



Queensland

# Safety in Recreational Water Activities Regulation 2024

## Subordinate Legislation 2024 No. 100

made under the

*Marine Parks Act 2004*

*Safety in Recreational Water Activities Act 2011*

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## **Part 1**                      **Preliminary**

### **Division 1**                **General**

#### **1**            **Short title**

This regulation may be cited as the *Safety in Recreational Water Activities Regulation 2024*.

#### **2**            **Commencement**

This regulation commences on 1 August 2024.

#### **3**            **Application of regulation**

- (1) This regulation states the way in which the duty of care imposed on a dive operator under the Act, section 16 is to be performed in relation to the matters, and to the extent, stated in this regulation.
- (2) This regulation also imposes duties on persons other than a dive operator.
- (3) A duty imposed on a person under this regulation in relation to health and safety does not limit or affect any duty that person has under the Act or, unless otherwise expressly provided, another provision of this regulation.

### **Division 2**                **Interpretation**

#### **4**            **Definitions**

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

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## 5 Who is a *dive operator*

A *dive operator* is a person who conducts a business or undertaking that provides any of the following as recreational water activities—

- (a) recreational diving;
- (b) recreational technical diving;
- (c) recreational snorkelling.

## 6 Meaning of *recreational diving, recreational technical diving and recreational snorkelling*

- (1) *Recreational diving* is underwater diving for recreation using compressed air other than decompression diving.
- (2) *Recreational technical diving* is underwater diving for recreation if—
  - (a) EANx or mixed gas is used; or
  - (b) it is decompression diving using compressed air or other gas.
- (3) *Recreational snorkelling* is—
  - (a) free diving; or
  - (b) swimming for recreation using a snorkel and mask.
- (4) However, *recreational diving, recreational technical diving* and *recreational snorkelling* do not include diving or snorkelling in a swimming pool.
- (5) In this section—

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

## 7 Who is a *certified diver*

A *certified diver* is a person who holds a certificate in recreational diving given by a recreational dive training organisation.

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## **8 Meaning of *entry-level certificate dive***

- (1) An *entry-level certificate dive* is a recreational diving activity provided—
  - (a) for 1 or more persons who are not certified divers; and
  - (b) as an initial training course in which a person who successfully completes the course is given a certificate in recreational diving by a recreational dive training organisation.
- (2) An *initial training course* is a training course in recreational diving developed by a recreational dive training organisation that substantially complies with—
  - (a) AS ISO 24801, part 1: level 1–supervised diver; or
  - (b) AS ISO 24801, part 2: level 2–autonomous diver.

## **9 Meaning of *non-certified dive***

A *non-certified dive* is a recreational diving activity provided—

- (a) for 1 or more persons who are not certified divers, regardless of whether another person who participates in the activity is a certified diver; and
- (b) in accordance with an introductory scuba experience or introductory educational diving program developed by a recreational dive training organisation.

# **Part 2 Medical fitness and medical conditions**

## **10 Entry-level certificate dive and non-certified dive—requirement for medical declaration**

- (1) A dive operator must ensure a person participates in an entry-level certificate dive or non-certified dive only if—

- 
- (a) the person has given the dive operator a declaration (a **medical declaration**) about the person's medical fitness to dive; and
  - (b) the medical declaration is in the form approved by the regulator; and
  - (c) for an entry-level certificate dive—the medical declaration indicates the person does not require an evaluation by a medical practitioner before participating in a dive; and
  - (d) the dive operator, or a worker on the dive operator's behalf—
    - (i) has read the medical declaration; and
    - (ii) does not know or suspect the declaration is false or misleading; and
    - (iii) has assessed the person's fitness to dive, having regard to the declaration; and
    - (iv) has decided it is reasonable to allow the person to dive.

*Example of assessment and decision for a non-certified dive—*

A person's medical declaration discloses a medical condition. The dive operator then seeks medical advice about the condition. In accordance with the advice, the dive operator decides it is reasonable to allow the person to dive.

Maximum penalty—30 penalty units.

- (2) The dive operator must keep a copy of a medical declaration given to the dive operator under this section for at least 1 year after the day the declaration is given to the dive operator.

Maximum penalty—12½ penalty units.

## **11 Entry-level certificate dive—requirement for medical certificate**

- (1) This section applies in relation to an entry-level certificate dive if—

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- (a) a person has given a dive operator a medical declaration under section 10; and
  - (b) the medical declaration indicates the person requires an evaluation by a medical practitioner before participating in a dive.
- (2) The dive operator must ensure the person participates in an entry-level certificate dive only if the person has given the dive operator a medical certificate by a medical practitioner certifying that the person is medically fit to dive.

Maximum penalty—30 penalty units.

- (3) The dive operator must keep a copy of a medical certificate given to the dive operator under this section for at least 1 year after the day the certificate is given to the dive operator.

Maximum penalty—12½ penalty units.

## **12 Recreational snorkelling—requirement for advice about increased risks to health and safety**

A dive operator must ensure that a person who participates in a recreational snorkelling activity has been advised that—

- (a) snorkelling can be a strenuous physical activity and may increase the risks to the health and safety of a person suffering from—
  - (i) a medical condition that may be made worse by physical exertion, for example, heart disease, asthma and other lung complaints; or
  - (ii) a 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 a worker aboard the boat if the person has any medical condition.

Maximum penalty—30 penalty units.



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## Part 3 Duties relating to transport by boat

### 13 Definition for part

In this part—

*nominated crew member*, in relation to a boat used to provide a recreational water activity, means—

- (a) if only 1 worker is aboard the boat—the worker; or
- (b) otherwise—at least 2 workers aboard the boat nominated by the dive operator providing the activity.

### 14 Requirement to count persons aboard boat

- (1) This section applies if a dive operator provides a recreational diving activity, recreational technical diving activity or recreational snorkelling activity using a boat to transport 1 or more persons to a dive site to participate in the activity.
- (2) The dive operator must ensure each nominated crew member aboard the boat—
  - (a) before the boat leaves for the dive site—counts, under section 15, the persons aboard the boat; and
  - (b) if 1 or more additional persons permanently board the boat—counts, under section 15, each additional person who permanently boards the boat, as the person boards the boat; and
  - (c) if 1 or more persons permanently leave the boat for alternative transport to shore or another vessel—counts, under section 15, each person who permanently leaves the boat, as the person leaves the boat; and
  - (d) before the boat leaves the dive site—counts, under section 15, the persons aboard the boat.

Maximum penalty—12½ penalty units.

- (3) In this section—

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*dive site*, for a recreational water activity—

- (a) means a place where persons may participate in the activity; and
- (b) includes the vicinity of the place mentioned in paragraph (a).

## **15 Required way to count persons**

- (1) This section provides for the way each count of persons required under section 14 or 16 must be carried out.
- (2) If there are 2 or more nominated crew members aboard a boat, each crew member must—
  - (a) carry out the count independently of each other nominated crew member; and
  - (b) compare the crew member's count with the count of each other nominated crew member to ensure the counts agree.
- (3) If there is 1 nominated crew member aboard a boat, the crew member must carry out the count twice by—
  - (a) using 2 different ways that require the persons being counted to actively participate in the count; or
  - (b) using a head count and 1 way that requires the persons being counted to actively participate in the count.

*Examples of ways that require persons to actively participate in a count—*

- 1 completion of a sheet of diver's signatures
  - 2 a roll call
  - 3 a tagging and signing system
- (4) For a count required under section 14(2)(d), a nominated crew member must also compare that count with the last count carried out under section 14(2)(a), (b) or (c) to ensure both counts agree.

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## 16 Requirements if counts do not agree

- (1) This section applies if the counts of persons required to be compared under section 15 do not agree.
- (2) The dive operator must ensure each nominated crew member aboard the boat counts the persons aboard the boat again in the way required under section 15.

Maximum penalty—12½ penalty units.

- (3) If, after the recount of persons under subsection (2), the counts required to be compared under section 15 still do not agree, the dive operator must ensure the relevant procedures in the dive operator's emergency plan are implemented.

Maximum penalty—60 penalty units.

- (4) In this section—

*emergency plan*, for a dive operator, means an emergency plan prepared by the dive operator under the *Work Health and Safety Regulation 2011*, section 43.

## 17 Requirement to make, verify and keep record of count of persons

- (1) A nominated crew member required to carry out a count of persons under section 14 or 16 must—
  - (a) make a written record of the count; and
  - (b) verify the count—
    - (i) by signing the record; or
    - (ii) if the record is made electronically—by entering the crew member's name and unique identifier in the record.
- (2) The dive operator must keep each record made under this section for at least 1 year after the day the count is made.

Maximum penalty—12½ penalty units.

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## **Part 4                      Lookouts and guides**

### **18        Requirement for lookouts**

- (1) This section applies if a dive operator provides a recreational diving activity, recreational technical diving activity or recreational snorkelling activity for 1 or more persons.
- (2) The dive operator must ensure that, while the persons are diving or snorkelling during the activity, at least 1 person acts as lookout in the way required under section 20.

Maximum penalty—30 penalty units.

- (3) For subsection (2), the dive operator may allow the activity to be provided with only 1 person acting as lookout only if the dive operator, or a worker on the dive operator's behalf—
  - (a) has conducted a proper assessment of the risks involved in having 1 person act as lookout during the activity; and
  - (b) decides, having regard to the assessment, it is reasonable for 1 person to act as lookout.

### **19        Guides for recreational snorkelling activities**

- (1) This section applies if a dive operator provides a recreational snorkelling activity for 1 or more snorkellers.
- (2) Despite section 18, the dive operator may allow the activity to be provided without a person acting as lookout if—
  - (a) the dive operator, or a worker on the dive operator's behalf—
    - (i) conducts a proper assessment of the risks involved in not having a person act as lookout during the activity; and
    - (ii) decides, having regard to the risks, it is reasonable not to have a person act as lookout; and
  - (b) the activity is supervised by a person who is a guide; and

- (c) the guide supervises no more than 10 snorkellers who participate in the activity; and
- (d) while the snorkellers are snorkelling during the activity, the guide complies with the requirements stated in section 20.

## **20 Requirements for lookouts and guides—rescue and first aid**

- (1) This section states the requirements that apply to a person who acts as lookout, or is a guide, for a recreational water activity mentioned in section 18 or 19.
- (2) The person must—
  - (a) be able to recognise relevant hazards; and
  - (b) be able to recognise when a diver or snorkeller is in difficulty; and
  - (c) be able to—
    - (i) rescue a diver or snorkeller in difficulty and provide first aid; or
    - (ii) direct a person who is immediately available and capable to rescue a diver or snorkeller in difficulty and provide first aid.
- (3) Also, if the person acts as lookout, the person must—
  - (a) be positioned out of the water where the person can see the whole area where the participants in the activity are diving or snorkelling; and
  - (b) be solely engaged in being the lookout during the activity.
- (4) However, subsection (3) does not apply to a person while the person is rescuing or providing first aid to a diver or snorkeller in difficulty.
- (5) In this section—

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*first aid* includes cardiopulmonary resuscitation, oxygen therapy and oxygen resuscitation.

## Part 5                      Supervision of non-certified dives

### 21      Requirement for non-certified dive to be supervised by dive instructor

- (1) A dive operator who provides a non-certified dive as a recreational dive activity for 1 or more divers must ensure—
  - (a) each diver, while in the water during the activity, is supervised by—
    - (i) a dive instructor; or
    - (ii) a dive instructor assisted by a certified assistant; and
  - (b) the dive instructor supervises—
    - (i) no more than 4 divers at any time; or
    - (ii) if the dive instructor is assisted by a certified assistant—no more than 6 divers at any time.

Maximum penalty—30 penalty units.

- (2) In this section—

*certified assistant* means a person who holds a current qualification from a recreational dive training organisation that qualifies the person to assist a dive instructor.

*dive instructor* means a person who holds a current qualification from a recreational dive training organisation that qualifies the person as a scuba instructor.

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## Part 6 Dive safety logs

### 22 Requirement to keep dive safety log

- (1) This section applies for each recreational diving activity or recreational technical diving activity (each a *dive activity*) provided by a dive operator.
- (2) The dive operator must ensure a written log (a *dive safety log*) that complies with sections 23 to 26 is kept for the diving activity.

Maximum penalty—12½ penalty units.

- (3) The dive operator must authorise a person, other than a diver participating in the activity, to verify the dive safety log for the diving activity.

Maximum penalty—12½ penalty units.

- (4) The dive operator must keep the dive safety log for the diving activity for at least 1 year after the day the activity is provided.

Maximum penalty—12½ penalty units.

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

*Example—*

After a diver has returned to the boat, the diver signs the dive safety log as soon as the diver has removed any necessary diving gear and dried the diver's hands.

### 23 Required information for dive safety log

A dive safety log for a diving activity must state the following information for each dive carried out during the activity—

- (a) the name of each diver who participated in the dive;
- (b) if the dive is conducted using a system that involves a pair or group of divers to ensure the mutual safety of the pair or group—the unique identifier used to identify the divers in the pair or group;

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- (c) whether the dive is conducted using a dive computer;
- (d) the name of the person authorised by the dive operator to verify the dive safety log for the diving activity;
- (e) the date and location of the dive;
- (f) for each dive carried out by a diver who participated in the dive—
  - (i) the time the diver left the surface at the start of the dive; and
  - (ii) the time the diver surfaced at the end of the dive; and
  - (iii) the period between the start and end of the dive mentioned in subparagraphs (i) and (ii); and
  - (iv) the maximum depth reached by the diver during the dive;
- (g) any incident, problem, discomfort or injury experienced or suffered by a diver who participated in the dive.

## 24 Additional information required for dive safety log—dive tables

- (1) This section applies if the diving activity includes a dive carried out using dive tables.
- (2) The dive safety log for the diving activity must also state, for each diver who participates in the dive—
  - (a) the repetitive dive group for the diver; and
  - (b) if the repetitive dive group and surface interval result in a repetitive factor for the diver—the surface interval and repetitive factor for the diver.
- (3) In this section—

***repetitive dive group*** means a letter of the alphabet or number, 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.



*Note—*

Some dive tables refer to ‘pressure group’ instead of repetitive dive group.

***repetitive factor*** means a letter of the alphabet or number, 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 diver’s tissues, that is dissolved in the diver’s tissues.

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

## 25 **Additional information required for dive safety log—recreational technical diving activity**

- (1) This section applies if the diving activity is a recreational technical diving activity.
- (2) If, during the diving activity, a dive is carried out using EANx with scuba, or a rebreather, the dive safety log for the diving activity must also state—
  - (a) the oxygen content of the EANx; and
  - (b) the maximum operating depth at which EANx can be used.
- (3) If, during the diving activity, a dive is carried out using mixed gas with scuba equipment, or a rebreather, the dive safety log for the diving activity must also state—
  - (a) if the mixed gas partly consists of nitrogen—the oxygen content and nitrogen content of the mixed gas; and
  - (b) the maximum operating depth at which the mixed gas can be used; and
  - (c) the minimum operating depth at which the bottom mix can be used.
- (4) In this section—

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

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

## 26 Verification of entries in dive safety log

- (1) This section applies, and must be complied with as soon as possible, after a diver returns from a dive carried out during the diving activity.
- (2) The diver must verify the diver's return from the dive in the required way.
- (3) An authorised person, and if a boat is used in connection with the dive, the master of the boat or another authorised person, must verify, in the required way, that—
  - (a) the dive safety log entry for the diver contains the information required under sections 23, 24 and 25; and
  - (b) the diver has verified the diver's return from a dive under subsection (2).
- (4) The **required way** for a person to verify an entry in a dive safety log is—
  - (a) by signing the log entry; or
  - (b) if the log is kept electronically—by entering the person's name and unique identifier in the log entry.
- (5) In this section—

**authorised person**, for a dive safety log for a diving activity, means a person authorised by the dive operator under section 22(3) to verify the dive safety log for the activity.

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## Part 7 Miscellaneous

### 27 Prescribed Acts—Act, s 41

For section 41(3)(c)(ii) of the Act, the following Acts are prescribed—

- (a) the *Coroners Act 2003*;
- (b) the *Police Powers and Responsibilities Act 2000*;
- (c) the *Queensland Civil and Administrative Tribunal Act 2009*;
- (d) the *Transport Operations (Marine Safety) Act 1994*.

## Part 8 Repeal and transitional provisions

### Division 1 Repeal provision

#### 28 Repeal

The Safety in Recreational Water Activities Regulation 2011, SL No. 241 is repealed.

### Division 2 Transitional provisions

#### 29 Definitions for division

In this division—

*new*, for a provision of this regulation, means the provision as in force from the commencement.

*repealed regulation* means the repealed *Safety in Recreational Water Activities Regulation 2011*.

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### **30 Existing dive safety logs**

- (1) This section applies in relation to a dive safety log kept under the repealed regulation, section 10 if, immediately before the commencement, the log had been kept by the duty holder for less than a year.
- (2) On the commencement, the dive safety log continues as a dive safety log under new section 22.

### **31 Existing medical declarations**

- (1) This section applies in relation to a medical declaration given to a duty holder under the repealed regulation, section 10C if, immediately before the commencement, the declaration had been kept by the duty holder for less than a year.
- (2) On the commencement, the medical declaration continues as a medical declaration under new section 10.

### **32 References to repealed regulation**

- (1) In a document, a reference to the repealed regulation may, if the context permits, be taken to be a reference to this regulation.
- (2) Subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 14H.

## **Part 9 Amendment of legislation**

### **Division 1 Amendment of Marine Parks (Great Sandy) Zoning Plan 2024**

#### **33 Plan amended**

This division amends the *Marine Parks (Great Sandy) Zoning Plan 2024*.

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**34 Amendment of s 47 (Restriction on number of persons diving)**

Section 47(5), definition *recreational dive training organisation*, ‘*Safety in Recreational Water Activities Regulation 2011*, schedule’—

*omit, insert—*

*Safety in Recreational Water Activities Regulation 2024*, schedule

**Division 2 Amendment of Marine Parks (Moreton Bay) Zoning Plan 2019**

**35 Plan amended**

This division amends the *Marine Parks (Moreton Bay) Zoning Plan 2019*.

**36 Amendment of s 41 (Restriction on number of persons diving)**

Section 41(4), definition *recreational dive training organisation*, ‘*Safety in Recreational Water Activities Regulation 2011*’—

*omit, insert—*

*Safety in Recreational Water Activities Regulation 2024*, schedule

## Schedule Dictionary

### section 4

**AS ISO 24801** means the international standard as in force from time to time under that designation, regardless of the edition or year of publication of the standard.

**certified diver** see section 7.

**dive operator** see section 5.

**diver** means a person who participates in a recreational diving activity.

**dive safety log**, for part 6, see section 22(2).

**diving activity**, for part 6, see section 22(1).

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

**entry-level certificate dive** see section 8(1).

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

**nominated crew member**, in relation to a boat used to provide a recreational water activity, for part 3, see section 13.

**non-certified dive** see section 9.

**recreational dive training organisation** means an organisation engaged in the certification of recreational divers through documented training procedures that substantially comply with AS ISO 24801.

**recreational diving** see section 6(1).

**recreational diving activity** means recreational diving provided by a dive operator as a recreational water activity.

**recreational snorkelling** see section 6(3).

**recreational snorkelling activity** means recreational snorkelling provided by a dive operator as a recreational water activity.

***recreational technical diving*** see section 6(2).

***recreational technical diving activity*** means recreational technical diving provided by a dive operator as a recreational water activity.

***snorkeller*** means a person who participates in a recreational snorkelling activity.

***unique identifier***, for a person or document, means a particular code, letter, number, mark or combination of those things, used to identify the person or document, including in an electronic form.

ENDNOTES

- 1 Made by the Governor in Council on 27 June 2024.
- 2 Notified on the Queensland legislation website on 28 June 2024.
- 3 The administering agency is the Department of State Development and Infrastructure.

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