

Seychelles

Licences Act, 2010

## Licences (Diving Business) Regulations

Statutory Instrument 48 of 1991

Legislation as at 5 July 2017

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# Seychelles

## Licences Act, 2010

### Licences (Diving Business) Regulations

#### Statutory Instrument 48 of 1991

Commenced on 1 September 1991

*[This is the version of this document at 5 July 2017.]*

*[S.I. 48 of 1991; S.I. 65 of 1996; S.I. 27 of 2003]*

#### 1. Citation

These Regulations may be cited as the Licences (Diving Business) Regulations.

#### 2. Interpretation

In these Regulations—

“**diving business**” means the business of a dive centre or a dive operator for the provision of facilities for recreational diving;

“**dive centre**” means a person or a body of persons engaged in the teaching of diving;

“**dive operator**” means a person or a body of persons engaged in conducting diving excursions;

“**power diving**” means a system of diving in which a person is connected to a floating unit that is towed along the surface supporting air supply.

*[inserted by regulation 2(a) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

#### 3. Diving business licence and fees

- (1) An application for a licence to engage in a diving business shall be in the Form provided by the Authority.
- (2) An application for a licence under subregulation (1), shall be accompanied by the fees set out in Schedule 1 and, where applicable, by the surcharge under regulation 8.

#### 4. Qualification for a licence

- (1) An applicant for a diving business licence shall, on production of the documents relevant thereto, satisfy the Authority—

*[regulation 4(1) amended by regulation 2(a) of [SI 65 of 1996](#) w.e.f. 19 August 1996]*

- (a) in the case of a business of a dive centre, that he is, or has in his employment, an Open Water Instructor holding the qualifications specified in subregulation (2);
- (b) in the case of a business of a dive operator, that he is, or has in his employment, a Divemaster holding the qualifications specified in subregulation (3);
- (c) that he has taken out a policy of insurance to the satisfaction of the Authority covering his staff, those availing of his services and the public for personal injury or damage to their properties;
- (d) that the staff employed by him in the diving business, other than secretarial and office staff, has successfully completed a Rescue Technique Speciality Course approved by the Authority.

- (1A) An application for a diving business (power diving) licence shall—
- (a) hold the Power Dive International Introductory Dive Instructor Certificate;
  - (b) be a qualified Dive Control Specialist;
  - (c) be a qualified open water Instructor;
- and where the applicant is a body corporate it shall have in its employment an individual having the qualifications referred to in this subregulation.
- [regulation 4(1A) inserted by regulation 2(b) of SI 27 of 2003 w.e.f. 21 July 2003]*
- (2) An Open water instructor shall have the following qualifications—
- (a) a Teaching Status Open Water Scuba Instructor licence from an Association of Professional Diving Instructors;
  - (b) an International First Aid certificate;
  - (c) a certificate of competence in Cardio Pulmonary Resuscitation, approved by the Authority.
- (3) a Divemaster shall have the following qualifications—
- (a) Divemaster qualification from an Association of Professional Diving Instructors;
  - (b) an International First Aid Certificate;
  - (c) a certificate of competence in Cardio Pulmonary Resuscitation, approved by the Authority.

## 5. Conditions of a licence

- (1) A holder of a diving business licence shall not, subject to subregulation (1A), engage any vessel in or for the purpose of the business unless—
- [regulation 5(1) amended by regulation 2(b)(i) of SI 65 of 1996 w.e.f. 19 August 1996]*
- (a) it is licenced to operate as a hire craft under the Licences Act;
  - (b) it displays Diving Flags in accordance with the International Regulations for the Prevention of Collisions at sea, 1972 and as specified in Schedule 2;
  - (c) it is equipped with anchors which could be instantly abandoned or it provides a Dive Tender Craft available instantly for surface rescue;
  - (d) it is equipped with a crew fully aware of the special safety requirements for divers and capable of operating the vessel or the Dive Tender Crafts in an emergency and in attendance on the vessel whilst divers are in the water;
  - (e) it carries a First Aid Kit including oxygen capable of being administered in the vessel;
- [regulation 5(1)(e) amended by regulation 2(b)(ii) of SI 65 of 1996 w.e.f. 19 August 1996]*
- (f) the holder of the diving business licence has taken out a policy of insurance to the satisfaction of the Authority covering the passengers and crew of the vessel and the public for personal injury and for damage to their property.
- [regulation 5(1)(f) inserted by regulation 2(b)(iii) of SI 65 of 1996 w.e.f. 19 August 1996]*
- (1A) Where the holder of a diving business licence engages only one vessel in or for the purpose of its business, subregulation (1)(a) shall not apply to such vessel but the holder of the licence shall ensure that the vessel complies with the other requirements of the Control of Hire Craft Act and the other requirements of the Control of Hire Craft Act and the regulations made thereunder.
- [regulation 5(1A) inserted by regulation 2(c) of SI 65 of 1996 w.e.f. 19 August 1996]*

- (2) A holder of a diving business licence shall ensure that—
- (a) the diving business and its diving activity are supervised by a Divemaster or an Open Water Instructor, as the case may be, qualified under regulation 4;
  - (b) all persons supervising any diving activity conducted by the business has access to appropriate means of rapid diver recall and are equipped with an Alternate Air Source, depth Gauge, Divers Watch and Decompression Tables;
  - (c) any person availing himself of facilities provided by the business, hereafter referred to as a “client”, shall not dive alone;
  - (d) all dives by clients, wherever practicable, shall be within the internationally recognized No-Decompression limits, and that the standard safe speed of ascent and descent are observed at all times;
  - (e) operations involving deep diving activities, in excess of 25 metres, shall utilize an ascent/descent line with spare tanks and multiple moth-piece regulators at emergency decompression stop levels;
  - (f) any client shall either hold an internationally recognized Open Water Certificate or a certificate of equivalent standard or is given a formal tuition and assessment programme by an Open Water Instructor referred to in regulation 4(1)(a) in an area of confined water prior to open water activities.
  - (g) a client who does not hold an internationally recognized Open Water Certificate or a certificate of equivalent standard is accompanied by an Open Water Instructor until, in the opinion of the Instructor, he completes his dives in good control without undue stress or anxiety and ensures that thereafter he is accompanied by a Divemaster or an Open Water Instructor;
  - (h) *[regulation 5(2)(h) replaced by regulation 2(c)(i) of SI 27 of 2003 w.e.f. 21 July 2003]*
  - (i) all clients, are supervised by competent supervisors;  
*[regulation 5(2)(i) amended by regulation 2(c)(ii) of SI 27 of 2003 w.e.f. 21 July 2003]*
  - (j) all clients use diving buoyancy control devices or life jackets and regulators fitted with a submersible pressure gauge;
  - (k) diving equipment is not rented out to persons who do not possess an internationally recognized Open Water Certificate or a certificate of equipment standard and who are not accompanied by another person who holds a certificate of the same or higher standard;
  - (l) all diving equipment used or hired by the business is in good repair;
  - (m) all cylinders used by the business conform to appropriate standards and are hydrostatically tested and are internally inspected by visual means every 12 months by an officer or a test centre approved by the Authority;
  - (n) all diving cylinders used by the business are not filled unless they are within the test period appropriate to the specifications of the cylinders;
  - (o) all cylinders used by the business in air bank installations are periodically inspected and tested as required by the specifications of the cylinders;
  - (p) in static compressor installations and in mobile installations, where possible, cylinders used by the business are filled in a reinforced tank and immersed in circulating cold water;
  - (q) all diving regulators used by the business are fitted with submersible pressure gauges for monitoring air supply;
  - (r) scuba cylinders are filled at a dive centre only for persons who hold an internationally recognized Open Water Certificate or a certificate of a higher standard;

- (s) all compressors used for supply of breathing air conform to appropriate standards;
- (t) all supplies by the business of breathing air utilise filter systems to the appropriate standards and the filters replaced and the quality of air tested when requested by an officer of the Authority.
- (u) all air compressors and used by the business are placed in an area offering adequate ventilation and those driven by petroleum products have the intake in clean air;
- (v) all compressors used by the business are operated by trained operators conversant with possible dangers involved with the filling of high pressure Scuba cylinders and capable of operating the safety procedures and emergency shut down of the compressors;
- (w) a proper log hours run and oil and filter changes is kept for each compressor and made available for inspection;
- (x) he or his clients do not remove any shell, coral or any marine organism or hinder or molest any sea creature;
- (y) no damage is caused to the sea bed and to corals in anchoring boats or in engaging in diving activities;
- (z) no litter is thrown overboard or that nothing is done that would constitute pollution or defacement of the environment by the clients or its staff;
- (aa) all laws relating to national parks and nature reserves are complied with;
- (bb) all vessels engaged in or for the purpose of the business are not left unattended while being used in the business;
- (cc) the policy of insurance referred to in regulation 4(1)(c) is kept in force during the validity of the licence;  
*[regulation 5(2)(cc) amended by regulation 2(c)(iii) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
- (dd) the Divemaster or Open Water Instructor, as the case may be, examines the equipment brought in by the clients to ascertain that they are in working order for the intended dive and refuses to serve unless they are in working order and safe for use;  
*[regulation 5(2)(dd) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
- (ee) the Divemaster or Open Water Instructor keeps a logbook on the number of dives made and their locations and produces the logbook for inspection by the Authority whenever required;  
*[regulation 5(2)(ee) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
- (ff) all incidents affecting safety or leading to injuries or damage to equipment or boat are recorded in an incident logbook with details of the incident, and the logbook is made available to the Authority at any time and that whenever a report is prepared for the Professional Association of Diving Instructions, a copy thereof is submitted to the Authority;  
*[regulation 5(2)(ff) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
- (gg) there is displayed in the office of the business a statement of the policy of the business, the emergency procedures, logbooks, form completion guidelines and other important operational information, while ensuring that all employees are trained in implementing the policy and procedures;
- (hh) the Divemaster or Open Water Instructor accompanying a diving group exercises supervision and is responsible for the clients' safety until they return to the Diving Centre or business premises;  
*[regulation 5(2)(hh) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

- (ii) the Divemaster or Open Water Instructor is familiar with and has adequate knowledge of the Dive Site and that meteorological and maritime information (such as tide tables) is used by them;  
*[regulation 5(2)(ii) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
  - (jj) a Divemaster or Open Water Instructor of the diving business is allowed to supervise not more than six budding pairs (12 divers) at a time;  
*[regulation 5(2)(jj) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
  - (kk) the Divemaster or Open Water Instructor verifies that the documents produced by the client in relation to the client's diving experience or qualifications are genuine, and that they do one supervised dive to determine the level of experience;  
*[regulation 5(2)(kk) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
  - (ll) whenever a boat is out for diving there is in the dive centre or other business premises a clerk, receptionist or other employee who is familiar with emergency procedures;  
*[regulation 5(2)(ll) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
  - (mm) a report in writing of any diving incident, involving a person missing at sea, injury or death is sent to the Seychelles Licensing Authority within 28 hours from the time of the incident, apart from reporting it to other authorities;  
*[regulation 5(2)(mm) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
  - (nn) the maximum depth of 40 metres for all recreational diving is strictly observed.  
*[regulation 5(2)(nn) inserted by regulation 2(c)(iv) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*
- (3) The holder of a diving business (power diving) licence shall, in addition to any other conditions the Authority may specify in the licence, fulfill the following conditions—
- (a) ensure that his clients comply with the student guide of the Introductory Dive Certificate issued by Power Dive International;
  - (b) ensure that the minimum age for open water introductory power diving is 12 years;
  - (c) ensure that the number of hours for introductory power diving are from 2 to 8;
  - (d) ensure that the maximum participant: instructor ratio for open water diving activities is 6:1 for introductory power diving unless the Authority has permitted otherwise;
  - (e) during open water introductory power dives ensure that participants remain in the immediate vicinity of an instructor so that physical contact can be made at any time and that when only one instructor conducts a dive, "Indian file" is not permitted;
  - (f) during open water introductory power dives, ensure that participants do not exceed a depth of 12 metres and that the instructor does not engage in any activity other than supervision; and that, if other activities such as video or photography are conducted, then a separate dive leader is engaged for the video or photography activities;
  - (g) ensure that prior to commencing the dive participants perform in the water, but while still on the surface, a mask clear and regulator removal and replacement, correct weight setting for neutral buoyancy and weight belt jettison manoeuvre; and
  - (h) issue on completion of the dive, the Introduction to Power Dive Card.
- [regulation 5(3) inserted by regulation 2(d) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

### 5A. Change of ownership etc.

Whenever any change of ownership or management of the diving business for which a licence has been granted or any replacement of an Open Water Instructor or a Divemaster of such business occurs, the holder of the licence shall, within seven days of such occurrence, inform the Authority and the Principal Secretary of the Ministry responsible for Tourism of such change or replacement, in writing, giving particulars of such change or replacement including the qualifications and experience of the new manager, Open Water Instructor or Divemaster, as the case may be.

*[regulation 5A inserted by regulation 2(e) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

### 5B. Duties in respect of hirecraft

Every licence holder who as owner or otherwise uses a hirecraft diving boat shall, without prejudice to any other law governing hirecrafts—

- (a) keep the hirecraft in good condition and well maintained;
- (b) engage a crew of at least two persons including the coxswain;
- (c) have a functioning telephone or radio transmitter on board;
- (d) carry on board a sufficient quantity of fuel for each trip and for changes of dive plans;
- (e) carry on board a spare dive bottle and regulator;
- (f) ensure that the crew are proficient in recalling methods for use in the event of a sudden deterioration of weather conditions;
- (g) ensure that when the divers are underwater the diving boat has the international diving flag hoisted and that the boat is stationed in the vicinity of the divers.

*[regulation 5B inserted by regulation 2(e) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

### 5C. Documents for Diving Business (Power Diving) licence application

An application for a Diving Business (Power Diving) licence shall be accompanied by the following documents—

- (a) in the case of an individual applying for the licence;
  - (i) a certified copy of the Instructor's qualification issued by the Power Dive International or other recognized body, as required under regulation 4(1A);
  - (ii) letter of approval to carry on the business from the Ministry responsible for Tourism;
  - (iii) a copy of the policy of insurance as required, in regulation 4(1)(c);
  - (iv) the annual licence fee as set out in Schedule 1;
  - (v) documentary proof to the satisfaction of the Authority that the applicant is the owner or lessee of the premises to be used as the office in connection with the business;
- (b) in the case of a firm matters specified in paragraph (a)(i) in respect of each partners of the firm and documents specified in paragraph (a)(ii), (iii) and (iv) where applicable;
- (c) in the case of a corporate body—
  - (i) a certified copy of the certificate of incorporation and memorandum of association;
  - (ii) matters specified in paragraph (a)(i), (ii), (iii), (iv) and (v);



- (iii) documentary proof to the satisfaction of the Authority that the applicant has in employment a person having the necessary qualifications referred to in paragraph (a)(i).

*[regulation 5C inserted by regulation 2(e) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

## **6. Validity of licence**

A driving business licence granted under these regulations is valid for 12 months from the date of grant unless revoked earlier by the Authority and is not transferable except with the prior written consent of the Authority.

### **6A. Suspension, revocation, non-renewal of licence**

The Authority may suspend, revoke or refuse to grant a renewal of a licence if the holder of the licence has contravened any regulation or has acted in breach of any condition of the licence.

*[regulation 6A inserted by regulation 2(f) of [SI 27 of 2003](#) w.e.f. 21 July 2003]*

## **7. Powers of entry**

- (1) Any person authorised by the Authority may at any time enter and search any premises used by the holder of the licence for the diving business and inspect any equipment used by the business or take extracts from any records or documents kept by the business.
- (2) No person shall prevent, hinder or obstruct any person in the exercise of his functions under subregulation (1).

## **8. Surcharge and refund of fee**

- (1) A person who was the holder of a driving business licence and who applies after the expiration of the licence for the same type of licence, shall, unless the Authority is satisfied that he had, during the period between the expiration of his previous licence and his application, ceased to carry on the diving business, be liable, in addition to the licence fee and any other penalty under the Act, to a surcharge equal to 10% of the licence fee each month or part thereof which has elapsed from the date of expiration of the previous licence and the date of the lodging of his application.
- (2) Where an application for a diving business licence under these Regulations is refused, the Authority shall refund the licence fee and surcharge to the applicant.

## **9. Scope of licence**

- (1) A licence to engage in the business of a dive centre shall enable the holder of the licence to engage in the business of a dive operator.
- (2) A licence granted under these Regulations shall specify the activity for which the licence is granted.
- (3) Notwithstanding the Licences (Trade) Regulations, the holder of a diving business licence to engage in the business of a dive centre may, subject to the Trades Tax Act, import and sell any goods where the holder satisfies the Authority that the holder is required to supply them as a part of the business of the dive centre for which the holder holds a licence.

*[regulation 9(3) inserted by regulation 2(d) of [SI 65 of 1996](#) w.e.f. 19 August 1996]*

## **10. Offence**

- (1) No person shall bring a vessel within a radius of 150 metres of a vessel displaying the Diving Flags referred to in regulation 5(1)(b) or a surface marker buoy displaying the flags.

- (2) Any person who contravenes subregulation (1) is guilty of an offence and is liable on conviction to a fine of R.5000.

## 11. Branch dive centres

- (1) The holder of a diving business licence to engage in the business of a dive centre may, with the permission of the Authority, open a branch of its business in any island other than the island where it has its principal place of business.
- (2) The Authority shall not grant permission under subregulation (1) to open a branch unless the Authority is satisfied that the proposed branch conforms to the requirements of a dive centre.

*[regulation 11 inserted by regulation 2(e) of [SI 65 of 1996](#) w.e.f. 19 August 1996]*

## Schedule 1 (Regulation 3)

### Fees

1.	Processing an application for a licence	R.50
2.	Licence fee for a Diving Business Licence—	
(i)	as a dive operator	R.7000
(ii)	as a dive centre	R.10,000
(iii)	for each branch office of a dive centre	R.1,000
<i>[Schedule 1 item 2 replaced and substituted by regulation 2(f) of <a href="#">SI 65 of 1996</a> w.e.f. 19 August 1996]</i>		
3.	Licence fee for a Diving Business (Power Diving) licence	R.2000
<i>[Schedule 1 item 3 inserted by regulation 2(g) of <a href="#">SI 27 of 2003</a> w.e.f. 21 July 2003]</i>		

## Schedule 2 (Regulation 5(1)(b))

- A. International Sports Diving Flag to be displayed by vessels with Sport Divers internationally. To be hoisted on a different halyard from that bearing the International Code Flag.

*[Note: Diagram of flag (60 cm x 75 cm, white diagonal stripe on red) not reproduced in this document.]*

- B. International Code Flag to be displayed by all vessels and divers in international and foreign waters. To be hoisted on a different halyard from that bearing the International Sports Diving Flag.

*[Note: Diagram of flag (35 cm white square and 40 cm blue forked rectangle) not reproduced in this document.]*