

Tourism Authority (Dolphin and Whale Watching) Regulations 2012

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THE TOURISM AUTHORITY ACT

Regulations made by the Minister under section 129 of the Tourism Authority Act

1. These regulations may be cited as the **Tourism Authority (Dolphin and Whale Watching) Regulations 2012**.

2. In these regulations —

“Act” means the Tourism Authority Act;

“Alpha flag” means the flag set out in the Schedule and meeting the requirements specified in the said Schedule;

“certificate” means a certificate granted to a skipper under regulation 5, authorising him to carry out, against payment of a fee, the activity of—

(a) dolphin and whale watching; or

(b) dolphin and whale watching, together with swimming with dolphins;

“dolphin and whale watching” means viewing, from a pleasure craft, dolphins and whales in the territorial sea;

“dolphin and whale watching, together with swimming with dolphins” means dolphin and whale watching, as well as entering the sea from a pleasure craft in order to swim, dive or snorkel with dolphins;

“licence” means a tourist enterprise licence issued under section 26 of the Act in respect of the activity of —

(a) dolphin and whale watching; or

(b) dolphin and whale watching, together with swimming with dolphins;

“licensee” means the holder of a licence;

“life-saver” means a crew member of a pleasure craft who holds a certificate in life-saving, which is recognised by the Authority;

“no-wake speed” means the speed to be maintained by a pleasure craft so as not to produce any wake or wash;

“person in charge”, in relation to a pleasure craft, means —

(a) the licensee;

(b) its skipper; or

(c) any other employee or agent of a licensee, who is on the pleasure craft;

“pod” means a group of at least 2 dolphins or whales;

“prohibited zone” —

(a) in relation to a dolphin, means the zone within a radius of 50 metres from the closest dolphin;

(b) in relation to a whale, means the zone within a radius of 100 metres from the closest whale;

“regulated zone” —

(a) in relation to a dolphin, means the zone from a radius of 50 metres to a radius of

150 metres, from the closest dolphin;

- (b) in relation to a whale, means the zone from a radius of 100 metres to a radius of 200 metres, from the closest whale;

“skipper” means a person who holds a skipper’s licence issued under section 84 of the Act;

“territorial sea” has the same meaning as in the Maritime Zones Act

- 3. No person shall provide the activity of dolphin and whale watching against payment of a fee unless —

- (a) he is the holder of a licence in respect of the activity of dolphin and whale watching;
- (b) the pleasure craft used to carry out the activity is operated by a skipper who holds a certificate;
- (c) there is affixed on the pleasure craft, at such conspicuous place as the Authority shall determine, a label provided by the Authority, indicating that the licensee is authorised to carry out the activity of dolphin and whale watching; and
- (d) the pleasure craft is equipped with a propeller guard approved by the Authority.

- 4. No person shall provide the activity of dolphin and whale watching, together with swimming with dolphins, against payment of a fee, unless —

- (a) he is the holder of a licence in respect of the activity of dolphin and whale watching, together with swimming with dolphins;
- (b) the pleasure craft used to carry out the activity is operated by a skipper who holds a certificate;

- (c) there is affixed on the pleasure craft, at such conspicuous place as the Authority shall determine, a label provided by the Authority, indicating that the licensee is authorized to carry out the activity of dolphin and whale watching, together with swimming with dolphins;
 - (d) the pleasure craft is equipped with a propeller guard approved by the Authority;
 - (e) there is on board the pleasure craft used to provide the activity —
 - (i) at least one life-saver, who shall wear such gear as may be determined by the Authority in order to allow his visual identification; and
 - (ii) a medical first aid kit and an oxygen kit; and
 - (f) the licensee holds, and there is in force, a policy of insurance in respect of any liability which may arise in the course of the activity of dolphin and whale watching, together with swimming with dolphins.
5. (1) Any skipper who wishes to obtain a certificate shall apply to the Authority in such form and manner as it may approve.
- (2) An application under paragraph (1) shall be accompanied by —
- (a) a copy of the skipper's licence;
 - (b) such other document as the Authority may require; and
 - (c) a non-refundable application fee of 100 rupees.
- (3) A certificate shall not be granted to a skipper unless he —
- (a) has passed such test as the Authority may consider appropriate in order to assess whether he has a sound knowledge —

- (i) of dolphins and whales;
- (ii) of the manner in which to operate a pleasure craft where there is a dolphin or whale at sea; and
- (iii) in the case of an application for a certificate to authorise the activity of dolphin and whale watching together with swimming with dolphins, of the techniques relating to swimming with dolphins; and

(b) satisfies the Authority that he is a fit and proper person to be issued with a certificate.

(4) Where the Authority is satisfied that a skipper may be issued with a certificate, it shall grant the certificate upon payment of a fee of 250 rupees and on such terms and conditions as it may impose.

(5) Any skipper shall, upon a request being made by an authorised officer, produce his certificate to that officer.

(6) A skipper shall immediately report the loss, theft or destruction of, or damage to, a certificate to the Authority.

(7) Where a skipper makes a report that a certificate has been lost, stolen, destroyed or damaged, the Authority may, upon payment of a fee of 500 rupees, issue a duplicate certificate to him.

6. Any person who operates a pleasure craft shall, where there is a dolphin or whale at sea

(a) approach the dolphin or whale from the side;

(b) maintain the pleasure craft on the side of the dolphin or whale and follow a parallel course to the dolphin or whale;

- (c) operate the pleasure craft at no-wake speed where he is in the regulated zone;
- (d) enter and leave the regulated zone at no-wake speed;
- (e) keep the engine of the pleasure craft on neutral gear when it is at standstill;
- (f) maintain constant speed and direction where dolphins are bow-riding; and
- (g) not drive through or amidst a pod.

7. (1) No person shall make a sudden change in the speed or direction of his pleasure craft in a regulated zone.

(2) It shall be a defence for a person charged with contravening paragraph (1) to prove that he had reasonable cause to believe that the safety of—

- (a) a person on board the pleasure craft;
- (b) the pleasure craft; or
- (c) any other person, was in peril.

8. (1) Subject to paragraph (2), no person shall —

- (a) operate a pleasure craft or an exempt pleasure craft in the prohibited zone;
- (b) swim, dive or snorkel with a whale;
- (c) feed a dolphin or whale, or throw food or any other object, substance or matter near or around a dolphin or whale;
- (d) touch or attempt to touch, whether by using an object or otherwise, a

dolphin or whale;

- (e) make any noise for the purpose of attracting a dolphin or whale;
- (f) approach a dolphin or whale from behind or head-on;
- (g) in any manner whatsoever, circle around a dolphin or whale.

(2) The Authority may, in writing, and for educational or scientific purposes, authorise any activity referred to in paragraph (1).

9. (1) Unless authorised in writing by the Authority, no person in charge of a pleasure craft shall, against payment of a fee —

- (a) provide the activity of dolphin and whale watching at a time other than from 06.00 hours to noon;
- (b) provide the activity of dolphin and whale watching, together with swimming with dolphins, at a time other than from 06.00 hours to 09.00 hours.

(2) No person in charge of a pleasure craft used to provide the activity of dolphin and whale watching, together with swimming with dolphins, against payment of a fee, shall allow swimming with dolphins, except if—

- (a) there is at least one life-saver on board the pleasure craft;
- (b) there is a medical first aid kit and an oxygen kit on board the pleasure craft;
- (c) the life-saver wears a personal floating device approved by the Authority;
- (d) the Alpha flag is displayed on the pleasure craft at such conspicuous place as the Authority shall determine;
- (e) the swimmer has, before entering the sea, duly filled in and signed a disclaimer

form in respect of any liability that may arise as a result of the swimming; and

(f) the swimmer has, prior to entering the sea, been properly briefed on the sound techniques relating to calm and silent swimming.

(3) No person in charge of a pleasure craft shall allow more than 3 swimmers, including a life-saver, to enter, dive or snorkel simultaneously in the sea.

10. No person shall knowingly do kite surfing, jet skiing, paragliding, diving or windsurfing in the zone within a radius of 500 metres from the closest dolphin or whale.

11. (1) The Authority may, in writing, issue such guidelines as it considers appropriate in respect of the provision of the activities of dolphin and whale watching against payment of a fee, and dolphin and whale watching, together with swimming with dolphins, against payment of a fee, and shall notify every licensee and every skipper of any guidelines issued.

(2) A licensee shall provide every person who proceeds on a trip for dolphin and whale watching against payment of a fee or dolphin and whale watching, together with swimming with dolphins, against payment of a fee, with written information on the provisions of regulations 6, 8 and 9 and any guideline issued by the Authority under paragraph (1).

(3) The information referred to in paragraph (1) shall be given to the person proceeding on the trip, on board the pleasure craft.

(4) Every skipper or person proceeding on a trip for dolphin and whale watching against payment of a fee or dolphin and whale watching, together with swimming with dolphins, against payment of a fee, shall comply with the guidelines issued by the Authority under paragraph (1).

12. These regulations shall come into operation on 1 November 2012.

Made by the Minister on 24 August 2012

SCHEDULE

[Regulation 2]

ALPHA FLAG



Alpha flag, not less than 60 centimetres long and not less than 30 centimetres wide, with the rectangular part in white and the swallow-tail part in blue.
