

Swimming Pool Changes – Are you selling, buying or leasing? Beware the hype!

Changes to the *Swimming Pools Act 1992* and regulations come into force on 29 April 2016 and will have a direct impact on the sale, purchase or lease of properties with a swimming pool or outdoor spa.

Since 29 October 2013, all pool owners have been required to register their pools on the NSW Government swimming pool register website <http://www.swimmingpoolregister.nsw.gov.au/>. Pool owners are now required to provide a certificate of compliance or occupation certificate for the pool or outdoor spa at the time of selling or leasing their property.

Get your compliance certificate...

A certificate of compliance can be provided by the local council or an accredited certifier – it must state that:

- The pool has been registered on the NSW government register;
- The pool has been inspected by the council/certifier; and
- The pool complies with the Swimming Pools Act and regulations.

A certificate of compliance is valid for 3 years from the date of issue. It must be provided by a landlord upon entry into a lease or the tenant will have a right to rescind the lease during the term. When an owner is selling a property with a pool, the certificate of compliance is now a 'prescribed document' and must be annexed to the contract, otherwise a purchaser will have a right of rescission within 14 days of exchange of contracts.

Or get an occupation certificate...

A valid alternative to a certificate of compliance is for a lease or a contract for sale of land to contain an occupation certificate issued under the *Environmental Planning and Assessment Act 1979* that is less than 3 years old and includes the pool. The lease or contract must also contain evidence that the pool is registered on the NSW government register.

Or pass the obligation on to the purchaser...

Changes to the legislation now also permit the issue by a certifier or council of a certificate of 'non-compliance' for a pool. A certificate of non-compliance must state the date of inspection and whether or not the non-complying pool represents a significant risk to public safety. A certificate of non-compliance is valid for 1 year from the date of issue.

Provided such a certificate states that the non-compliance does not represent a significant risk to public safety, a vendor can annex the certificate of non-compliance to a contract as a prescribed document. The purchaser under the contract then has 90 days from settlement of the sale to rectify the non-compliance issues.

Strata exemptions...

Exemptions to the new requirements apply to strata and community title schemes that comprise more than 2 lots and to off the plan contracts for sale of land.

Get moving on that inspection...

Owners considering selling or leasing their property should take urgent steps to arrange for pool inspections as there are a limited numbers of certifiers and inspectors and the current high failure rates for inspections and lack of qualified tradespeople available to rectify non-compliance has already created significant delays in the issuing of certificates.

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