



Queensland

# Building Amendment Regulation (No. 5) 2010

## Subordinate Legislation 2010 No. 309

made under the

*Building Act 1975*

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**1 Short title**

This regulation may be cited as the *Building Amendment Regulation (No. 5) 2010*.

**2 Commencement**

Sections 4, 6 and 10 commence on 1 December 2010.

**3 Regulation amended**

This regulation amends the *Building Regulation 2006*.

**4 Replacement of ss 14 to 16**

Sections 14 to 16—

*omit, insert—*

**‘14 Warning sign requirements and display—Act, s 233**

‘(1) This section prescribes, for section 233(2) of the Act—

- (a) the way a warning sign must be displayed on land before the construction of a regulated pool, other than a portable swimming pool, on the land; and
- (b) the requirements for the sign.

‘(2) The sign must—

- (a) warn members of the public in the vicinity of the land that—
  - (i) a swimming pool is under construction on the land; and
  - (ii) there is a potential danger to young children accessing the land; and

*Example of what sign must state—*

‘Danger. Swimming pool under construction. Keep children out.’

- (b) subject to subsection (4), be placed on, or within 1.5m of, the road frontage for the land; and

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- (c) be mounted so that the bottom of the sign is at least 300mm above ground level; and
  - (d) be positioned so that it is visible from the road; and
  - (e) be made of weatherproof material.
- ‘(3) Any lettering on the sign that relates to the warning mentioned in subsection (2)(a) must be at least 50mm in height and in a bold style.
- ‘(4) If the land has more than 1 road frontage, a sign need only be placed on 1 of the frontages.
- ‘(5) The sign may include a reference to a matter other than the warning mentioned in subsection (2)(a).
- ‘(6) In this section—
- road frontage*, for land, means—
- (a) if the only access to the land is across other land—the boundary between the other land and any road adjoining the other land at the point of access; or
  - (b) otherwise—the boundary between the land and any road adjoining the land.’.

## **5 Insertion of new ss 15 and 16**

Part 4, division 2—

*insert—*

### **‘15 Prescribed local governments—Act, s 246ACA**

‘For section 246ACA of the Act, a prescribed local government is a local government mentioned in schedule 2A.

### **‘16 Prescribed notification requirements—Act, s 246ATM**

- ‘(1) This section prescribes for section 246ATM(2) of the Act a notification requirement for the owner of regulated premises.
- ‘(2) The owner must give a prospective purchaser of the premises, before entering into any contract for the sale of the premises, a notice in the approved form.

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*Editor's note—*

The approved form can be accessed, free of charge, on the department's website at <www.dip.qld.gov.au>.

Maximum penalty—20 penalty units.'.

**6 Amendment of s 16B (Prescribed professional indemnity insurance—Act, s 246AV)**

Section 16B—

*insert—*

'(4) Subsection (1) does not apply to a pool safety inspector employed as a pool safety inspector by any of the following if the pool safety inspector is performing a pool safety inspection function in the course of the pool safety inspector's employment—

- (a) a local government;
- (b) the State;
- (c) the Commonwealth.'

**7 Amendment of s 16D (Prescribed minor repairs—Act, s 246BE)**

Section 16D, 'schedule 2A'—

*omit, insert—*

'schedule 2B'.

**8 Insertion of new pt 4, div 3**

Part 4—

*insert—*

## **‘Division 3                    Provisions about demerit points**

### **‘Subdivision 1        General**

#### **‘16E    Definitions for div 3**

‘In this division—

*accumulate* see section 16F(4).

*continuous 3-year period*, in relation to the accumulation of demerit points, means a continuous period of 3 years or less.

*demerit contravention*, by a pool safety inspector, means a contravention, after the commencement of this definition, of a requirement imposed under a relevant provision.

*demerit points* means demerit points allocated by PSC under this division for a demerit contravention.

*relevant provision* means any of the following provisions of the Act—

- (a) section 246AA(2);
- (b) section 246AB(2);
- (c) section 246AC(2);
- (d) section 246AC(4);
- (e) section 246AD(2);
- (f) section 246AJ(4);
- (g) section 246AM(2);
- (h) section 246AV.

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## **‘Subdivision 2      Calculation, allocation and accumulation of demerit points**

### **‘16F      Prescribed demerit points—Act, s 246CG(2)(d) and sch 2**

- ‘(1) For section 246CG(2)(d) of the Act, the prescribed number of demerit points is 16 demerit points in a continuous 3-year period.
- ‘(2) For schedule 2, definition *ground for disciplinary action*, paragraph (f) of the Act, the prescribed number of demerit points is 16 demerit points in a continuous 3-year period.
- ‘(3) For subsections (1) and (2), to work out the number of demerit points a pool safety inspector has accumulated in a continuous 3-year period, PSC may add up the demerit points accumulated by the inspector during the relevant continuous 3-year period.
- ‘(4) A pool safety inspector *accumulates* a demerit point when the demerit point takes effect.

### **‘16G      Allocation of demerit points for demerit contraventions**

- ‘(1) This section applies to a pool safety inspector who has committed a demerit contravention.
- ‘(2) PSC may allocate 2 demerit points under this division to the pool safety inspector for the demerit contravention.
- ‘(3) This section is subject to section 16J.

### **‘16H      When demerit points allocated for demerit offences**

- ‘(1) PSC must allocate demerit points to a pool safety inspector for a demerit contravention as soon as practicable after PSC becomes aware of the demerit contravention.
- ‘(2) Demerit points for a demerit contravention take effect on the following day—

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- (a) for demerit points allocated for a demerit contravention other than a contravention of section 246AD(2) of the Act—the day after the last day on which the pool safety inspector was required to comply with the relevant provision;
- (b) for demerit points allocated for a contravention of section 246AD(2) of the Act—the day on which PSC became aware of the demerit contravention.

**‘16I PSC must notify pool safety inspector about allocation of demerit points**

- ‘(1) This section applies if PSC allocates demerit points to a pool safety inspector.
- ‘(2) PSC must, as soon as practicable after the demerit points are allocated, give the pool safety inspector a notice stating the following—
  - (a) the demerit points allocated;
  - (b) the demerit contravention for which the demerit points have been allocated;
  - (c) the day the demerit points were allocated;
  - (d) the day the demerit points took effect;
  - (e) that the accumulation of 16 demerit points in a continuous 3-year period is a matter to be considered by PSC under section 246CG(2)(d) of the Act if PSC is considering whether the pool safety inspector is a suitable person to hold a licence;
  - (f) that the accumulation of 16 demerit points in a continuous 3-year period is a ground for disciplinary action under the Act and is a matter to be considered by—
    - (i) PSC, if PSC is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 2 of the Act; or



(ii) the tribunal, if the tribunal is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 3 of the Act.

‘(3) The notice must include an information notice about the decision to allocate the demerit points.

**‘16J Limit on demerit points from single audit or investigation**

‘(1) This section applies if a pool safety inspector commits a demerit contravention discovered by PSC as a result of a notice given to a pool safety inspector under section 246CP(1) of the Act.

‘(2) Nothing in this section prevents other demerit points being allocated to the pool safety inspector for a demerit contravention discovered by PSC as a result of a later notice given under section 246CP(1) of the Act.

‘(3) However, other demerit points must not be allocated for a demerit contravention discovered by PSC as a result of a later notice if the demerit contravention—

(a) was committed before the earlier notice; and

(b) was discovered as a result of the earlier notice and resulted in the allocation of demerit points.

**‘16K Procedure if PSC decides pool safety inspector has accumulated 16 demerit points**

‘(1) This section applies if PSC decides that a pool safety inspector has accumulated 16 demerit points in a continuous 3-year period.

‘(2) PSC must give the pool safety inspector a notice stating the following—

(a) the details of the demerit contraventions for which the demerit points have accumulated;

(b) the days the points were allocated;

(c) the days the points took effect;

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- (d) the effect of the inspector having accumulated 16 demerit points in a continuous 3-year period;
  - (e) that the pool safety inspector may, within a stated period, make written submissions about why the pool safety inspector has not accumulated 16 demerit points in the continuous 3-year period.
- ‘(3) The stated period must end at least 28 days after the pool safety inspector is given the notice.
- ‘(4) PSC must consider any submissions made by the pool safety inspector.

**‘16L Ending procedure without further action**

- ‘(1) This section applies if, after considering any submissions made by the pool safety inspector in the stated period, PSC is satisfied the individual has not accumulated 16 demerit points in the continuous 3-year period.
- ‘(2) PSC must, as soon as practicable, advise the pool safety inspector by notice that it does not intend to take any further action.

**‘16M Notice of accumulation of 16 demerit points after submission period**

- ‘(1) This section applies if—
- (a) after considering any submissions made by the pool safety inspector, PSC still considers the inspector has accumulated 16 demerit points in a continuous 3-year period; or
  - (b) the pool safety inspector does not make any submissions.
- ‘(2) PSC must, by notice given to the pool safety inspector, inform the inspector that—
- (a) PSC still considers the inspector has accumulated 16 demerit points in a continuous 3-year period; and

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- (b) the accumulation of 16 demerit points in a continuous 3-year period is a matter to be considered by PSC under section 246CG(2)(d) of the Act if PSC is considering whether the pool safety inspector is a suitable person to hold a licence; and
  - (c) the accumulation of 16 demerit points in a continuous 3-year period is a ground for disciplinary action under the Act and is a matter to be considered by—
    - (i) PSC if PSC is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 2 of the Act; or
    - (ii) the tribunal if the tribunal is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 3 of the Act.
- ‘(3) The notice must include an information notice about the decision to allocate the demerit points.

### **‘Subdivision 3      Reviews of PSC’s decisions**

#### **‘16N      Reviews by tribunal of decisions under div 3**

- ‘(1) This section applies if a pool safety inspector is given an information notice about a decision of PSC under this division.
- ‘(2) The pool safety inspector may apply, as provided under the QCAT Act, to the tribunal for a review of the decision.’.

#### **9      Replacement of s 51BL (Approval of amendment of QDC by replacing part MP3.4)**

Section 51BL—

*omit, insert—*

**‘51BL Approval of amendment of QDC by replacing part MP3.4**

- ‘(1) The amendment of the QDC by replacing part MP3.4 published by the chief executive on 21 October 2010 is approved under section 13(3) of the Act.
- ‘(2) The approval takes effect on 5 November 2010.’.

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

- (1) Schedule 1, section 1(2)(a), ‘schedule 2A’—  
*omit, insert—*  
‘schedule 2B’.
- (2) Schedule 1, section 1(2)(b), ‘schedule 2B’—  
*omit, insert—*  
‘schedule 2C’.

**11 Renumbering of schs 2A and 2B**

Schedules 2A and 2B—  
*renumber* as schedules 2B and 2C.

**12 Insertion of new sch 2A**

After schedule 2—  
*insert—*

**‘Schedule 2A Prescribed local governments**

section 15

Aurukun Shire Council  
Balonne Shire Council  
Banana Shire Council

Barcaldine Regional Council  
Barcoo Shire Council  
Blackall Tambo Regional Council  
Boulia Shire Council  
Bulloo Shire Council  
Burke Shire Council  
Carpentaria Shire Council  
Cassowary Coast Regional Council  
Central Highlands Regional Council  
Charters Towers Regional Council  
Cloncurry Shire Council  
Cook Shire Council  
Croydon Shire Council  
Diamantina Shire Council  
Doomadgee Aboriginal Shire Council  
Etheridge Shire Council  
Flinders Shire Council  
Hinchinbrook Shire Council  
Hope Vale Aboriginal Shire Council  
Isaac Regional Council  
Kowanyama Aboriginal Shire Council  
Lockhart River Aboriginal Shire Council  
Longreach Regional Council  
Mapoon Aboriginal Shire Council  
Maranoa Regional Council  
McKinlay Shire Council  
Mornington Shire Council  
Mount Isa City Council

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Murweh Shire Council  
Napranum Aboriginal Shire Council  
Northern Peninsula Area Regional Council  
Palm Island Aboriginal Shire Council  
Paroo Shire Council  
Pormpuraaw Aboriginal Shire Council  
Quilpie Shire Council  
Richmond Shire Council  
Tablelands Regional Council  
Torres Shire Council  
Torres Strait Island Regional Council  
Whitsunday Regional Council  
Winton Shire Council  
Woorabinda Aboriginal Shire Council  
Wujal Wujal Aboriginal Shire Council’.

**13 Amendment of sch 3 (Fees)**

Schedule 3—

*insert—*

‘4A Fee for an identification number for a pool safety certificate (Act, s 246AJ(3)) ..... 30.00’.

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

Schedule 4—

*insert—*

‘*accumulate*, for part 4, division 3, see section 16F(4).

*continuous 3-year period*, for part 4, division 3, see section 16E.

*demerit contravention*, for part 4, division 3, see section 16E.

*demerit points*, for part 4, division 3, see section 16E.

*relevant provision*, for part 4, division 3, see section 16E.’.

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#### ENDNOTES

- 1 Made by the Governor in Council on 4 November 2010.
- 2 Notified in the gazette on 5 November 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Infrastructure and Planning.

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