



# Building and plumbing newsflash number 489

## Amendments to the *Plumbing and Drainage Act 2002* and *Building Act 1975*; and advice for pool safety inspectors

### Purpose

- To advise the *Sustainable Planning and Other Legislation Amendment Bill 2011* (SPOLA) amendments to the *Plumbing and Drainage Act 2002* (PDA) and the *Building Act 1975* (BA) have been passed by the Queensland Parliament.
- To provide advice to pool safety inspectors.

### Background—*Sustainable Planning and Other Legislation Amendment Bill 2011*

SPOLA was passed by the Queensland Parliament on 15 February 2012 amending the PDA and the BA. The objectives of the bill include:

- reducing red tape and compliance costs for plumbing work
- aligning BA terminology for certifiers with the National Accreditation Framework
- clarifying the relationship between local planning instruments and building assessment provisions.

### *Plumbing and Drainage Act 2002* amendments

The amendments to the PDA—to commence on 1 November 2012, or on an earlier date set by proclamation—will introduce a new category of work, known as ‘notifiable work’. Notifiable work is intended to apply to the vast majority of new work undertaken in existing buildings such as renovation work.

Notifiable work will not require a local government application or any mandatory inspections; instead it will simply require notification to the Plumbing Industry Council within 10 business days of completion through the Form 4 process. Lodgement fees are proposed to be \$25 for electronic lodgement and \$35 for manual lodgement. Examples of the type of work proposed to be included in the schedule of notifiable work are:

- kitchen and bathroom additions and renovations
- installing or replacing hot water heaters—such as electric, solar or heat pump hot water heaters
- installing fixtures in an existing home—such as toilets, showers and sinks
- extending or altering pipework.

The PDA amendments will allow for local government audit programs to be conducted on notifiable work. The Plumbing Industry Council will have the ability to audit plumbing licensees to ensure they are complying with



the new notification system. Local governments, with assistance from the Plumbing Industry Council, will be able to decide the categories of notifiable work that should be audited.

The PDA amendments will also replace the category of ‘regulated work’ with a new category of work known as ‘compliance assessable work’. Compliance assessable work will be defined as ‘plumbing or drainage work that is not notifiable work, minor work or unregulated work’.

Also, the Plumbing Industry Council will be able to recover any unpaid penalty amounts from a disciplinary action as a debt. This will assist in deterring individuals who fail to respond to disciplinary action ordered by the Plumbing Industry Council from committing continuous or numerous similar breaches of the PDA.

The proposed scope of notifiable work will be outlined in future amendments to the Standard Plumbing and Drainage Regulation 2003 (SPDR). These amendments will be subject to extensive consultation prior to finalisation.

## ***Building Act 1975 amendments***

### **National Accreditation Framework**

In order to more closely align with the National Accreditation Framework, the names of the existing three building certifier licence classes in Queensland will be replaced to refer to a particular licence level so that:

- building surveyor becomes building certifier—level 1
- assistant building surveyor becomes building certifier—level 2
- building surveying technician becomes building certifier—level 3.

The amendments will take effect on 1 November 2012, or on an earlier date set by proclamation, to provide a suitable period for the accreditation standards bodies (i.e. Australian Institute of Building Surveyors and the Royal Institution of Chartered Surveyors) and the Queensland Building Services Authority to align themselves and their processes with the revised terminology.

### **Clarifying the relationship between building and planning instruments**

Amendments to the *Sustainable Planning Act 2009* and the BA also clarify the relationship between building assessment provisions and local planning instruments, local government resolutions and local laws, to provide certainty on how the building assessment provisions are to apply and to ensure they are not overridden by other local government instruments. The amendments are intended to reduce delays, costs and confusion resulting from potential conflicts and will not affect a local government’s ability to regulate land use. These provisions will commence on the bill’s assent.

## ***Advice for pool safety inspectors (PSI)***

### **Background—Multiple reinspections**

Under chapter 8 part 3 of the BA, a PSI is required to give a nonconformity notice (NCN) to a pool owner if the PSI inspects a regulated pool for the purpose of issuing a pool safety certificate but is not satisfied the pool is compliant. After receiving a NCN, a pool owner then has a three-month period (the reinspection period) in which to ask the PSI to reinspect the pool. If the owner fails to do this, the PSI must, within five business days



after the end of the reinspection period, notify the local government of the failure by providing a copy of the NCN.

### **Multiple reinspections**

If the pool owner asks the PSI to reinspect a pool during the reinspection period, the PSI must do the reinspection within five business days, or later if agreed. If the pool is still non-compliant, the PSI must issue a further NCN and a further three-month reinspection period then applies. This sequence may be repeated so long as the owner continues to ask for a reinspection within the reinspection period and the pool continues to be non-compliant. Where this occurs, the PSI is not obliged under chapter 8 part 3 to give any notice to the local government about the pool's non-compliance. However, the PSI should consider his or her overriding duty to act in the public interest (section 246AX of the BA) and may decide to notify the local government of the non-compliance, especially where the circumstances pose a serious safety risk.

PSIs should also be aware that this is an administrative process and does not extend any owner's legal obligation to have a pool safety certificate within a particular time frame. For example, if a pool safety certificate has not been issued for a property, a purchaser of the property with a regulated pool must obtain a pool safety certificate within 90 days of the date of settlement. Asking a PSI to reinspect may delay the PSI in giving a NCN to the local government, but does not extend the 90-day compliance period for the owner. The owner may receive an infringement notice if a pool safety certificate is not issued within the required 90 days.

### **Background—Duration of certificates**

Since 1 December 2010, a pool safety certificate has been required whenever a property with a regulated swimming pool is sold or leased. The duration of a pool safety certificate depends upon whether it is for a 'shared pool' or a 'non-shared pool'. A 'shared pool' is generally one where the residents of two or more dwellings have a right to use the pool, such as in an apartment building or a hotel or motel.

### **Duration of certificates**

A pool safety certificate for a shared pool remains current for one year, while a certificate for a non-shared pool remains current for two years. There is an exception in the case of a pool safety certificate given on or before 28 February 2011 (section 292 of the BA) for a shared pool constructed before 1 December 2010. In this case, pool safety certificates remain current for two years.

The pool safety register has copies of pool safety certificates. Hard-copy certificates issued by a PSI between 1 December 2010 and 1 March 2011 for a shared pool may incorrectly show a 12-month expiry date. However, the corresponding electronic certificates on the pool safety register have had their expiry dates corrected. Therefore, if the pool owner contacts a PSI in relation to the date shown on the hard copy of the certificate in this circumstance, the PSI is able to check the pool safety register and print the new pool safety certificate showing a two-year expiry date. These certificates are displayed when the property address is searched.



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