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**COMMERCE**

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CM301\*

Building Act 2011

**Building Amendment Regulations (No. 2) 2016**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Building Amendment Regulations (No. 2) 2016*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 May 2016.

**3. Regulations amended**

These regulations amend the *Building Regulations 2012*.

**4. Regulation 3 amended**

- (1) In regulation 3 delete the definition of *private swimming pool*.
- (2) In regulation 3 insert in alphabetical order:

*approved barrier solution*, in relation to a swimming pool, means an alternative solution used to comply with a Building Code pool barrier requirement that has been approved in accordance with regulation 51 by the permit authority for the swimming pool;

*Building Code pool barrier requirements* means —

- (a) in relation to a swimming pool associated with a Class 1 or Class 10 building — performance requirement P2.5.3 in the Building Code Volume 2 Part 2.5;

- (b) in relation to a swimming pool associated with a Class 2 to Class 9 building — performance requirement GPI.2(a) in the Building Code Volume 1 Part G1;

*pre-May 2016 private swimming pool* means a private swimming pool —

- (a) installed before 1 May 2016; or
- (b) installed on or after 1 May 2016 in accordance with plans, drawings and specifications submitted to a permit authority for approval before that day;

*private swimming pool* means a swimming pool —

- (a) that is associated with —
  - (i) a Class 1a building; or
  - (ii) less than 30 sole-occupancy units in a Class 2 building; or
  - (iii) a Class 4 part of a building;and
- (b) which has the capacity to contain water that is more than 300 mm deep;

*sole-occupancy unit* has the meaning given in the Building Code Volume 1 Part A1;

*swimming pool* has the meaning given in the Building Code Volume 1 Part A1;

## 5. Regulation 15B inserted

At the end of Part 2 insert:

### 15B. Modifications to AS 1926.1-2012 (s. 150)

For the purposes of these regulations, AS 1926.1-2012 (Safety barriers for swimming pools) as referenced in the Building Code —

- (a) is modified in clause 2.3.5(a) to insert after “plane”:

and vertical members are spaced to provide a clear opening of not more than 10 mm

- (b) is modified in Figure 2.6 to delete “100 mm” and insert:

10 mm

**6. Regulation 28 replaced**

Delete regulation 28 and insert:

**28. Required inspection: barrier to private swimming pool (s. 36(2)(a))**

The inspection that is to be conducted at the completion of building work for a barrier to a private swimming pool is an inspection to assess whether the barrier complies with the applicable building standards for the barrier as set out in regulation 31C.

**7. Regulation 31C replaced**

Delete regulation 31C and insert:

**31C. Applicable building standards for swimming pools (s. 3, 19(3) and 37(1) and (2))**

- (1) For the purposes of the definition of *applicable building standard* in section 3, the building standards set out in the Table are prescribed as applicable building standards for the purposes of sections 19(3) and 37(1) in respect of a type of swimming pool referred to in the Table.

**Table**

Type of swimming pool	Building standard
All swimming pools other than private swimming pools	The requirement mentioned in regulation 31A(2) except that the Building Code pool barrier requirements do not apply.
Private swimming pools other than pre-May 2016 private swimming pools	The requirement mentioned in regulation 31A(2)(a) except that an alternative solution cannot be used to comply with a Building Code pool barrier requirement unless the alternative solution is an approved barrier solution.

Type of swimming pool	Building standard
Pre-May 2016 private swimming pools	<p>The requirements mentioned in regulation 31A(2)(a) except that —</p> <ul style="list-style-type: none"> <li>(a) the requirements for a barrier to a private swimming pool set out in regulation 50 may be substituted for the Building Code pool barrier requirement; and</li> <li>(b) an alternative solution cannot be used to comply with a Building Code pool barrier requirement unless the alternative solution is an approved barrier solution.</li> </ul>

- (2) For the purposes of the definition of *applicable building standard* in section 3, the building standards set out in the Table are prescribed as applicable building standards for the purposes of section 37(2) in respect of a type of swimming pool referred to in the Table.

**Table**

Type of swimming pool	Building standard
All swimming pools other than private swimming pools	The requirement mentioned in regulation 31E(2) other than the Building Code pool barrier requirements.
Private swimming pools	The requirement mentioned in regulation 31E(2) except that an alternative solution cannot be used to comply with a Building Code pool barrier requirement unless the alternative solution is an approved barrier solution.

**8. Regulation 31D amended**

(1) At the beginning of regulation 31D insert:

(1A) This regulation does not apply to a swimming pool.

(2) In regulation 31D(3) in the Table:

(a) delete “GP1.2(b),”;

(b) delete “P2.5.2, P2.5.4” and insert:

P2.5.2

Note: The heading to amended regulation 31D is to read:

**Applicable building standards for relocated buildings and incidental structures (other than swimming pools) (s. 3, 19(3) and 37(1) and (2))**

**9. Regulation 31E amended**

In regulation 31E(1) delete “regulation 31BA otherwise provides.” and insert:

regulations 31BA and 31C otherwise provide.

**10. Regulation 31G amended**

In regulation 31G(2) delete “made.” and insert:

made, except that an alternative solution cannot be used to comply with a Building Code pool barrier requirement unless the alternative solution is an approved barrier solution.

**11. Regulation 48 amended**

In regulation 48 delete the definition of *access through a building* and insert:

*access through a building* means direct or indirect access to an area that contains a private swimming pool if the area is enclosed by a barrier that includes a wall of a building;

**12. Regulation 50 replaced**

Delete regulation 50 and insert:

**50. Barrier to private swimming pool**

(1) Each owner and occupier of premises on which there is a private swimming pool containing water that is more than 300 mm deep must ensure that there is installed or



provided around the pool a barrier that restricts access by young children to the pool and its immediate surrounds.

Penalty for this subregulation: a fine of \$5 000.

- (1A) A barrier to a private swimming pool is to be taken to be suitable for the purposes of subregulation (1) if —
- (a) it complies with a Building Code pool barrier requirement that was in effect —
    - (i) if a building permit applies to the construction of the pool — at the time the application for a building permit to construct the pool was made; or
    - (ii) otherwise — at the time the construction of the pool commenced;
  - or
  - (b) the swimming pool is a pre-May 2016 private swimming pool and the barrier satisfies the requirements in paragraph (a) or complies with subregulations (2) to (5).
- (1B) For the purposes of subregulation (1A)(a), an alternative solution cannot be used to comply with a Building Code pool barrier requirement unless the alternative solution is an approved barrier solution.
- (2) The immediate surrounds of a pre-May 2016 private swimming pool that is at the rear of premises may include any part of the rear portion of the premises.
- (3) If a building other than a Class 10 building is included within the barrier to a pre-May 2016 private swimming pool all external doors and windows in that building must satisfy the requirements of AS 1926.1.
- (4) A barrier to a pre-May 2016 private swimming pool —
- (a) may consist of a fence, wall, gate or other component, or a combination of them; and
  - (b) any fence, wall, gate or other component that is included in the barrier must be in accordance with —
    - (i) the requirements of AS 1926.1; or
    - (ii) approved alternative requirements;
  - and
  - (c) any wall comprising part of the barrier must have no means of access through a building other than —
    - (i) a window that is in accordance with the requirements of AS 1926.1; or
    - (ii) an approved door.

- (5) If a boundary fence of the premises is a part of the barrier to a pre-May 2016 private swimming pool, the boundary fence satisfies the requirements of clauses 2.3, 2.6 and 2.7 of AS 1926.1 if all those requirements are satisfied in relation to either side of the fence.

**13. Regulation 51 amended**

After regulation 51(4) insert:

- (5) A permit authority may approve an alternative solution to a Building Code pool barrier requirement if the permit authority is satisfied that the alternative solution complies with the relevant performance requirement.

**14. Regulation 52 amended**

In regulation 52(3) delete “enclosure” and insert:

barrier

**15. Regulation 53 amended**

In regulation 53(1) delete “pool enclosure” and insert:

barrier to the private swimming pool

Note: The heading to amended regulation 53 is to read:

**Inspection of barrier to private swimming pool**

**16. Regulation 54A amended**

Delete regulation 54A(2) and insert:

- (2) A person responsible for work that requires the removal of a fence, wall, gate or other component that is part of a barrier to a private swimming pool must ensure that an alternative barrier that complies with regulation 50 is installed or provided for any period during which the fence, wall, gate or component is removed.

Note: The heading to amended regulation 54A is to read:

**Temporary pool barriers**

**17. Regulation 54 amended**

In regulation 54(2):

(a) before “private swimming pool” insert:

a barrier to a

(b) delete “enclosures”.

**18. Schedule 4 amended**

In Schedule 4 clause 2 in the Table item 4 delete “an enclosure for” and insert:

a barrier to

**19. Schedule 6 amended**

In Schedule 6 in the item relating to r. 50(1) delete “Enclosure of” and insert:

Barrier to

R. KENNEDY, Clerk of the Executive Council.