

Federal Act on Mountain Guides and Organisers of other High-Risk Activities

(Translation of the official version of the Federal Act, dated December 17, 2010)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 63 paragraph 1, 95 and 97 of the Federal Constitution¹,
and having considered the report of the National Council Legal Affairs Committee
dated 27 March 2009²,

and the Federal Council report dated 26 August 2009³,

decrees:

Section 1: General Provisions

Art. 1 Scope of application

¹ This Act applies to commercially offered high-risk activities in mountainous or rocky terrain and in or around streams or rivers where:

- a. there is a risk of slipping or falling or an increased risk due to rising water levels, falling rock or ice, or avalanches; and
- b. the activities require special knowledge or special safety precautions.

² The following activities are governed by this Act:

- a. the activities of mountain guides;
- b. the activities of snow sports instructors that do not fall within the responsibility of skilift or cableway operators;
- c. canyoning;
- d. river rafting and white water rafting;
- e. bungee jumping.

¹ SR 101

² BBl 2009 6013

³ BBl 2009 6051

³ The Federal Council may make further comparable high-risk activities subject to this Act; in doing so, it must familiarise itself with the objective risks that may be expected when carrying out the activities concerned.

Art. 2 Duties of care

¹ Any person who offers an activity that is subject to this Act must take the measures that experience indicates are required, that are possible according to the state of the art and that are appropriate in the given conditions, so that the lives and health of the participants are not endangered.

² He or she must in particular:

- a. alert the clients to the specific dangers that may be related to carrying out the activity concerned;
- b. assess whether the clients have the capacity to carry out the activity concerned;
- c. ensure that equipment is free of defects and installations are in a good condition;
- d. assess the suitability of the weather and snow conditions;
- e. ensure that staff are adequately qualified;
- f. ensure that a sufficient number of support staff are available according to the degree of difficulty and the danger;
- g. show consideration for the environment and in particular the habitats of flora and fauna.

Section 2: Licensing

Art. 3 Licensing requirement

Any person offering an activity subject to this Act requires a licence.

Art. 4 Licence for mountain guides

¹ Mountain guides are granted a licence if they:

- a. hold a Federal Professional Education and Training Diploma as a Mountain Guide under Article 43 of the Vocational and Professional Training Act of 13 December 2002⁴ or have been awarded an equivalent Swiss or foreign professional qualification; and
- b. guarantee that they will comply with the obligations under this Act.

⁴ SR 412.10

² The Federal Council regulates:

- a. the recognition of Swiss or foreign professional qualifications;
- b. which activities under Article 1 paragraph 2 letters c–e mountain guides may offer as individuals.

Art. 5 Licence for snow sports instructors

¹ Snow sports instructors are granted a licence to guide clients in areas that do not fall within the responsibility of ski lift or cableway operators if they:

- a. hold a Federal Professional Education and Training Diploma as a snow sports instructor under Article 43 of the Vocational and Professional Training Act of 13 December 2002⁵ or have been awarded an equivalent Swiss or foreign professional qualification; and
- b. guarantee that they will comply with the obligations under this Act.

² The Federal Council regulates the recognition of Swiss or foreign professional qualifications.

Art. 6 Licence for businesses offering activities under Article 1 paragraph 2 letters c–e

¹ Businesses that offer activities under Article 1 paragraph 2 letters c–e are granted a licence if they:

- a. are certified for the conduct of the activities concerned; and
- b. guarantee compliance with the obligations under this Act.

² The Federal Council regulates the minimum requirements for certification.

Art. 7 Granting and renewing the licence

¹ The cantonal authority at the place of residence or registered office of the applicant grants the licence.

² Licences are renewed in a simplified procedure.

³ Licences for mountain guides and for snow sports instructors are renewed if the holder meets the requirements under Articles 4 and 5 and can provide proof of appropriate continuing education and training.

⁴ The Federal Council issues the implementing provisions on granting and renewing licences, and in particular on granting and renewing licences for persons staying, resident or with registered office abroad.

⁵ SR 412.10

Art. 8 Effect of the licence

- ¹ A licence from a cantonal authority is valid for the entire territory of Switzerland.
- ² A licence for a mountain guide or for a snow sports instructor is personal and non-assignable.
- ³ The foregoing provisions are subject to cantonal jurisdiction over stationary installations for carrying out activities governed by this Act.

Art. 9 Term of the licence

- ¹ A licence for a mountain guide or a snow sports instructor is valid for four years.
- ² A licence for a business that offers activities under Article 1 paragraph 2 letters c–e is valid for two years.
- ³ Licences for persons staying, resident or with registered office abroad may be made valid for a shorter term.

Art. 10 Withdrawal of the licence

The cantonal authority shall withdraw the licence if the holder no longer fulfils the requirements for being granted the licence.

Art. 11 Fees

- ¹ The cantons charge fees for granting, renewing and withdrawing the licence.
- ² The Federal Council regulates the level of the fees.

Art. 12 Information

The cantonal authority must provide third parties with information on whether a person holds a licence without proof of a legitimate interest being required.

Section 3: Insurance and Duty to provide Information

Art. 13

- ¹ Any person holding a licence under this Act must obtain professional indemnity insurance for the licensed activities according to the nature and extent of the risks related to his or her work or must provide equivalent financial security, and must inform his or her clients about his or her insurance cover.
- ² The Federal Council regulates the minimum amount to be insured and the requirements for equivalent security.

Section 4: Cantonal Restrictions on Access to Specific Areas

Art. 14

The cantons may prohibit access to specific areas, in particular if this is required for nature or water protection reasons.

Section 5: Criminal Provisions

Art. 15 contraventions

¹ Any person who wilfully:

- a. provides incomplete, incorrect or misleading information in order to obtain a licence;
- b. works as a mountain guide or snow sports instructor without a licence or offers activities under Article 1 paragraph 2 letters c–e

is liable to a fine not exceeding 10,000 francs.

² If the offender acts through negligence, he or she is liable to a fine not exceeding 5000 francs.

Art. 16 Prosecution

Prosecution is the responsibility of the cantons.

Section 6: Support for Private Legal Entities

Art. 17

The Confederation may establish or provide financial support to or hold participations in private legal entities. Such entities must have the object of improving the safety of the activities governed by this Act by introducing safety concepts and safety inspections.

Section 7: Final Provisions

Art. 18 Implementation

¹ The cantons implement this Act, unless the Confederation is declared responsible.

² The Federal Council issues the implementing provisions.

Art. 19 Transitional provisions

¹ Cantonal licences for mountain guides and snow sports instructors that have been issued in accordance with previous cantonal regulations remain valid until their expiry date or for two years following the commencement of this Act, whichever is sooner.

² Persons working as mountain guides or as snow sports instructors on the commencement of this Act who do not hold a cantonal licence must apply for a licence in their canton of residence within six months of the commencement of this Act.

³ The Federal Council regulates when businesses offering activities under Article 1 paragraph 2 letters c–e that are already operating on the commencement of this Act must fulfil the requirements hereof.

Art. 20 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council determines the commencement date.

National Council, 17 December 2010

Council of States, 17 December
2010

The President: Jean-René Germanier
The Secretary: Pierre-Hervé Freléchoz

The President: Hansheiri Inderkum
The Secretary: Philippe Schwab