

Pool safety

New regulations around pools and spas will shortly be introduced. The *Journal* looks at what you need to know.

BY JESSICA ABELSOHN

Drowning is one of the leading causes of child deaths in New South Wales. On average, 10 children under the age of five drown each year and many more suffer brain damage and life-threatening injuries. With more than 300,000 backyard swimming pools and spas across NSW, pool safety is imperative. That's why the government has introduced new laws around swimming pool safety, commencing on 29 April 2015.

Prior amendments

According to the *Swimming Pools Act 1992 Review Discussion Paper*, "The Government takes the view that every death or injury to a child in a swimming pool accident is significant and that most, if not all, are preventable." Also according to the paper, approximately 60-80 per cent of barriers in the lead-up to the 2011 amendments were suspected of being non-compliant, a major factor in drowning deaths.

In 2011, *The Swimming Pools Act 1992* went under review in order to implement more stringent regulations concerning swimming pools. The review was underscored by the NSW Coroner's findings. According to the discussion paper, "The Deputy Coroner found that the breakdown of supervision and the failure to ensure the barrier was properly constructed and maintained were significant contributing factors to the deaths of several children."

Amendments to the Act remove automatic exemptions from the requirement of a four-sided child resistant barrier to be present around new private swimming pools in NSW on very small properties (less than 230 square metres), large properties (two hectares or more) and waterfront properties. According to Michael Ilinsky from Royal Life Saving Society, "the child-resistant barrier must be installed and maintained in accordance with the relevant Australian standard." Mr Ilinsky said that this requirement is also applicable to spas. "A swimming pool includes a spa. However a spa may be secured by a lockable lid and still meet the requirements of the law."



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What are the changes?

From 29 April 2015, all pools and spas must be completely compliant in terms of barriers, repairs and upgrades.

All properties with a swimming pool or spa must have a valid swimming pool

certificate of compliance and the pool or spa must be registered on the Swimming Pool Register.

According to Mr Ilinsky, a key focus of the Swimming Pool Register is council inspections, especially when it comes to multi-occupancy dwellings. "Once every three years, councils must inspect any swimming pool that is associated with tourist and visitor accommodation or with a multi-occupancy dwelling – premises with two or more dwellings."

If selling a property with a swimming pool or spa pool, the valid certificate of registration and valid certificate of compliance (or relevant certificate of occupation issued within the past three years) must be attached to the Contract for Sale and Purchase of Land, before the property is listed for sale. Failure to attach the documents may allow the purchaser to rescind the contract within 14 days of exchange (if exchanged after 29 April 2015), unless settlement has occurred. According to a spokesperson from the Office of Local Government, "Properties with a swimming pool or spa pool cannot be advertised for sale if it does not have a valid certificate of compliance or a relevant occupancy certificate."

If leasing a property with a swimming pool or spa pool, it must be registered and a valid compliance certificate (or relevant occupancy certificate issued within the past three years) must be obtained before



WHAT YOU NEED TO KNOW

the Residential Tenancy Agreement is entered into. A copy of the certificate must be provided to the tenant at the time the Residential Tenancy Agreement is entered into.

When it comes to strata schemes, all unit owners jointly own the swimming pool or spa, therefore the Owners Corporation is responsible for ensuring there is a valid certificate of compliance or occupation certificate. ♦

REINSW EFFORTS

With the original 29 April 2014 deadline unrealistic, REINSW voiced concerns that the number of qualified inspectors was inadequate to respond to market demand and that the industry needed more time to ensure all pools and spas were compliant.

While in complete support for the Government to minimise risk associated with drowning, REINSW sought a delay to ensure the transition to the more stringent requirements were dealt with adequately.

“With some 300,000 pools and spas across the State, REINSW suggested that some transitional procedures be implemented as part of the commencement of the obligation,” REINSW CEO Tim McKibbin said.

- Get in early! Register all swimming pools and spa pools and obtain a compliance certificate (or relevant occupation certificate) for all properties with a swimming pool or spa pool that will be sold or leased. This can take at least three months and around 95 per cent of pools fail the first inspection and are non-compliant.
- All properties with swimming pools and spa pools that are on the market on 29 April 2015 need to have a valid certificate of registration and valid certificate of compliance (or relevant certificate of occupation issued within the past 3 years). Those certificates should be obtained prior to listing the property and, therefore, prior to 29 April 2015.
- Prescribed documents (such as a certificate of compliance or occupation and evidence that the pool is registered) must be annexed to the contract for sale before a property can be advertised for sale.
- Fines can, and will, be issued to pool owners who have not registered their swimming pool or spa pool and who have not obtained valid compliance certificates or valid relevant occupation certificates.

IN NUMBERS

In the past *10 years*
60 CHILDREN
HAVE **DIED** IN BACKYARD
SWIMMING POOLS



70 CHILDREN
HAVE **NEUROLOGICAL**
DAMAGE AS A RESULT
OF IMMERSION

1000
CHILDREN
HAVE BEEN
ADMITTED TO
HOSPITAL AS
A RESULT OF
IMMERSION

