

**Ministry**

**Employment & Labour**

**Republic of South Africa**

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**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION NUMBER: 1347 [NW1543E]**

**1347. Ms S J Graham (DA) to ask the Minister of Employment and Labour:**

(1) In light of the fact that under the Occupational Health and Safety Act, Act 85 of 1993, regulations were promulgated in 2010, and a second set of regulations were drafted for public comment in 2020 to regulate diving, (a) what total number of commercial diving schools are currently registered nationally, (b) where are the schools situated and (c) how often is the Chief Inspector required to visit a diving school in order to ensure that it remains in compliance with the regulations for a registered diving school;

(2) whether any diving schools have had their registration revoked for non-compliance since the publication of the first regulations in 2010; if not, what is the position in this regard; if so, (a) which schools, (b) on what date were they revoked and (c) have they been re-registered;

(3) whether any schools have reported serious incidents that occurred during the training of divers; if not, what is the position in this regard; if so, what are the relevant details, including action that was taken by the school and the Chief Inspector;

(4) whether any diving schools are under investigation for non-compliance; if not, what is the position in this regard; if so, what are the relevant details, including the names of the schools, the non-compliant areas, and what is being done to address the non-compliance? NW1543E

**REPLY:**

**Question1:**

**The first set of diving regulations were promulgated in 2001 and these were followed by the diving regulations which were promulgated in 2010. Currently, the draft commercial diving regulations are undergoing processes following the incorporation of public comments.**

1. **& (b) Registered diving schools**

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| --- | --- | --- |
| **Name of the Diving School** | **Approval level** | **Location** |
| **Professional Diving Centre** | **Classes 4 to 1** | **Durban** |
| **BS Divers** | **Classes 4 to 2** | **Hermanus (WC)** |
| **Sea Dog** | **Classes 4 to 2** | **Saldanha (WC)** |
| **Jack’s Dive Chest** | **Classes 4 to 2** | **Strand (WC)** |
| **University of Cape Town** | **Classes 6 to 4** | **Cape Town** |
| **Nelson Mandela Metro University** | **Classes 6 to 4** | **Cape Town** |
| **South Africa Police Services Academy** | **Class 4** | **Pretoria** |
| **South African Association for Marine Biological Research** | **Class 4** | **Durban** |

1. **There is no prescribed frequency for the Diving Inspectors to conduct inspections at the approved diving schools. Pro-active inspections are planned as part of the normal Inspection Plan.**

**Some of the inspections are triggered by the ‘Diving Notifications’ received from schools when they conduct practical training as such training is deemed diving work.**

**Question 2**

**There are no Diving Schools that had their registration revoked. When Diving Inspectors conduct inspections and if they find non-compliances at the schools, they issue notices (legal instruments) in terms of section 30 of the Occupational Health and Safety Act. There are 3 types of notices that could be issued (individually or jointly) when there is non-compliance, namely;**

1. **Prohibition notice – when there is an act or process that threatens the health and safety of any person. The employer must immediately stop the operation or the process. The inspector may revoke the prohibition in writing if the threatening situation has been corrected to the satisfaction of the inspector.**
2. **Contravention notice – when there is a contravention of any regulation.**
3. **Improvement notice – when an inspector requires an improvement on certain activities or tasks that the employer has already implemented in the workplace.**

**The employer may appeal a notice and will be given 60 days should he/she wishes to appeal the content of the notice issued.**

**If the employer fails to comply with the notices issued, a prosecution will be recommended to the NPA. Where a Diving School was issued with a notice, the school did comply with the notice(s) issued.**

**Question 3**

**There were two fatalities in training since the promulgation of the Diving Regulations in 2010.**

1. **The first fatality happened at BS Divers on 06 April 2015. The preliminary investigation was conducted on the 08 April 2015 and section 31 investigation was conducted on the 7 May 2015. The investigation revealed that the divers were learners at the school, but the activity that they were undertaking was outside the scope of the school curriculum. The divers used free flow diving method as they were moving the jackstays underwater and one of the diver’s rope became entangled to his weight belt, causing him to drown. Diving without the use of diving apparatus, is outside the scope of the Diving Regulations.**

**Even though the divers were conducting this activity outside the scope of training of the school, the school still had the responsibility in terms of section 9(1) of the OHS Act to ensure that all learners are safe because the learners were within their premises and therefore, the school had a responsibility towards these divers in training. Contravention notices were issued for the school to improve their risk assessment for free-diving and to update their sea bed search method and to introduce measures to prevent the shot line from becoming entangled. The school complied with the notices issued.**

1. **The second fatality happened at Jack’s Dive Chest on 22 January 2020. The learners were at the Blue Rock Quarry performing a practical diving exercise on the emergency procedures and the recovery of an unconscious diver. Two divers were paired together to perform the exercise. The deceased diver swam from the wet bell to the worksite and was supposed to pretend to be unconscious so that the other diver can go and rescue him. When the deceased failed to respond to all the communication signals sent to him, the diver who remained in the wet bell, was instructed by the supervisor to go and rescue the deceased. The deceased was found unconscious and the other diver swam while holding him on the surface. The deceased was declared dead on the scene by the paramedics.**

**The preliminary investigation was conducted on 23 January 2020. During the investigation, a contravention and a prohibition notice were served to the employer. The section 31 investigation was conducted on 16 September and 09 November 2020. The delay was caused by the lock down for COVID-19. Once the investigation was finalized, a report was prepared and the matter was referred to the National Prosecution Authority on the 26 February 2021.**

**Question 4**

**Currently, there is no school that is under investigation for non-compliance. Inspectors do conduct inspections at the diving schools regularly to enforce compliance in terms of the Act and the regulations.**