



Queensland

Building Amendment Regulation (No. 4) 2010

Explanatory Notes for SL 2010 No. 289

made under the

Building Act 1975

Minister

Minister for Infrastructure and Planning

Subject

The *Building Amendment Regulation (No. 4) 2010*, which amends the *Building Regulation 2006* to replace the Queensland Development Code (QDC) Mandatory Part (MP) 3.4 'Swimming pool barriers' with a new QDC MP 3.4 and to prescribe other matters with respect to pool safety.

Legislative Provisions

Sections 13(3), 21(2)(a), 163(1), 231D(1)(b), 246AS(3)(c), 246AV, 246BA(1) and 246BE(1) of the *Building Act 1975* (BA).

Background

Requirements for resuscitation signs

The regulation will insert a new section 13A into the *Building Regulation 2006* (BR). This section will continue the requirement for a resuscitation sign to be displayed and will make that requirement part of the new 'pool

safety standard'. The requirement to display a resuscitation sign will now apply to all 'regulated pools', which includes pools associated with hotels, motels, other residential buildings, caretaker residences, caravan parks and indoor pools, rather than just to outdoor pools on residential land as at present. This means that pools undergoing a sale or lease transaction will need to have a resuscitation sign (and all pools will need a sign after five years).

Content of the regulated pools register

The BA provides that the new 'regulated pools register' must contain information such as the address and real property description of the land on which the pool is situated, and the date and duration of any pool safety certificate relating to the pool. In addition, the section allows for other matters to be included in the register to be prescribed under a regulation.

The proposed regulation will prescribe necessary additional matters to be included in the regulated pools register. For example, whether an alternative solution under section 14(4)(b) of the BA to a performance requirement under the pool safety standard has been used for the barriers for the pool.

Professional indemnity insurance for pool safety inspectors

The BA requires pool safety inspectors to have the prescribed professional indemnity insurance.

The regulation will set out various requirements for the professional indemnity insurance, including that it provide a minimum limit of indemnity of a total of \$1 million during any one period of insurance.

Code of Conduct for pool safety inspectors

The BA provides that the departmentally approved Code of Conduct does not take effect until it has been approved under a regulation.

The regulation will approve the Code of Conduct made by the Chief Executive's delegate on 23 September 2010. The Code of Conduct has been developed in consultation with industry stakeholders including the: Building Services Authority; Pool Safety Council (PSC); Swimming Pool and Spa Association; Royal Life Saving

Society; Australian Institute of Building Surveyors; and Local Government Association of Queensland.

The ‘minor repairs’ which a pool safety inspector is allowed to carry out

The BA provides that a pool safety inspector may carry out the repairs prescribed under a regulation (minor repairs) for a regulated pool before giving a pool safety certificate for the pool.

The regulation will insert a new Schedule 2A into the BR, specifying the ‘minor repairs’ allowed to be carried out or overseen by a pool safety inspector. This work does not require building approval.

Amendment of the Queensland Development Code by replacing QDC MP 3.4

The BA provides that the owner of a regulated pool must ensure that the pool complies with the ‘pool safety standard’ for the pool. This will apply to all newly constructed pools and also to existing pools over a five year phase-in period. For existing pools, the ‘pool safety standard’ will replace 11 standards which currently apply to existing pools, depending upon when they were constructed. The BA defines the ‘pool safety standard’ as being QDC MP 3.4 as well as any other standard prescribed under a regulation.

The regulation replaces the current QDC part with a new part. The new MP 3.4 contains provisions suitable for the expanded scope of the standard such as provisions for indoor swimming pools.

Amendment of work prescribed as self-assessable

The regulation inserts a new Schedule 2B into the BR to set a limit on repairs and maintenance of pool barriers that is self-assessable. This work may be undertaken by pool owners and it does not require a building approval or pool safety inspection. The work is required to comply with the pool safety standard.

Fees

The regulation adds to Schedule 3 of the BA, to allow for the charging of fees by the PSC for functions associated with training and licensing inspectors and providing copies of information from the pool register.

Purpose and Consequence

The purpose of this Executive Council Minute is to make the *Building Amendment Regulation (No. 4) 2010*, which amends the *Building Regulation 2006* to replace the QDC MP 3.4 'Swimming pool barriers' with a new QDC MP 3.4 and to prescribe other matters with respect to pool safety.

Has the Office of the Queensland Parliamentary Counsel drafted the proposed subordinate legislation?

Yes.

Consultation

Consultation was undertaken with the Department of the Premier and Cabinet, the Department of Justice and Attorney-General and the Queensland Building Services Authority.

The Queensland Office for Regulatory Efficiency was consulted in relation to the need for a Regulatory Impact Statement.

Queensland Treasury has been consulted in respect of this Minute.

Results of Consultation

The Department of the Premier and Cabinet, the Department of the Justice and Attorney-General and the Queensland Building Services Authority support the proposed Regulation being made.

The Queensland Office for Regulatory Efficiency advised that a Regulatory Impact Statement is required for the proposed Regulation. A copy of the Regulatory Impact Statement is attached.

Queensland Treasury supports this Minute proceeding.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Infrastructure and Planning.

© State of Queensland 2010