

Fact Sheet – Swimming Pool Laws

The Swimming Pools Act 1992 (“Act”) has been amended to impose additional requirements on pool owners. Key points:

1. A swimming pool is “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”.
2. In addition to the new requirements, requirements regarding approval of new pools and pool fencing still apply, separately from registration and non-compliance can result in very substantial penalties. Non-compliance may also prejudice insurance cover, but this would depend on the terms of the policy. Due to the risks involved, non-compliant pools should not be used and should be appropriately secured pending compliance.
3. Pool owners have since 29 October 2013 been required to register their pools. This is very straight forward and can be done on-line, without a fee, through the swimming pool register website. This involves self-assessment of compliance with fencing and other safety requirements. The penalty for failure to register is \$220. <http://www.swimmingpoolregister.nsw.gov.au/>
4. Pool owners are not generally required to obtain a certificate of compliance, but as from 29 April 2016 they will require a certificate of compliance or an occupation certificate authorising use of the pool, not more than 3 years old, prior to selling or leasing their property. This involves an application, with a small fee payable and an inspection. A private certifier can be used. Councils are reporting high failure rates with inspections, with a three-month interval between receiving an application and issuing it being not uncommon. This suggests that owners of properties with pools should obtain a certificate of compliance as soon as possible and not leave that until they decide to sell or lease.

Failure to comply can result in penalties and in the case of a sale, a contract which the purchaser can rescind.

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.

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