

CONTENTS • INHOUD

<i>No.</i>	<i>Page</i>	<i>Gazette</i>
<i>No.</i>	<i>No.</i>	<i>No.</i>

GOVERNMENT NOTICE**Labour, Department of****Government Notice**

R. 253 Occupational Health and Safety Act (85/1993): Draft Diving Regulations, 2007	2	30836
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GOVERNMENT NOTICES**DEPARTMENT OF LABOUR****No. R. 253****3 March 2008****OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO. 85 OF 1993)****DRAFT DIVING REGULATIONS, 2007**

The Minister of Labour intends, in terms of section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), to make the regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed regulations to the Director General of Labour, Private Bag X 117, Pretoria, 0001 (for the attention of the Chief Director: Occupational Health and Safety), within 90 days of the date of publication of this notice.

SCHEDULE**1. Definitions**

In these Regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates –

"air" means normal compressed air suitable for breathing whilst diving

"assistant life-support technician" means an assistant life-support technician registered in terms of Regulation 6 (1)

"benign conditions" mean a tank or pool artificially constructed for the purpose of swimming or diving or for use as an aquarium, where the diver is in full view from the surface or viewing windows at all times and there are no hazards from entanglement or entrapment and the water depth does not exceed 8m.

"Class I diving" means saturation diving

"Class II diving" means open (wet) bell diving, including class II mixed gas

"Class III diving" means surface-supply diving, including class III nitrox

"Class IV diving" means diving using self-contained diving apparatus, including class IV nitrox

"Class V diving" means diving in benign conditions.

"code of practice" means a code of practice, approved in accordance with regulation 21, giving guidance on these Regulations

"competence" means a combination of knowledge, skills and experience suitable to ensure the task is completed safely and effectively.

"designated medical practitioner" means a medical practitioner designated in terms of regulation 15.

"dive" means entering water or any other liquid, or a pressurized environment in which a person is subjected to pressure greater than 100 millibars above atmospheric pressure and in order to survive in such an environment he or she breathes air or other gas at pressure greater than atmospheric pressure and "a dive" and "to dive" shall have a corresponding meaning and a ROV will also be considered to dive..

"diver" means a person registered as a diver in terms of regulation 8 (1).

"diver's logbook" means a logbook in a form set out in Annexure C of these regulations

"diving advisory board" means the advisory board established in terms of regulation 19 of these Regulations.

"diving apparatus" means any type of diving equipment that can assist a person to take part in any diving operation.

"diving contractor" means a person who is the employer of a diver or divers engaged in a diving project and includes a self-employed person who is not working as a subcontractor.

"diving instructor" means a person registered as a diving instructor in terms of regulation 5 (1).

"diving supervisor" means a person registered as a diving supervisor in terms of regulation 7 (1).

"diving operation" means the activities in which at least one person takes part or will take part as a diver and extends from the time when that person, or the first such person, commences to prepare to dive until that person, or the last such person, has left the water, chamber or other environment in which the dive, or any part of the dive, took place and has completed any requisite decompression procedures, including, where it may be reasonably anticipated that this will be needed, any therapeutic recompression

"diving operations record" means the record containing the required particulars for each diving operation as contemplated in Annexure A to these Regulations

"diving project" means any activity, made up of one or more diving operations, including the preparation for, participation in and activities following a diving operation that are directly linked to a diving operation

"diving project plan" means the plan that is prepared in accordance with Regulation 4.

"hyperbaric worker" means a person registered as a hyperbaric worker in terms of Regulation 12(1)

"hyperbaric supervisor" means a person registered as a hyperbaric supervisor in terms of Regulation 12 (1)

"learner diving supervisor" means a person registered as a learner diving supervisor in terms of Regulation 7 (1)

"life-support supervisor" means a life support technician appointed in writing in accordance with Regulation 6 (2)

"life support technician" means a person registered as a life-support technician in accordance with regulation 6 (1).

"nitrox" means a mixture of oxygen and nitrogen, where the percentage of oxygen in the mixture is greater than that of normal air and does not exceed a maximum partial pressure of 1.6 atmospheres absolute of oxygen at any given time.

"operations manual" means a manual prepared in accordance with regulation 13.

"ROV" means a remotely operated vehicle

"ROV operations record" means the record containing the required particulars for each diving operation as contemplated in Annexure F to these Regulations

"ROV pilot" means a person registered as a ROV pilot in accordance with Regulation 9((1))

"ROV supervisor" means a person registered as a ROV supervisor in accordance with Regulation 10 (1)

"SANOP 96" means the South African Naval Operational Publication number 96.

"SAUHMA" means the Southern African Undersea and Hyperbaric Medical Association

"the Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); and includes all the relevant regulations under the Act.

"training standard" means a training standard approved in accordance with regulation 21.

2. Scope of application

- (1) Subject to subregulation (2), these Regulations shall apply to all diving operations and all persons engaged in diving operations in the Republic of South Africa or the territorial waters thereof. Provided that all diving operations performed by the South African National Defence Force in terms of SANOP96 and all persons involved in those operations, shall be deemed to have complied with these Regulations.
- (2) These Regulations shall not apply to persons who –
 - (a) use no diving apparatus;
 - (b) are engaged in recreational diving activities; or
 - (c) are medical personnel who have to take part in compression chamber dives for the purpose of therapeutic treatment.
 - (d) are involved in the care or treatment of patients in a hospital or other place not under the control of the diving contractor.

3. The diving contractor

- (1) No person at work shall dive in a diving project and no employer shall employ any person in such a diving project unless there is one person and one person only who is the diving contractor for that diving project
- (2) If no diving contractor is appointed in terms of subsection (1), the employer must perform the functions of a diving contractor in terms of these regulations
- (3) The duties of a diving contractor are to ensure that, so far as is reasonably practicable,
 - (a) the diving project is planned, managed and conducted in a manner which protects the health and safety of all persons taking part in that diving project.
 - (b) before the commencement of the diving project, a diving project plan is prepared in respect of that project in accordance with regulation 4 and that the plan is thereafter updated as necessary during the continuance of the project;
 - (c) before the commencement of any diving operation –
 - (i) subject to the provisions in regulations 7, 9 and 11 appoint in writing, a person to supervise that operation,
 - (ii) the person appointed is supplied with a copy of the diving project plan;
 - (d) there are sufficient people with suitable competence to carry out safely and without risk to health both the diving project and any action (including the giving of first-aid) which may be necessary in the event of a reasonably foreseeable emergency connected with the diving project;
 - (e) suitable and sufficient equipment is available whenever needed to carry out both the diving project and any action without risk to health and safety

(including the giving of first-aid) which may be necessary in the event of a reasonably foreseeable emergency connected with the diving project;

(f) the equipment made available under sub-paragraph (e) is maintained in a safe working condition;

(g) that any person taking part in the diving project complies with the requirements and prohibitions imposed on him by or under the relevant statutory provisions and observes the provisions of the diving project plan;

(h) a diving operations record containing the minimum required particulars, as contemplated in Annexure A, is kept for each diving operation for a minimum of two years

(4) The appointment of a diving contractor does not relieve the employer of any duty imposed on him or her by the Act.

4. Diving project plan

(1) The diving project plan shall be based on an assessment of the risks to the health and safety of any person taking part in the diving project and shall consist of a record of the outcome of the planning carried out in accordance with the regulations including all such information and instructions as are necessary to give advice to and to regulate the behaviour of those so taking part to ensure, so far as is reasonably practicable, their health and safety.

(2) The diving project plan shall identify and incorporate the relevant approved code(s) of practice which will apply to the diving project.

(3) The diving project plan shall also identify and incorporate any other guidance notes that may be applicable in the specific diving project

5. Diving Instructors

(1) Only persons who satisfy the requirements set by the chief inspector shall be registered as an instructor under classes I, II, III and IV

(2) A diving instructor shall ensure that all training provided is in accordance with the regulations and the training standards approved in accordance with Regulation 21

(3) A diving instructor shall only provide training under the auspices of a diving school approved by the Chief Inspector

6. Life-support technicians

(1) Only persons who satisfy the requirements set by the chief inspector shall be registered as an assistant life-support technician and life-support technician.

(2) The life-support technician with appropriate levels of experience and competency for a particular diving operation shall be appointed in writing as a life-support supervisor by the employer.

- (3) Only life-support supervisors registered in terms of subregulation (1) may be appointed.
- (4) The life-support supervisor shall, in respect of the diving operation for which he has been appointed –
 - (a) ensure that, so far as is reasonably practicable, it is carried out, -
 - (i) without risk to the health and safety of all those taking part in that operation and of other persons who may be affected thereby;
 - (ii) in accordance with the requirements and prohibitions imposed on him by or under any relevant statutory provisions; and
 - (iii) in accordance with the diving project plan; and
 - (b) before the commencement of the operation, ensure that each person taking part is aware of the contents of the diving project plan which relate to that operation; and
 - (c) enter the particulars, required by Annexure A in the diving operations record.
 - (d) in accordance with Annexure E maintain a daily record in his or her logbook
- (5) A life-support supervisor may, whilst supervising the diving operation in respect of which he is appointed, give such reasonable directions to any person taking part in that operation or who may affect the safety of that operation as are necessary to enable him to comply with these regulations.

7. Diving Supervisors

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a learner-supervisor and supervisor under classes I, II, III and IV.
- (2) The diving supervisor for a particular diving operation shall be appointed in writing by the employer.
- (3) Only supervisors registered in terms of subregulation (1) may be appointed.
- (4) The supervisor shall, in respect of the diving operation for which he has been appointed –
 - (a) ensure that, so far as is reasonably practicable, it is carried out, -
 - (i) without risk to the health and safety of all those taking part in that operation and of other persons who may be affected thereby;
 - (ii) in accordance with the requirements and prohibitions imposed on him by or under any relevant statutory provisions; and

- (iii) in accordance with the diving project plan; and
- (b) before the commencement of the operation, ensure that each person taking part is aware of the contents of the diving project plan which relate to that operation; and
- (c) enter the particulars, required by Annexure A in the diving operations record.
- (d) in accordance with Annexure D maintain a daily record in his or her logbook
- (5) A supervisor may, whilst supervising the diving operation in respect of which he is appointed, give such reasonable directions to any person taking part in that operation or who may affect the safety of that operation as are necessary to enable him to comply with these regulations.

8. Divers

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a diver under classes I, II, III, IV and V.
- (2) Every diver engaged in a diving project shall -
 - (a) in accordance with Annexure C maintain a daily record of his diving in his or her diver's logbook; and
 - (b) inform the diving supervisor if he or she is not competent to carry out the diving tasks required as part in the diving operation in a safe manner;
 - (c) if he knows of anything (including any illness or other condition) which makes him unfit to dive, inform the diving supervisor of such illness or condition.
 - (d) comply with any directions given to him by a supervisor and
 - (e) comply with any instructions applicable to him in the diving project plan.
 - (f) report for a medical examination to a designated medical practitioner at least once every twelve months

9. ROV supervisor

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a ROV supervisor.
- (2) The ROV supervisor for a particular diving operation shall be appointed in writing by the employer.
- (3) Only supervisors registered in terms of subregulation (1) may be appointed.
- (4) The supervisor shall, in respect of the ROV operation for which he has been appointed -

- (a) ensure that, so far as is reasonably practicable, it is carried out, -
 - (i) without risk to the health and safety of all those taking part in that operation and of other persons who may be affected thereby;
 - (ii) in accordance with the requirements and prohibitions imposed on him by or under any relevant statutory provisions; and
 - (iii) in accordance with the diving project plan; and
 - (b) before the commencement of the operation, ensure that each person taking part is aware of the contents of the diving project plan which relate to that operation; and
 - (c) enter the particulars, required by Annexure A in the diving operations record.
 - (d) in accordance with Annexure D maintain a daily record in his or her logbook
- (5) A supervisor may, whilst supervising the ROV operation in respect of which he is appointed, give such reasonable directions to any person taking part in that operation or who may affect the safety of that operation as are necessary to enable him to comply with these regulations.

10. ROV pilots

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a ROV pilot.
- (2) Every ROV pilot engaged in a diving project shall –
 - (a) in accordance with Annexure F maintain a daily record in a logbook; and
 - (b) inform the ROV supervisor if he or she is not competent to carry out the tasks required as part in the ROV operation in a safe manner;
 - (c) comply with any directions given to him by a supervisor and
 - (d) comply with any instructions applicable to him in the diving project plan.
 - (e) report for a medical examination to a designated medical practitioner at least once every twelve months

11. Hyperbaric Supervisor

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a learner hyperbaric supervisor and hyperbaric supervisor.

- (2) The hyperbaric supervisor for a particular diving operation shall be appointed in writing by the employer.
- (3) Only supervisors registered in terms of subregulation (1) may be appointed.
- (4) The supervisor shall, in respect of the diving operation for which he has been appointed –
 - (a) ensure that, so far as is reasonably practicable, it is carried out, -
 - (i) without risk to the health and safety of all those taking part in that operation and of other persons who may be affected thereby;
 - (ii) in accordance with the requirements and prohibitions imposed on him by or under any relevant statutory provisions; and
 - (iii) in accordance with the diving project plan; and
 - (b) before the commencement of the operation, ensure that each person taking part is aware of the contents of the diving project plan which relate to that operation; and
 - (c) enter the particulars, required by Annexure A in the diving operations record.
 - (d) in accordance with Annexure D maintain a daily record in his or her logbook
- (5) A supervisor may, whilst supervising the diving operation in respect of which he is appointed, give such reasonable directions to any person taking part in that operation or who may affect the safety of that operation as are necessary to enable him to comply with these regulations.

12. Hyperbaric worker

- (1) Only persons who satisfy the requirements set by the chief inspector shall be registered as a hyperbaric worker.
- (2) Every hyperbaric worker engaged in a diving project shall –
 - (a) in accordance with Annexure C maintain a daily record of his diving in his or her diver's logbook; and
 - (b) inform the hyperbaric supervisor if he or she is not competent to carry out the diving tasks required as part in the diving operation in a safe manner;
 - (c) if he knows of anything (including any illness or other condition) which makes him unfit to dive, inform the hyperbaric supervisor of such illness or condition.
 - (d) comply with any directions given to him by a supervisor and

(e) comply with any instructions applicable to him in the diving project plan.

(f) report for a medical examination to a designated medical practitioner at least once every twelve months

13. Approved qualifications

The chief inspector may approve in writing such qualifications, as he or she considers suitable to ensure that divers, supervisors, life-support technicians, instructors, ROV pilots, ROV supervisors, hyperbaric workers and hyperbaric supervisors are adequately trained for the purposes of these regulations.

14. Diving Schools

(1) Only schools that have satisfied the requirements of the chief inspector may be registered as a diving school.

(2) No person shall provide training under these regulations, unless he or she has been registered as a diving instructor in terms of Regulation 5.

(3) Any person who has at his or her disposal such staff, plant, equipment and other ancillary facilities as to enable him or her to offer the curriculum of instruction and training framed by the chief inspector may apply in writing to the chief inspector for registration of a diving school.

15. Designated Medical Practitioners

(1) The chief inspector may designate level 1 medical practitioners and level 2 medical practitioners

(2) Only medical practitioners registered with the Health Professions Council of South Africa and who have completed a course in underwater medicine, recognized by the chief inspector, shall be designated.

(3) A designation in terms of subregulation (1) and (2) shall lapse after a period of four years, unless the designated medical practitioner concerned furnishes proof before the expiry of such period that he or she has undertaken refresher training, recognized by the chief inspector.

(4) A level 1 designated medical practitioner shall, if so requested –

(a) carry out a medical examination, including such tests as are required by the chief inspector, provided that when an examination of a specialized nature is required, the designated medical practitioner need not personally perform such examination.

(b) issue a medical certificate of fitness based on the results of the medical examination or endorse such certificate subsequent to each medical re-examination,

(c) forward the diving fitness registry information listed in regulation 16. (9)

(5) A level 2 designated medical practitioner shall, if so requested –

(a) In addition to the functions of a level 1 designated medical practitioner render medical assistance as part of a diving project, including medical advice and recompression treatment assistance.

16. Medical examinations and medical fitness

(1) Where the medical examination is required in terms of this regulation the employer shall be responsible for the arrangements and costs connected with such examination: Provided that such employer shall not be responsible in respect of examinations regarding indisposition or injuries not sustained during the execution of the person's normal duties.

(2) A medical certificate of fitness shall indicate –

(a) the name and identity number of the person to whom it relates;

(b) the date of the medical examination;

(c) whether the person is considered fit to dive;

(d) any limitation on the diving or compression for which the person is considered fit;

(e) the period, not exceeding twelve months, for which the person is considered fit;

(f) the name, address, telephone number and Health Professions Council of South Africa registration number of the designated medical practitioner issuing the certificate,

(g) the designation number issued by the chief inspector in accordance with regulation 15. (1)

(h) the signature of the medical practitioner issuing the certificate.

(3) If a medical certificate of fitness is lost or destroyed, the person concerned shall resubmit him or herself for a medical examination.

(4) If a person is found to be unfit for diving, or fit with a restriction, he or she may appeal such decision. The person concerned must apply for a review, in writing, to the chief inspector.

(5) An appeal under subregulation (4) must

- (a) be lodged with the chief inspector within 30 days of the relevant decision or finding; and
 - (b) state the grounds of the appeal.
- (6) When the chief inspector receives an appeal under subregulation (4), the chief inspector must choose another designated medical practitioner and arrange for that person to be re-examined by that designated medical practitioner, at the cost of the chief inspector.
- (7) The designated medical practitioner referred to in subsection 6) must report to the chief inspector, who must then consider the appeal and –
- (a) confirm, set aside or vary the decision or finding of the designated medical practitioner; or
 - (b) substitute any other decision or finding for that decision or finding.
- (8) Nothing in this regulation precludes a person from
- (a) obtaining and paying for a medical opinion from any other medical practitioner; or
 - (b) pursuing any other legal remedy.
- (9) SAUHMA shall keep a registry of diving fitness for the chief inspector and the registry shall contain the following information:
- (a) Name of the person
 - (b) Identity number of the person
 - (c) Whether the person is fit or not
 - (d) Any restrictions that may apply
 - (e) The name, address, telephone number and designation number of the designated medical practitioner who performed the medical examination

17. Operations manual

- (1) An employer shall ensure that an operations manual is compiled and made available to each diving team at the diving location before the commencement of each diving operation.
- (2) An operations manual shall contain directions regarding the health and safety of employees in accordance with these regulations and the relevant approved codes of practice

18. Control of diving operations

Prior to commencing diving operations, an employer shall ensure that all diving operations are controlled in accordance with the Act and regulations

19. Diving Advisory Board

- (1) The chief inspector shall establish a Diving Advisory Board consisting of—
- (a) an officer of the Department of Labour, who shall be the chairperson;
 - (b) one inspector;
 - (c) one person representing the Department of Minerals and Energy;
 - (d) one level 2 designated medical practitioner;
 - (e) one instructor
 - (f) one employer; and
 - (g) one supervisor.
- (2) The chief inspector may authorise the Diving Advisory Board to co-opt persons who have specialised knowledge of the matters dealt with by the Diving Advisory Board.
- (3) The chief inspector shall appoint the members of the Diving Advisory Board for such period as he or she may determine at the time of appointment: Provided that the chief inspector may discharge a member at any time and appoint a new member in his or her place.
- (4) The Diving Advisory Board shall —
- (a) make recommendations and submit reports to the chief inspector regarding any matter to which these Regulations relate;
 - (b) advise the chief inspector regarding any matter referred to the Diving Advisory Board by the chief inspector;
 - (c) perform such other functions as may be requested by the chief inspector;
 - (d) refer appeals against decisions of the Diving Advisory Board to the chief inspector; and
 - (e) conduct its work in accordance with the instructions and rules of conduct made by the chief inspector.

20. Appeal against decisions

A person affected by any decision or recommendation of the Diving Advisory Board may appeal against such decision to the chief inspector, and the decision of the chief inspector shall be final and binding.

21. Training standards, examinations and Codes of Practice

(1) The chief inspector shall, in consultation with the Diving Advisory Board,

- (a) make or amend the standards for the conduct of examinations and training as the occasion may require.
- (b) make or amend approved codes of practice relevant to diving and hyperbaric work to regulate diving operations

22. Applications

An application for registration as a diver, diving supervisor, life-support technician, ROV pilot, ROV supervisor, hyperbaric worker, hyperbaric supervisor or instructor and applications for the reissue of a certificate that has been lost, damaged or destroyed, shall be made in the form and manner approved by the chief inspector.

23. Withdrawal of certificate of registration

(1) Subject to subregulation (2), the chief inspector may withdraw a certificate of registration in terms of these regulations, if the person –

- (a) no longer complies with any of the conditions referred to in the regulations or approved code of practice, or
- (b) is convicted of an offence as contemplated in regulation 25.

(2) The chief inspector may not withdraw a certificate of registration unless he or she has –

- (a) informed, in writing, the holder of such certificate of registration of the intended withdrawal thereof and of the grounds upon which it is based; and
- (b) afforded such holder a reasonable opportunity to state his or her case and, if the holder is a person as contemplated in subregulation (1)(a), afforded such holder an opportunity to comply with those conditions within the period specified by the chief inspector.

(3) Any person adversely affected by a decision of the chief inspector may, in writing, appeal to Director-General against such decision.

(4) Such appeal must –

(a) be lodged within sixty days from the date on which the decision was made known; and

(b) set out the grounds of appeal.

(5) After considering the grounds of appeal and the chief inspector's reasons for his or her decision, the Director-General shall as soon as practicable confirm, set aside or amend the decision. The decision of the Director-General will be final.

24. Fees payable

The fees payable in respect of an application contemplated in regulation 22 of these Regulations shall from time to time be determined by the Minister after consultation with the Minister of Finance by notice in the Gazette and shall be payable in the form of uncanceled revenue stamps.

25. Offences and penalties

Any person who contravenes or fails to comply with any of the provisions contained in regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23 and 24 shall be guilty of an offence and liable upon conviction to a fine or to imprisonment.

26. Repeal

The Diving Regulations, 2001 published under Government Notice No. R. 10 of 11 January 2002 is hereby repealed.

27. Short title

These Regulations shall be called the Diving Regulations, 2007.

Annexures

- A. Minimum details of the diving operations record
- B. Minimum manning levels
- C. Minimum details for diver's log book
- D. Minimum details for supervisor's log book
- E. Minimum details for life-support technician's log book
- F. Minimum details for ROV pilot's log book
- G. Registration Form for Certification
- H. Proof of Practical Training Form

Schedules

Schedule 1: List of training standards

Schedule 2: List of Codes of Practice