be acting as lookout while occupied under subsection (3)(d) or (e) if—
 - (a) the duty holder, or someone on his or her behalf, has conducted a proper assessment of the risks involved in not having another person available to act as lookout while the lookout is occupied under subsection (3)(d) or (e); and
 - (b) it is reasonable having regard to those risks not to have another person available to act as lookout.

9 Supervision of resort divers

- (1) This section applies if a duty holder is conducting resort diving for 1 or more persons.
- (2) The duty holder must ensure—
 - (a) that each person doing resort diving is supervised in the water by a dive instructor or a dive instructor assisted by a certified assistant; and
 - (b) that the dive instructor complies with subsections (3) and (4).

Maximum penalty—30 penalty units.

- (3) A dive instructor who is not assisted by a certified assistant must not supervise more than 4 resort divers at a time.

Maximum penalty—30 penalty units.

- (4) A dive instructor assisted by a certified assistant must not supervise more than 6 resort divers at a time.

Maximum penalty—30 penalty units.

- (5) In this section—

certified assistant means a person who holds a current qualification from a recreational dive training organisation, designed to qualify the person to assist a dive instructor.

dive instructor means a person who holds a current qualification from a recreational dive training organisation, designed to qualify the person as a scuba instructor.

10 Dive safety log

- (1) This section applies if a duty holder intends to provide recreational diving or recreational technical diving for 1 or more persons.
- (2) The duty holder must ensure a written dive safety log is kept as required under subsections (3) to (7) and (9) to (11).

Maximum penalty—12½ penalty units.

- (3) The dive safety log must contain the required information about—
 - (a) each dive conducted by the duty holder; and
 - (b) each dive done by the duty holder or the duty holder's workers in conducting the dive.
- (4) Subject to subsections (5) and (6), the following is the required information—
 - (a) the diver's name;
 - (b) the name of any diver with whom the dive is conducted;
 - (c) the name of a person authorised by the duty holder for the purposes of subsection (9) to verify the dive safety log;
 - (d) the date and location of the dive;
 - (e) time in;
 - (f) time out;
 - (g) maximum depth of the dive;

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- (h) any incident, problem, discomfort or injury experienced or suffered by the diver;
 - (i) if the dive was done using a dive computer—the dive time;
 - (j) if the dive was done using dive tables—the repetitive dive group and either bottom time or dive time;
 - (k) if the repetitive dive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor.
- (5) The following is the additional information required if the recreational technical diving is intended to be done using EANx with scuba or an EANx rebreather—
- (a) oxygen content of the EANx;
 - (b) maximum operating depth for the gas being used.
- (6) The following is the additional information required if the recreational technical diving is intended to be done using mixed gas with scuba or a mixed gas rebreather—
- (a) oxygen content and nitrogen content, if any, of the mixed gas;
 - (b) maximum operating depth for the mixed gas;
 - (c) minimum operating depth of the bottom mix.
- (7) On completion of a recreational dive or a recreational technical dive, a diver must verify the diver's return from the dive—
- (a) by signing the dive safety log entry for the diver; or
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the diver.
- Example of a log kept electronically—*
a record kept by computer
- Maximum penalty—12¹/₂ penalty units.
- (8) The duty holder must authorise a person to carry out the verification required under subsection (9).

Maximum penalty—12½ penalty units.

- (9) The person authorised by the duty holder must verify, in either of the following ways, that the dive safety log entry for the diver has been completed, and the diver's return from the dive has been verified by the diver, as required under subsections (2) to (7)—
- (a) by signing the log entry;
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the authorised person.

Maximum penalty—12½ penalty units.

- (10) The master of a boat used in connection with the diving, or a person authorised by the duty holder, other than the person mentioned in subsection (9), must verify, in either of the following ways, that the dive safety log has been completed, and verified, as required under subsections (3) to (7), (9) and (11)—
- (a) by signing the log entry;
 - (b) if the log is kept electronically—by entering in the log entry the name of, and a unique identifier for, the master or the authorised person.

Maximum penalty—12½ penalty units.

- (11) To comply with any requirement under this section to make or sign an entry in the dive safety log, the entry and signature must be made as soon as possible.

Example—

The signature of the diver in the dive safety log is an important check on whether a diver has returned to the boat. Accordingly, the signature needs to be made as soon as the diver has removed necessary gear and dried the diver's hands.

- (12) The duty holder must keep the dive safety log for at least 1 year.

Maximum penalty—12½ penalty units.

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
 - (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—12¹/₂ 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—12¹/₂ penalty units.

Part 3 **Conducting recreational snorkelling**

11 Application

This part applies to the provision of recreational snorkelling by a duty holder.

12 Count of all persons on board to be made and recorded

- (1) This section applies if a duty holder uses a boat to transport persons to, or to the vicinity of, a recreational snorkelling site.
- (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.

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- (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.

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- (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;
 - (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.

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Maximum penalty—12½ penalty units.

- (5) However, if 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—12½ penalty units.

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

Maximum penalty—12½ penalty units.

13 Advice about medical conditions

- (1) This section applies if a duty holder intends to provide recreational snorkelling for 1 or more persons.
- (2) The duty holder must ensure that each person who intends to do the recreational snorkelling is advised that—
- (a) snorkelling can be a strenuous physical activity and may increase the health and safety risks for persons suffering from—
 - (i) any medical condition that may be made worse by physical exertion, for example, heart disease, asthma and some lung complaints; or

- (ii) any medical condition that can result in loss of consciousness, for example, some forms of epilepsy and some diabetic conditions; or
 - (iii) asthma that can be brought on by cold water or salt water mist; and
- (b) the person should tell the lookout, snorkelling supervisor or snorkelling guide if the person has any concerns about a medical condition.

Maximum penalty—30 penalty units.

14 Lookout, guide and rescuer

- (1) This section applies if a duty holder is providing recreational snorkelling for 1 or more persons.
- (2) The duty holder may allow the persons to do recreational snorkelling only if, as required under subsections (3) to (5)—
- (a) there is at least 1 person acting as lookout for the snorkelling; or
 - (b) the snorkelling is done with a guide and—
 - (i) the guide is guiding 10 snorkellers or less; and
 - (ii) the guide has conducted a proper assessment of the risks involved in not having a lookout; and
 - (iii) it is reasonable having regard to those risks not to have a lookout.

Maximum penalty—30 penalty units.

- (3) The lookout must—
- (a) be positioned out of the water where the lookout can see the whole area where the snorkelling is taking place; and
 - (b) be solely engaged in being the lookout.
- (4) The lookout or guide must—
- (a) be able to recognise relevant hazards and snorkellers in difficulty; and

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- (b) be able to either—
 - (i) rescue a snorkeller; or
 - (ii) direct a person who is immediately available and capable of rescuing a snorkeller to rescue a snorkeller; and
 - (c) be able to either—
 - (i) provide first aid including expired air resuscitation, oxygen resuscitation and external cardiac compression; or
 - (ii) direct a person who is immediately available and capable of providing the first aid to provide the first aid.
- (5) A lookout is taken to be acting as lookout and a guide is taken to be acting as a guide while occupied under subsection (4)(b) or (c) if—
- (a) the duty holder, or someone on his or her behalf, has conducted a proper assessment of the risks involved in not having another person available to act as lookout or as a guide while the lookout or guide is occupied under subsection (4)(b) or (c); and
 - (b) it is reasonable having regard to those risks not to have another person available to act as lookout or as a guide.

Part 4 Miscellaneous

15 Prescribed Act—Act, s 41

Each Act stated in schedule 1A is prescribed for section 41(3)(c)(ii) of the Act.

**Schedule 1A Prescribed Acts—Act, section
41**

section 15

Coroners Act 2003

Police Powers and Responsibilities Act 2000

Queensland Civil and Administrative Tribunal Act 2009

Transport Operations (Marine Safety) Act 1994

Schedule Dictionary

section 3

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

bottom mix means a gas mix that can be breathed at the deepest point of the dive.

bottom time means the time between a diver leaving the surface at the start of a dive and starting the final ascent.

decompression diving means diving that requires a diver to take a planned stop during the final ascent to decompress.

dive time means the time between a diver leaving the surface at the start of a dive and surfacing at the end of the dive.

duty holder see section 4.

EANx means a mixture of oxygen and nitrogen in which the volume of oxygen in the mixture is at least 22%.

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

maximum operating depth, for a gas, means the maximum safe depth at which the gas can be used.

minimum operating depth, of a bottom mix, means the minimum safe depth at which the gas can be used.

mixed gas means an underwater breathing mixture other than compressed air or EANx.

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

rebreather means a semi-closed or closed circuit self-contained underwater breathing apparatus.

recreational dive training organisation means an organisation engaged in the certification of recreational divers through documented training procedures that substantially comply with AS 4005.1 'Training and certification of recreational divers', part 1 (Minimum entry-level SCUBA diving), sections 2 and 3.

recreational diving means any of the following underwater diving for recreation using compressed air, other than diving in a swimming pool or decompression diving—

- (a) resort diving;
- (b) diving by a person undertaking training in diving for recreation, whether or not the person is being photographed, filmed or videoed while diving;
- (c) diving for recreation by a person with a qualification in underwater diving, whether or not the person is being photographed, filmed or videoed while diving.

recreational snorkelling does not include snorkelling in a swimming pool.

recreational technical diving means underwater diving for recreation, other than in a swimming pool—

- (a) using EANx or mixed gas; or
- (b) that is decompression diving using compressed air or other gas.

repetitive dive group means a letter of the alphabet, given by dive tables, that represents an estimate of the amount of residual nitrogen in a diver's tissues immediately on surfacing at the end of a dive.

Editor's note—

Some dive tables refer to 'pressure group' instead of repetitive dive group.

repetitive factor means a letter of the alphabet, given by dive tables, that represents an estimate of the amount of residual nitrogen in a diver's tissues as decided by the repetitive dive group and the surface interval.

residual nitrogen means nitrogen, in excess of the amount normally present in a person's tissues, that is dissolved in the person's tissues.

resort diving means an introductory scuba experience, or introductory educational diving program, conducted according to a recreational dive training organisation's program, whether or not the person is being photographed, filmed or videoed while diving.

scuba means self-contained underwater breathing apparatus.

surface interval means the time a diver spends on the surface between 2 successive dives.

time in means the time a diver leaves the surface at the start of a dive.

time out means the time a diver surfaces at the end of a dive.

underwater diving does not include snorkelling or free diving.