NATIONAL ADMINISTRATIVE REGISTER · [PCSSD, MAY 15, 1992]

RULES AND REGULATIONS GOVERNING THE BUSINESS OF SPORTS SCUBA DIVING IN THE PHILIPPINES

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Pursuant to the Provisions of Letter of Instruction No. 745, the following Rules and Regulations as Amended are hereby promulgated to govern the operation of Sports and Scuba Diving Tour Operators, Dive Resorts, Dive Boat Operators, Professional Dive Centers, Dive Facilities, Dive Instructors, Assistant Diving Instructors, and Professional Divemasters.

Chapter I
Definition/Coverage

SECTION 1. Definition - For the purpose of these Rules, the following shall mean:

A. License - The privilege or authority granted by Philippine Commission on Sports Scuba Diving to own, operate, and maintain a scuba diving establishment.

B. Accreditation - A certification issued by the Commission recognizing the holder's compliance with the minimum standards in the operation of the establishment concerned.

C. Commission or PCSSD - The Philippine Commission on Sports Scuba Diving.

D. Scuba Diving Establishment - Any business establishment engaged in the conduct of sports scuba diving activities in the Philippines whether or not for a fee.

E. Department or DOT - The Department of Tourism

F. Scuba Diving Tour Operator - An establishment that is duly licensed by the DOT to conduct sports scuba diving activities and promotes, sells, or markets sports scuba diving tours.

G. Dive Boat Operator - Any establishment or person that operates a sail or motor boat licensed to service scuba divers.

H. Dive Boat - Any motor-run or sail operated boat with live-aboard facilities used for scuba diving purposes.

I. Dive Resort - An establishment that is duly licensed by the DOT that offers food, accommodations and scuba diving facilities to the public for a fee.

J. Professional Dive Center - Any establishment engaged in all of the following activities:

- Selling scuba diving-related equipment

- Renting out scuba diving-related equipment

- Providing air fill service

- Servicing and repair of scuba diving-related equipment

- Conducting scuba diving courses or underwater tours

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K. Dive Facility - Any establishment engaged in any one of the following activities:

- Selling scuba diving related equipment

- Renting out scuba diving related equipment

- Providing air fill service

- Servicing and repair of scuba diving related equipment

- Conducting scuba diving courses or underwater tours

L. Dive Instructor/Assistant Dive Instructor - Any individual who possesses a valid nationally and/or internationally recognized active teaching status to instruct sports scuba diving on the level stipulated in the said international and national certification and who conducts sports scuba diving activities whether or not for a fee.

M. Professional Divemaster - A current active certified diver to the stated rating of a national and/or international training agency or its equivalent, who is engaged in supervising sports scuba diving activities, such as, but not limited to boat management, underwater tour, etc. except giving sports scuba diving instruction.

Chapter II
Application and Issuance of License

SECTION 1. Mandatory Licensing - No person, natural or juridical, shall operate or manage a scuba diving establishment without first being licensed by the Philippine Commission on Sports Scuba Diving. Any person who, being the owner or occupant of any building, edifice, premises or a completely independent part thereof, allows the premises to be used as a scuba diving establishment, without the requisite to operate as such from the Commission, shall be guilty of an offense under these Rules;

SECTION 2. Who May Apply

A. Any individual desiring to instruct, assist in the training, or conduct activities related to sports scuba diving in the Philippines whether or not for a fee;

B. Any establishment organized under Philippine laws and duly registered with appropriate government agency(ies) which is engaged in sports scuba diving activities for a fee.

SECTION 3. Branch or Extension Office - Prior the establishment or operation of any branch/extension office of all scuba diving establishments the said branch/extension office shall be licensed by the Commission. An annual fee, equivalent to twenty-five percent (25%) of the license fee, shall be collected for the registration of each branch or extension office.

SECTION 4. Requirements for Licensing

A. Dive Boat Operator

- Coast Guard and coastwise trade license for paying passengers;

- Business license and permit to engage in such activities as diving, fishing, boat charter, cruising, etc.;

- Certificate of ownership of vessel;

- Incorporation papers and By-Laws for vessels owned by a juridical entity;

- List of managerial and rank file employees with their respective position, citizenship, and home address;

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- Complete listing of equipment with the color photographs;

- List of safety equipment and personnel and a certificate from the owner that it/he owns such equipment and has trained personnel;

- Current third party liability accident insurance; and

- Surety bond in the amount of P5,000.00 in favor of the Philippine Commission on Sports Scuba Diving to cover or answer for any gross violation of the PCSSD Rules and Regulations.

In addition to the above equipment and personnel, a dive boat with accommodation facilities shall have the following;

- Bunk beds (minimum size 27" x 75") with 2 1/2" thick mattress and a pillow in a sheltered area of the boat that is properly ventilated;

- A dining area with a seating capacity of not less than fifty per cent (50%) of the boat’s rated capacity;

- At least one (1) toilet shower room for every six (6) passengers. Toilet and shower room may be separated or combined;

- The capacity to hold enough fresh drinking water for the passengers and crew computed at a minimum of forty (40) liters per person, per tour day; and

- At least two (2) service boats.

B. Professional Dive Center

- Pertinent registration certificate (SEC Registration Certificate and/or Business Name Registration Certificate), licenses, permits from appropriate government agencies;

- List of managerial and rank and file employees with their respective position, citizenship, and home address;

- Current third party liability accident insurance; and

- Surety bond in the amount of P5,000.00 in favor of the Philippine Commission on Sports Scuba Diving to cover and/or answer for any gross violation of the PCSSD Rules and Regulations.

C. Dive Facility

- Pertinent registration certificate (SEC registration certificate and/or business name registration certificate), licenses, permits from appropriate government agencies;

- List of managerial and rank and file employees with their respective position, citizenship, and home address;

- Current third party liability accident insurance; and

- Surety bond in the amount of P5,000.00 in favor of the Commission to cover and/or answer for any gross violation of the PCSSD Rules and Regulations.

D. Dive Instructor/Assistant Dive Instructor/Divemaster

- Certified true copy of a nationally or internationally recognized active status card or certification;

- Certified true copy of current professional tax receipt;

- A sworn affidavit that he/she will adhere to the safety and ethical standards of his/her certifying agency or a

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copy of the current contractual agreement with his/her certifying agency;

- Valid and appropriate visa from the Commission on Immigration and Deportation for foreign nationals;

- Current employment permit from the Department of Labor and Employment (DOLE) for foreign nationals holder of 9-g visa, ICR or ACR; and

- Current third party liability accident insurance.

SECTION 5. Accreditation - Resorts which provide board and lodging to scuba divers and establishments engaged in the promotion of scuba diving tours, may be accredited by the Commission as Dive Resorts and Scuba Diving Tour Operators respectively upon submission of the license from the Department of Tourism. There shall be no accreditation fee. However, they shall pay the processing fee of Twenty Pesos (P=20.00) and the cost of the accreditation sticker.

SECTION 6. Legal Research Fee - A legal Research Fee of Ten Pesos (P10.00) shall be collected from all establishment or individual applicants which shall be remitted to the UP Law Center as required by law;

SECTION 7. Registration Fee - A one-time registration fee of Three Thousand Pesos (P3,000.00) shall be collected from establishment and individual applicants, except those registered with the Commission prior the effectivity of these Rules;

SECTION 8. Inspection of the Applicant Establishment - An inspection of the facilities, equipment and premises of the applicant establishment shall be conducted by the Commission for the purpose of determining whether it meets the standards set by the Commission within two months after submission of the documentary requirements and upon payment of the filing and inspection fees;

SECTION 9. Issuance of License - The establishment applicant shall be issued the Certificate of Registration and License within 30 working days after inspection and submission of all documentary requirements and payment of all necessary fees. Licenses for individual applicants shall be issued 5 working days upon submission of all documentary requirements and payment of all necessary fees;

SECTION 10. License Fee - The following schedule of license fee shall be collected from applicants that have complied with the requirements for registration and licensing with the Commission:

A. Establishment Annual

License Fee

1) Dive Boat Operator

P2,000

2) Professional Dive Center

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2,000

3) Dive Facility

2,000

B. Individual Annual

License Fee

1) Dive Instructor

P1,000

2) Assistant Dive Instructor/Divemaster

750

SECTION 11. Validity of License - The license issued under the Guidelines and Procedure shall be valid for a period of one (1) calendar year and shall expire the last working day of the year;

SECTION 12. Display of Permits and Other Documents - The following permits and other documents must be displayed conspicuously by the licensee in his establishment:

A. Current and appropriate PCSSD license of the dive establishment;

B. List of diving professional and technical staff employed or contracted by the establishment with their respective positions; and

C. Current and appropriate PCSSD license of dive professional and technical staff whenever applicable.

SECTION 13. License Cards - Dive Instructors/Assistant Dive Instructors, and Divemasters, shall be issued License cards which they must carry whenever practicable and which shall remain valid for one (1) calendar year;

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SECTION 14. Loss of License Cards - A written notice of loss shall accompany a request for replacement. Replacement shall be issued within one (1) month from the date of notice of loss. The applicant shall pay the replacement cost of P100.00;

SECTION 15. Renewal of License - Application for the renewal of license shall be filed on or before December 1st of the year. Late applicants shall be subjected to a fine of fifty percent (50%) of the scheduled fee;

SECTION 16. Documents Required for Application for Renewal of License - The application for renewal of license shall be signed by persons authorized to sign the application and shall be supported by the following documents:

A. Establishment

1. Certified true copy of the amended or revised Articles of Incorporation/Partnership and By-Laws, if applicable;

2. List and information sheets of additional personnel, if any, including any change in the organizational chart of the establishment;

3. Sworn statement of the Manager that he/she has not been administratively convicted for violation of any of the provisions of the PCSSD Rules and Regulations or criminal conviction of an offense involving moral turpitude; and

4. Marketing and any other statistical data that the Commission may require.

B. Individual

1. Submission of marketing statistical data - number of students trained for the year, their nationality, sex, etc.;

2. Certified true copy of the annual contractual agreement between the instructor and his/her certifying agency (for dive instructors); and

3. A sworn statement certifying that he/she will adhere to the safety and ethical standards set by his/her certifying agency (for divemasters).

SECTION 17. Where to Get the Application Form

A. Application forms may be obtained from the PCSSD at the 6th Floor of the DOT Building, Rizal Park, or at any such places designated by the Commission or through the postal system; and

B. A filing fee of Fifty Pesos (P50.00) shall be required upon filing of the application for license with the Commission either in person or by registered mail.

Chapter III
Employment of Staff

SECTION 1. Qualifications of the Manager - To qualify as Manager, an applicant shall:

A. Be a citizen and resident of the Philippines or foreign national with permanent resident status; and

B. Be of good moral character and has not been convicted of any crime involving moral turpitude.

SECTION 2. Employment of Staff - In the employment of other members of the staff of an establishment, the following conditions shall be complied with:

A. That at least eighty percent (80%) of the staff member shall be Filipino citizens; and

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B. That the staff member are of good moral character and have not been convicted of any crime involving moral turpitude.

Chapter IV
Imposition of Fine, Forfeiture of
Bond, Suspension, Cancellation and/
or Non-Renewal of License

SECTION 1. Grounds for the Imposition of Fine, Forfeiture of Bond, Suspension, Cancellation and/or Non-renewal of License - Any of the following acts of omissions shall be sufficient grounds for the imposition of fine, forfeiture of bond, suspension or cancellation of the license depending on the circumstance and gravity of each given case:

A. Non-compliance with, or non-submission of, any of the requirements for the renewal of the license.

B. Violation of any of the provisions of the Rules, circulars and orders of the Commission.

C. Fraudulent representation, written or oral, by the Chief Executive Officer/Manager of the establishment for the purpose of securing issuance or renewal of any license under these Rules.

D. Gross and evident bad faith in dealing with the clients or fraudulent solicitation of business.

E. Opening of any branch or extension office prior to the approval of the Commission.

F. Tolerance of gross misconduct, dishonesty or misrepresentation committed by any of the establishment's officer or employees against its clients to the detriment of sports scuba diving in the Philippines; or gross misrepresentation in its advertisement and promotion that downgrade sports scuba diving or is detrimental to marine conservation.

G. Employment or hiring of scuba diving instructors, assistant scuba diving instructors, and divemasters who are not holders of a PCSSD license or permit issued by the Commission including working visa or work permit in the case of non-Filipino employees, whether contractual or permanent.

H. Failure to pay fines as well as fees, dues, and contributions imposed under existing laws.

I. Failure to submit notice of any change in its personnel or organizational set-up within fifteen (15) working days of such change, provided, that the separation from the service of any of its personnel shall be reported to the Commission within seven (7) working days of such separation.

J. Failure to obey or comply with the duly promulgated orders, decisions and ruling of the Commission.

K. Violation of any provision of Tourism laws, administrative orders, circulars, directives, and rules and regulations and Marine Conservation laws.

Chapter V
General Provisions

SECTION 1. Insurance - It is mandatory for all dive establishments and individuals engaged in the conduct of sports scuba diving activities be covered with adequate accident liability insurance. Evidence of coverage with an insurance company acceptable to the Commission must be presented;

SECTION 2. Surety Bond - All scuba diving establishments are required to secure a surety bond in the amount of not less than Five Thousand Pesos (P5,000.00) executed in favor of the PCSSD. In the event that the above surety is forfeited/confiscated, the establishment shall immediately replace the same;

SECTION 3. Advertisements - Broadcast or print advertisements must conform to the advertising ethical standards set by the domestic advertising industry association;

SECTION 4. Sale, and Rental, Loan, or Transfer of Controlled Scuba Diving Equipment

A. Dive Boat Operators, Professional Dive Centers, Dive Facilities, Dive Instructors, and other establishments and individuals are prohibited from selling, renting, lending or transferring any of the following controlled scuba diving equipment or their accessories unless a record is made of any such sale, lease, loan, or transfer indicating therein the name, address, and diving certificate card or other reputable proof of diver qualification of the vendee, rentee, or transferee:

1. Low pressure or high pressure air compressor

2. Diving regulator

3. Air cylinder

4. Buoyancy compensator

5. Diving instruments such as computers and gauges

B. Professional Dive Centers and Dive Facilities shall control and limit rentals of the following controlled equipment to one (1) set per certified diver, upon presentation of a C-card:

1. High pressure air compressor for breathing purposes

2. High pressure air cylinder for scuba diving purposes shall be limited to a maximum of two (2) sets

3. Diving regulator

4. Bouyancy compensator

5. Diving instruments such as computers and gauges

C. Instructors are exempted from these limitations on the number of equipment to be rented.

SECTION 5. Conduct of Scuba Diving Courses

A. All scuba courses must be conducted by a licensed and certified instructor/assistant instructor with a current teaching status.

B. Complete record of each student must be kept on file for at least five (5) years.

SECTION 6. Airfill Station

A. Scuba cylinders brought in for filling must have a hydrostatic test date of not more than five (5) years.

B. Customers bringing in tanks for filling must present proof of diving certification.

C. Professional Dive Centers shall likewise keep records of all airfill. Each cylinder must have the serial number, hydrostatic test date recorded and filed by the airfill station as part of the air station compressor log.

D. All compressors must be carefully maintained and filters changed per operator’s manual or manufacturer’s specifications to prevent contamination of air in the cylinder. An accurate log book of the compressor’s daily operations must be kept.

SECTION 7. Equipment and Repair Service

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A. A complete record of all repair jobs done must be kept on file for at least five (5) years; and

B. A file on scuba cylinders not passing the hydrostatic test must be kept. The owners of these condemned cylinders must be informed of the cylinder's condition. Condemned cylinders cannot be filled.

Chapter VI
Rules and Procedures Governing
Complaints and Hearing Before the
Commission

SECTION 1. Form and Contents of Complaints - Every complaint filed with the Commission must be under oath or affirmation and shall include the names and addresses of the complainant and respondent, the date when the action arose, the grounds relied upon the relief sought. Provided that the Commission may take cognizance of the violation of the PCSSD Rules and Regulations that may come to its knowledge even without filing of formal complaint;

SECTION 2. Complaint of Tourists or Transients - Where the complainant is a foreign tourist or transient who is about to leave the country, a simple statement duly signed by him shall be sufficient;

SECTION 3. Number of Copies - An executed original and three copies of the complaint and other pleading subsequent thereto, legibly written, mimeographed or printed on paper of good quality shall be filed with the Commission. Where the complainant is a foreign tourist, Section 2 of this Chapter shall apply;

SECTION 4. Answer - Upon receipts of the complaint, the Commission shall furnish respondent a copy thereto, and require him to file his answer thereto within seven (7) working days from receipt of such complaint. The respondent must answer the complaint in writing either denying specifically the material allegations therein or alleging any lawful defense;

SECTION 5. Disposition of Motion - The Commission, at its discretion, may deny or grant the motion or allow amendment of pleadings, or may defer the issues raised until after the hearing if the ground alleged in the motion does not appear indubitable;

SECTION 6. Hearing and Investigation - The Executive Director shall assign the case to the Legal Division for hearing, investigation, and report. In all cases, the hearing shall be conducted as soon as practicable, and shall be held in a convenient place within the premises of the Commission, except when conducted as an aftermath of an ocular inspection, in which event, the hearing may be conducted in any suitable place within the premises of inspection. Other venues may be agreed upon by the parties subject to the approval of the Commission;

SECTION 7. Appearance of Counsel - All appearances of counsel shall be in writing, signed by the counsel who enters his appearance and shall be served upon the opposing party or his counsel/s as the case may be. If a counsel for a party appears in the hearing without having previously filed a written appearance, he must give the stenographic reporter his business address of record, including his telephone number, if any. A party or his counsel/s shall immediately notify the Commission and the adverse party of any change of address;

SECTION 8. Testimony Taken Under Oath, Etc. - The testimony of all witnesses shall be made under oath or affirmation, and all proceedings shall be taken down and transcribed by a duly appointed stenographic reporter who shall avail himself of a tape recorder or any other modern device available for the purpose, so as to ensure the faithful recording and transcription of the proceedings;

SECTION 9. Duty of the Stenographic Reporter - It shall be the duty of the stenographic reporter who has serviced any hearing on a case to immediately transcribe his notes of the proceedings and deliver transcripts to the

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investigator who shall attach them to the records of the case. The original transcript shall be initialed on each page by the stenographer;

SECTION 10. Nature of Proceedings - The proceedings before the Commission shall be non-litigious and summary in nature without regard to the technicalities of law and procedures obtaining in courts of law;

SECTION 11. Preliminary Conference - In any action, the Commission may at its discretion, direct the parties and their counsel before the actual hearing to appear before it for a conference to consider:

A. The possibility of an amicable settlement of private interest involved in the case;

B. The amplification of the issues;

C. The necessity or desirability of amendments to the pleadings;

D. The possibility of obtaining admission or stipulation of facts; and

E. Such other matters as may aid in the just, speedy, and inexpensive disposition of the case.

The Commission shall rule or make an order upon the action taken at the conference and such rule or order when entered shall serve as a guide in the subsequent course of action or hearing of the case, unless modified at the hearing to prevent manifest injustice;

SECTION 12. Amicable Settlement - Unless it shall be prejudicial to public interest or to third parties, the Commission shall endeavor to effect an amicable settlement of the case at any stage of the proceedings, provided, it shall not be contrary to any law, rule or regulation nor against public policy. The amicable settlement shall be reduced in writing, duly signed by the parties and their counsel, which shall be the basis of an order or decision by the Commission;

SECTION 13. Hearing Officer - The Hearing Officer in the Legal Division designated to conduct the hearing shall have the power to administer oath or affirmation and to receive evidence. Provided, however, that with the approval of the Executive Director, he may issue summons, subpoena, and subpoena ducestecum to compel the attendance of parties and witnesses and the production of books, papers, correspondences, memoranda, or records which are relevant to the case, inquiry or investigation.

The Hearing Officer may examine those witnesses and such books, papers and other documents as he shall need in relation to any matter being investigated, heard, or inquired into. He shall not be bound by the technical rules on evidence;

SECTION 14. Direct Contempt - The Executive Director or Hearing Officer may summarily cite in direct contempt any person guilty of misbehavior in their presence or so near them as to obstruct or interrupt the proceedings towards others, or refusal to be sworn or to subscribe an affidavit of disposition when lawfully required to do so. In the exercise of this power, the Executive Director or Hearing Officer may impose a fine in an amount not exceeding Two Hundred Pesos (P200.00);

SECTION 15. Indirect Contempt - The Commission may also adjudge any person of indirect contempt for any of the following grounds:

A. Disobedience of or resistance to the lawful writ, process, order judgment or command of the Commission; and

B. Any abuse of or any unlawful interference with the process or proceedings of the Commission not constituting direct contempt under the preceding section.

SECTION 16. Report and Resolution - Whenever the Executive Director shall assign the case to the Legal

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Division for hearing and investigation, the resolution or report shall be submitted to the Commission within twenty (20) days after the case is rested for consideration;

SECTION 17. Decision - Within the reasonable time from the receipt of the report of investigation and/or resolution of the case, the Commission may either adopt or modify the same or promulgate a separate decision therein, a copy thereof shall be immediately served upon the parties;

SECTION 18. Motion for Reconsideration - The party adversely affected by any decision may interpose a motion for reconsideration within fifteen (15) days from receipt of the decision. Once filed, the motion shall have the effect suspending the period fixed for appeal to the Board , the following motion for reconsideration shall be based solely on any of the following grounds:

A. Newly discovered evidence which materially affects the decision rendered; and

B. Errors of law or irregularities prejudicial to the substantial rights and interests of the party adversely affected have been committed.

SECTION 19. Appeal - The order, resolution, or decision of the Executive Director shall become final and executory after fifteen (15) days from the receipt thereof, unless appealed to the Chairman;

SECTION 20. Applicability of the Rules of Court - The provisions of the Rules of Court when not in conflict with the provisions of these Rules, shall, whenever, practicable apply in suppletory character to investigations of complaints provided for in these Rules.

Chapter VII
Miscellaneous Provisions
SECTION 1. Administrative Penalties - Without prejudice to the filing of civil and/or criminal action in the proper courts of law, the Executive Director may impose an administrative fine in the amount not exceeding Ten Thousand Pesos (P10,000.00) against any person, natural or juridical who/which shall violate or cause another to violate any provision of these Rules or circulars, or suspend or revoke the license, permit or accreditation of any such person or entity subject to this regulatory jurisdiction, or confiscate the bond and order its disposition.

In the imposition of the above penalties, the Commission shall take into consideration the nature, circumstance and gravity of the offense or violation committed;

SECTION 2. Confidential Character of Certain Data - Upon request in writing of the establishment concerned, the Chairman or Executive Director may order that information and documents received by or filed with the Commission in pursuance of the requirements of these Rules and Regulations shall be treated as confidential and shall not be disclosed to any private party without the consent of the party concerned or upon order of the court. Any official or employee of the Commission who shall violate the provisions of this Section shall be guilty of an offense under these Rules;

SECTION 3. Means to Carry into Effect the Purpose, Intent and Spirit of These Rules - If the procedure to be followed in a given situation is not specifically provided for these Rules, any suitable procedure or mode of proceedings which appears conformable to the purpose, intent, and spirit of these Rules shall be adopted;

SECTION 4. Enlistment of Aid, Assistance, and Support of Other Government Agencies - In the implementation of the provisions of these Rules, Circulars, and enforcement or orders or decisions, the Commission may enlist the aid, assistance, and support of any and all government agencies whether civil or military;

SECTION 5. Enforcement - The Chairman or Executive Director is empowered to authorize his/her representatives to padlock and/or close the office premises of firms and individual engaged in any activity which

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is in violation of any of the provisions of these Rules and Regulations;

SECTION 6. Separability Clause - The provisions of these Rules are separable and in the event that any one or more provisions are declared invalid, the validity of other provisions shall not be affected;

SECTION 7. Repealing Clause - All existing Rules and Regulations, circulars, administrative orders which are inconsistent with the provisions of these Rules are hereby repealed or amended, accordingly.

Chapter VIII
Effectivity
These Rules and Regulations as amended shall take effect thirty (30) days after publication in the Official Gazette or any newspaper of general circulation.

Adopted: 15 May 1992.

(SGD.) NARZALINA Z. LIM
Secretary of Tourism and
Chairman, Commission on Sports and Scuba Diving

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