

Newsplash

Saving precious lives



Issue 4, September 2012



Continuing professional development

Under section 246BN(3)(e) and 246BR(2)(c)(v) of the *Building Act 1975* (BA) a pool safety inspector (PSI) seeking to renew or restore their licence must provide evidence that they have undertaken, in the previous 12 month period, the continuing professional development (CPD) prescribed under a regulation.

In consultation with PSIs, building certifiers, industry representatives and others, the Department of Housing and Public Works has developed a CPD model which will commence on 1 September 2012.

Under the model, PSIs (excluding licensed building certifiers) will be required to complete a minimum of six points of relevant activities or memberships in the 12-month period prior to applying for renewal or restoration of their licence.

Licensed building certifiers applying to renew or restore their PSI licence will be required to complete a minimum of four points of relevant activities or memberships in the 12-month period prior to the application.

A PSI who holds membership of the Australian Institute of Building Surveyors, the Royal Institution of Chartered Surveyors or the Swimming Pool and Spa Association accumulates two points.

A transitional scheme will apply for applications made to renew or restore a PSI licence within the first six months after 1 September 2012. This transitional scheme will reflect the following:

PSIs (excluding licensed building certifiers)

For applications made on or after:

- 1 September 2012 and before 1 December 2012: no points are required
- 1 December 2012 and before 1 January 2013: two points will be required
- 1 January 2013 and before 1 February 2013: four points will be required
- 1 February 2013: six points will be required.

Building certifiers

For an application made on or after:

- 1 September 2012 and before 1 December 2012: no points are required
- 1 December 2012 and before 1 January 2013: two points will be required
- 1 January 2013: four points will be required.

CPD activities will consist of workshops, courses, seminars or other relevant activities approved by the Pool Safety Council (PSC). Once a CPD activity is approved it will be published on www.hpw.qld.gov.au The PSC will also have the power to approve CPD activities undertaken prior to commencement of the regulation for a limited period of time. PSIs who may have undertaken activities in the past six months are encouraged to monitor the website to identify if their activities have been recognised.

For further information about the CPD requirements contact the PSC on 1800 340 634.

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Reasonably satisfied

Under section 246AW(1) of the BA, a PSI may only give a pool safety certificate for a regulated pool if they have inspected the pool and are reasonably satisfied that the pool is a complying pool. The PSC is aware that some PSIs may be interpreting the term ‘reasonably satisfied’ to mean that they can apply a tolerance to the pool safety standard.

For example, a PSI might think that a horizontal surface projection of 13 millimetres within the non-climbable zone of the pool barrier would be acceptable. This is noncompliant with the pool safety standard, which only allows horizontal projections of up to 10 millimetres. A PSI should not consider that the term ‘reasonably satisfied’ means that compliance can be accepted where it is ‘reasonably’ close to the standard.

The PSC considers that the term ‘reasonably satisfied’ should be interpreted to mean that when a PSI is assessing a pool barrier, they have undertaken reasonable steps and measures to determine the barrier’s compliance with each aspect of the pool safety standard. For example, a PSI may conduct the manual squeeze test on a reasonable selection of the vertical members on each panel of the pool barrier. Based on the successful result of these tests, the PSI may be reasonably satisfied that the barrier meets the strength and rigidity requirements of the pool safety standard without testing every vertical member on the barrier.

Conflicts of interest

To date, the PSC has examined a number of allegations about PSIs with potential conflicts of interest. Many of these matters have resulted in disciplinary action for the PSI for breaches of the BA and the code of conduct for PSIs. Such action has included fines ranging from \$300 to \$400 and official reprimands.

It is the responsibility of all PSIs to ensure that they do not perform pool safety inspection functions where a conflict of interest may exist.

A pool safety inspection function includes any of the following:

- inspecting a regulated pool to decide whether to issue a pool safety certificate
- carrying out minor repairs arising from an inspection of the pool
- issuing a pool safety certificate
- issuing a nonconformity notice.

Some examples of potential conflicts of interest include, but are not limited to, the PSI:

- inspecting work (other than minor repairs) that they have carried out themselves
- inspecting a property they own or lease
- inspecting a property owned or leased by a family member of the PSI
- having a direct or indirect pecuniary (financial or economic) interest in a building on the subject land.

Should a PSI have any concerns about a potential conflict of interest, they should contact the PSC.

Nonconformity notices

It has come to the attention of the PSC that some PSIs may be confused about when a PSI is required to issue a nonconformity notice, particularly if the PSI is licensed to perform minor repairs. Section 246AB of the BA states that if a PSI is not satisfied that a pool barrier complies with the pool safety standard, the PSI must, within two business days, issue a nonconformity notice to the pool owner. The only exceptions to the requirement for giving a nonconformity notice within two business days after the initial inspection are where:

- the pool is made compliant and, after reinspection within two business days of the initial inspection, the PSI is satisfied the pool complies
- the pool owner and the PSI agree within two business days that the PSI will undertake particular minor repairs and within 20 business days these repairs are done to make the pool barrier compliant, and on reinspection the PSI is reasonably satisfied it is a complying pool
- the pool owner and the PSI agree within two business days after the initial inspection that the PSI will undertake particular minor repairs and the repairs are not completed or do not make the pool compliant (in which case the nonconformity notice may be given within 22 business days after the initial inspection).

The rule applies uniformly to all reinspections following the issue of a nonconformity notice. Even if identical defects are found, each time the PSI inspects a pool barrier they are required to issue a fresh nonconformity notice, unless one of the exceptions applies. Nonconformity notices are used to ensure owners are aware of outstanding matters of noncompliance after each inspection.



Drowning statistics

The current pool safety laws commenced on 1 December 2010. They are aimed at preventing children under five years of age from drowning in swimming pools. Since the introduction of these laws, three young children have lost their lives in swimming pools in a 19-month period. By comparison, 12 young children drowned in the 17 months prior to 1 December 2010.

In 2010–11 two reported deaths of young children were caused by drownings in domestic swimming pools. This is the lowest number of pool drownings for one to four year olds since 2004–05, which also recorded two deaths (source Annual Report: Deaths of children and young people, Queensland, 2010–2012).

In 2011–12, the department was notified of one young child drowning in a domestic swimming pool. This early data indicates the laws are effective in saving young children's lives.

Investigations

Since the last *Newsplash* in early August 2012, the PSC has finalised seven complaints about PSIs. The PSC decided to:

- take no further action in four of the seven cases
- formally reprimand one PSI
- impose monetary fines in two cases.

The two cases where a monetary fine was imposed involved a PSI failing to issue a nonconformity notice for a noncompliant pool within two business days after the inspection.

Current figures

As at 23 August 2012

Registered pools	314 870
Licensed PSIs	935
Pool safety certificates	53 499

* Penalty unit values are subject to change



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