

L.N. 153 of 2004

**MALTA TRAVEL AND TOURISM SERVICES ACT
(CAP. 409)**

Recreational Diving Service Provider Regulations, 2004

IN exercise of the powers conferred by article 47 of the Malta Travel and Tourism Services Act, the Minister for Tourism and Culture on the recommendation of the Malta Tourism Authority has made the following regulations:-

1. (1) The title of these regulations is the Recreational Diving Service Provider Regulations, 2004. Citation and Scope.

(2) These regulations shall apply to any person, body corporate or organisation, offering recreational diving services to the public or to their members.

(3) The provision of Recreational Diving Services is to be considered a tourism operation in terms of the Act and shall therefore be subject to the provisions of the Act and to any relative regulations issued thereunder.

2. (1) In these regulations, unless the context otherwise requires- Interpretation.

“the Act” means the Malta Travel and Tourism Services Act; Cap. 409.

“the Association” means any duly constituted body of persons which, in the opinion of the Minister, best represents the expertise, interests and views of the diving industry in Malta;

“the Authority” means the Malta Tourism Authority;

“breathing gas” means a mixture of inert gases together with a portion of oxygen which will produce a partial pressure not exceeding 1.6 Bar at the maximum operational depth;

“BSAC” means British Sub Aqua Club;

“client” means an individual or group of individuals who utilise the services of a dive centre for the provision of diving services;

“CMAS” means Confederation Mondiale Des Activites Subaquatiques;

“competent person” means any person or entity, recognised by the Authority, who has the necessary qualifications, aptitude, capabilities and competence to issue certification relevant to a particular subject indicated by the Authority;

“confined water” means a swimming pool with a maximum depth of four metres or body of water that offers similar conditions;

“director of diving” means a diving instructor who runs the diving services at a dive centre and who is recognised as such by the Authority;

“dive centre” means the premises from where any person or entity offers recreational diving services to clients and, or to members;

“diving equipment” means equipment which includes, among others, fins, masks, snorkel, cylinder, demand regulator, alternative breathing gas source, cylinder support system and buoyancy control device included (if appropriate), a quick release weight system, submersible pressure gauge (breathing gas pressure monitor), means to measure depth and time and to safely limit exposure to inert gas, diving suit (if appropriate). The specific environment may require appropriate additional equipment such as an underwater navigational aid, knife and, or cutting device;

“diving instructor” means a person who has satisfactorily completed a recognised training organisation course for a diving instructor, which course is recognised by the Authority;

“dive leader” means a person who has satisfactorily completed a recognised training organisation course for a dive leader, which course is recognised by the Authority;

“guided dive” means an organised dive where persons are also accompanied underwater by a diving instructor or a dive leader;

“independent diver” means a person who has satisfactorily completed a recognised training organisation course for an independent diver, which course is recognised by the Authority;

“licensee” means a person or entity in whose name a licence to provide recreational diving services has been issued by the Authority;

“the Minister” means the Minister responsible for tourism;

“open water” means a body of water significantly larger than a swimming pool, offering typical local sea conditions;

“operator” means the person or entity who actually runs and manages a dive centre;

“organised dive” means a service, where persons with at least independent diver status are taken to a dive site and participate in recreational diving;

“PADI” means Professional Association of Diving Instructors;

“recreational diving services” means any of the following scuba diving services offered by any person or entity:-

- training and education
- organised and guided diving for divers
- rental of scuba
- the supply of breathing gases to divers, if supplied by a dive centre;

“recreational diving service provider” means an entity, being either an individual or an organisation, including any individual acting on behalf of such entity, which offers a recreational diving service;

“recognised training organisation” means an entity, recognised by the Authority, providing recreational scuba diving training programmes and certification, and which is responsible for the quality management of their scuba diver training programmes;

“risk assessment” means the identification of hazards, persons who may be harmed by such hazards, and procedures

to be adopted to ensure that the risk is controlled as far as is reasonably possible;

“scuba” means self-contained underwater breathing apparatus;

“taster session” means an informal diving experience undertaken to introduce the client to scuba diving.

(2) Words and expressions used in these regulations which are also used in the Act shall, unless the context otherwise requires, have the same meaning as in the Act.

Licence.

3. (1) No person shall operate or allow the operation of a dive centre unless there is a valid licence for this purpose issued by the Authority.

(2) Applications for a licence to operate a dive centre are to be made on an appropriate application form issued by the Authority.

(3) The Authority may issue a licence for the operation of a dive centre provided that it is satisfied that:-

(a) the issue of such a licence is in conformity with current tourism policy;

(b) applicant submits to the Authority the required documentation and information as indicated in the appropriate application;

(c) the premises from where such tourism operation is to be carried out conforms with the provisions of regulation 4 of these regulations;

(d) the person applying for a licence is in possession of a third party liability insurance for a minimum amount of Lm100,000 to cover clients and or members in respect of underwater activities;

(e) the dive centre has a registered director of diving subject to the provisions set out in regulation 6 of these regulations.

4. (1) No person shall offer or provide recreational scuba diving services unless he has fixed and immovable premises from where diving activities are organised. Dive centre premises.

(2) The premises from where such recreational diving services are organised shall:-

(a) be suitable and adequate for such activity and shall be accessible to the public;

(b) be kept clean, well maintained and organised at all times;

(c) provide first aid kits suitably equipped for offering first aid to clients. A first aid kit shall be sited at the dive centre and on all land and sea transport vehicles used by the centre;

(d) have the contact details for emergency services prominently displayed, including recompression facilities;

(e) have the provision of emergency call facilities at the dive centre and at sites from where diving is taking place;

(f) have specific areas for instruction, cleaning and storing of equipment and for filling of diving cylinders, if such services and equipment are provided.

(3) The licensee and operator of a dive centre shall ensure that -

(a) the name of the dive centre is prominently displayed outside the premises, and

(b) the name of the director of diving is displayed inside the premises.

5. (1) It shall be the duty of the licensee and the operator of the dive centre to ensure that the premises being used as a dive centre, the diving equipment and other accessories, as well as all land and sea transport vehicles used by the dive centre, are regularly and properly maintained at all times. Maintenance.

(2) A written service schedule shall be kept of all equipment and installations. This schedule should identify each item and should document all maintenance work carried out from time to time.

6. (1) The licensee and operator of a dive centre shall -

(a) engage a director of diving to be responsible for all recreational diving services, to assign duties and to maintain relative records,

(b) inform the Authority when such an engagement has been made, submitting full details of such person, such as personal, qualifications, experience.

(2) The director of diving shall meet the following criteria:-

(a) be in possession of qualifications required in terms of the Second Schedule to these regulations;

(b) have at least two years full-time experience as an instructor in recreational diving in Malta;

(c) be a person who has the right of abode in Malta;

(d) have a valid registration with a dive centre as a diving instructor.

(3) A director of diving shall act in such capacity for only one dive centre at the same time:

Provided that if he possesses the necessary qualifications set out in these regulations, nothing in this section shall exclude the licensee of a dive centre from acting as director of diving.

7. (1) No person shall act as a diving instructor unless he shall have previously registered with a licensed dive centre.

(2) The licensee and operator of a dive centre shall not register a person as a diving instructor unless they are satisfied that the person applying for such registration:-

(a) has submitted the documentation and information requested in the registration form;

(b) has diving instructor qualifications in terms of the Second Schedule to these regulations;

(c) has successfully undergone a medical examination by a physician specialising in diving medicine. Such an examination shall be carried out annually.

8. A licence to operate a dive centre shall be valid from the date of issue up to the 31st December of the same year, and shall be renewed by the Authority from one year to the next on payment of the applicable fee.

Validity of dive centre licence.

9. (1) The licensee of a dive centre may register any person as a temporary diving instructor. Such registration shall be valid for twenty consecutive days, provided that such person fulfils the same requirements as set out in regulation 7 of these regulations.

Registration of a temporary diving instructor.

(2) A person registered as a temporary diving instructor shall instruct only members or clients of the dive centre with which he is registered.

10. The licensee and operator of a dive centre shall, prior to registration of a minor to participate in recreational diving activities, obtain the written consent of the parent or of the legal guardian of the minor.

Minors.

11. The licensee and operator of a dive centre shall ensure that:-

Medical statement.

(a) before using scuba, all divers shall fill and sign an appropriate medical statement to ensure their suitability for recreational diving in terms of the First Schedule to these regulations;

(b) if the answers in the medical statement suggest a medical risk in diving, the director of diving shall request the client to undergo a full medical examination by a physician who shall give his approval in writing before such client may use scuba;

(c) notwithstanding the answers in the medical statement, in any case of doubt or at the discretion of the director of diving, clients may be requested to undergo a full medical examination by a physician who shall give his approval in writing before such client may use scuba;

(d) the licensee and operator of a dive centre shall retain a record of the medical statement, medical certificates and other related documents for a period of not less than one year;

(e) should a client become aware of a change in his medical condition at any time, the client shall repeat the medical process.

Risk assessment.

12. (1) Licensees and operators of a dive centre shall ensure that a documented risk assessment has been conducted in respect of all diving sites to be used by the dive centre for recreational diving services.

(2) The following factors shall be considered as part of this Risk Assessment taking into account the capability of the participants – water movement, depth, underwater visibility, pollution, entry and, or exit methods, restricted zones, suitability of site for planned activities and emergency action plan.

(3) The licensee and operator of a dive centre shall prevent any client from taking part in any recreational diving services if, following the risk assessment, this is deemed to be in the best interest of the client and, or other persons.

Emergency equipment and procedures.

13. (1) The licensee and operator of a dive centre shall ensure the availability of the following in all locations where recreational diving is taking place:-

(a) a first aid kit, suitably equipped for the planned diving activity;

(b) an emergency oxygen unit with a capacity of delivering at least 15 litres/min of pure oxygen for at least 20 minutes;

(c) a communication system suitable for alerting emergency services.

(2) The licensee and operator of a dive centre shall provide a documented emergency plan for each site where diving activities are taking place which shall include the following information and preparation:-

(a) procedures for casualty recovery, resuscitation and evacuation;

(b) the use of the emergency oxygen supply;

(c) information about the nearest resources, including data about the availability of a hyperbaric recompression chamber.

14. (1) The licensee and operator of a dive centre shall give the following information to the client prior to the provision of diving services:- Information to be provided to clients.

(a) contractual issues including conditions, delivery and termination of the contract;

(b) prerequisites and any qualification requirements in order to obtain the service, such as medical certification and diver certifications;

(c) equipment requirements;

(d) costs;

(e) insurance requirements according to national regulations;

(f) local environmental considerations;

(g) diving related legislation and any legal requirements with regard to the specific kind of service to be provided.

(2) The licensee and operator of a dive centre shall clearly exhibit a price list of all charges for the different types of diving activities and for the hire of diving equipment on offer at the dive centre.

(3) If the service provided involves training, the licensee and operator of a dive centre shall give the following information in addition to that required as per subregulation (1) of this regulation:-

(a) the limitations of the eventual qualification;

(b) the scope of the training course;

(c) the course procedures;

(d) the means and methods for assessment, criteria for successful completion;

(e) that records of their personal data will be kept at the centre and that these records may be passed on to a training organisation.

(4) Prior to each dive or training session, the licensee and operator of a dive centre shall identify important safety procedures to clients which shall include the following:-

(a) the identity and roll of staff;

(b) emergency procedures;

(c) arrangements concerning teams and group size;

(d) team and, or group assignments;

(e) information concerning the dive site, in particular the hazards which could affect the safety of the dive, such as underwater obstructions;

(f) depth and, or time limitations;

(g) the conduct required of clients.

Certification of compressors by competent person or entity.

15. (1) The applicant for a dive centre licence shall, prior to the issue of such a licence by the Authority, submit to the Authority a certificate by a competent person or entity recognised by the Authority, confirming that the compressors and the location where such compressors are stored and used for the filling of air, conform with relevant health and safety regulations and, or guidelines.

(2) The certification required as per subregulation (1) of this regulation shall also be submitted to the Authority every year prior to the renewal of the licence.

Certification of equipment by competent person or entity.

16. Licensees and operators of dive centres shall submit to the Authority prior to the issue and renewal of the dive centre licence, a declaration by a competent person or entity recognised by the Authority certifying that the equipment used by the dive centre conforms with the provisions as stipulated in regulations 13 (1) (b), 17 and 18 (2) of these regulations as well as paragraph 8 of the Second Schedule to these regulations.

17. (1) Licensees and operators of dive centres, prior to supplying persons with breathing gases for scuba, shall ascertain that such persons are qualified as independent divers unless such persons are accompanied by a scuba instructor. Sale of breathing gases.

(2) In cases when the breathing gas is air, this shall be supplied by dive centres in accordance with national standards and regulations.

(3) The licensee and operator of a dive centre shall only fill those cylinders with current visual inspections, pressure tests and markings in accordance with current national standards and regulations.

(4) The licensee and operator of a dive centre shall not fill any cylinder unless they first carry out an external inspection of the cylinder and in case of doubt about its condition, they shall refuse to fill the cylinder.

(5) In cases when breathing gases other than compressed air are offered, the licensee and operator of a dive centre shall supply such gases only to clients who have the appropriate specialised training.

18. (1) Operational procedures of dive centres and diving equipment used by dive centres shall be in accordance with the Second Schedule and with the provisions of these regulations. Operational standards.

(2) Licensees and operators of dive centres shall ensure that the operational procedures referred to in the Second Schedule and in the provisions of these regulations are adhered to at all times.

19. The Authority may consult the Association in the issue of licenses for dive centres. Consultations with Association.

20. The Authority may consult the Association in the publication of :- Authorised equivalents.

- (a) recognised qualifications for independent divers;
- (b) recognised qualification for dive leaders;
- (c) recognised qualifications for diving instructors;
- (d) recognised qualifications for directors of diving and,

or

(e) any other such documentation or information which may, from time to time, be helpful in determining diver and diving instructor qualifications.

Maintenance of records.

21. The licensee and operator of a dive centre shall:-

(a) maintain the following records in respect of all persons providing services to clients from the dive centre:-

- i) name, address and date of birth;
- ii) experience and certification related to the duties assigned;
- iii) medical certification;

(b) maintain the following records in respect of clients utilising the services of the dive centre:-

- i) name, address and date of birth;
- ii) copy of medical assessment;
- iii) copy of any previous training and, or certification and experience;
- iv) copy of parental consent if such consent is required;

(c) retain records regarding clients undertaking organised or guided diving as well as regarding rental of equipment for at least six months;

(d) retain records regarding clients undergoing training at any level for at least two years including records showing dates of confined, open water and classroom sessions signed by both instructor and trainee.

Dive log.

22. The licensee and operator of a dive centre shall maintain a dive log for every confined and open water session organised by the centre. The dive log shall show the names of clients, staff members assisting such clients, dive site, date, entry and exit time, depth, gas used, wind and sea conditions. All dive logs, as well as the risk assessment shall be retained for at least six months.

23. All documents, permits and certificates relating to the dive centre, to the operator of the dive centre and to the employees of the dive centre shall be available on site at the centre at all times.

Availability of documents.

24. The director of diving and the instructors shall, during the provision of diving services, be in possession of a form of identification which includes their name and photograph.

Identity cards.

25. Licensees and operators of dive centres shall ensure that their dive centre complies with standard requirements of dive centres as may be established by the Authority from time to time.

Standards.

26. Compliance with the provisions of these regulations shall be deemed to be a condition to which a licence to operate a dive centre is subject, irrespective of whether or not reference to these regulations is made in the licence itself.

Conditions of licence.

27. The Authority may withdraw or suspend the licence of a dive centre should the licensee or operator of a dive centre ceases to meet any of the conditions specified in regulation 3 or 4, or any of the conditions under which the licence was issued, or fail to adhere to any other provision of these regulations.

Withdrawal or suspension of dive centre licence.

28. Any person who fails to comply with any of the provisions of these regulations shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand liri.

Fines and penalties.

First Schedule

Medical Statement

To the Participant:

You must complete this Medical Statement, which includes the medical-history information section, prior to enjoying any recreational scuba diving services.

Its purpose is to inform you whether you should be examined by a physician before participating in recreational diving training. If any of these conditions apply to you, this does not necessarily disqualify you. It only means that for your own safety, you must seek the advice of a physician prior to participating in recreational scuba diving.

Please acknowledge that you have read and understood the information provided below by initialling each individual point.

1. YOU MUST CONSULT A PHYSICIAN IF :	Yes or No	Initials
you are pregnant or you suspect you may be pregnant		
you regularly take medications (with the exception of birth control)		
you are over 45 years of age and one or more of the following apply		
you smoke		
you have a high cholesterol level		

2. YOU MUST CONSULT A PHYSICIAN IF YOU EVER HAD	Yes or No	Initials
Asthma, or wheezing with breathing, or wheezing with exercise		
Any form of lung disease		
Pneumothorax (collapsed lung)		
History of chest surgery		
Claustrophobia or agoraphobia (fear of closed or open spaces)		
Epilepsy, seizures, convulsions or take medications to prevent them		
History of blackouts or fainting (full/partial loss of consciousness)		

History of diving accidents or decompression sickness		
History of diabetes		
History of high blood pressure or take medications to control blood pressure		
History of any heart disease		
History of ear disease, hearing loss or problems with balance		
History of thrombosis or blood clotting		
Psychiatric diseases.		

3. I AM AWARE THAT I COULD BE UNFIT TO DIVE IF I HAVE OR DEVELOP ANY OF THE FOLLOWING CONDITIONS:	Initials
cold, sinusitis, or any breathing problems (e.g. bronchitis, hay fever)	
acute migraine or headache	
any kind of surgery within the last 6 weeks	
under influence of alcohol, drugs or medications effecting the ability to react	
Fever, dizziness, nausea, vomiting and diarrhoea	
problems equalising (popping ears)	
acute gastric ulcers	
Pregnancy	

Name

Address.....

Date of Birth.....

I confirm that the answers to the questions above are true and complete.

Signature **Date**.....

Parental/Guardian consent where participant is a minor.

Name of Parent/Guardian* * delete as applicable

Address.....

Signature **Date**.....

This declaration is valid for one year from date of signature

SECOND SCHEDULE

Operational Standards

Requirements for Training.

1. (1) Recreational Diving Service Providers shall ensure that the client fulfils the prerequisites to take part in the training course envisaged.

(2) When conducting a training course leading to certification by a recognised training organisation, all the procedures of the recognised training organisation shall be met.

(3) For entry level courses and taster sessions, the first water lesson should be conducted in confined water with a maximum ratio of 6 students to 1 instructor unless more stringent conditions are set by the recognised training organisation.

Teaching and training facilities.

2. Theory lessons shall be carried out in a suitable learning environment, such as a dedicated classroom, that is free from significant distraction to learning. This shall provide students with sufficient working facilities and training aids (e.g. writing surfaces, reference materials, computer, visual or audio materials) to ensure that students are able to understand the information being presented.

Personnel experience.

3. (1) Only a registered instructor shall conduct the training of recreational scuba divers up to and including dive leader.

(2) Only instructors who have relevant additional qualifications shall conduct training courses involving more demanding operational parameters not covered by the scuba instructor's qualifications or experience (e.g. night dives, limited visibility dives, deep dives, wreck dives, dry suit dives, drift dives, cave dives, nitrox dives, trimix dives, rebreathers)

(3) Divers not yet certified as independent divers shall be considered as trainees and shall be accompanied in the water at all times by a registered diving instructor.

(4) Recreational Diving Service Providers may engage dive leaders to help control clients and improve safety but not to assess or to teach any skills or knowledge to clients.

(5) An individual of at least dive leader qualification shall provide the contracted services in the framework of guided dives and organised dives. If a dive requires specific skills beyond the qualifications of a dive leader, the individual leading the dive shall have received relevant specialised training or have equivalent experience.

Personnel Qualifications.

4. (1) The qualifications required for a DIRECTOR OF DIVING shall be at least PADI staff instructor, CMAS 2 STAR Instructor or BSAC Advanced Instructor or any other equivalents that may be recognised by the Authority from time to time. (open-water instructor)

(2) The qualifications required for a DIVING INSTRUCTOR shall be at least PADI Open Water Instructor, CMAS 1 STAR Instructor or BSAC Open Water Instructor or any other equivalents that may be recognised by the Authority from time to time.

(3) The qualifications required for a DIVE LEADER shall be at least PADI Dive Master, CMAS 3 STAR Diver, BSAC Dive Leader or any other equivalents that may be recognised by the Authority from time to time.

(4) The qualifications required for an INDEPENDENT DIVER shall be at least PADI Advance Diver, CMAS 2 STAR Diver, BSAC Sport Diver or any other equivalents that may be recognised by the Authority from time to time.

Organised Diving.

5. (1) A group may include scuba instructors or dive leaders who may take on some or all of the duties for providing proper supervision of members of the group in accordance with these regulations. Any such arrangement between the Recreational Diving Service Provider and the group leader shall be agreed by both parties, in advance of any underwater activities.

(2) To be entitled to enjoy the service of an organised dive, each client shall be an independent diver or, if not, he shall be accompanied by a registered diving instructor. The certification and the client's personal dive log shall be checked prior to the dive and details placed on record.

(3) An individual of at least dive leader qualification shall be present at the dive site and in control of diving activities.

(4) Organised dives which require specific qualifications, e.g. night diving, wreck diving etc. may only be carried out if each individual client has appropriate qualifications (speciality certification) or equivalent logged experience.

Guided Diving.

6. (1) In order to be entitled to enjoy the service of a guided dive, each client shall be an independent diver or, if not, he shall be accompanied by a registered diving instructor. The certification and the client's personal dive log shall be checked prior to the dive and the details placed on record.

(2) Guided dives which require specific qualification, e.g. night diving wreck diving etc. may only be carried out if each individual client has the appropriate qualifications or equivalent experience.

(3) Guided dives requiring specific qualifications or equivalent experience, for which the client cannot provide proof of such qualifications or experience, shall be considered to be training dives and regulation 4 of this Schedule shall apply.

Locations.

7. The Recreational Diving Service Provider shall ensure that the person in charge of the dive has the knowledge and understanding of the features and hazards of the intended diving locality. The person in charge shall make every reasonable effort to ensure that the site at which the training or diving is to be carried out is suitable for the clients and the envisaged activity.

Diving Equipment Standards.

8. (1) All diving equipment used for the services shall be of a style currently in use in the sports diving industry and shall comply with local or European standards.

(2) All diving equipment shall be safe to use at time of issue and shall be serviced according to legal requirements and/or manufacturers specifications.

(3) The recreational diving service provider shall establish an appropriate written service schedule which identifies all individual cylinders, demand regulators, alternative breathing gas sources, cylinder-support-system and buoyancy control devices.

Rental of Diving Equipment.

9. (1) The service comprises rental of items of diving equipment to clients who may use such equipment both for supervised and unsupervised diving activities.

(2) The recreational diving service provider shall ensure that the personnel understand the characteristics and function of the diving equipment

rented. Staff shall be competent to advise clients about the proper fit and use of the diving equipment in specific diving activities.

(3) Assistance and advice shall be offered to the client in selecting the proper diving equipment taking into account the envisaged diving activity and the qualification and needs of the clients (e.g. the proper fit of buoyancy control device and suits).

(4) Diving equipment provided to client shall be subjected to an inspection by the recreational diving service provider and the client prior to delivery in order to ascertain that it is fully operational.

(5) Diving cylinders and scuba demand valves may only be rented to independent divers who must undertake not to allow these to be used by other divers of a lesser certification level.