



New South Wales

Swimming Pools Amendment (Inspections) Regulation 2016

under the

Swimming Pools Act 1992

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Swimming Pools Act 1992*.

PAUL TOOLE, MP
Minister for Local Government

Explanatory note

The object of this Regulation is to amend the *Swimming Pools Regulation 2008* in relation to the inspection and compliance of swimming pools on purchased premises.

This Regulation is made under the *Swimming Pools Act 1992*, including sections 7 (1) (b), 12 (d), 14, 22B (5), 22C (4), 22F and 38 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Swimming Pools Amendment (Inspections) Regulation 2016*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Swimming Pools Regulation 2008

[1] Clause 5 General requirements for outdoor swimming pools

Insert at the end of the clause:

- (2) This clause is subject to clause 18BB.

[2] Clause 8 General requirements for indoor swimming pools

Insert at the end of the clause:

- (2) This clause is subject to clause 18BB.

[3] Part 5, heading

Omit “of compliance”.

[4] Clause 18A Fee for inspection

Omit clause 18A (1). Insert instead:

- (1) For the purposes of section 22F (1) of the Act, the maximum fee that a local authority may charge the owner of premises on which a swimming pool is situated for carrying out an inspection of the swimming pool is:
- (a) if it is the first inspection since the person became the owner—\$150, or
 - (b) if it is the second inspection since the person became the owner—\$100, or
 - (c) if it is the first inspection since a certificate of compliance in relation to the premises ceased to be valid—\$150, or
 - (d) if it is the second inspection since a certificate of compliance in relation to the premises ceased to be valid—\$100.

[5] Clauses 18B–18BC

Omit clause 18B. Insert instead:

18B Notices by local authority if pool does not comply

- (1) This clause applies to an inspection carried out by the local authority under section 22C of the Act.
- (2) The local authority must provide a written notice to the owner of premises on which a swimming pool is situated if the local authority has inspected the swimming pool and is not satisfied that the requirements for the issue of a certificate of compliance have been met.
- (3) A notice under this clause is to set out the following:
- (a) the date of the notice,
 - (b) the address of the swimming pool to which the notice relates,
 - (c) the date on which the inspection took place,
 - (d) the reasons why the local authority is not satisfied that the requirements for the issue of a certificate of compliance have been met and the steps that need to be taken in order to meet those requirements,
 - (e) whether the local authority is of the opinion that the swimming pool poses a significant risk to public safety.

18BA Certificates of non-compliance if pool does not comply

- (1) This clause applies to an inspection carried out by the local authority, or an accredited certifier, under section 22C of the Act.
- (2) The local authority or accredited certifier must issue a certificate of non-compliance to the owner in respect of a swimming pool if the local authority or accredited certifier (as the case requires):
 - (a) has inspected the pool under section 22C of the Act, and
 - (b) is satisfied that the requirements for the issue of a certificate of compliance have not been met.
- (3) A certificate of non-compliance must be in the form approved by the Chief Executive of the Office of Local Government and must include the following:
 - (a) the address of the swimming pool to which the certificate relates,
 - (b) the date of the inspection,
 - (c) whether the local authority or accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety,
 - (d) if the certificate of non-compliance is issued by the local authority—a statement that the owner of the premises on which the swimming pool is situated is entitled, under section 26 of the Act, to appeal the decision of the local authority to refuse to issue a certificate of compliance under section 22D of the Act.
- (4) A certificate of non-compliance must be issued within 7 days from the date of the inspection of the pool. However, failure to issue a certificate of non-compliance within that period does not affect the validity of the certificate.
- (5) The requirement under subclause (4) to issue a certificate of non-compliance within the 7-day period applies whether or not a notice under clause 18B has been provided.
- (6) A certificate of non-compliance in respect of a swimming pool remains valid for a period of 1 year from the date on which it is issued but ceases to be valid if a certificate of compliance has been issued under section 22D of the Act for that swimming pool.

18BB Special provision relating to acquired premises

- (1) This clause applies to a swimming pool situated on premises acquired after the commencement of this clause if the contract of sale for the premises contained a certificate of non-compliance under clause 18BA, unless the certificate states that the swimming pool poses a significant risk to public safety.
- (2) For the purposes of sections 7 (1) (b), 12 (d) and 14 of the Act, the prescribed standard in the case of a swimming pool to which this clause applies is the condition of the child-resistant barrier or means of access as at the acquisition of the premises, but only until:
 - (a) 90 days after the acquisition of the premises, or
 - (b) the completion of work after the acquisition of the premises to ensure the child-resistant barrier or means of access complies with the *Building Code of Australia*,whichever is earlier.

- (3) In this clause:
acquisition of the premises means the date on which the sale of the premises is completed.

18BC Council reporting requirements for inspections

For the purposes of section 22F (2) of the Act, a local authority that is a council must include in its annual report under section 428 of the *Local Government Act 1993* the number of inspections under Division 5 of Part 2 of the Act that:

- (a) were inspections of tourist and visitor accommodation, or
- (b) were inspections of premises on which there are more than 2 dwellings, or
- (c) resulted in the council issuing:
 - (i) a certificate of compliance under section 22D of the Act, or
 - (ii) a certificate of non-compliance under clause 18BA of this Regulation.