



HOW TO RUN A COMMERCIAL PADDLING OPERATION IN SOUTH AFRICA LEGALLY

There are a number of pieces of legislation that apply to commercial paddling operations in South Africa. This document will not deal with the more general requirements such as the Basic Conditions of Employment Act or the Consumer Protection Act, but will focus on the legal requirements that are specific to our industry.

There are basically two sets of regulations that relate to us. Whilst the APA qualification is not 'officially' recognised as the sole qualification for paddling guides by the authorities it does make complying with the requirements of both easier. For more information on the APA certification system for guides, please refer to the relevant APA documents for Swiftwater (River), Flatwater and Sea Kayak guides.

1. SAMSA and Marine Notice 28 of 2011

This set of regulations is focussed on the Operator and how the business is run from a safety point of view. The South African Maritime Safety Authority has always been the agency responsible for dealing with issues around safety on our coastal and estuarine waters. A few years ago, their authority was extended to include all inland waters. SAMSA is able to regulate this sector through issuing "Marine Notices". Each Marine Notice deals with a specific issue so it can be confusing to understand!

Under their regulations, any watercraft that is used to earn its owner money is considered a commercial craft. The SAMSA system hinges on the annual survey of each boat and there are various regulations and requirements for a successful survey. The original marine notice was, however, adapted from the regulations which apply to large, marine vessels such as fishing vessels and it is completely inappropriate for the commercial paddling industry. SAMSA has the authority to issue a prohibition letter to operators who have not been surveyed and this will compel them to cease operating with immediate effect. This has already been done by SAMSA on more than one occasion. Once APA became aware of this, we engaged directly with SAMSA and negotiated a set of concessions from the original notice that recognise the ability of the commercial paddling sector to self-govern.

Very simply, this means that all APA members who comply with APA's requirements qualify for a much simpler and much less expensive survey process.

In order to qualify for this, you will need to do the following;

- Provide proof that you are a paid up APA Operating Member and have signed the Code of Conduct
- Provide proof of your guide's APA qualifications (only APA qualifications are recognised)
- Number your boats (SAMSA will issue an individual number for each boat)
- Have all of the above ready for inspection as well as the required safety gear

The survey is done annually and reports from operators who have complied indicate that is simple, straightforward and inexpensive. It is very important that all APA members comply with this legislation for a few reasons;

- SAMSA officials are on the ground around the country and are able to act quickly on complaints
- If our industry is seen as being able to self regulate, SAMSA will be more accommodating to our needs, as has already been shown
- Our relationship with SAMSA allows for a mechanism to deal with operators running trips in an unsafe manner – the first time there has been such a mechanism in our industry

Please refer to the more detailed APA document dealing with this issue for more information.

The Tourism Act no. 72 of 1993

This piece of legislation focuses more on the guide although it does affect the employer as well. The Tourism Act has been in force for a long time but until now, there has been very little enforcement by the authorities. Recently the DET (Department of Tourism)

has made it a priority to act against “illegal” tour guides and they will soon be able to issue spot fines to unregistered guides and the operators who employ them, for example.

Basically,

1. Anyone acting as a Tour Guide (and yes, this does include all adventure guides), is required by law to register with his or her provincial Registrar of Tour Guides.
2. In order to do this, the guide must hold a certificate of competency issued by SAQA (SA Qualifications Authority) in other words; they must hold an NQF (National Qualification Framework) qualification. This qualification must be specific to the work that they do.
3. Sign and adhere to the code of conduct issues by the province.

Previously, there was a skills programme specifically for Paddling Guides but this has now been discontinued. Guides who registered for this previously do have two years to finish their assessment so there are still guides who will gain this qualification and it will still be valid. There is now a new qualification that applies called the Adventure Site Guide. The idea with this new qualification is that the guide is assessed against a set of ‘generic’ criteria that apply to adventure guiding and, in addition, must already be technically competent in his or her chosen field (e.g. mountaineering or paddling). The APA qualification is recognised as proof of technical competency so APA qualified guides will not need to do any additional courses or assessment with regards to their technical skill. They will still, however, have to do the Adventure Site Guide assessment. There are various options for completing this assessment including full or partial RPL (Recognition of Prior Learning) for working guides. Unfortunately, the process is a bit cumbersome and is very expensive in comparison to the APA qualification.

Please refer to the document “How to become a legal tour guide” for more detailed information.

Running a safe paddling operation

Running a safe paddling operation depends less on jumping through the legal hoops outlined above as it does on how you run your day to day operations. APA can advise you on this and put you into contact with others who can help. We also have a set of information documents available to members that cover many aspects of running a safe operation including developing emergency procedures, dealing with incidents etc.

We are here to help so if you have any questions, issues, suggestions, comments or complaints, please e-mail us on info@apa.org.za.
