



Queensland

# Building and Other Legislation Amendment Regulation (No. 3) 2009

## Subordinate Legislation 2009 No. 262

made under the

*Building Act 1975*

*Plumbing and Drainage Act 2002*

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## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Building and Other Legislation Amendment Regulation (No. 3) 2009*.

### 2 Commencement

This regulation commences on 1 December 2009.

## Part 2 Amendment of Building Regulation 2006

### 3 Regulation amended

This part amends the *Building Regulation 2006*.

### 4 Amendment of pt 4 hdg (Swimming pool fencing)

Part 4, heading, after ‘fencing’—  
*insert*—  
‘and signs’.

### 5 Amendment of s 14 (Fencing standards for outdoor swimming pools constructed on or after 1 October 2003—Act, s 233)

(1) Section 14(1)(a) and (b)—

*omit, insert*—

‘(a) for a pool constructed before 1 December 2009—

(i) the standard for the design, building and performance of swimming pool fencing in AS

[s 6]

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1926.1—1993, ‘Swimming pool safety part 1: Fencing for swimming pools’, other than clause 2.14 of the standard; and

(ii) the standard for the location of fencing contained in AS 1926.2—1995, ‘Swimming pool safety part 2: Location of fencing for private swimming pools’, other than clause 1.4.4 of the standard; or

(b) for a pool constructed on or after 1 December 2009—QDC, part MP3.4.’.

(2) Section 14(2), after ‘prescribed’—

*insert—*

‘under subsection (1)(a)(i)’.

(3) Section 14(2), ‘subsection (1)(a)’—

*omit, insert—*

‘the subsection’.

## **6 Amendment of s 15 (Resuscitation sign requirements and display—Act, s 236)**

(1) Section 15(2)(e), before ‘at least’—

*insert—*

‘for a pool constructed before 1 December 2009—’.

(2) Section 15(2)—

*insert—*

‘(f) for a pool constructed on or after 1 December 2009—show information about the procedures for providing first aid, including performing cardiopulmonary resuscitation in the way stated in the document called ‘Guideline 7—cardiopulmonary resuscitation’ published by the Australian Resuscitation Council in February 2006.

*Editor's note—*

At the commencement of subsection (2)(f), the document can be inspected on the Australian Resuscitation Council's website at <www.resus.org.au>.

## **7 Amendment of s 24 (What is a *stage* of assessable building work)**

Section 24(6), from 'include'—

*omit, insert—*

'include—

- (a) if a temporary fence for the pool is constructed—
  - (i) after the temporary fence for the pool is constructed and before the pool is filled with water to a depth of 300mm or more; and
  - (ii) if the building certifier for the work extends the period that the temporary fence for the pool can be in place—before the extension is given; and
- (b) at the completion of the pool and its fencing and, if no temporary fence for the pool was constructed, before the pool is filled with water to a depth of 300mm or more.'

## **8 Insertion of new pt 6, div 1, sdiv 4A**

After section 35—

*insert—*

### **'Subdivision 4A Additional inspections for chapter 8 pools and their fencing in particular circumstances**

#### **'35A Application of sdiv 4A**

'(1) This subdivision applies if—

- (a) a building development approval is given on or after 1 December 2009 for building work that is the

[s 8]

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construction of, or alteration to, a chapter 8 pool or its fencing (the *pool work*); and

- (b) the relevant entity for the pool work is not given a notice for inspection for the final stage of the pool work—
  - (i) for a building development approval that is only for the pool work—by the earlier of the following days (the *inspection day*)—
    - (A) the day that is 6 months after the building development approval is given;
    - (B) the day that is 2 weeks before the building development approval lapses; or
  - (ii) for a building development approval that includes work that is the construction of, or alteration to, a class 1 building or class 2 building—by the earlier of the following days (also the *inspection day*)—
    - (A) the day that is 2 years after the building development approval is given;
    - (B) the day that is 2 weeks before the building development approval lapses.

‘(2) In this section—

*relevant entity*, for the pool work, means—

- (a) generally—the building certifier for the pool work; or
- (b) if the building certifier for the pool work is a local government building certifier—the local government.

### ‘35B Inspection procedure and process after inspection

- ‘(1) The building certifier for the pool work must, unless the building certifier has a reasonable excuse, inspect, or ensure another building certifier inspects, the pool work as soon as practicable after the inspection day and before the building development approval lapses.

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*Example of a reasonable excuse—*

the building certifier is refused access to the premises on which the pool work is being carried out

Maximum penalty—50 penalty units.

- ‘(2) The building certifier who inspects the stage is called the *inspecting certifier*.
- ‘(3) The inspection must be carried out under best industry practice.
- ‘(4) The building certifier must, for at least 3 years after the inspection is carried out, keep a record of the inspection, including details of the time the inspection was carried out and the results of the inspection.
- ‘(5) If the pool work has not started, the inspecting certifier need not take any further action in relation to the inspection.

*Note—*

If the builder later carries out the pool work, the builder for the work must take action under section 27 for each stage of the pool work.

- ‘(6) If the inspecting certifier is satisfied all relevant aspects of the final stage of the pool work under the building development approval have been completed and comply with the approval, the inspecting certifier must give the builder for the work a certificate of inspection for the stage.
- ‘(7) If a stage of the pool work has been completed and the inspecting certifier is not satisfied the stage complies with the building development approval, the inspecting certifier must give the builder for the work a noncompliance notice for the stage.
- ‘(8) If the occupier of the premises on the relevant land or the builder for the pool work refuses to allow the inspecting certifier to enter the relevant land to carry out the inspection, the building certifier must, within 2 business days after the refusal, give the local government notice of the refusal.
- ‘(9) This section is subject to section 35C.
- ‘(10) In this section—

[s 9]

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*relevant land* means the land on which the chapter 8 pool or its fencing is, or is intended to be, constructed.

### **‘35C Delaying inspection in particular circumstances**

- ‘(1) The builder for the pool work may, before the inspection day, give the building certifier for the pool work a notice asking the building certifier to inspect the pool work on a day that is later than the inspection day (the *later day*).
- ‘(2) The later day must be before the building development approval lapses.
- ‘(3) If the building certifier is a local government building certifier, a notice under subsection (1) may be given to the building certifier by giving it to the local government.
- ‘(4) Subsections (5) and (6) apply despite section 35B(1).
- ‘(5) If the building certifier receives a notice under subsection (1), the pool work need not be inspected before the later day.
- ‘(6) The building certifier must, unless the building certifier has a reasonable excuse, inspect, or ensure another building certifier inspects, the pool work before the building development approval lapses.  
Maximum penalty—50 penalty units.
- ‘(7) Section 35B(2) to (8) and (10) apply in relation to an inspection mentioned in subsection (6).’.

## **9 Insertion of new s 51BG**

After section 51BF—

*insert—*

### **‘51BG Approval of amendment of QDC by adding part MP3.4**

- ‘(1) The amendment of the QDC by adding part MP3.4 published by the chief executive on 31 October 2009 is approved under section 13(3) of the Act.
- ‘(2) The approval takes effect on 1 December 2009.’.



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**10 Amendment of sch 1 (Prescribed building work for Act, section 21)**

(1) Schedule 1, section 1(b)—

*omit, insert—*

‘(b) is not for a chapter 8 pool.’

(2) Schedule 1, section 1—

*insert—*

‘(2) Despite subsection (1), the building work is prescribed if the work consists of repairs or maintenance to an existing fence for a chapter 8 pool.’

(3) Schedule 1, section 3(2)—

*renumber* as schedule 1, section 3(3).

(4) Schedule 1, section 3—

*insert—*

‘(2) Despite subsection (1), the building work is not prescribed if it is for a retaining wall that forms part of the fencing for a chapter 8 pool.’

(5) Schedule 1, section 7, ‘structure is prescribed’—

*omit, insert—*

‘structure, other than alterations to an existing fence for a chapter 8 pool, is prescribed’.

(6) Schedule 1, section 8(1), ‘existing building’—

*omit, insert—*

‘existing building, other than alterations to an existing fence for a chapter 8 pool,’.

(7) Schedule 1, section 13(1)—

*insert—*

‘(d) for a chapter 8 pool or its fence.’

[s 11]

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**11 Amendment of sch 2 (Building work prescribed as exempt development for IPA)**

Schedule 2, section 4(1)—

*insert—*

‘(d) the class 10 is not a chapter 8 pool or its fence.’.

**12 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

‘**chapter 8 pool** means a swimming pool to which chapter 8 of the Act applies.

**inspection day**, for part 6, division 1, subdivision 4A, see section 35A(1)(b).

**pool work**, for part 6, division 1, subdivision 4A, see section 35A(1)(a).

**temporary fence** means a temporary fence that complies with QDC part MP3.4.’.

## **Part 3 Amendment of Plumbing and Drainage Regulation 2003**

**13 Regulation amended**

This regulation amends the *Plumbing and Drainage Regulation 2003*.

**14 Amendment of sch 3 (Qualifications, practical experience and scope of work for endorsements)**

(1) Schedule 3, item 3, column 1, ‘installation and’—

*omit.*

- (2) Schedule 3, item 3, column 4, ‘install and’—  
*omit.*
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#### ENDNOTES

- 1 Made by the Governor in Council on 19 November 2009.
- 2 Notified in the gazette on 20 November 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Infrastructure and Planning.

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