Changes to Swimming Pool Laws

The Swimming Pools Amendment Act 2012, amending the Swimming Pools Act 1992 ("the Act"), came into force on 29 October 2012. Most of the changes take effect on deferred dates.

The principal changes are as follows:

1. Registration – A new Part 3A has been inserted into the Act dealing with registration of swimming pools. Swimming pool is defined broadly to mean "any excavation, structure or vessel …….that is capable of being filled with water to a depth greater than 300mm and …….. that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act". The Act has been amended to make clear that it applies to a swimming pool on the common property of a strata scheme.

   A register is to be established by 29 April 2013 and pool owners will be required to register by 29 October 2013. Regulations are expected setting out the information to be provided on registration. Registration will apparently be online and involve self certification as to compliance with the Act. There will be a penalty of $220 for failure to register.

2. Inspection and certification – A new Part 2 Division 5 has been inserted into the Act, dealing with inspection and certification of swimming pools. Councils are required to establish a program for inspection of swimming pools and issue of certificates of compliance by 29 April 2013, except for swimming pools on multi dwelling developments or tourist or visitor accommodation for which the start date is 29 April 2014. Pool owners will be able to have an inspection undertaken (for a likely fee of $150) and obtain a certificate of compliance valid for 3 years. *T*he Building Professionals Act 2005 has been amended to allow for private certifiers to do these inspections. Councils have been given broad powers to enter land.
3. Conveyancing Process – the Conveyancing (Sale of Land) Regulation 2010 will be amended to the effect that, as from 29 April 2014, a vendor will be required to attach to a contract for sale of land containing a swimming pool, either (a) a certificate of compliance or (b) an occupation certificate authorising use of the pool not more than 3 years old and proof of registration of the pool. We have concerns as to how a lot owner in a strata scheme can comply with this in relation to a swimming pool on the common property.
4. Leasing Process – the Residential Tenancies Regulation 2010 will be amended to the effect that, as from 29 April 2014, a lessor of property containing a swimming pool must ensure that the pool is registered and has either a certificate of compliance or an occupation certificate authorising use of the swimming pool not more than 3 years old. We have concerns as to how a lot owner in a strata scheme can comply with this in relation to a swimming pool on the common property.

From the perspective of pool owners, the main implications of this are that they will need to register their pools by 29 October 2013 and after 29 April 2014 will need to arrange an inspection and certificate of compliance if they

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propose to sell or lease their property and don't already have a certificate of compliance or an occupation certificate authorising use of the swimming pool not more than 3 years old.

Key takeaways

- The Swimming Pools Amendment Act 2012 introduces new registration requirements for swimming pools in NSW.
- Pool owners must register their pools by 29 October 2013 to avoid penalties.
- Councils are required to establish inspection programs for swimming pools by 29 April 2013.
- From 29 April 2014, vendors must provide a certificate of compliance when selling properties with swimming pools.
- Lessors must ensure swimming pools are registered and compliant with safety standards.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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