



Building Newsflash

Amendments to the pool fencing laws

Purpose

To provide details about amendments to pool fencing laws under the *Building Act 1975* and *Local Government Act 1993* which commenced on 1 September 2006.

Background

The Building Act requires all residential *outdoor swimming pools* to have a fence placed around the pool before water, to a depth of more than 300mm, is placed in the pool.

The fence must comply with the requirements of the *Building Regulation 2006* which refers to Parts 1 and 2 of AS1926.

A Pool Safety Questionnaire containing proposals to amend the pool fencing laws was released for public comment in November 2005. The responses to the Questionnaire formed the basis of further legislative changes to the pool safety laws.

Legislation

The amendments are contained in section 239 and Schedule 2 (definition of indoor swimming pool) of the *Building Act 1975* and section 1070 of the *Local Government Act 1993*.

Building Act 1975

Previously Section 16B of the *Building Act 1975* provided that a pool owner had sole responsibility to ensure that water was not placed in a pool before it is protected by a compliant fence. Most pools are constructed by pool builders. Placing water in a pool before it is complete is often required for structural reasons or to protect applied finishes to the pool.

Section 239(1)(c) was amended by adding a new clause (ii) which places responsibility on the person filling the pool to ensure the fence is in place. This could be either the pool owner or the pool builder.

The definition of an “*indoor swimming pool*” has been amended so that a pool on a deck or roof of a building, which is only accessible from within the building, is an *indoor swimming pool*.

A pool on a deck or verandah that has direct access by a door or gate from outside the building remains an *outdoor swimming pool* and direct access from inside of the building to an *outdoor swimming pool* via a door is prohibited. Access to the pool areas must be via a gate in a compliant barrier.

Local Government Act 1993

Section 1070 of the *Local Government Act 1993* provides a local government with the power to enter land to undertake certain functions. Some local governments expressed reservations about the power to enter property when no one was home in order to inspect a pool following a complaint.

The amendment clarifies, by way of expansion of the *Examples* for 1070(2)(c) that an employee or agent of a local government may enter land even if no occupier is present, to inspect a swimming pool fence if the local government has received information that a swimming pool fence may be dangerous to children.

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