



New South Wales

Swimming Pools Amendment Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Swimming Pools Act 1992* (the *Principal Act*):

- (a) to require swimming pools to be registered, and
- (b) to provide for the inspection of swimming pools and the issue of certificates of compliance by local authorities and accredited certifiers, and
- (c) to extend provisions of the Principal Act that applied to hotels and motels to all forms of tourist and visitor accommodation, and
- (d) to remove certain exemptions under the Principal Act, and
- (e) to make powers of entry under the Principal Act by council officers consistent with those under the *Local Government Act 1993*.

This Bill also amends the *Conveyancing (Sale of Land) Regulation 2010* and the *Residential Tenancies Regulation 2010* to prevent the sale or lease of residential premises with a swimming pool unless the pool is registered and there is a valid certificate of compliance or a relevant occupation certificate for the pool.

This Bill also makes a consequential amendment to the *Building Professionals Act 2005*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act with the exception of Schedule 1 [16] and [26] to the proposed Act (which provide for the inspection and registration of swimming pools) which commence 6 months after the date of assent and Schedule 2.2 and 2.3 (which prevent the sale and lease of premises on which swimming pools are situated unless the pool is registered and certified) which commence 18 months after the date of assent.

Schedule 1 Amendment of Swimming Pools Act 1992 No 49

Schedule 1 [26] inserts proposed Part 3A into the Principal Act. That Part establishes the Register of Swimming Pools and makes the Chief Executive of the Division of Local Government in the Department of Premier and Cabinet (the *Director-General*) responsible for the keeping and administration of the Register. The owner of premises on which a swimming pool is situated must ensure that certain information about the swimming pool (the *registration information*) is entered on the Register by providing the information to the Director-General (this is expected to be done on-line). Alternatively the owner may give the registration information to the relevant local authority (in most cases the relevant local council) and the local authority is required to enter the information on the Register. A swimming pool is registered when the registration information about the swimming pool is entered on the Register. Proposed Part 3A permits the Director-General to issue a document certifying certain information on the Register for evidentiary purposes. The Director-General may also enter into agreements under which another person or body can exercise the functions of the Director-General under the proposed Part. Authorised persons (being authorised officers and other persons prescribed by the regulations) and the Minister for Local Government are entitled to access information on the Register and that access is to be free of charge. **Schedule 1 [27]** permits regulations to be made for or with respect to the Register.

Schedule 1 [16] inserts proposed Division 5 into Part 2 of the Principal Act. That Division requires each local authority to develop and adopt a program for the inspection of swimming pools in its area to ensure compliance with Part 2 of the Principal Act. A local authority is then required to inspect swimming pools in accordance with this program. Aside from this mandatory program of inspection, an owner of property on which a swimming pool is situated may request the local authority or an accredited certifier (being a person with a category A1, A2 or A3 accreditation under the *Building Professionals Act 2005*) to carry out an inspection. A local authority must carry out such an inspection within a reasonable time if the request from the owner is in writing and states that the inspection is necessary to enable the sale or lease of the premises. If, following an inspection, the local authority, or in the case of a voluntary inspection, the local authority or the accredited certifier is satisfied that the requirements for the issue of a certificate of compliance

have been met, the local authority or accredited certifier must issue a certificate of compliance. The requirements for the issue of a certificate of compliance are that the swimming pool is registered and that the pool complies with the requirements of Part 2 of the Principal Act. A certificate of compliance remains valid for 3 years from the date of its issue but ceases to be valid if a direction is issued under section 23 of the Principal Act with respect to the swimming pool to which the certificate relates. A local authority or accredited certifier that issues a certificate of compliance must ensure that the details of the certificate are entered on the Register of Swimming Pools.

If an accredited certifier carries out an inspection of a swimming pool at the request of the owner of premises and finds that the requirements for the issue of a certificate of compliance have not been met, the certifier must give a written notice to the owner setting out (amongst other things) the reasons why the requirements have not been met and whether the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety. If the accredited certifier is of the opinion that the pool is a significant risk to public safety, the accredited certifier must immediately forward a copy of the notice to the relevant local authority. If the accredited certifier is not of the opinion that the pool is a significant risk to public safety, the notice is to be forwarded to the relevant local authority only if a certificate of compliance is not issued in respect of the swimming pool within 6 weeks after the inspection. The local authority is then able to use its existing powers under the Principal Act to ensure that the swimming pool is brought into compliance.

A local authority may charge a fee for an inspection under the proposed Division and any such inspection is to be conducted by an authorised officer. If the local authority is a council it must include information about inspections in its annual report.

Regulations made under the proposed Division are able to modify the provisions of the Division in relation to local authorities that are not councils (being the Western Lands Commissioner and the Lord Howe Island Board). **Schedule 1 [27]** permits regulations to be made for or with respect to inspections. **Schedule 1 [13] and [17]–[20]** make consequential amendments.

Schedule 1 [5], [10] and [11] extend the application of the Principal Act (and in particular the application of Division 2 of Part 2 of the Principal Act) to swimming pools situated on premises on which there is tourist and visitor accommodation rather than just hotels and motels as is currently the case. *Tourist and visitor accommodation* means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes backpackers' accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartments. **Schedule 1 [12]** provides an exemption from these requirements for existing pools and for any pools constructed or installed before 1 May 2013. **Schedule 1 [2], [9], [14] and [15]** make consequential amendments.

Schedule 1 [6]–[8] remove exemptions found in sections 8, 9 and 10 of the Principal Act which provide that a child-resistant barrier is not required to surround a swimming pool constructed before 1 August 1990 or situated on a small, large or

waterfront property. The exemptions now cease to apply in respect of a swimming pool if a barrier is erected on the premises (between the swimming pool and a residential building) as a barrier to direct access to the swimming pool from any residential building situated on the premises.

Schedule 1 [22]–[24] make the powers of entry for purposes under the Principal Act the same as those under the *Local Government Act 1993* when the person making the entry is an officer appointed by a council. The powers of entry are unchanged for authorised officers who are appointed by a local authority other than a council. **Schedule 1 [25]** makes a consequential amendment.

Schedule 1 [3] makes a minor amendment to bring the definition of *swimming pool* in the Principal Act into line with the definition used in the relevant Australian Standard.

Schedule 1 [4] makes it clear that a swimming pool is situated on premises on which another building is located if the swimming pool is ancillary to that other building, regardless of whether the swimming pool is on a separate lot.

Schedule 1 [21] sets out the circumstances in which a local authority is deemed to have refused to issue a certificate of compliance for the purposes of making an appeal to the Land and Environment Court.

Schedule 1 [1] sets out a number of definitions to be used for the purposes of the Principal Act including *relevant occupation certificate* in respect of a swimming pool which means an occupation certificate issued under the *Environmental Planning and Assessment Act 1979* that is less than 3 years old and that authorises the use of the swimming pool.

Schedule 1 [28] permits the regulations to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [29] contains a number of savings and transitional provisions.

Schedule 2 Amendment of other legislation

Schedule 2.1 makes a consequential amendment to the *Building Professionals Act 2005* to provide that the carrying out of inspections for the purposes of the Principal Act and the issuing of certificates of compliance under that Act is certification work.

Schedule 2.2 amends the *Conveyancing (Sale of Land) Regulation 2010* so that the vendor under a sale of residential premises on which there is a swimming pool must attach to the contract of sale either a valid certificate of compliance for the pool or a relevant occupation certificate together with evidence that the swimming pool is registered under proposed Part 3A of the Principal Act.

Schedule 2.3 amends the *Residential Tenancies Regulation 2010* to make it a term of all residential tenancy agreements that if a pool is situated on the residential premises, the landlord agrees to ensure that the pool is registered and that there is a valid certificate of compliance or relevant occupation certificate for the pool and that

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a copy of the certificate will be provided to the tenant at the time that the agreement is entered into.

First print



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New South Wales

Swimming Pools Amendment Bill 2012

No. , 2012

A Bill for

An Act to amend the *Swimming Pools Act 1992* and other legislation with respect to the registration, inspection and certification of swimming pools; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Swimming Pools Amendment Act 2012</i> .	3
2 Commencement	4
(1) Except as provided in subsections (2) and (3), this Act commences on the date of assent to this Act.	5 6
(2) Schedule 1 [16] and [26] commences 6 months after the date of assent to this Act.	7 8
(3) Subschedules 2.2 and 2.3 commence 18 months after the date of assent to this Act.	9 10

Schedule 1 Amendment of Swimming Pools Act 1992 No 49

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

certificate of compliance means a certificate issued under section 22D.

council means the council of an area within the meaning of the *Local Government Act 1993*.

Director-General means:

(a) the Chief Executive of the Division of Local Government within the Department of Premier and Cabinet, or

(b) if there is no such position within that Department, the Director-General of that Department.

Register means the Register of Swimming Pools under section 30A.

relevant occupation certificate in respect of a swimming pool means an occupation certificate issued under the *Environmental Planning and Assessment Act 1979* that is less than 3 years old and that authorises the use of the swimming pool.

Standard Instrument means the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

tourist and visitor accommodation has the same meaning as in the Standard Instrument.

[2] Section 3 (1), definition of “residential building”

Omit paragraph (b) of the definition. Insert instead:

(b) a moveable dwelling, or

(b1) tourist and visitor accommodation, or

[3] Section 3 (1), definition of “swimming pool”

Omit “of 300 millimetres or more” from paragraph (a) of the definition.

Insert instead “greater than 300 millimetres”.

[4] Section 3 (1A)

Insert after section 3 (1):

(1A) For the avoidance of doubt, a swimming pool is situated on premises on which another building is located if the swimming

	pool is ancillary to that other building, regardless of whether the swimming pool is on a separate lot, such as on common property under a strata scheme.	1 2 3
[5]	Section 4 Swimming pools to which Act applies	4
	Omit “dwelling, a hotel or a motel”.	5
	Insert instead “dwelling or tourist and visitor accommodation”.	6
[6]	Section 8 Exemption for swimming pools constructed before August 1990 and existing swimming pools on small properties	7 8
	Insert after section 8 (3):	9
	(4) This section ceases to apply in respect of a swimming pool if a barrier is erected on the premises (between the swimming pool and a residential building) as a barrier to direct access to the swimming pool from any residential building situated on the premises.	10 11 12 13 14
[7]	Section 9 Exemption for swimming pools on large properties	15
	Insert after section 9 (4):	16
	(5) This section ceases to apply in respect of a swimming pool if a barrier is erected on the premises (between the swimming pool and a residential building) as a barrier to direct access to the swimming pool from any residential building situated on the premises.	17 18 19 20 21
[8]	Section 10 Exemption for swimming pools on waterfront properties	22
	Insert after section 10 (4):	23
	(5) This section ceases to apply in respect of a swimming pool if a barrier is erected on the premises (between the swimming pool and a residential building) as a barrier to direct access to the swimming pool from any residential building situated on the premises.	24 25 26 27 28
[9]	Part 2, Division 2, heading	29
	Omit “dwellings, hotels and motels”.	30
	Insert instead “dwellings and tourist and visitor accommodation”.	31
[10]	Section 11 Swimming pools to which Division applies	32
	Omit “dwelling, a hotel or a motel”.	33
	Insert instead “dwelling or tourist and visitor accommodation”.	34

[11] Section 12 General requirements for outdoor swimming pools	1
Omit “dwelling, hotel or motel” from section 12 (a).	2
Insert instead “dwelling or tourist and visitor accommodation”.	3
[12] Section 13 Exemptions for existing swimming pools	4
Insert after section 13 (1):	5
(1A) This section also applies to swimming pools:	6
(a) that are situated on premises on which there is tourist and visitor accommodation (but not if there is a moveable dwelling, hotel or motel on the premises), and	7
	8
	9
(b) the construction or installation of which commenced before 1 May 2013.	10
	11
[13] Part 2, Division 4, heading	12
Omit “General”.	13
Insert instead “Additional requirements for swimming pools”.	14
[14] Section 19 House wall may be used as part of required child-resistant barrier	15
	16
Omit “of a residential building, hotel or motel” from section 19 (1).	17
Insert instead “of a residential building or a building used for the purposes of tourist and visitor accommodation”.	18
	19
[15] Section 19 (1)	20
Omit “the residential building, hotel or motel”. Insert instead “the building”.	21
[16] Part 2, Division 5	22
Insert after section 22:	23
Division 5 Inspections and compliance with Part	24
22A Definition	25
In this Division:	26
<i>accredited certifier</i> means an accredited certifier within the meaning of the <i>Building Professionals Act 2005</i> holding:	27
	28
(a) category A1, category A2 or category A3 accreditation under that Act, or	29
	30
(b) if the regulations prescribe alternative qualifications, those alternative qualifications.	31
	32

22B	Mandatory pool inspection program by local authority	1
(1)	A local authority must, within 6 months after the commencement of this section, develop and adopt a program for the inspection of swimming pools in its area to ensure compliance with the requirements of this Part.	2 3 4 5
(2)	Within 12 months after the commencement of this section, the program must make provision for the inspection, at least once every 3 years, of any swimming pool situated on premises on which there is tourist and visitor accommodation or more than 2 dwellings.	6 7 8 9 10
(3)	The program is not to require the inspection of a swimming pool in respect of which there is a valid certificate of compliance or a relevant occupation certificate.	11 12 13
(4)	A local authority must inspect swimming pools in its area in accordance with its program.	14 15
(5)	The regulations may make provision for or with respect to the development and adoption of programs for the inspection of swimming pools including:	16 17 18
	(a) the form and content of programs, and	19
	(b) the manner in which the public is to be consulted during the development of any such program, and	20 21
	(c) the carrying out of inspections under the program.	22
(6)	In this section: <i>dwelling</i> has the same meaning as in the Standard Instrument.	23 24
22C	Other inspections at request of owner	25
(1)	The owner of any premises on which a swimming pool is situated may, at any time, request the local authority or an accredited certifier to inspect the swimming pool.	26 27 28
(2)	A local authority or an accredited certifier may carry out any such inspection if requested to do so.	29 30
(3)	A local authority must carry out an inspection under this section, and must carry out that inspection within a reasonable time, if the request to the local authority is in writing and states that the inspection is required to enable the sale or lease of the premises or part of the premises on which the swimming pool is situated.	31 32 33 34 35
(4)	The regulations may make provision for what is a reasonable time for the purposes of subsection (3).	36 37

22D	Certificates of compliance	1
(1)	The requirements for the issue of a certificate of compliance in respect of a swimming pool are that:	2
		3
	(a) the swimming pool is registered under Part 3A, and	4
	(b) the swimming pool complies with the requirements of this Part.	5
		6
(2)	A local authority or an accredited certifier must issue a certificate of compliance in respect of a swimming pool if the local authority or accredited certifier:	7
		8
	(a) has inspected the swimming pool under this Division, and	9
	(b) is satisfied that the requirements for the issue of a certificate of compliance have been met.	10
		11
		12
(3)	A local authority or an accredited certifier must not issue a certificate of compliance except as provided by subsection (2).	13
		14
(4)	A local authority or an accredited certifier may refuse to issue a certificate of compliance until any fee payable for the inspection has been paid.	15
		16
		17
(5)	A certificate of compliance in respect of a swimming pool is to be issued to the owner of the premises on which the pool is situated in a form approved by the Director-General.	18
		19
		20
(6)	A certificate of compliance remains valid for a period of 3 years from the date on which it is issued but ceases to be valid if a direction is issued under section 23 in respect of the swimming pool to which the certificate relates.	21
		22
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		24
(7)	A local authority or accredited certifier that issues a certificate of compliance in respect of a swimming pool must ensure that details of the certificate are entered on the Register, by providing the details to the Director-General in a form approved by the Director-General.	25
		26
		27
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		29
(8)	The regulations may make provision for or with respect to the time and manner in which any such information is to be entered on the Register.	30
		31
		32
22E	Notices by accredited certifier if pool does not comply	33
(1)	This section applies to an inspection carried out by an accredited certifier under section 22C.	34
		35
(2)	An accredited certifier must provide a written notice to the owner of a swimming pool if the accredited certifier has inspected the	36
		37

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Schedule 1 Amendment of Swimming Pools Act 1992 No 49

swimming pool and is not satisfied that the requirements for the issue of a certificate of compliance have been met.	1 2
(3) A notice under this section is to set out the following:	3
(a) the date of the notice,	4
(b) the address of the swimming pool to which the notice relates,	5 6
(c) the date on which the inspection took place,	7
(d) the reasons why the accredited certifier 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,	8 9 10 11
(e) whether the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety,	12 13
(f) a warning that a copy of the notice will be forwarded to the local authority for the area in which the swimming pool is situated:	14 15 16
(i) immediately, if the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety, or	17 18 19
(ii) 6 weeks after the date of inspection (or such other time as may be prescribed by the regulations) if a certificate of compliance is not issued for the swimming pool before that time,	20 21 22 23
(g) such other matters as may be prescribed by the regulations.	24
(4) An accredited certifier who issues a notice under this section in respect of a swimming pool must forward a copy of the notice to the local authority for the area in which the swimming pool is situated:	25 26 27 28
(a) immediately, if the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety, or	29 30 31
(b) within 5 days after the end of the period specified in subsection (3) (f) (ii) in any other case.	32 33
(5) An accredited certifier is not required to forward a copy of any notice to a local authority in respect of a swimming pool if, at the time at which the notice is due to be sent, the swimming pool has a valid certificate of compliance.	34 35 36 37

22F	Inspections carried out by local authority	1
(1)	A local authority may charge the owner of premises a fee for carrying out an inspection under this Division being a fee that is no greater than the maximum fee (if any) prescribed by the regulations, but it may not charge a separate fee for issuing a certificate of compliance.	2 3 4 5 6
(2)	A local authority that is a council must include in its annual report under section 428 of the <i>Local Government Act 1993</i> such information (if any) in relation to inspections under this Division as is prescribed by the regulations.	7 8 9 10
(3)	An inspection by a local authority is to be conducted by an authorised officer and entry on to premises to carry out such an inspection is to be in accordance with Part 3.	11 12 13
22G	Local authorities that are not councils	14
	The regulations may:	15
(a)	modify the application of the provisions of this Division with respect to a local authority that is not a council, and	16 17
(b)	provide for any functions of such a local authority under this Division to be exercised by another person or body.	18 19
[17]	Section 24 Local authority must grant certificate of compliance if swimming pool complies with this Part	20 21
	Omit the section.	22
[18]	Part 2, Division 6, heading	23
	Insert before section 25:	24
	Division 6 Defences and appeals	25
[19]	Section 25 Defences to offences under Part	26
	Omit section 25 (2) (a) and (b). Insert instead:	27
(a)	that there is a valid certificate of compliance or relevant occupation certificate in respect of the swimming pool that is the subject of the alleged offence, and	28 29 30
[20]	Section 26 Appeals against decisions of local authority	31
	Omit section 26 (1) (c) and (d). Insert instead:	32
(c)	a decision to refuse to grant a certificate of compliance under section 22D,	33 34
(d)	a decision to give a direction under section 23.	35

[21] Section 26 (3)	1
Insert after section 26 (2):	2
(3) A local authority is taken to have refused to issue a certificate of compliance in relation to a swimming pool if the local authority has failed to issue either a certificate of compliance or a direction under section 23 in respect of the swimming pool, within 6 weeks (or such other period as may be prescribed by the regulations) after:	3 4 5 6 7 8
(a) an inspection of the swimming pool is carried out under section 22B, or	9 10
(b) a written request is made under section 22C to the local authority that stated that the inspection was required to enable the sale or lease of the premises or part of the premises on which the swimming pool is situated.	11 12 13 14
[22] Sections 27A and 27B	15
Insert after section 27:	16
27A Grounds for entering premises	17
(1) An authorised officer may enter premises for any one or more of the following purposes:	18 19
(a) to carry out an inspection of a swimming pool under Division 5 of Part 2,	20 21
(b) to investigate a complaint under section 29A,	22
(c) to investigate any contravention of this Act or the regulations that the authorised officer reasonably suspects to have occurred.	23 24 25
(2) Nothing in this section prevents an authorised officer from entering premises with the consent of the owner or occupier of those premises.	26 27 28
27B Powers of entry and search warrants—local council	29
(1) This section applies to an authorised officer who has been appointed by a local authority that is a council.	30 31
(2) Part 2 of Chapter 8 of the <i>Local Government Act 1993</i> applies to the entry of premises by an authorised officer for any purpose specified in section 27A and an authorised officer is taken to be an authorised person for the purposes of section 201 of that Act.	32 33 34 35
(3) For the avoidance of doubt, the investigation of any contravention of this Act or the regulations that an authorised	36 37

	officer reasonably suspects to have occurred is a function of the council that appointed the authorised officer.	1 2
[23]	Section 28 Power of entry—local authority other than local council	3
	Omit section 28 (1). Insert instead:	4
	(1) This section applies to an authorised officer who has been appointed by a local authority other than a council.	5 6
	(1A) An authorised officer who enters premises for any purpose specified in section 27A may examine the premises and, in particular, any swimming pool, and any barrier or other means of restricting access to any swimming pool, situated in or on the premises.	7 8 9 10 11
[24]	Section 29 Search warrants—local authority other than local council	12
	Insert before section 29 (1):	13
	(1A) This section applies to an authorised officer who has been appointed by a local authority other than a council.	14 15
[25]	Section 29A Investigation of complaint	16
	Omit “in accordance with section 28” from section 29A (4).	17
	Insert instead “in accordance with this Part”.	18
[26]	Part 3A	19
	Insert after Part 3:	20
	Part 3A Registration of swimming pools	21
30A	The Register of Swimming Pools	22
	(1) There is to be a Register of Swimming Pools.	23
	(2) The Director-General is responsible for the keeping and administration of the Register.	24 25
	(3) The regulations may make provision for the manner and form in which the Register is to be kept, the information that is to be entered on the Register, the fees (if any) payable for entering information on the Register and any other matter concerning the keeping and administration of the Register.	26 27 28 29 30
30B	Registration of swimming pools	31
	(1) The owner of the premises on which a swimming pool is situated must ensure that any information prescribed by the regulations in	32 33

relation to the swimming pool (the <i>registration information</i>) is entered on the Register.	1
Maximum penalty: 20 penalty units.	2
(2) A person complies with subsection (1) in respect of a swimming pool, if the person:	3
(a) provides to the Director-General, in a form approved by the Director-General, the registration information in relation to the swimming pool, or	4
(b) provides to a local authority, in a form approved by the local authority, the registration information in relation to the swimming pool and pays to the local authority any fee required by the local authority (being no more than the maximum fee (if any) prescribed by the regulations).	5
(3) A local authority is required to enter on the Register, in a form approved by the Director-General, any information provided to it under subsection (2) (b).	6
(4) A swimming pool is registered when the registration information about the swimming pool is entered on the Register.	7
30C Evidence of registration	8
(1) The Director-General may issue a document certifying as to whether or not a particular swimming pool is or was registered at a particular time and certifying as to any registration information for the swimming pool entered on the Register at a particular time (including whether a certificate of compliance was valid with respect to a swimming pool at a particular time).	9
(2) A document issued under this section is evidence of the matters certified.	10
30D Director-General may enter into agreements for purposes of Part	11
(1) The Director-General may enter into agreements and other arrangements with a person or body in respect of the exercise of functions of the Director-General under this Part by the person or body on behalf of the Director-General.	12
(2) An agreement or other arrangement may make provision for the ownership of information entered on the Register to be vested in the Director-General.	13

30E Access to Register	1
(1) An authorised person is entitled to access information contained in the Register. The Director-General is required to provide that access free of charge.	2 3 4
(2) The regulations may provide for the ways in which access can or must be given to authorised persons.	5 6
(3) The regulations may require the Director-General to keep specified records with respect to the access given to the Register under this section and may provide for the persons who are entitled to have access to those records.	7 8 9 10
(4) The Director-General may give different degrees of access to the Register to different classes of authorised persons, having regard to the different functions that they perform.	11 12 13
(5) The Minister and any person acting with the Minister's authority is entitled to full and free access to information contained in the Register at all times.	14 15 16
(6) The following persons are authorised persons for the purposes of this section:	17 18
(a) authorised officers,	19
(b) a person who is a member of a class of persons prescribed by the regulations as authorised persons for the purposes of this section.	20 21 22
(7) The regulations may prescribe the circumstances in which other persons may access information contained in the Register.	23 24
[27] Section 38 Regulations	25
Insert after section 38 (1) (b):	26
(b1) inspections of swimming pools, and	27
(b2) the Register of Swimming Pools, and	28
[28] Schedule 3 Savings, transitional and other provisions	29
Insert at the end of clause 1 (1):	30
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[29] Schedule 3, Part 4	1
Insert after Part 3:	2
Part 4 Provisions consequent on the enactment of the Swimming Pools Amendment Act 2012	3 4 5
17 Definition	6
In this Part:	7
<i>amending Act</i> means the <i>Swimming Pools Amendment Act 2012</i> .	8
18 Existing certificates of compliance	9
(1) A certificate of compliance issued under section 24 before the repeal of that section by the amending Act is taken to be a certificate of compliance issued under section 22D and remains valid for a period of 3 years from the date on which it was issued or until 6 months after the date of assent to the amending Act (whichever is the later).	10 11 12 13 14 15
(2) A certificate of compliance ceases to be valid if a direction is issued under section 23 in respect of the swimming pool to which the certificate relates.	16 17 18
19 Registration of swimming pools	19
The owner of premises on which a swimming pool is situated is not required to comply with section 30B until 12 months after the date of assent to the amending Act.	20 21 22
20 Local authority not required to inspect pools	23
A local authority is not required to carry out an inspection under section 22C (3) until 18 months after the date of assent to the amending Act.	24 25 26

Schedule 2	Amendment of other legislation	1
2.1	Building Professionals Act 2005 No 115	2
	Section 3 Definitions	3
	Insert at the end of paragraph (c) of the definition of <i>certification work</i> in section 3 (1):	4
		5
	, or	6
	(d) the carrying out of inspections for the purposes of section 22C of the <i>Swimming Pools Act 1992</i> and the issuing of certificates of compliance under that Act.	7
		8
		9
2.2	Conveyancing (Sale of Land) Regulation 2010	10
	Schedule 1 Prescribed documents	11
	Insert after clause 15:	12
	16 If the contract relates to land on which there is a swimming pool within the meaning of the <i>Swimming Pools Act 1992</i> to which that Act applies, a copy of either of the following in respect of the swimming pool:	13
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		15
		16
	(a) a valid certificate of compliance issued under that Act,	17
	(b) a relevant occupation certificate within the meaning of that Act and evidence that the swimming pool is registered under Part 3A of that Act.	18
		19
		20
	Note. A relevant occupation certificate is an occupation certificate issued under the <i>Environmental Planning and Assessment Act 1979</i> that is less than 3 years old and that authorises the use of the swimming pool.	21
		22
		23
2.3	Residential Tenancies Regulation 2010	24
	Schedule 1 Standard Form Agreement	25
	Insert after clause 40:	26
	[Cross out this clause if there is no swimming pool]	27
	40A. The landlord agrees to ensure that at the time that this residential tenancy agreement is entered into:	28
		29
	40A.1 the swimming pool on the residential premises is registered under the <i>Swimming Pools Act 1992</i> and has a valid certificate of compliance under that Act or a relevant occupation certificate within the meaning of that Act, and	30
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Swimming Pools Amendment Bill 2012

Schedule 2 Amendment of other legislation

40A.2 a copy of that valid certificate of compliance or
 relevant occupation certificate is provided to the
 tenant.

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