Part 4.8  Diving Work

Division 1  Preliminary

167 Purpose of Part 4.8

The purpose of this Part is to impose duties on a person conducting a business or undertaking at a workplace to ensure:

(a) the fitness and competence of persons who carry out general diving work and high risk diving work; and

(b) the health and safety of persons who carry out general diving work and high risk diving work; and

(c) the health and safety of other persons at workplaces where general diving work or high risk diving work is carried out.

Division 2  General diving work—Fitness and competence of worker

168 Person conducting business or undertaking must ensure fitness of workers

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work or undergo training for general diving work unless the worker holds a current certificate of medical fitness.

Maximum penalty:

In the case of an individual—$6 000.
In the case of a body corporate—$30 000.

(2) The person must not direct or allow a worker to carry out general diving work or undergo training for diving work unless the work or training complies with any conditions on the current certificate of medical fitness of the worker.

Maximum penalty:

In the case of an individual—$6 000.
In the case of a body corporate—$30 000.

169 Certificate of medical fitness

A certificate of medical fitness must:

(a) be issued by a registered medical practitioner with training in underwater medicine; and

(b) state the following:
(i) the name of the person to whom it is issued;
(ii) its date of issue and its expiry date;
(iii) whether or not the person to whom it is issued is, in accordance with the fitness criteria, medically fit to carry out diving work;
(iv) any conditions in relation to the type of diving work the person to whom it is issued is fit to carry out, or the circumstances in which the person is fit to carry out general diving work, including, in the case of a person who is under 18 years of age, any particular conditions applicable to the age of the person.

170 Duty to keep certificate of medical fitness

A person conducting a business or undertaking at a workplace must keep the certificate of medical fitness of a worker who carries out general diving work for 1 year after the work is carried out.

Maximum penalty:

In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

171 Competence of worker—general diving work—general qualifications

(1) A person must not carry out any type of general diving work unless the person holds a certificate for general diving work, issued by a training organisation, that demonstrates that the person has acquired the relevant competencies for that type of general diving work.

(2) This regulation does not apply in relation to incidental diving work or limited diving work.

(3) In subregulation (1), relevant competencies means the competencies specified in AS/NZS 4005.2: 2000 (Training and certification of recreational divers) or AS/NZS 2815 (Training and certification of occupational divers) that are relevant to the type of general diving work to which subregulation (1) applies.

Notes
1 See section 44 of the Act.
2 See the jurisdictional note in the Appendix.

171A Competence of worker—general diving work—additional knowledge and skill

(1) In addition to regulation 171, a person must not carry out general diving work unless the person has, through training, qualification or
experience, acquired sound knowledge and skill in relation to the following:

(a) the application of diving physics;

(b) the use, inspection and maintenance of diving equipment (including emergency equipment) and air supply of the type to be used in the proposed general diving work;

(c) the use of decompression tables or dive computers;

(d) dive planning;

(e) ways of communicating with another diver and with persons at the surface during general diving work;

(f) how to safely carry out general diving work of the type proposed to be carried out;

(g) diving physiology, emergency procedures and first aid.

Note
See section 44 of the Act.

(2) This regulation does not apply in relation to incidental diving work or limited scientific diving work.

172 Competence of worker—incidental diving work

(1) A person must not carry out incidental diving work unless the person:

(a) has the knowledge and skill referred to in regulation 171A; and

(b) has relevant diving experience; and

(c) is accompanied and supervised in the water by a person who has the competencies referred to in regulation 171.

Note
See section 44 of the Act.

(2) In this regulation, a person has relevant diving experience if the person has logged at least 15 hours of diving, of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the diving work is to be carried out.

173 Competence of worker—limited scientific diving work

(1) A person who is not permanently resident in Australia must not carry out limited scientific diving work unless the person has:
(a) the training, qualification or experience referred to in regulation 171A; and

(b) relevant diving experience, including relevant diving experience obtained outside Australia.

Note
See section 44 of the Act.

(2) In this regulation, a person has relevant diving experience if the person has logged at least 60 hours diving of which at least 8 hours and 20 minutes were spent diving between 10 metres above and any depth below the maximum depth at which the limited scientific diving work is to be carried out.

174 Competence of competent person supervising general diving work

A person appointed under regulation 177 must not perform any function associated with that appointment unless the person has:

(a) the qualification specified in regulation 171; and

(b) experience in the type of diving work to be supervised.

Note
See section 44 of the Act.

175 Evidence of competence—duty of person conducting business or undertaking

(1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out general diving work unless the person sees written evidence provided by the worker that the worker has the relevant competence required under this Division.

Maximum penalty:

In the case of an individual—$1 250.

In the case of a body corporate—$6 000.

(2) A person conducting a business or undertaking at a workplace must not direct or allow a person appointed under regulation 177 to perform any of the functions associated with that appointment unless the person conducting the business or undertaking sees written evidence provided by the person appointed that the person appointed has the competence required under regulation 174.

Maximum penalty:

In the case of an individual—$1 250.

In the case of a body corporate—$6 000.
(3) A person conducting a business or undertaking must keep the written evidence given to the person:

(a) under subregulation (1)—for at least 1 year after the diving work is carried out;

(b) under subregulation (2)—for at least 1 year after the last occasion on which the person performs a function associated with the appointment.

Maximum penalty:

In the case of an individual—$1 250.

In the case of a body corporate—$6 000.

Division 3  Managing risks—general diving work

176 Management of risks to health and safety

(1) A person conducting a business or undertaking at a workplace must manage risks to health and safety associated with general diving work, in accordance with Part 3.1.

Note

WHS Act—section 19 (see regulation 9).

(2) A person conducting a business or undertaking must ensure that a risk assessment is conducted by a competent person for the purposes of subregulation (1).

Maximum penalty:

In the case of an individual—$3 600.

In the case of a body corporate—$18 000.

(3) The person must ensure that a risk assessment conducted under subregulation (2) is recorded in writing.

Maximum penalty:

In the case of an individual—$1 250.

In the case of a body corporate—$6 000.

177 Appointment of competent person to supervise diving work

A person conducting a business or undertaking at a workplace must appoint 1 or more competent persons to:

(a) supervise general diving work carried out in the business or undertaking; and

(b) perform other functions under this Division.
Maximum penalty:
   In the case of an individual—$6 000.
   In the case of a body corporate—$30 000.

Note
See regulation 174 for the qualifications of the competent person.

178 Additional control—dive plan
(1) A person conducting a business or undertaking at a workplace must not direct or allow general diving work to be carried out unless a dive plan for the dive:
   (a) is prepared by a competent person appointed under regulation 177; or
   (b) has been prepared by a competent person appointed under regulation 177 on an earlier occasion for a similar dive.

Maximum penalty:
   In the case of an individual—$6 000.
   In the case of a body corporate—$30 000.

(2) A dive plan must state the following:
   (a) the method of carrying out the diving work to which it relates;
   (b) the tasks and duties of each person involved in the dive;
   (c) the diving equipment, breathing gases and procedures to be used in the dive;
   (d) as applicable, dive times, bottom times and decompression profiles;
   (e) hazards relating to the dive and measures to be implemented in the control of risks associated with those hazards;
   (f) emergency procedures.

179 Dive plan must be complied with
(1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that general diving work is carried out in accordance with the dive plan prepared for it.

Maximum penalty:
   In the case of an individual—$6 000.
   In the case of a body corporate—$30 000.
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(2) A person conducting a business or undertaking must ensure that a competent person appointed by the person under regulation 177 gives workers instruction in relation to the dive plan before commencing the diving work to which the plan relates.

Maximum penalty:
In the case of an individual—$6 000.
In the case of a body corporate—$30 000.

180 Additional control—dive safety log to be kept

A person conducting a business or undertaking at a workplace where general diving work is carried out must keep a dive safety log that contains the following information about each dive carried out by a worker:

(a) the name of the worker who carries out the dive;
(b) the name of any other person with whom the dive is carried out;
(c) the name of the competent person appointed under regulation 177 to supervise the diving work;
(d) the date and location of the dive;
(e) the time each diver enters and leaves the water;
(f) the maximum depth of the dive;
(g) any incident, difficulty, discomfort or injury that occurs or is experienced during the dive;
(h) if the dive was carried out using a dive computer—the dive time;
(i) if the dive was carried out using dive tables—the repetitive dive group, if available, and either the bottom time or the dive time;
(j) if the repetitive group and surface interval result in a repetitive factor—the surface interval and the repetitive factor;
(k) if the dive is carried out using EANx:
   (i) the oxygen content of the EANx; and
   (ii) the maximum operating depth of the EANx;
(l) if the dive is carried out using mixed gas:
   (i) the oxygen content and the nitrogen content (if any) of the gas; and
(ii) the maximum operating depth of the mixed gas; and
(iii) the minimum operating depth of the bottom mix.

Maximum penalty:
In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

181 Use of dive safety log

(1) This regulation applies to a person conducting a business or undertaking at a workplace where general diving work is carried out.

(2) The person conducting the business or undertaking must ensure that, after each dive carried out in connection with the general diving work is completed, the return of each diver is verified in the dive safety log, as soon as practicable after the return, by:
   (a) the diver; and
   (b) a competent person appointed under regulation 177 to supervise the diving work.

Maximum penalty:
In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

(3) If workers are carrying out general diving work from a vessel, the person conducting the business or undertaking must ensure that a competent person appointed under regulation 177 to supervise the diving work makes and verifies entries in the dive safety log of the number of workers and other persons on board the vessel:
   (a) before the diving work commences; and
   (b) before the vessel leaves the location after the diving work is completed.

Maximum penalty:
In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

(4) The person conducting the business or undertaking must ensure that the dive safety log is kept for at least 1 year after the last entry is made.

Maximum penalty:
In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

(5) In this regulation, an event is verified in the dive safety log:
   (a) by signing; or
   (b) if the log is electronic, by entering the verifier's unique identifier.

182 Record keeping

(1) This regulation applies if a person conducting a business or undertaking prepares:
   (a) a risk assessment under regulation 176; or
   (b) a dive plan under regulation 178.

(2) Subject to subregulation (3), the person must keep:
   (a) a copy of the risk assessment until at least 28 days after the work to which it relates is completed; and
   (b) a copy of the dive plan until the work to which it relates is completed.

Maximum penalty:
   In the case of an individual—$1 250.
   In the case of a body corporate—$6 000.

(3) If a notifiable incident occurs in connection with the work to which the assessment or dive plan relates, the person must keep the assessment or dive plan (as applicable) for at least 2 years after the incident occurs.

Maximum penalty:
   In the case of an individual—$1 250.
   In the case of a body corporate—$6 000.

(4) The person must ensure that, for the period for which the assessment or dive plan must be kept under this regulation, a copy is readily accessible to any worker engaged by the person to carry out the work to which the assessment or dive plan relates.

Maximum penalty:
   In the case of an individual—$3 600.
   In the case of a body corporate—$18 000.
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(5) The person must ensure that, for the period for which the assessment or dive plan must be kept under this regulation, a copy is available for inspection under the Act.

Maximum penalty:

In the case of an individual—$1 250.
In the case of a body corporate—$6 000.

Division 4 High risk diving work

Note
See the jurisdictional note in the Appendix.

183 Duties of person conducting business or undertaking

A person conducting a business or undertaking at a workplace where high risk diving work is carried out must ensure that the following are in accordance with AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice):

(a) the fitness of persons carrying out the work;
(b) the competence of persons carrying out the work;

Note
See section 44 of the Act.
(c) the carrying out of the work.

Maximum penalty:

In the case of an individual—$6 000.
In the case of a body corporate—$30 000.

184 Duty of worker—competence

A person must not carry out high risk diving work unless the person has the qualifications, knowledge, skills and experience required by AS/NZS 2299.1:2007 (Occupational diving operations—Standard operational practice) for work of the kind to be carried out by the person.

Note
See section 44 of the Act.