

LG319

LOCAL GOVERNMENT ACT 1960
BUILDING AMENDMENT REGULATIONS 1992

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Building Amendment Regulations 1992*.

Commencement

2. These regulations come into operation on 1 July 1992.

Principal regulations

3. In these regulations the *Building Regulations 1989** are referred to as the principal regulations.

[* *Published in the Gazette of 28 July 1989 at pp.2261-92.*
For amendments to 8 June 1992 see 1991 Index to Legislation of
Western Australia, p. 407.]

Regulation 3 amended

4. Regulation 3 (2) of the principal regulations is amended by deleting " 1988 " and substituting the following —

" 1990 ".

Regulation 12 amended

5. Regulation 12 of the principal regulations is amended by inserting after subregulation (2) the following heading and subregulation —

" *Inspection by police officer*

(3) This regulation does not prevent a police officer from being permitted to inspect a plan or other document in the course of duty in connection with a situation in which the safety of a person is at risk.

Part 10 repealed and a Part substituted

6. Part 10 of the principal regulations is repealed and the following Part is substituted —

" **PART 10 — PRIVATE SWIMMING POOLS**

Building Code

38. G1.1 (b) of the Building Code does not apply.

Definitions

38A. In this Part —

"disabled person" means a person who is able to produce a certificate given by ACROD Limited (Western Australian Division), a company limited by guarantee incorporated under the Corporations Law, certifying that the person has a disability that makes it difficult for the person to use a gate of the kind that would be required by these regulations in a swimming pool fence;

"pre-July 1992 pool" means a swimming pool that —

- (a) was installed before 1 July 1992; or
- (b) was installed on or after 1 July 1992 in accordance with plans, drawings and specifications that were submitted to the council for approval before that day;

"swimming pool" means a swimming pool, within the meaning of section 245A (1) of the Act, in which there is water that is more than 300mm deep;

"young child" means a child under the age of 5 years.

Enclosure of pool

38B. (1) The owner or occupier of premises on which there is a swimming pool shall instal or provide around the pool an enclosure suitable to restrict access by young children to it and its immediate surrounds.

Penalty: \$5 000 and a daily penalty of \$250.

(2) If the pool is at the rear of the premises, a person does not fail to comply with subregulation (1) only because the area enclosed includes, as well as the pool and its immediate surrounds, any other part of the rear portion of the premises.

(3) Except as otherwise provided by this Part, the enclosure is not suitable for the purposes of subregulation (1) unless —

- (a) it consists of a fence, wall, or other barrier, or a combination of them;
- (b) any wall that it includes contains no means of access between the enclosed area and a part of a building to which there is direct or indirect access from outside the enclosure; and
- (c) any fence, wall, or barrier included in, or gate in, the enclosure is in accordance with the requirements of Australian Standard AS 1926 or such alternative requirements as the council approves.

(4) If a boundary fence of the premises is a part of the enclosure of a pool, the boundary fence satisfies the requirements of clauses 2.3, 2.5, and 2.6 (a) and (b) of Australian Standard AS 1926 if all those requirements are satisfied in relation to either side of the fence.

(5) A gate in the enclosure of a pool may —

- (a) if the pool was installed before 28 July 1989, open in any direction;
- (b) if the pool was not installed before 28 July 1989, open in any direction other than towards the pool.

Access to pool from building

38C. (1) If a swimming pool is a pre-July 1992 pool, its enclosure may include a wall that contains a door or window permitting access between the enclosed area and a part of a building to which there is direct or indirect access from outside the enclosure, but only if the building is not a Class 10 building under the Building Code.

(2) Although a swimming pool is not a pre-July 1992 pool, its enclosure may include a wall that contains a door or window permitting access as described in subregulation (1) if —

- (a) the council declares that it would not be practicable to enclose the pool in accordance with regulation 38B; and
- (b) every possible means of access by a young child to the pool from the building is fitted with a suitable device to restrict such access.

(3) For the purpose of restricting access by a young child through a window —

- (a) a fixed grill that totally encloses the window and would prevent any sphere having a diameter greater than 100mm from passing through it; or
- (b) a fixed device that prevents the window from opening more than 100mm,

satisfies the requirement in subregulation (2) (b), but this subregulation does not limit the other devices that may satisfy that requirement.

(4) For the purpose of restricting access by a young child through an exterior doorway, a door does not satisfy subregulation (2) (b) unless —

- (a) it is self-closing and self-latching; and
- (b) it does not open towards the pool, or the council has approved of it opening in that direction.

Declarations by council

38D. (1) A council shall not make a declaration under regulation 38C (2) (a) unless —

- (a) in the opinion of the council, to instal between the building and the pool a fence or barrier satisfying regulation 38B would involve —
 - (i) a sufficient problem of a structural nature; or
 - (ii) a sufficient problem of any other nature, the cause of which is neither within the control of the owner nor the occupier;
- (b) the pool is totally enclosed by a building; or
- (c) in the opinion of the council, the existence between the building and the pool of a fence or barrier satisfying regulation 38B would create a sufficient problem for a disabled person who is resident at the premises and wishes to have access to the pool.

(2) In deciding whether to make a declaration under regulation 38C (2) (a) a council shall place particular weight on whether or not a young child resides at the premises.

Delegation

38E. The power of a council —

- (a) to make a declaration under regulation 38C (2) (a); or
- (b) to give approval under regulation 38C (4) (b),

shall not be delegated by the council but a council may delegate the power to refuse to make such a declaration or give such approval.

Maximum inspection charge

38F. For the purposes of section 245A (8) (b) of the Act, the maximum charge is \$50.

Transitional

38G. Regulation 6 (2) does not apply in relation to the requirements of this Part.

By His Excellency's Command,

M. C. WAUCHOPE, Clerk of the Council.
