



STATUTORY INSTRUMENTS.

S.I. No. 254 of 2018



SAFETY, HEALTH AND WELFARE AT WORK (DIVING)
REGULATIONS 2018

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I, PAT BREEN, Minister of State at the Department of Business, Enterprise and Innovation, in exercise of the powers conferred on me by section 58 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005) (as adapted by the Jobs, Enterprise and Innovation (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 364 of 2017)) and the Business, Enterprise and Innovation (Delegation of Ministerial Functions) Order 2017 (S.I. No. 569 of 2017), hereby make the following regulations:

Part 1

Preliminary

Citation and commencement

1. (1) These Regulations may be cited as the Safety, Health and Welfare at Work (Diving) Regulations 2018.

(2) These Regulations come into operation on 1 May 2019.

Interpretation

2. In these Regulations—

“Act” means the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005);

“ambient pressure” means the external pressure to which the body of a diver is, at any given moment, subjected either underwater or, as the case may be, in a compression chamber;

“atmospheric pressure” means 1013 millibars;

“bottom time” means the duration of a dive from the time of leaving the surface to the commencement of ascent to the surface;

“breathing gas” means any gas or mixture of gases (including air) which is both fit for breathing by humans and free from contamination;

“certificate of medical fitness to dive” means a certificate issued in accordance with Regulation 19;

“client” means a person who commissions a diving project;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th July, 2018.*

“compression chamber” means a pressure vessel and its associated equipment that are designed for the purpose of subjecting persons to pressures greater than atmospheric pressure;

“diver” means a person who dives in the course of his or her work;

“diving” shall be construed in accordance with Regulation 3;

“diving contractor” shall be construed in accordance with Regulation 7(1);

“diving operation” means a diving project or part thereof, as identified in the diving project plan, in accordance with Regulation 10(2)(c), which can be safely supervised by one diving supervisor;

“diving operation record” shall be construed in accordance with Regulation 11(1);

“diving project” means any activity, made up of one or more diving operations, in which at least one person takes part or will take part as a diver and extends from the date of the appointment of the diving contractor to the completion of the final dive of the diving project, namely when the last diver has left the water or chamber in which that dive took place and has completed any requisite decompression procedures, including any therapeutic recompression;

“diving project plan” shall be construed in accordance with Regulation 10(1);

“diving supervisor” means a person who has been appointed to supervise a diving operation in accordance with Regulation 7(5);

“first aid” has the same meaning as it has in Regulation 163 of the General Application Regulations;

“General Application Regulations” means the Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2016;

“relevant code of practice” means a code of practice relating to these Regulations, published or approved of, under section 60 of the Act;

“submersible compression chamber” means a manned compression chamber which is used underwater to support divers;

“standby diver” means a person who is appropriately positioned, equipped, dressed and ready to render immediate assistance to a diver in an underwater emergency.

Diving

3. For the purposes of these Regulations, a person dives if—

(a) he or she enters—

(i) water or any other liquid, or

(ii) a compression chamber in which he or she is subject to pressure greater than 100 millibars above atmospheric pressure,

and

(b) in order to survive in such an environment, breathes in a breathing gas at a pressure greater than atmospheric pressure,

and references to “a dive” and “dive” shall be construed accordingly.

Application of regulations

4. (1) Subject to paragraphs (2) and (3), these Regulations shall apply to any diving project in which a person who dives is at work.

(2) These Regulations shall not apply to any or all of the following:

(a) the care or treatment of patients—

(i) in a hospital or other place, not under the control of a diving contractor, where medical treatment is provided, or

(ii) in transit to such hospital or place where the means of transit is provided by or in respect of the hospital or other place;

(b) activities to which section 6(2) of the Act applies;

(c) work carried out in any air which is compressed in order to prevent the ingress of ground water or to stabilise the surrounding area;

(d) maintenance or testing work carried out in an aircraft where the body of the aircraft is pressurised;

(e) emergency breathing systems used in helicopter underwater escape and escape training.

(3) These Regulations, other than the obligations in paragraph (4) and Regulation 17(1) shall not apply in relation to a diver where the sole purpose of his or her dive is the teaching or guiding of recreational diving.

(4) The obligations referred to in paragraph (3) are that—

(a) the employer of the diver, or where the diver is self-employed, the diver himself or herself, shall ensure that he or she is competent in the method of diving that is safe to use on that particular dive and to engage in any activity that he or she may reasonably expect to carry out when taking part in the dive, and

(b) any teaching or guiding of recreational diving shall be carried out in accordance with any relevant standard adopted by the National Standards Authority of Ireland.

Part 2

Duties of Persons

Duties of persons

5. (1) A person—

- (a) who is responsible for a diving project,
- (b) who has control over a diving project,
- (c) who is engaged in a diving project, or
- (d) whose acts or omissions could adversely affect the safety, health and welfare of persons engaged in such a project,

shall take such measures as is reasonable for a person in his or her position to take to ensure that these Regulations and any relevant code of practice are complied with.

Part 3

Duties of Client

Duties of client

6. (1) A client shall appoint one competent person in writing to be the diving contractor for each diving project.

(2) A client shall—

- (a) obtain confirmation in writing of the acceptance of the appointment of the diving contractor under paragraph (1), or
- (b) where an appointment referred to in paragraph (3) is made, make a record in writing of that appointment.

(3) A client may appoint himself or herself to be a diving contractor for a diving project.

(4) A client shall ensure that any plant and equipment supplied by him or her for the purposes of the diving project is—

- (a) readily available for use,
- (b) of sound construction and suitable material,
- (c) in good working order, and
- (d) adequate for the purpose for which it is used.

(5) A client shall provide to the diving contractor all information relating to the known hazards which could affect the diving project that is either in the

client's possession or could be obtained by the client making enquiries that are reasonable for a person in the client's position to make, and otherwise cooperate with the diving contractor.

Part 4

Duties of Diving Contractor

Diving contractor

7. (1) A diving contractor shall be—
- (a) the person who employs under a contract of employment all divers engaged to undertake and carry out the diving project, or
 - (b) the person who—
 - (i) manages a diving project for a fixed or other sum, and
 - (ii) supplies equipment, labour or both, whether the diving contractor's own labour or that of another, to carry out the diving project.
- (2) A diving contractor shall be responsible for and have control of a diving project.
- (3) A diving contractor shall—
- (a) ensure that the diving project is planned, managed and conducted so far as is reasonably practicable in a manner which protects the safety, health and welfare of all persons taking part in the diving project,
 - (b) ensure that the diving project plan is prepared in accordance with Regulation 10,
 - (c) identify himself or herself in the diving project plan, and
 - (d) ensure that the diving project plan is updated throughout the course of the diving project.
- (4) Before a diving operation commences, a diving contractor shall provide each person whom he or she proposes to appoint as a diving supervisor with a copy of any part of the diving project plan that relates to the diving operation.
- (5) A diving contractor—
- (a) shall appoint one or more competent persons in writing as a diving supervisor to the diving operation,
 - (b) may appoint himself or herself as the diving supervisor of the diving operation, and

- (c) shall obtain confirmation in writing from each diving supervisor of the acceptance of her or her appointment, or where an appointment is made under subparagraph (b), make a record of the appointment.

(6) A diving contractor shall ensure that there are a sufficient number of competent persons available to carry out, safely and without risk to the health or welfare of such persons, the diving project, and any action, including the giving of appropriate first aid, which may be necessary in the event of a foreseeable emergency that occurs during the course of the diving project.

Competent divers

8. (1) A diving contractor shall ensure that any diver engaged in the diving operation—

- (a) is competent to dive in the operation, including competent in the method of diving that is safe to use in the diving operation, and
- (b) is competent in the type of work to be carried out during the course of the diving operation.

(2) A diving contractor shall ensure, in so far as is reasonably practicable that any person taking part in the diving project complies with the provisions of the diving project plan and the relevant statutory provisions.

Duties of diving contractor regarding plant and equipment

9. A diving contractor shall ensure—

- (a) that there is suitable and sufficient plant and equipment necessary for the safe conduct of the diving operation,
- (b) that such plant and equipment is available when needed to carry out, safely and without risk to the health or welfare of any person, the diving project and any action which may be necessary in the event of an emergency that occurs during the course of, or is connected with, the diving project,
- (c) the plant and equipment used during the diving operation is in good working order and maintained in a safe working condition and that records of maintenance are kept,
- (d) the plant and equipment has been subjected to inspections, examinations and tests in accordance with any relevant statutory provisions and manufacturers' specifications,
- (e) any inspections, examinations and tests under subparagraph (d) are carried out by, or under the close supervision of a competent person, and
- (f) the results of any inspections, examinations or tests under paragraph (d) are recorded in writing and kept in accordance with the requirements of Regulation 30 of the General Application Regulations.

Diving Project Plan

10. (1) A diving contractor shall prepare a plan in writing before the commencement of the first diving operation of the diving project (in these Regulations referred to as a “diving project plan”).

(2) The diving contractor shall ensure that the diving project plan—

- (a) includes an assessment of the risks to the safety, health and welfare of any person taking part in the diving project,
- (b) includes such information and instructions to the divers or other persons taking part in, or associated with the diving project as is necessary having regard to the risks in subparagraph (a),
- (c) identifies each diving operation in the diving project and the nature and size of each diving operation is such that it can be safely supervised by one person at any one time, and
- (d) takes account of any relevant code of practice.

(3) A person shall comply with any instructions applicable to him or her in the diving project plan during the course of a diving project.

(4) The diving project plan shall be regarded as, and form part of, the safety statement.

Diving Operation Record

11. (1) A diving contractor shall ensure that a record in writing is kept of the diving operation containing the particulars as set out in Schedule 1 (in these Regulations referred to as a “diving operation record”).

(2) A diving supervisor shall enter all relevant details of the diving operation which he or she is supervising in the diving operation record.

(3) The diving operation record shall be retained by the diving contractor for a period of 2 years from the date of the last entry in that record.

Compressed Air

12. (1) A diving contractor shall not permit a diver engaged in a diving operation to use compressed air at a pressure which exceeds the pressure of water at a depth of 50 metres and greater—

- (a) as a breathing gas, or
- (b) to raise the internal pressure of any compression chamber, other than for the purpose of—
 - (i) any tests required under Regulation 9, or
 - (ii) therapeutic recompression.

(2) A diving contractor shall ensure that a sufficient reserve of air is provided to allow the diver to reach the surface safely, completing any necessary in-water decompression in the event of the compressor failing, where compressed air is used and the plant or equipment used during the course of the diving operation includes an air pipeline into which air is supplied from above water.

(3) A diving contractor shall not provide, or permit to be used in a diving operation, any diving equipment for supplying breathing gas which cannot provide breathing gas at a rate adequate to sustain prolonged vigorous physical exertion at any ambient pressure that might be experienced by the diver during the diving operation.

(4) In this Regulation, “compressed air” means air compressed above atmospheric pressure, measured in millibars.

Emergency and First-Aid Arrangements

13. (1) Before commencing a diving operation, the diving contractor shall make adequate emergency arrangements so that—

- (a) emergency services are readily accessible at the site of the dive in the event of an emergency which threatens the safety, health or welfare of any diver, and
- (b) a diver can be transported to the nearest available compression chamber for treatment if required.

(2) The emergency arrangements referred to in paragraph (1) shall include medical and diving personnel, medical and diving equipment and all other necessary supplies.

(3) A diving contractor shall ensure that first aid equipment is provided and appropriately positioned at the site of the dive.

Part 5

Duties of Diving Supervisor

Duties of Diving Supervisor

14. (1) A diving supervisor appointed under Regulation 7(5) shall supervise a diving operation.

(2) Only one diving supervisor shall supervise a diving operation at any one time.

(3) A diving supervisor shall ensure that a diving operation for which he or she is appointed as diving supervisor is carried out—

- (a) without risk to the safety, health and welfare of those taking part in that operation and other persons who may be affected by it,

- (b) in accordance with the requirements and prohibitions imposed on him or her under any relevant statutory provisions, and
 - (c) where it would not conflict with paragraph (a) or (b), in accordance with the diving project plan.
- (4) A diving supervisor shall not dive during a diving operation for which he or she is appointed as diving supervisor except where—
- (a) the dive takes place in a tank or pool artificially constructed for the purpose of swimming or diving and the divers taking part in the dive only use self-contained underwater breathing apparatus, or
 - (b) the diving is being supervised by another diving supervisor at that time, wherein more than one diving supervisor is appointed to that diving operation.
- (5) A diving supervisor shall not permit any diver to take part in a diving operation if, in the opinion of the diving supervisor, that diver is not fit and competent to dive.
- (6) A diving supervisor shall ensure that the contents of the diving project plan which relate to the diving operation for which he or she is diving supervisor have been brought to the attention of all those taking part in that operation before its commencement.

Duties of diving supervisor regarding plant and equipment

15. A diving supervisor shall—

- (a) ensure that all plant and equipment has undergone inspections, examinations and tests in accordance with Regulation 9(d),
- (b) secure all plant and equipment (other than plant and equipment intended to be mobile) firmly in place during the course of the diving operation,
- (c) ensure that all plant and equipment (unless actually in use by a diver engaged in the diving operation) is, during the course of the diving operation, kept readily available for use either—
 - (i) at the site from which the diving operation is, or is to be carried on, or
 - (ii) below water with any submersible compression chamber being used in the diving operation or with the diver engaged in the diving operation, and
- (d) ensure that, where used, the air inlet for any compressor is situated outside any area where dangerous gases are, or may be, present.

Breathing Gas

16. (1) A diving supervisor shall not allow a diving operation to take place unless—

- (a) an adequate quantity of breathing gas and suitable plant and equipment for supplying the gas to any diver is available for use by any diver engaged in the operation,
- (b) an adequate independent alternative source of breathing gas, together with any necessary plant and equipment, is readily available for immediate use in the event of failure of the primary supply,
- (c) an adequate reserve supply of breathing gas together with any necessary plant and equipment is kept at a place above water from which the operations are carried out where breathing gas is supplied by a compressor and airline in the event of the compressor failing, and
- (d) where a submersible compression chamber is being used in a diving operation, a reserve supply of breathing gas, together with any necessary plant and equipment, is also kept in, or attached to, the submersible compression chamber and is readily available for immediate use in the event of an emergency such as failure of surface supplies, by divers associated with, whether located inside or outside, the submersible compression chamber.

(2) The diving supervisor shall ensure that the total quantity of breathing gas supplied under this Regulation for the use of a diver shall be sufficient to enable a standby diver to reach the diver if the diver is underwater and then to enable both the standby diver and that diver either—

- (a) to return to the surface and to carry out the appropriate decompression procedures during the return, or
- (b) where a submersible compression chamber is being used in the diving operation, to return to that chamber and then to surface in that chamber and to start the appropriate decompression procedures at the surface.

(3) The diving supervisor shall ensure that emergency supplies of appropriate breathing gas to be held on a submersible compression chamber shall be such as can support at least 3 divers for a period that is not less than 24 hours.

*Part 6**Duties of Divers**Duties of Divers*

17. (1) A diver shall not dive in a diving project unless he or she—

- (a) subject to paragraph (2), is fit to do so and has a valid certificate of medical fitness to dive in accordance with Regulation 19, and

- (b) is a competent person to undertake the dive and engage in any activity that he or she may reasonably be expected to carry out while taking part in the diving project.
- (2) Paragraph (1)(a) shall not apply to a person entering a compression chamber on the surface in order to provide emergency medical treatment.
- (3) Paragraph (1)(b) shall not apply to a diver—
 - (a) who dives in the course of training which if successfully completed, would lead to the granting of a qualification in a method of diving, or
 - (b) who is competent to dive but is being trained in relation to any activity that he or she may reasonably be expected to carry out while taking part in the diving project under the direct supervision of a competent person.
- (4) A diver shall not take part in a diving project if unfit to do so and should immediately inform the diving supervisor should he or she become unfit to dive during a diving project.

Log-Book

18. (1) A diver shall maintain a diver's personal log-book in his or her name on each and every day on which he or she dives in a diving project and shall record the particulars specified in Schedule 2 in the log-book.

(2) The log-book referred to in paragraph (1) shall be maintained by a diver for a period of 2 years from the date of the last entry.

Part 7

Medical Examiners and Fitness to Dive

Certificate of fitness

19. (1) A certificate of medical fitness to dive is a certificate from a medical examiner of divers that he or she considers the person named in the certificate to be fit to dive.

(2) A certificate referred to in paragraph (1)—

(a) shall state the period (not exceeding a period of 12 months duration) that the medical examiner of divers considers the person will remain fit to dive, and

(b) may be issued subject to conditions or limitations as to the nature or method of diving that may be undertaken by the person to which the certificate relates.

(3) Where such a certificate is issued subject to conditions under paragraph (2)(b), it shall not be valid for a diving operation other than diving operations for which the conditions are satisfied.

(4) In this Regulation, “medical examiner of divers” means a person who is a registered medical practitioner approved by the Authority to issue a certificate of medical fitness to dive.

Part 8

Revocation and Transitional Matters

Revocation

20. The Safety in Industry (Diving Operations) Regulations 1981 (S.I. No. 422 of 1981) are revoked.

Transitional matters

21. Notwithstanding the revocation of the Safety in Industry (Diving Operations) Regulations 1981 (S.I. No. 422 of 1981) in Regulation 20, where a certificate has been granted under Regulation 12 of those Regulations and the certificate has not expired prior to the coming into operation of these Regulations, then on that coming into operation that certificate shall continue to apply in respect of any requirements under Regulation 19 until the expiration of the period relating to the certificate.

SCHEDULE 1

Regulation 11(1)

Required Particulars for Diving Operation Records

The following required particulars are to be included in the diving operation record for all diving projects

1. Name, business address, e-mail address and telephone number(s) of the client.
2. Name, business address, e-mail address and telephone number(s) of the diving contractor.
3. The date and time to which the entry relates or the dates and times during which the diving operation was carried on.
4. Name of the diving supervisor or supervisors and the times and dates for which he or she is acting in that capacity in respect of that diving operation. (An entry must be completed daily by each diving supervisor for each diving operation).
5. Location of the diving operation, including as appropriate the name or other designation of any craft, vessel, work site or installation from which diving is taking place.
6. Names and respective duties of the divers and other persons taking part in the diving operation including names of personnel operating any diving plant or equipment.
7. Purpose or nature of the diving operation.
8. Breathing apparatus and breathing gas used by each diver in the diving operation.
9. The time at which each diver left atmospheric pressure and returns to atmospheric pressure and their bottom time.
10. Maximum depth which each diver reached.
11. Procedures followed in the course of the diving operation including as appropriate, details of the decompression schedule including details of the pressures (or depths) and the duration of time spent by divers at those pressures (or depths) during decompression.
12. Emergency support and first aid arrangements.
13. Particulars of any emergency or incident which occurred during the diving operation, including any action taken and details of any decompression sickness, illness, discomfort or injury suffered by any of the divers and the treatment given.

14. Details of the pre-dive inspection of all plant and equipment being used in the diving operation. Confirmation that all equipment used has been checked immediately prior to the dive and conforms to the maintenance schedule.
15. Any defect discovered or recorded in the functioning of any plant or equipment used in the diving operation.
16. Particulars of any relevant environmental conditions or factors affecting the diving operation.
17. Any other factors likely to affect the safety or health of any persons engaged in the operation.
18. Any relevant code of practice that applies to the diving operation.
19. Name and signature of the diving supervisor completing the record.
20. Affix company stamp (if appropriate).

SCHEDULE 2

Regulation 18(1)

Required Particulars for the Diver's Personal Log — Book

1. Name and address of the diver. (Names and addresses should be printed and in block capitals.)
2. Signature of the diver and a verified photograph of the diver.
3. Date to which entry relates.
4. Name and address of the diving contractor.
5. Name and signature of the diving supervisor(s) for that dive.
6. Location of the diving project, including the name of any vessel or installation from which diving is taking place.
7. Dive number and running total of dive time.
8. The maximum depth reached on each occasion.
9. The time on each occasion that the diver leaves the surface, the bottom time and the time the diver reached the surface.
10. Where the dive includes time spent in a compression chamber, details of any time spent outside the chamber at a different pressure.
11. Breathing apparatus and breathing gas used by the diver.
12. Any decompression schedules followed by the diver on each occasion.
13. Any work done by the diver on each occasion, and the plant (including any tools) used in that work.
14. Any episode of barotrauma, discomfort or injury suffered by the diver including details of any decompression illness and the treatment given.
15. Any emergency or incident which occurred during the diving operation.
16. Any other factor relevant to the diver's health or safety.
17. Affix company stamp (where appropriate) after the record has been signed by the diver and diving supervisor(s).

GIVEN under my hand,
12 July 2018.

PAT BREEN,
Minister of State at the Department of Business, Enterprise
and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

The purpose of the Regulations is to protect the safety, health and welfare of all personnel involved in carrying out diving operations in the course of their work.

The Regulations outline a clear framework of responsibilities and specify duty holders and the specific duties of those persons engaged in the diving project e.g. clients, diving supervisor, diving contractor, divers and other persons.

The Regulations put in place relevant, updated, streamlined and clearer safety, health and welfare provisions for all those diving at work. They expand on and replace the existing legislation and now apply to any diving project in which a person who dives is at work.

The Safety in Industry (Diving Operations) Regulations, 1981 (S.I. No. 422 of 1981) are revoked.

The Regulations come into operation from 1 May 2019.

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