

Bludenz, the 16<sup>th</sup> of December 2003

***Short information concerning***  
***PISTE-ATTENDANTS:***

***A. Introduction:***

The Sport-act, LGB1 Nr. 15/1972 idgF, introduced the possibility to appoint piste-attendants. The appointment may be proposed by communities, cableway- and ski lift- operators and in Vorarlberg all organisations involved in the promotion of winter sports. The responsible organisation of the district appoints the piste-attendant for a precise domain and for 5 years. After 5 years the appointment may be renewed. LGB1 Number 17/1995 amends regulations regarding cross-country-snow-vehicles and pist-attendants.

The pist-attendant accounts for his activity to the responsible organisation of Bludenz, which appointed him. All instructions are issued by this same organisation. No liability of the communities is provided for. The same organisation issues the identity card and the badge.

***B. Assignments and obligations of pist-attendants:***

***I. General obligations***

1. On duty the piste-attendant has to wear his badge and to carry his identity card.
2. The identity card must be presented on demand for any official act. Its presentation is recommended without being asked.
3. In case of expiration, badge and identity card have to be returned without being asked to the local authority.

## II. Special obligations (§ 14 Sport-act)

### *1. Obligation to help:*

Any person observing a winter sport accident has to assist - in the limits of reasonableness - the injured person, or to organise foreign help. The obligation to help is also given by other legal regulations (§ 2 Rescue-act, § 95 penal code).

### *2. Obligation of notification and obligation to issue legal notifications:*

In cases of severe violation of a regulation the piste-attendant has to denounce the offender to the responsible authority of the district, or to issue a legal notification. Only pist attendants with a special assignment have the right to issue legal notifications. This procedure has to be avoided, when:

- the fault of the offender is a minor one
- the consequences of the violation are of minor importance

### *3. Obligation of participation and principle of proportionality:*

In this context the pist attendant has to participate in the organisation of a correct ski activity on the pistes. He has especially to make sure that sources of dangers are eliminated or signaled in due time. On duty he has to act in an appropriate polite and decent way and to respect faulty persons.

## **C. Rights of piste- attendants**

### I. Accosting, admonition and asking for identification:

On pistes, ski routes or on any neighbouring part, the piste-attendant is entitled (§ 14, paragraph 3) to accost, admonish and to ask for identification any red-handed caught person, disregarding in a guilty way the generally recognized sport rules (see also the. FIS-rules).

### II. Right of request:

The piste-attendant can request such persons (§ 2 Sport-act), caught red-handed and infringing generally recognized rules of sport or trespassing and skiing on closed areas, to accompany him to the gendarmerie (official representative of public safety or legal representative of the district), in all cases when:

1. The person is unknown and unable and not willing to prove his identity, or
2. It may reasonably be admitted that the person tries to escape, in order to avoid any punishment (*risk of an attempt to escape*), or
3. The person repeats its violation of rules or continues in its faulty actions, disregarding all admonishments (*danger of recurrence*).

### III. Prohibition to use mechanical ascending devices:

When skiers, ski bobbers or sledge drivers *trespass, or ski on closed areas*, or in any case of a special *exposure to danger*, the piste-attendant must admonish them and - in case of non observance - is allowed to prohibit for 24 hours at longest the access to particular or to all cable ways and ski lifts of his domain, if :

- the persons – *despite of all admonishments* – continues to misbehave or to repeat their violations of recognised rules
- the prohibition seems to be necessary in order to avoid any additional infraction

The prohibition must be transmitted to all concerned operators in order to enforce it.

### IV. Confiscation of ski pass or sport device:

In order to enforce the prohibition of access, the piste-attendant is allowed to confiscate ski- pass or all other object used as such and sport device, at longest for the duration of prohibition of access.

A certificate of confiscation must be issued for ski-passes remaining valid after the duration of confiscation. The place and date of restitution must be mentioned.

Ski-passes must be kept in a safe place until expiration of their validity.

#### **D. Particular facts:**

The following list is only given as examples of facts. It is left to the judgement of piste-attendants to evaluate the necessity of a denunciation, confiscation of the ski-pass or admonishment, in function of the risk or recklessness of the fault.

##### **I. Facts appropriated for admonishment:**

- pedestrian on pistes
- driving too fast or skiing over one's skill
- uncontrolled skiing
- staying on places of risk

##### **II. Facts appropriated for confiscation of ski passes (notification of an offence):**

- irregular practice of sport, creating risky situations, like jumping over terrain edges
- non observation of barriers
- driving snowmobiles without permission
- persons not willing to carry or hand out their permission, according § 6 of the sport-act
- non observance of an order to stop given by the piste-attendant or refusal to identify oneself

If the person concerned accepts the punishment, no prove of identity is necessary.

##### **III. Facts for which a denunciation must be issued:**

- skiing on closed pistes
- non observance of directives of the piste-attendant; for instance the non observation of the prohibition pistes or cable rows
- especially risky and recklessness behaviour on pistes (especially in case of recurrence)
- non observance of an order to stop given by the piste-attendant or refusal to identify oneself (with the support of gendarmerie or a watchman of the community)
- For clashes causing injuries the denunciation must be issued by the gendarmerie

### **E. Legal notification:**

Only piste-attendants, with a special authorization issued by the Bezirkshauptmannschaft, are allowed to issue legal notifications. According to § 50 of the penal law of administration, only especially trained persons are allowed to issue such notifications or impose fines in cases of non compliance. On duty this authorisation must be carried on and presented on demand of the transgressor.

The maximum of a fine is limited to €36.00.

The use of official documents with serial numbering is mandatory. Copies and collected money must be monthly transmitted by the operators of cable rows to the Bezirkshauptmannschaft. A correct and provable statement of account is requested.

Legal notifications must indicate the type of transgression, date, time and fine, as well as the authority, in which name the notification is issued.

No appeal is admissible. If the transgressor refuses the payment of the fine, he must be denounced to the legal authority. According to § 4 of the penal law of administration persons under 14 years cannot be punished.

### **F. Ski school code:**

The new amended ski school code, issued on the 12th of September 2002, LGB1 Nr. 55/2002, mentions two obligations for piste-attendants:

1. Ski school lessons or guiding and escorting of skiers are only allowed in the context of a ski school organisation, as far as the ski school code does not prescribe other possibilities. § 1 Abs. 3 precise all types of ski instructions (exceptions) allowed out of ski school organisations:

- a) *Occasionally, usually free of charge instruction of members of the family or some friends,*
- b) *Official activity in federal army or watch organisations,*
- c) *Instruction of schools by specialised and capable staff or ski instruction in the context of advanced training of teacher,*
- d) *Ski instruction by specialised and capable staff in the context of advanced training of members of public welfare youth organisations up to age of 35 years, as long as the remuneration is not superior to the costs,*
- e) *Ski instruction of members by specialised members in the context of alpine public welfare associations, as long as the remuneration is not superior to the costs,*
- f) *Training courses of the national ski teams and racing teams of ski associations,*
- g) *The activity of mountain guides and mountain climbing schools in accordance with the mountain guide code.*

Piste-attendants have now the authority (§ 1 Abs 4) to ask persons according to these exceptions to prove the precise circumstances of entitlement. In

doubtful cases the piste-attendant must ask for their identity and transmit a notice to the ski school association.

2. § 17 of the ski school code declares that ski schools from other member states or of equal status according to European law have the right to give ski lessons in an other member state in the context of occasional excursions, if:

- a) **The teaching staff is licensed as ski instructor or as qualified ski instructor if ski tours are planned.**
- b) **The students have not been incorporated in Vorarlberg and**
- c) **The duration of an individual stay is less than 14 days and the global duration for a winter season less than 28 days.**

The same goes for other federal states of Austria. The head of a foreign ski school has to announce the foreseen ski instruction four weeks before its start.

In the context of occasional excursions, ski school instruction team may be asked to prove their right to do so, under certain circumstances and if claimed by the piste-attendant. If there is any doubt regarding the admissibility of this activity, the piste-attendant has to write down the identity of the persons and to transmit it to the local ski association.

According to the sentences foreseen by § 40 of the ski school code, all persons unable - on request of the piste-attendant - to prove the admissibility of their activity and refusing to identify themselves, are considered to transgress the code. In such cases the notification to the Bezirkshauptmannschaft in Bludenz is mandatory.

They may also notify any other observed transgressions of the ski school code, as for instance ski instructors or instruction staff don't comply to § 15 Abs. 4. It considers destruction of marks and barriers, damaging young trees, chasing game, littering and other silly tricks and misbehaving as punishable by law.

## **G. Excursus:**

### **I. Forest code:**

§ 33 Abs. 3 of the forest code limits skiing in forests in the domain of rope ways on marked pistes or ski routes (alternative skiing):

This regulation shall prevent users of mechanical ascending device, running done innumerable times, to run down the forests beside the lift as a welcome change.

The domain of a mechanical ascending device is defined as an area only accessible by a 30- minute walk from the mountain station and confined in a distance of 500 meters on both sides of the lift, piste or marked run.

According to the forest code, it is totally forbidden to ski through domains and areas of reforestation as well as any other prohibited forest domain.

### **II. Game act:**

In order to avoid unnecessary disturbances of the game during winter time – which creates game damages in the vegetation of the forest (peel and bite damages) - the game act declares all places situated within a radius of 300 meters of a feeding place as prohibited game zone. By ordinance of the game authority (Bezirkshauptmannschaft) additional special restricted areas of game may be prohibited.

For all non hunters the access to prohibited game areas is forbidden, especially for skiers, as long as no ski run, open to public, goes through..

The game authorities have to mark prohibited zones by signboards. The duration of prohibition must be added on an additional board below the signboard. The number and position of signboards must clearly allow any person to be aware of the prohibited zone. Favourable positions are for instance places besides roads, hiking trails, ski runs and loipes.

### **III. Road code:**

According to the road code and in the context of the “path allowance” (in German **WEGRECHT**), the access to non productive areas, agricultural or forestall piece of land outside of built up areas (except ploughed fields and meadows) is allowed, even without the permission of the owner. That goes also for skiing and sledging, as long as they are not fenced or prohibited by signboards or other measures. Ploughed field and meadows may also be used for skiing and sledging as long as the snow cover is an integral one. Barriers are only allowed for economical or forestall reasons.

Even if point G of the content of code is directly connected to the sport-act, no special competences for the piste-attendant are deduced from. But for a piste-attendant it

seems reasonable to avoid grievances and to make the persons aware of the liability for punishment of their activity. A notification is possible.

**Important hint:**

Please consider that, in the exercise of your quite uneasy activity as responsible piste-attendant, you also have to consider some parts of the touristic interests of your region. Please act always in an objective and correct manner and spare all persons you have to control.