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Ordinance on Mountain Guides and Organisers of other High-Risk Activities

(High-Risk Activities Ordinance)

of 30 November 2012 (Status as of 1 October 2014)

Please note: this translation does not yet include the amendments of 9.6.2015

The Swiss Federal Council,

on the basis of Articles 1 paragraph 3, 4 paragraph 2, 5 paragraph 2, 6 paragraph 2, 7 paragraph 4, 11 paragraph 2, 13 paragraph 2, 18 paragraph 2 and 19 paragraph 3 of the Federal Act of 17 December 2010¹ on Mountain Guides and Organisers of other High-Risk Activities (Act),

ordains:

Chapter 1: General Provisions

Art. 1 Additional activities to which the Act applies

The Act applies to the following activities in addition to those named in Article 1 paragraph 2 thereof:

- a. the activities of aspiring mountain guides;
- b. the activities of climbing instructors;
- c. the activities of hiking guides;
- d. activities for which businesses may be certified under Article 6 of the Act in addition to those named in Article 1 paragraph 2 letters c–e of the Act.

Art. 2 Commercial activity

A person who earns a primary or secondary income of more than CHF 2300 annually by conducting activities defined in Article 3 paragraph 1 on the territory of the Swiss Confederation is considered to be carrying on a commercial activity.

Chapter 2: Licensing

Section 1: Activities for which a Licence is required

Art. 3

¹ A licence is required to offer the following activities:

- a. mountaineering from difficulty level "L" in accordance with Annex 2 number 1;
- b. alpine hiking from difficulty level "T4" in accordance with Annex 2 section 2;
- c.² ski touring and snowboard touring above the tree line;
- d. snowshoe tours above the treeline from difficulty level "WT3" in accordance with Annex 2 section 4;
- e. off-piste skiing above the treeline from difficulty level "WS" in accordance with Annex 2 section 3;
- f. use of vie ferrate;
- g. climbing frozen waterfalls and steep ice climbing;
- h.³ multi-pitch rock climbing;
- i. canyoning;
- j. river-rafting on flowing water from difficulty level "White water III" in accordance with Annex 3 with a raft as defined in Article 2 letter a section 12 of the Inland Navigation Ordinance of 8 November 1978⁴;
- k. white water rafting on flowing water from difficulty level "White water III" in accordance with Annex 3 with a boat or other sports equipment such as a canoe, kayak, riverboard (hydrospeed), funyak or tube;
- l. bungee jumping, with the exception of activities performed by exhibitors who are licensed in accordance with Article 25 of the Ordinance on Itinerant Trade of 4 September 2002⁵.

² Off-piste skiing is considered to be downhill skiing using snow sports equipment in locations accessible by mountain railways and cableways but not within the area of responsibility of ski lift or cableway operators.

³ Canyoning is defined as entering or travelling in streambeds or riverbeds with limited escape options for which swimming or climbing techniques are required.

⁴ Bungee jumping is considered to be jumping from heights in a free fall while attached to an elastic cord, or a pendulum jump.

² Amended by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

³ Amended by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

⁴ SR 747.201.1

⁵ SR 943.11

Section 2: Licensing

Art. 4 Mountain guides

¹ Licensed mountain guides are authorised to guide clients within the scope of the activities defined in Article 3 paragraph 1 letters a–h.

² The following are considered to be equivalent to a Federal Professional Education and Training Diploma as a Mountain Guide (Federal PET Diploma):

- a. licences issued under previous laws in accordance with Annex 4 section 1, if the holder can demonstrate that he or she has pursued the profession regularly and has completed sufficient further training;
- b. foreign professional qualifications which are recognised by the State Secretariat for Education, Research and Innovation (SERI) as equivalent;
- c. diploma as an international mountain guide from the International Federation of Mountain Guide Associations (IFMGA).

³ Licensed mountain guides are authorised to conduct canyoning if the guide has completed additional training with the Swiss Mountain Guide Association or the IFMGA.

Art. 5 Aspiring mountain guides

¹ Licensed aspiring mountain guides are authorised to guide clients within the scope of activities defined in Article 3 paragraph 1 letters a–h if they do so under the direct or indirect supervision of and in joint responsibility with a mountain guide licensed in accordance with Article 4.

² Aspiring mountain guides are granted a licence if they:

- a. have passed the aspirant course of the Swiss Mountain Guide Association, an aspirant course recognised by the IFMGA, or a foreign aspirant course recognised by the Federal Office of Sport (FOSPO) as equivalent;
- b. guarantee that they will comply with their obligations under the Act and this Ordinance.

³ They are obliged to obtain professional indemnity insurance in accordance with Article 13 of the Act and Article 20 of this Ordinance.

⁴ Licensed aspiring mountain guides are authorised to guide canyoning if the aspirant has completed additional training with the Swiss Mountain Guide Association or the IFMGA and conducts the activity under the direct or indirect supervision of and in joint responsibility with a mountain guide licensed in accordance with Article 4 paragraph 3.

Art. 6 Climbing instructors

¹ Licensed climbing instructors are authorised to accompany clients within the scope of the activities defined in Article 3 paragraph 1 letter h on condition that the ascent or descent:

- a. corresponds at a maximum to difficulty level "T3" in accordance with Annex 2 section 2;
 - b. does not require crossing glaciers; and
 - c. does not require the use of technical aids such as ice axes or crampons.
- ² The licence shall be granted if the climbing instructor:
- a. is a Climbing Instructor with Federal PET Diploma as defined in Article 43 of the Vocational and Professional Training Act of 13 December 2002⁶ (VPETA) or has earned a foreign professional qualification recognised by SERI as equivalent;
 - b. guarantees that he or she will comply with the obligations under the Act and this Ordinance.
- ³ Licences issued under previous laws in accordance with Annex 4 section 2 are considered to be equivalent to a Climbing Instructor with Federal PET Diploma if the holder can demonstrate that he or she has pursued the profession regularly and has completed sufficient further training.
- ⁴ Climbing instructors are obliged to obtain professional indemnity insurance in accordance with Article 13 of the Act and Article 20 of this Ordinance.
- ⁵ Trainee climbing instructors may conduct these activities under the direct supervision and responsibility of a person licensed for the activities defined in Article 3 paragraph 1 letter h if this is necessary for their further training.

Art. 7 Snow sports instructors

¹ Licensed snow sports instructors are authorised to accompany clients within the scope of the activities defined in Article 3 paragraph 1 letters c–e on the following conditions:

- a. the tour corresponds at a maximum to the following difficulty levels:
 - 1. ski tours: "WS" as defined in Annex 2 section 3,
 - 2. snowshoe tours: "WT3" as defined in Annex 2 section 4,
 - 3. off-piste skiing: "ZS" as defined in Annex 2 section 3;
- b. no glaciers are crossed;
- c. an appropriate overall assessment by the snow sports instructor establishes in each case for the affected area that there is at most a low risk of avalanche in accordance with current knowledge;
- d. apart from snow sports equipment, skins, ski crampons and snowshoes, no other technical aids such as ice axes, crampons or ropes have to be used.

² The following are considered to be equivalent to a Snow Sports Instructor with Federal PET Diploma:

⁶ SR 412.10

- a. licences issued under previous laws in accordance with Annex 4 section 3, if the holder can demonstrate that he or she has pursued the profession regularly and has completed sufficient further training;
- b. foreign professional qualifications recognised as equivalent by the State Secretariat for Education, Research and Innovation.

³ Trainee snow sports instructors may conduct these activities under the direct supervision and responsibility of a person licensed for the activities defined in Article 3 paragraph 1 letters c–e if this is necessary for their further training.

Art. 8 Hiking guides

¹ Hiking guides are authorised to accompany clients on snowshoe tours as defined in Article 3 paragraph 1 letter d on the following conditions:

- a. the tour corresponds at a maximum to difficulty level "WT3" in accordance with Annex 2 section 4;
- b. no glaciers are crossed;
- c. an appropriate overall assessment by the hiking guide establishes in each case for the affected area that there is at most a low risk of avalanche in accordance with current knowledge;
- d. apart from snowshoes, no other technical aids such as ice axes, crampons or ropes have to be used.

² The licence shall be granted if the hiking guide

- a. is a Hiking Guide with Federal PET Diploma as defined in Article 43 VPETA⁷ or has earned a foreign professional qualification recognised as equivalent by the State Secretariat for Education, Research and Innovation;
- b. guarantees that he or she will comply with the obligations under the Act and this Ordinance.

³ Hiking guides are obliged to obtain professional indemnity insurance in accordance with Article 13 of the Act and Article 20 of this Ordinance.

⁴ Trainee hiking guides may conduct these activities under the direct supervision and responsibility of a person licensed for snowshoe tours as defined in Article 3 paragraph 1 letter d if this is necessary for their further training.

Art. 9 Businesses under Article 6 of the Act

¹ Under Article 6 of the Act, businesses are licensed to conduct those activities defined in Article 3 paragraph 1 letters i–l for which the business is certified.

² The business is also authorised to conduct activities defined in Article 3 paragraph 1 letters a–h if it is certified for them.

⁷ SR 412.10

Section 3: Certification

Art. 10 Requirements for the certification body

Certification must be undertaken by a body accredited under the Accreditation and Designation Ordinance of 17 June 1996⁸.

Art. 11 Safety management systems

¹ The certification body must issue certification on the basis of a safety management system. The safety management system must be assessed by the Swiss Accreditation Service (SAS) as a viable foundation for certification and be recognised by the Federal Department of Defence, Civil Protection and Sport (DDPS).

² The safety management system must meet the following requirements:

- a. It provides for an assessment of the safety of the activities offered by a business on the basis of measurable safety objectives.
- b. It provides for the safety management system to cover of all of the activities offered by a business.
- c. It contains requirements for training and guidelines to ensure that these requirements are implemented.
- d. In cases of cooperation between the business and other parties, it provides for those parties to be licensed in accordance with this Ordinance or to be contractually bound by the safety strategy of the business.
- e. It provides for certification to take place on the basis of written documents such as the safety management system handbook and on an audit of actual practice.
- f. It provides for this audit to take place annually and for any defects that have been identified to be remedied within a set period of time.

³ The DDPS shall publish its recognition decision in the Federal Gazette.

⁴ Recognition is valid for five years.

Art. 12 "Safety in adventures" Foundation

¹ The DDPS may support the "Safety in adventures" Foundation with regard to the development of appropriate safety management systems for safety in the area of high-risk activities.

² For this purpose, it shall conclude a service agreement with the "Safety in adventures" Foundation.

⁸ SR 946,512

Section 4: Compulsory registration for persons from the EU and EFTA states⁹

Art. 13

¹ For persons resident in the European Union (EU) or European Free Trade Association (EFTA) states, there is a compulsory registration requirement in accordance with legislation governing the compulsory registration and verification of professional qualifications for service providers in regulated professions.¹⁰

² There is no reporting obligation as defined in the aforementioned paragraph 1 for a person who fulfils the following conditions:

- a. He or she conducts activities defined in the Act and this Ordinance on the territory of the Swiss Confederation on no more than 10 days per calendar year.
- b. He or she does not make use of any business premises in Switzerland.
- c. He or she is licensed for the commercial conduct of the respective activity in at least one EU or EFTA member country or holds a diploma from the IFMGA.

Section 5: Procedure

Art. 14 Granting a licence

¹ The applicant for the licence must submit the application in writing to the cantonal authorities of the applicant's place of residence or location of his or her registered office. If the person is resident or has a registered office abroad, the application must be submitted to the cantonal authorities at the primary place of business.

² The application must contain the information and documents set out in Annex 1.

³ Cantons may require that their own application form be used.

⁴ The authority reviews the application and the documents submitted with it within 10 days of submission. If the application is deficient or incomplete, the authority shall reject it and set a deadline for its correction or completion. If this deadline is not met, the application is considered to be withdrawn.

⁵ The authority makes a decision on the application within 10 days of the point in time at which the application is available in a complete and correct form.

^{5bis} Article 8 paragraph 2 and Article 9 paragraph 1 of the Ordinance also apply by analogy to aspirant mountain guides, rock climbing instructors and hiking guides.¹¹

⁹ Amended by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

¹⁰ Amended by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

¹¹ Inserted by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

⁶ In all other respects the procedure is governed by cantonal procedural law.

Art. 15 Renewing a licence

¹ In order to renew a licence, the holder of a licence for activities defined in Article 3 paragraph 1 letters a–h must prove that since the granting or last renewal of the licence, he or she has participated in further training of at least two days duration on the subject of safety and risk management and offered or recognised by one of the professional organisations, and has professional indemnity insurance in accordance with Article 13 of the Act and Article 20 of this Ordinance.

² In order to have their licences renewed, businesses offering certified activities must demonstrate that their certification has been extended or renewed.

³ In all other respects Article 14 applies to the procedure.

Art. 16 Reporting of changes

¹ Licence holders are obliged to inform the competent cantonal authority within 30 days of the following changes:

- a. changes to the information in Annex 1;
- b. non-extension/non-renewal of certification;
- c. changes in conjunction with the holder's professional indemnity insurance in accordance with Article 13 of the Act and Article 20 of this Ordinance.

² If the holder of a licence surrenders it voluntarily owing to his or her giving up the profession or the business, this must likewise be reported.

Art. 17 List of licences

¹ A list of the licences awarded under Articles 4–9 is published on the Internet by the Federal Office of Sport (FOSPO).

² This list contains the following data:

- a. surname and first name or company name of the licence holder;
- b. postal address;
- c. type of licence;
- d. date of expiry of licence;
- e. internet website of licence holder if the holder has made this information available voluntarily.

³ Data is entered in this list by the responsible cantonal authority.

⁴ FOSPO and the responsible cantonal authority may edit the data.

⁵ The data may only be used for the purpose foreseen in Article 12 of the Act.

Art. 18 Measures in the event of a failure to observe provisions

¹ The cantonal authority responsible for granting the licence shall take the necessary measures if it determines that the provisions of the Act or this Ordinance are not being observed, i.e. if:

- a. the conditions for granting the licence are no longer met;
- b. the licence holder no longer has professional indemnity insurance;
- c. the duty to provide information has been violated.

² If it is expected that the deficiency can be remedied, the authority shall set an appropriate deadline for remedying it. This deadline may be extended in justifiable cases.

³ If there is no prospect of remedying the deficiency and it would be irresponsible to continue to offer the activity, the authority shall prohibit the licence holder from offering the activity and withdraw the licence.

⁴ Cantonal law enforcement authorities which determine that the provisions of the Act or this Ordinance have not been observed are required to report this to the cantonal authority responsible for the licence.

Art. 19 Fees

¹ The following fees are charged:

- a. for granting a licence: maximum CHF 100;
- b. for renewing a licence: CHF 50;
- c. for withdrawing a licence: maximum CHF 200.

² If the review of documents or the withdrawal of a licence necessitates an extraordinary amount of work, a fee of CHF 100 per hour shall be charged. Every half hour commenced is charged as a full half hour.

³ Expenses, in particular the costs of expert opinions, and fees charged by SERI for the recognition of foreign qualifications shall be calculated separately and invoiced in addition to the basic fee schedule.

⁴ In all other respects, the provisions of the General Fees Ordinance of 8 September 2004 apply¹².

Chapter 3: Insurance and Duty to Provide Information**Art. 20** Compulsory insurance

¹ The minimum cover provided by the licence holder's professional indemnity insurance as outlined in Article 13 of the Act must amount to CHF 5 million annually.

¹² SR 172.041.1

² The following security is considered to be equivalent to professional indemnity insurance:

- a. a surety or bank guarantee declaration for the sum of CHF 5 million;
- b. a blocked bank account holding CHF 5 million.

³ The insurance company or bank must be licensed by or registered with the responsible supervisory authority.

Art. 21 Duty to provide information

Persons who hold licences under the Act must inform their clients of their insurance cover or the equivalent surety or guarantee:

- a. in their contracts and their General Terms and Conditions;
- b. in booking confirmations and on tickets;
- c. on their websites or in their online information.

Chapter 4: Cantonal Variant Inventory

Article 22

Cantons may list tours and downhill ski runs on their territory in an inventory which describes the training necessary for offering the respective tour or downhill ski run.

Chapter 5: Applicability of Criminal Provisions of the Act

Art. 23

Article 15 of the Act also applies to aspiring mountain guides, climbing instructors and hiking guides.

Chapter 6: Final provisions

Art. 24 Applicability of transitional provisions of the Act

Article 19 paragraphs 1 and 2 of the Act apply by analogy to aspiring mountain guides, climbing instructors and hiking guides.

Art. 25 Transitional provisions

¹ Businesses as defined in Article 9 which have not been certified by the "Safety in adventures" Foundation at the time the Act comes into force must submit a licence application to the responsible cantonal authority by 31 March 2014. They shall receive a licence on condition that certification be submitted within one year.

² Until a certification body is accredited, the DDPS shall specify the bodies entitled to issue certification.

Art. 26 Commencement

This Ordinance comes into force on 1 January 2014.

*Annex I*¹³
(Art. 14 para. 2)

Information and documents required in the licence procedure

1. Information and documents required of natural persons

¹ The application must contain the following information:

- a. Last name, first name(s).
- b. Date of birth.
- c. Home town or, in the case of foreigners, place of birth.
- d. Residential and business addresses.

² The application must be accompanied by the following documents:

- a. Copy of the permanent residence permit, residence permit or current travel document, together with a visa where applicable.
- b. An extract from the commercial register which is no older than two months if the person has an entry in the commercial register; in the case of persons resident abroad, a certificate of registration in the corresponding foreign register should be submitted.
- c. For mountain guides, climbing instructors, snow sports instructor and hiking guides: a copy of the professional diploma or proof of training recognized as equivalent.
- d. For aspiring mountain guides: a copy of the diploma or certificate from the Swiss Mountain Guide Association aspirant course, an IFMGA aspirant course or a foreign aspirant course recognised as equivalent by the FOSPO.
- e. For mountain guides and aspiring mountain guides who are applying for a canyoning licence as defined in Article 3 paragraph 1 letter i: a copy of the certificate from additional training recognised by the Swiss Mountain Guide Association or IFMGA.

2. Information and documents required of private legal entities and sole proprietorships

¹ The application must contain the following information:

- a. Name.
- b. Headquarters and registered office of any branches in Switzerland.
- c. Business address.
- d. Name of responsible person.

² The application must be accompanied by the following documents:

¹³ Revised by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).

- a. In the case of private legal entities with a registered office in Switzerland: an extract from the commercial register which is not older than two months.
- b. In the case of private legal entities with a registered office abroad: a certificate of registration in the corresponding foreign register.
- c. Valid certification as defined in Article 10.

Annex 2

(Art. 3 para. 1 let. a–e, 6 para. 1 let. a, 7 para. 1 let. a and 8 para. 1 let. a)

Difficulty levels for mountaineering, ski tours and snowshoe tours as well as off-piste skiing

The difficulty levels in the following scales apply with respect to this Ordinance. The scales may be viewed free of charge on the FOSPO website.

1. Swiss Alpine Club (SAC) alpine tour scale of 5 September 2012
2. Swiss Alpine Club (SAC) hiking scale of 5 September 2012
3. Swiss Alpine Club (SAC) ski tour scale of September 2012
4. Swiss Alpine Club (SAC) snowshoe tour scale of September 2012

Annex 3
(Art. 3 para. 1 let. j and k)

White water difficulty levels

White water I: Easy

View	Clear
Water	Regular currents, regular waves, small swells
Riverbed	No serious obstacles

White water II: Moderately difficult

View	Passage clear
Water	Irregular currents, irregular waves, mid-sized swells, weak breaking waves, eddies and reversals
Riverbed	Simple obstacles in the current, small drops

White water III: Difficult

View	Passage easy to recognise
Water	High, irregular waves, larger swells, breaking waves, eddies and reversals
Riverbed	Single exposed boulders, drops, other obstacles in current

White water IV: Very difficult

View	Passage not obviously recognisable; scouting is generally necessary
Water	High, long-lasting swells, strong breaking waves, eddies and reversals
Riverbed	Current obstructed by offset boulders, higher drops with backflow

White water V: Extremely difficult

View	Scouting is absolutely essential
Water	Extreme swells, extreme breaking waves, eddies and reversals
Riverbed	Extreme obstructions, high drops with difficult approaches or exits

White water VI: Practically impassable

Generally not passable, possibly passable at specific water levels

Annex 4¹⁴

(Art. 4 para. 2 let. a, 6 para. 3 and 7 para. 2 let. a)

Licences issued under previous laws

1. Mountain guides

1. Graubünden mountain guide licence acquired before 26 November 2000.
2. Bern mountain guide licence acquired before 1 January 2001.

2. Climbing instructors

Swiss Mountain Guide Association Climbing Instructor diploma acquired before 31 December 2011.

3. Snow sports instructors

1. Graubünden ski instructor licence acquired before 26 November 2000.
2. Graubünden snowboard instructor licence acquired before 26 November 2000.
3. Graubünden cross-country ski instructor licence acquired before 26 November 2000.
4. Bern ski instructor licence acquired before 1 July 1999.
5. Valais ski instructor diploma acquired before 31 December 2003.

¹⁴ Revised by No I of the Ordinance of 13 Aug. 2014, in force since 1 Oct. 2014 (AS 2014 2767).