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NEWS RELEASE

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EVERYTHING YOU WANTED TO KNOW ABOUT THE



NSW SWIMMING POOLS REGISTRATION DEADLINE

Pool owners are required to **register their swimming pools and spa before 29 October 2013** by visiting the NSW Swimming Pool Register [Website](http://www.swimmingpoolregister.nsw.gov.au) at www.swimmingpoolregister.nsw.gov.au or face fines between \$220 and \$2,200.

To register a pool, pool owners will need to know:

- Physical address of the pool and/or spa
- Type of property such as a private residence, multi-unit or tourist accommodation
- When the pool/spa was built
- If the pool barrier has been substantially modified or rebuilt and when that took place

Registration can be carried out either:

- Online at the NSW Swimming Pool Register [Website](http://www.swimmingpoolregister.nsw.gov.au)
- or
- Lodging a Pool Registration form directly at the relevant local Council

SWIMMING POOLS ACT AND REGULATIONS

Pool safety legislation has been developed to enhance the safety and security of children under five years old around private pools. Safety and security measures, including signage, access and barriers (fencing) for pools are required to comply with the provisions of the Swimming Pools Act 1992 and [Swimming Pools Regulation 2008](#).

Swimming Pools Act (NSW) 1992

[Swimming Pools Act \(NSW\) 1992](#) - the owner of a swimming pool has the responsibility to ensure that the pool is at all times surrounded by a complying child-resistant pool safety barrier. Pool safety barriers must be maintained in a good state of repair as an effective and safe barrier restricting access to the pool. The Swimming Pools Regulation sets out, in more detail, requirements for pools in keeping with the Act.

Swimming Pools Regulation 2008

The regulations have been amended over the years. The current regulation is the [Swimming Pools Regulation 2008](#) which commenced on 1 September 2008. This was last amended by the Swimming Pools Amendment (Consequential Amendments) Regulation 2013. Previously, the Swimming Pools Regulation made reference directly to [Australian Standard AS1926.1](#). This has been amended and now refers to the [Building Code of Australia \(BCA\)](#). In turn, the BCA now makes reference to the applicable Australian Standards.

Swimming Pools Amendment Bill 2012

- Require pools to be registered, State register available after 29 April 2013
- Provides for the introduction of certificate and compliance by either a Council or Accredited Certifiers
- To extend the legislation to include tourist and visitor accommodation
- To provide for the removal of [8](#), [9](#), [10](#) exemptions applying to some pools
- Changes to make the legislation consistent with other related requirements
- Amendments are also applicable to the [Conveyancing Regulation 2010](#) and [Tenancies Regulation 2102](#)

SELLING OR LEASING A PROPERTY WITH A SWIMMING POOL OR SPA



From 29 April 2014, a swimming pool owner must obtain a swimming pool compliance certificate before they can sell or lease their property. The swimming compliance certificate certifies that the swimming pool barrier fencing complies with the relevant standard. The swimming pool compliance certificate is valid for a period of three years.

Conveyancing and Residential Tenancies Impacts

The legislative amendments require that pool owners obtain a pool compliance certificate before sale or lease of their properties. This aspect of the amendments commences from 29 April 2014.

Conveyancing Process – the [Conveyancing \(Sale of Land\) Regulation 2010](#) will be amended to the effect that, as from 29 April 2014, a vendor will be required to attach to a contract for sale of land containing a swimming pool, either (a) a certificate of compliance or (b) an occupation certificate authorizing use of the pool not more than three years old and proof of registration of the pool. We have concerns as to how a lot owner in a strata scheme can comply with this in relation to a swimming pool on the common property.

Leasing Process – the [Residential Tenancies Regulation 2010](#) will be amended to the effect that, as from 29 April 2014, a lessor of property containing a swimming pool must ensure that the pool is registered and has either a certificate of compliance or an occupation certificate authorizing use of the swimming pool not more than three years old. We have concerns as to how a lot owner in a strata scheme can comply with this in relation to a swimming pool on the common property.



Residential Tenancies Act 2010

[Section 52](#) of the Residential Tenancies Act provides that a landlord must comply with a landlord's statutory obligations relating to the health or safety of the residential premises. [Section 52](#) includes the following note:

Note: *Such obligations include obligations relating to swimming pools under the [Swimming Pools Act 1992](#).*



Developers and Owners Corporations

Developers should ensure that occupation certificates obtained for new developments authorise the use of the swimming pool. Owners corporations must also comply with the registration and certificate requirements if a pool is situated on land which forms part of a strata scheme.

WHO CAN UNDERTAKE INSPECTIONS OF SWIMMING POOLS UNDER THE NEW AMENDMENTS?

Only Council or an Accredited Certifier can issue a certificate of compliance for a swimming pool and/or spa in NSW.

Building Professional Board



The [Building Professionals Board](#) is a NSW Government authority established in 2007 under the [Building Professionals Act 2005](#). The BPB works to improve the quality of building construction and subdivision in NSW by regulating and supporting building certifiers.

Many of our their responsibilities are outlined under the [Building Professionals Act 2005](#) (BP Act). Through this, they:

- accredit certifiers to issue construction, occupation, subdivision, compliance and complying development certificates under the [Environmental Planning and Assessment Act 1979](#) (EP&A Act), and strata certificates under strata legislation
- investigate complaints and review the work of accredited certifiers and councils to help improve the efficiency of certification processes

The BPB accredit over 400 private certifiers and around 800 council accredited certifiers in NSW.

Following an inspection, if a private accredited certifier is not satisfied the swimming pool is registered or that the barrier complies with the Swimming Pool Act 1992, the certifier must provide a written notice to the owner that includes the steps to be taken to meet those requirements. They must forward a copy of the notice to the council within the period set out in section [22E\(4\)](#) of the Swimming Pool Act 1992.

The amendments do not require councils to have a certifier accredited in a particular category of accreditation under the BP Act to carry out inspections of swimming pool barriers and issue a certificate of compliance. *Councils just need to ensure the relevant officer is competent and has the necessary delegation to undertake the work.*

Private accredited certifiers are given authority to carry out the above inspections and issue certificates of compliance under the Swimming Pools Act. The Amendment Act defines accredited certifier as:

Accredited Certifier means an accredited certifier within the meaning of the [Building Professionals Act 2005](#) holding:

- (a) [Category A1](#), [Category A2](#) or [Category A3](#) accreditation under that Act, or
- (b) if the regulations prescribe alternative qualifications, those alternative qualifications.

For more information visit the Building Professionals Board [here](#).

Local Authorities (Councils) See all Local Government Councils [here](#)



1. Councils are required to:
 - a) develop and implement a swimming pool barrier inspection program in consultation with their communities
 - b) report annually on the number of pool inspections undertaken and the level of compliance with the requirements
 - c) inspect pools associated with tourist and visitor accommodation and multi-occupancy developments at three year intervals
 - d) at the request of a pool owner, inspect pools prior to sale or lease
 - e) issue compliance certificates after an inspection which finds a pool barrier compliant with the requirements of the legislation. Compliance certificates are valid for three years.
2. A swimming pool subject to an occupation certificate is exempt from an inspection program for three years from the date of issue of the occupation certificate.
3. Councils may inspect any swimming pool that is the subject of a complaint to the council.
4. Council powers of entry will be consistent with the Local Government Act 1993.
5. Councils may charge a fee for each inspection undertaken (up to a maximum of \$150 for the first inspection and \$100 for one re-inspection resulting from the first inspection).

HOW LONG IS THE CERTIFICATE VALID FOR?

Residential

From 29 April 2014 it will be compulsory that properties with a pool or spa that are being offered for sale or lease to include a current pool certificate of compliance in the Contract of Sale or Leasing Agreement.

Provided there are no changes to the pool barrier, the Pool Certificate of Compliance is valid for three years.

Tourist/Visitor Accommodation and Multi- Occupancy Dwellings

All tourist/visitor accommodation and multi- occupancy dwellings will require a renewal of their Certificate every three years.



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EXEMPTIONS

SWIMMING POOLS ACT SECTION 8, 9, 10 EXEMPTIONS

Between 1 August 1992 to 30 June 2010 the Swimming Pools Act 1992 provided an alternative to the general requirements as to the location of pool child-resistant barriers. These are referred to as exemptions.

These exemptions under the Act apply to the following pools **so long as the means of access to the pool are at all times restricted in accordance with the exemption.**

- Pools constructed prior to 1 August 1990
- Pools on waterfront properties constructed before 1 July 2010
- Pools on properties having an areas less than 230m², constructed before 1 July 2010
- Pools on properties having an areas of 2 hectares or more, constructed before 1 July 2010

Exempt Barriers Retained

To retain the exemption that was available to the pool at the time of construction requires that such pool barriers/means of access continue to comply with the standard applicable at the time of their installation. These exemptions primarily relate to the use of child-safe/child-resistant doors as a pool barrier. The current standard does not allow door access into outdoor pools.

Exempt barrier no longer applies and is removed where:

- **Access to a pool or pool barrier is substantially altered or rebuilt**

Where the means of access to a pool or pool barrier is substantially altered or rebuilt, the means of access/pool barrier is to comply with the standards applicable at the time when it was altered/rebuilt.

- **Restricted access to a pool or pool barrier is not provided**

Where the restricted means of access/pool barrier has not been provided then the exemption no longer applies and the means of access/pool barrier is required to comply with current standards.

- **Restricted access to a pool or pool barrier is not maintained or does not comply**

Where the restricted means of access/pool barrier is not maintained or is not in accordance with the terms of the exemption (exempt standard applies so long as the means of access to the pool are at all times restricted in accordance with the exemption), then the exemption no longer applies and the means of access/pool barrier is required to comply with current standards.

- **Pool fenced voluntarily, once fenced the exemption cannot be reinstated**

Where an existing swimming pool that is exempt from the fencing requirements of the Act is fenced voluntarily, such fencing must meet the Act's requirements for a compliant, four-sided barrier (effectively "disapplying" or removing the exemption). Once in place, the fence cannot be removed or altered to a lesser (older) standard.

IMPORTANT RESOURCES

- Online Swimming Pool Register [Website](#)
- Pool Inspection [Self-Assessment Checklists](#)
- NSW Swimming Register [Frequently Asked Questions](#)



Swimming Pool Register

- [The Swimming Pools Act 1992](#)
- [The Swimming Pools Regulation 2008](#)



- [Australian Standards AS 1926- Swimming pool safety](#)
 - Australian Standards [AS 1926.1- Safety Barriers for swimming pools](#)
 - Australian Standards [AS 1926.2- Location of safety barriers for swimming pools](#)
 - Australian Standards [AS 1926.3- Water recirculation systems](#)
- [Australian Standards AS 2610- Spa pools](#)
 - Australian Standards [AS 2610.1- Public Spas](#)
 - Australian Standards [AS 2610.2- Private Spas](#)



- Warning/ Resuscitation Sign [Australian Resuscitation Council](#)



For further information, please contact:

Swimming Pool and Spa Alliance (SPASA)

Toll: 1800 802 482

Ph: (02) 9630 6300

Email: info@spasa.org.au

Web: www.spasa.org.au



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