



Queensland

Building Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 112

made under the

Building Act 1975

General outline

Short title

Building Amendment Regulation (No. 1) 2012.

Authorising law

Section 261 of the *Building Act 1975*

Policy objectives and the reasons for them

The regulation amends Schedule 2C to prescribe as self-assessable building work, all work for a fence for a barrier for an existing pool associated with a house or townhouse (class 1a building).

Where the pool already complies with the pool safety standard, the work will only be self-assessable if it is commenced after a pool safety inspector has been engaged to inspect the pool within three months from the day of engagement.

Where the pool does not already comply with the pool safety standard, the work will only be self-assessable if a pool safety inspector has issued a nonconformity notice in relation to the pool.

An offence has been created, requiring an owner performing work under a nonconformity notice, to have the pool inspected by a pool safety inspector during the three month 'reinspection period' under the nonconformity notice. For work for a previously compliant pool, it is an offence not to have the pool inspected by a pool safety inspector within 3 months of engaging the pool safety inspector to perform the inspection.

The Queensland Development Code mandatory part 3.4 (Swimming pool barriers) (the pool safety standard) permits the use of a temporary fence instead of a permanent barrier for periods of up to three months provided the temporary fence is inspected and approved as a compliant temporary fence by a building certifier.

The regulation adopts a revised version of the pool safety standard which provides new requirements for use of a temporary fence that is used in conjunction with self assessable work. The revised standard provides that for self-assessable work to the fence, a temporary fence that complies with the temporary fence requirements can be used instead of a permanent barrier for periods of up to three months. A temporary fence requires closer scrutiny with extended use. Consequently the standard requires that for self-assessable work, the temporary fence may only be used for a second period of up to three months if a pool safety inspector has issued a nonconformity notice for the pool. It may be used for subsequent periods of three months only with the written approval of a pool safety inspector or a building certifier, who must be satisfied that the safety of young children would not be at risk if the approval were given.

The regulation also amends Schedules 2B and 2C to clarify that affixing shielding to a pool barrier, if it is done to ensure that the pool complies with the pool safety standard, is self-assessable, regardless of the length of the shielding.

Achievement of policy objectives

Amending Schedule 2C to prescribe as self-assessable, building work to a fence for an existing outdoor pool associated with a house or town house as self assessable building work, will allow pool owners to upgrade their pool fences without the need to obtain a building development approval.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Building Act 1975*, including making provision with respect to building work and the performance of pool safety inspection functions.

Inconsistency with policy objectives of other legislation

The legislation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

Owners of existing pools associated with class 1a buildings will be able to construct, repair, replace or alter the pool fence by engaging a pool safety inspector and avoid the cost of submitting a building development application. Pool owners performing self-assessable work will be able to engage a pool safety inspector, in addition to a building certifier, to approve the use of a temporary fence instead of a permanent pool barrier for extended periods.

Consistency with fundamental legislative principles

The subordinate legislation is consistent with the fundamental legislative principles.

Consultation

The members of the Pool Safety Council and the Building Industry Consultative Group including representatives from the Housing Industry Association, Australian Institute of Building Surveyors, Master Builders and Local Government Association of Queensland were consulted in relation to the proposal.

Queensland Treasury was consulted in relation to the need to comply with the regulatory assessment system and has confirmed a regulatory assessment statement is not required.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Housing and Public Works.

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