

South Australia

# South Australian Public Health (General) Regulations 2013

under the *South Australian Public Health Act 2011*

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### Legislative history

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *South Australian Public Health (General) Regulations 2013*.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *South Australian Public Health Act 2011*;

*occupier*, in relation to premises, means a person who has, or is entitled to, possession or control of the premises and includes a person who is in charge of the premises;

*public spa pool* means—

- (a) a spa pool that is for the use of persons on payment of an admission or membership fee; or
- (b) a spa pool that is for the use of persons staying at a hotel, motel, guesthouse, camping or caravan ground or similar place where accommodation is provided on a temporary basis; or
- (c) a spa pool that is for the use of persons who attend, or live or work on, the premises where the spa pool is located, but not if it is used in connection with a single private residence and is only available for the use of residents or their guests;

*public swimming pool* means—

- (a) a swimming pool that is for the use of persons on payment of an admission or membership fee or a fee for swimming instruction; or
- (b) a swimming pool that is for the use of persons staying at a hotel, motel, guesthouse, camping or caravan ground or similar place where accommodation is provided on a temporary basis; or
- (c) a swimming pool that is for the use of persons who attend, or live or work on, the premises where the swimming pool is located, but not if it is used in connection with a single private residence and is only available for the use of residents or their guests;

*spa pool* means a pool or other water-retaining structure designed for human use—

- (a) that is capable of holding more than 680 litres of water; and
- (b) that incorporates, or is connected to, equipment that is capable of heating water contained in it and injecting air bubbles or water into it under pressure so as to cause general turbulence in the water;

*swimming pool* includes a waterslide pool, wave pool, hydrotherapy pool or other similar structure designed for human use, other than—

- (a) a spa pool; or
- (b) a tidal pool or other similar structure where water flows in and out according to the operation of natural forces;

*waste* does not include wastewater or sewage the collection and management of which is governed by the *South Australian Public Health (Wastewater) Regulations 2013* or the *Water Industry Act 2012*.

- (2) For the purposes of these regulations, a public swimming pool or public spa pool will only be taken to have been closed to the public if—
  - (a) a barrier, sign or similar device is erected or displayed in a conspicuous place near the pool indicating that the pool is closed to the public; or
  - (b) public access to the pool is prevented by means of closed and locked doors or gates.

## **Part 2—General provisions supporting Act**

### **4—State public health plan (section 50 of Act)**

For the purposes of section 50(9) of the Act, the State Public Health Plan, or an amendment to the State Public Health Plan, must be published by notice in the Gazette.

### **5—Procedure for making policies (section 54 of Act)**

For the purposes of section 54(4) of the Act, a policy, or an amendment to a policy, must be published by notice in the Gazette.

### **5A—Prescribed rate of interest (section 93(5) of Act)**

- (1) For the purposes of subsection (5) of section 93 of the Act, the prescribed rate of interest is the cash advance debenture rate for the financial year in which the relevant period under that subsection expires.
- (2) In subregulation (1)—

*cash advance debenture rate* has the same meaning as in the *Local Government Act 1999*.

### **5B—Non-compliance with notices (section 93(6) of Act)**

- (1) This regulation prescribes the scheme that applies for the purposes of section 93(6) of the Act.
- (2) For the purposes of the creation of a charge on land under section 93 of the Act, the relevant authority may deliver to the Registrar-General a notice, in a form determined by the Minister on the recommendation or with the approval of the Registrar-General—
  - (a) setting out the amount recoverable under section 93; and
  - (b) setting out the land in relation to which the relevant action was taken; and
  - (c) requesting the Registrar-General to make a notation under this regulation in relation to the relevant land.
- (3) On receipt of a notice under subregulation (2), the Registrar-General must, in relation to the land referred to in the notice, enter an appropriate notation in the Register Book or, in the case of land not under the provisions of the *Real Property Act 1886*, against the land in the General Registry Office.
- (4) When an entry is made under subregulation (3), a charge over real property is created.

- (5) The charge—
- (a) in the case of a charge in favour of the Chief Public Health Officer—will correspond to a mortgage in favour of the Crown over the relevant land that ranks ahead of any mortgage, encumbrance or charge registered after the charge is noted under this regulation; and
  - (b) in the case of a charge in favour of the council—will be the same as a charge created under section 177 of the *Local Government Act 1999*.
- (6) In a case where subregulation (5)(a) applies, the Chief Public Health Officer will have the same powers of sale of the relevant land as are given by the *Real Property Act 1886* to a mortgagee under a mortgage in respect of which default has been made in the payment of principal (and a sale by the Chief Public Health Officer is, for the purposes of that Act, to be treated as if it were such a sale by a mortgagee).
- (7) In a case where subregulation (5)(b) applies, the council will be able to recover the amount as if it were a rate constituting a charge on land under section 144(2) of the *Local Government Act 1999*.
- (8) If or when the amount to which the charge relates is paid, the relevant authority must, by further notice to the Registrar-General (being a notice in a form determined by the Minister on the recommendation or with the approval of the Registrar-General), cancel the charge.

## **6—Public access to codes, standards or other documents (section 109(6)(c) of Act)**

For the purposes of section 109(6)(c) of the Act, copies of codes, standards or other documents referred to or incorporated by these regulations or other regulations under the Act are available for inspection at the principal office of the Department.

## **Part 3—Control of waste**

### **7—Control of waste**

The owner or occupier of premises must take reasonable steps to ensure that waste on the premises that poses or may pose a risk to public health is—

- (a) while on the premises, kept in a receptacle that is—
  - (i) capable of adequately holding the waste and containing any offensive odours and fluids from the waste; and
  - (ii) inaccessible to pests, vermin and other animals; and
  - (iii) impervious to water; and
  - (iv) in a clean and sound condition; and
- (b) made available for collection by a waste collection service as often as may be appropriate having regard to the nature of the waste.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## Part 4—Public swimming pools and spa pools

### 8—Public swimming pools—obligations of owners, occupiers and managers

- (1) A public swimming pool must, at all times while it is open for use, be operated and maintained in accordance with the following requirements:
  - (a) the pool water must be disinfected by chlorine or by some other method approved in relation to pools of that class by the Standard for the Operation of Swimming Pools and Spa Pools in South Australia prepared by the South Australian Health Commission in December 1991 as in force from time to time;
  - (b) if chlorine is used to disinfect the pool water—
    - (i) the total residual free chlorine concentration in the water must be at least—
      - (A) if the chlorine is not stabilised by the use of cyanuric acid and the water temperature does not exceed 26°C—1 mg/L; and
      - (B) if the chlorine is stabilised by the use of cyanuric acid and the water temperature does not exceed 26°C—2 mg/L; and
      - (C) if the chlorine is not stabilised by the use of cyanuric acid and the water temperature exceeds 26°C—2 mg/L; and
      - (D) if the chlorine is stabilised by the use of cyanuric acid and the water temperature exceeds 26°C—4 mg/L; and
    - (ii) the total chlorine concentration in the water other than residual free chlorine must not exceed 1 mg/L; and
    - (iii) cyanuric acid must not be used to stabilise the chlorine if the pool is located in an enclosed structure; and
    - (iv) if cyanuric acid is used to stabilise the chlorine, the concentration of cyanuric acid in the water must be maintained between 30 mg/L and 50 mg/L;
  - (c) the pH of the water must be maintained between 7.2 and 7.6;
  - (d) the alkalinity of the water (calculated as a measure of the total amount of dissolved alkaline compounds in the water) must be maintained at a concentration of between 60 mg/L and 200 mg/L;
  - (e) if a method other than chlorine is used to disinfect the pool water, the relevant requirements of the Standard for the Operation of Swimming Pools and Spa Pools in South Australia prepared by the South Australian Health Commission in December 1991 as in force from time to time must be complied with, except to the extent of any inconsistency with another provision of these regulations;
  - (f) the pool must be fitted with—
    - (i) a filtration system that—

- (A) provides a continuous circulation of water through the filter; and
  - (B) passes all water in the pool through the filter as often as is necessary to ensure that the water in the pool complies with the minimum disinfection levels prescribed by this regulation and in any event—
    - in the case of a waterslide pool—at least once in every hour;
    - in the case of a wading pool or hydrotherapy pool—at least once in every 2 hours;
    - in any other case—at least once in every 6 hours; and
  - (C) maintains the water in a clean, clear condition so that a matt black disc, or a disc that contrasts with the colour of the bottom of the pool, 150 mm in diameter, is (or would be) clearly visible from above the water at the deepest part of the pool; and
- (ii) automatic equipment that continuously analyses and controls the level of disinfectant in the water and the pH level of the water (at least to the levels referred to in this regulation).
- (2) The following steps must be taken to monitor compliance with subregulation (1) at such intervals as are reasonably necessary having regard to the size of the pool, level of use of the pool, ambient air temperature and any other relevant factor (but, in any event, at least once in every day that the pool is or has been open for use):
- (a) the results of the analysis made by the equipment referred to in subregulation (1)(f)(ii) must be read and recorded; and
  - (b) manual tests must be carried out to verify the accuracy and reliability of the equipment referred to in subregulation (1)(f)(ii) and the results of those tests recorded; and
  - (c) other manual tests in relation to matters not measured by that equipment must be carried out and the results of those tests recorded.
- (3) Records made under subregulation (2) must be kept for a period of 2 years and made available for inspection at any time on request by an authorised officer.
- (4) If, at any time while the pool is open for use, the filtration system ceases to operate or a reading taken under this regulation indicates that the total chlorine concentration in the water exceeds 10 mg/L, the pool must immediately be closed to the public.
- (5) Subregulation (1)(f)(i)(B) does not apply to the swimming pools commonly known as the Naracoorte and Millicent swimming lakes.

- (6) If a requirement under this regulation is not complied with in respect of a public swimming pool, the owner and occupier of the premises on which the pool is located and the person responsible for the care, control and management of the pool are each guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (7) It is a defence to a charge of an offence against this regulation if the defendant proves that—
- (a) the alleged offence was not committed intentionally; and
  - (b) did not result from a failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (8) Without limitation, the matters referred to in subregulation (7)(b) will be proved by the owner or occupier of the premises on which the pool is located if he or she proves that he or she had taken reasonable care to ensure that the person who was responsible for the care, control and management of the pool at the time of the alleged offence was a person with appropriate knowledge and experience in matters relating to the care, control and management of public swimming pools.

## **9—Public spa pools—obligations of owners, occupiers and managers**

- (1) A public spa pool must, at all times while it is open for use, be operated and maintained in accordance with the following requirements:
- (a) the pool water must be disinfected by chlorine or by a method specified by the Standard for the Operation of Swimming Pools and Spa Pools in South Australia prepared by the South Australian Health Commission in December 1991 as in force from time to time;
  - (b) if chlorine is used to disinfect the pool water—
    - (i) the total residual free chlorine concentration in the water must be at least 4 mg/L; and
    - (ii) the total chlorine concentration in the water other than residual free chlorine must not exceed 1 mg/L; and
    - (iii) cyanuric acid must not be used to stabilise the chlorine;
  - (c) the pH of the water must be maintained between 7.2 and 7.6;
  - (d) the alkalinity of the water (calculated as a measure of the total amount of dissolved alkaline compounds in the water) must be maintained at a concentration of between 60 mg/L and 200 mg/L;
  - (e) if a method other than chlorine is used to disinfect the pool water, the applicable requirements of the Standard for the Operation of Swimming Pools and Spa Pools in South Australia prepared by the South Australian Health Commission in December 1991 as in force from time to time must be complied with, except to the extent of any inconsistency with another provision of these regulations;
  - (f) the pool must incorporate a weir off-take or skimmer system that continuously takes away surface water while the pool is in use;

- (g) the pool must be fitted with—
  - (i) a filtration system that—
    - (A) provides a continuous circulation of water through the filter; and
    - (B) passes all water in the pool through the filter at least once in every 30 minutes; and
    - (C) maintains the water in a clean, clear condition so that a disc measuring 150 millimetres in diameter that is matt black or contrasts with the colour of the bottom of the pool is (or would be) clearly visible at the deepest part of the pool when there is no turbulence; and
  - (ii) automatic equipment that continuously analyses and controls the level of disinfectant in the water and the pH level of the water (at least to the levels referred to in this regulation).
- (2) The following steps must be taken to monitor compliance with subregulation (1) at such intervals as are reasonably necessary having regard to the size of the pool, level of use of the pool, ambient air temperature and any other relevant factor (but, in any event, at least once in every day that the pool is or has been open for use):
  - (a) the results of the analysis made by the equipment referred to in subregulation (1)(g)(ii) must be read and recorded; and
  - (b) manual tests must be carried out to verify the accuracy and reliability of the equipment referred to in subregulation (1)(g)(ii) and the results of those tests recorded; and
  - (c) other manual tests in relation to matters not measured by that equipment must be carried out and the results of those tests recorded.
- (3) Records made under subregulation (2) must be kept for a period of 2 years and made available for inspection at any time on request by an authorised officer.
- (4) The water in a public spa pool must be replaced—
  - (a) at the rate of at least 20% every day during which it is open for use; or
  - (b) at least once in every week by completely draining the pool.
- (5) A public spa pool must be cleaned at least once in every week during which it has, at any time, been open for use.
- (6) If, at any time while a public spa pool is open for use, the filtration system ceases to operate or a reading taken under this regulation indicates that the total chlorine concentration in the water exceeds 10 mg/L, the spa pool must immediately be closed to the public.
- (7) If a requirement under this regulation is not complied with in respect of a public spa pool, the owner and occupier of the premises on which the pool is located and the person responsible for the care, control and management of the pool are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (8) It is a defence to a charge of an offence against this regulation if the defendant proves that—
- (a) the alleged offence was not committed intentionally; and
  - (b) did not result from a failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (9) Without limitation, the matters referred to in subregulation (8)(b) will be proved by the owner or occupier of the premises on which the pool is located if he or she proves that he or she had taken reasonable care to ensure that the person who was responsible for the care, control and management of the pool at the time of the alleged offence was a person with appropriate knowledge and experience in matters relating to the care, control and management of public spa pools.

## 10—Obligations of public

The following provisions apply to the use of public swimming pools and spa pools:

- (a) a person must not enter a public swimming pool or public spa pool if—
  - (i) the person is suffering from an open wound or sore; or
  - (ii) the person knows, or has reasonable cause to suspect, that he or she is suffering from a notifiable condition that could be transmitted to others using the pool; or
  - (iii) the person, or any clothing that he or she is wearing, are not reasonably clean;
- (b) a person must not allow a child to enter a public swimming pool or public spa pool if the person knows, or has reasonable cause to suspect, that—
  - (i) the child is suffering from an open wound or sore; or
  - (ii) the child is suffering from a notifiable condition that could be transmitted to others using the pool; or
  - (iii) the child, or any clothing that the child is wearing, are not reasonably clean;
- (c) a person must not, while in a public swimming pool or public spa pool, spit, squirt water or release bodily material (other than any such material released through the ordinary course of being in the water);
- (d) a person who owns or has the care or control of an animal must not allow the animal to enter a public swimming pool or public spa pool.

Maximum penalty: \$1 250.

## 11—Prescribed guidelines

Pursuant to section 109(2)(o) of the Act, the following guidelines are, on the recommendation of the Chief Public Health Officer, prescribed to assist in the administration or operation of this Part:

- (a) Code of Practice for the Provision of Facilities for Sanitation and Personal Hygiene prepared by the South Australian Health Commission in October 1991 as in force from time to time;

- (b) Guideline for the Inspection and Maintenance of Swimming Pools and Spa Pools in South Australia prepared by the South Australian Health Commission in February 1992 as in force from time to time.

## Part 4A—Miscellaneous

### 11A—Refund and recovery of fees

- (1) A relevant authority may refund, reduce or remit payment of a prescribed fee if the relevant authority considers that it is appropriate in the circumstances.
- (2) A prescribed fee payable to a relevant authority may be recovered by the relevant authority by action in a court of competent jurisdiction as a debt due to the relevant authority.
- (3) In this regulation—  
*relevant authority* means the relevant authority within the meaning of—
  - (a) the *South Australian Public Health (Legionella) Regulations 2013*; or
  - (b) the *South Australian Public Health (Wastewater) Regulations 2013*,  
as the case may be.

## Part 5—Transitional provisions

### 12—Interpretation

In this Part—

*repealed Act* means the *Public and Environmental Health Act 1987*;

*revoked Legionella regulations* means the *Public and Environmental Health (Legionella) Regulations 2008*;

*revoked Waste Control regulations* means the *Public and Environmental Health (Waste Control) Regulations 2010*.

### 13—Notices under repealed Act

- (1) A notice issued by the authority and in force under Part 3 of the repealed Act immediately before the commencement of this clause will be taken, on that commencement, to be a notice issued by the relevant authority under section 92 of the *South Australian Public Health Act 2011*.
- (2) The notice under the *South Australian Public Health Act 2011* is subject to the same conditions as the notice under the repealed Act.

### 14—Notices under revoked regulations

- (1) A notice issued by the authority and in force under the revoked Legionella regulations (other than a notice issued under regulation 15(2) or 16(1)) immediately before the commencement of this clause will be taken, on that commencement, to be a notice issued by the relevant authority under section 92 of the *South Australian Public Health Act 2011*.
- (2) The notice under the *South Australian Public Health Act 2011* is subject to the same conditions as the notice under the revoked Legionella regulations.

- (3) A notice issued by the authority and in force under regulation 19 of the revoked Waste Control regulations immediately before the commencement of this clause will be taken, on that commencement, to be a notice issued by the relevant authority under section 92 of the *South Australian Public Health Act 2011*.
- (4) The notice under the *South Australian Public Health Act 2011* is subject to the same conditions as the notice under the revoked Waste Control regulations.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *South Australian Public Health (General) Regulations 2013* revoked the following:

*Public and Environmental Health (General) Regulations 2006*

### Principal regulations and variations

New entries appear in bold.

| Year        | No         | Reference                            | Commencement         |
|-------------|------------|--------------------------------------|----------------------|
| 2013        | 41         | <i>Gazette 23.5.2013 p2007</i>       | 16.6.2013: r 2       |
| 2015        | 165        | <i>Gazette 18.6.2015 p2856</i>       | 18.6.2015: r 2       |
| <b>2020</b> | <b>167</b> | <b><i>Gazette 4.6.2020 p3020</i></b> | <b>1.7.2020: r 2</b> |

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision    | How varied   | Commencement     |
|--------------|--|------------------|
| Pt 1         |  |                  |
| <i>r 2</i>   | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>18.6.2015</i> |
| Pt 2         |  |                  |
| rr 5A and 5B | inserted by 165/2015 r 4   | 18.6.2015        |
| <b>Pt 4A</b> | <b>inserted by 167/2020 r 4</b>                                    | <b>1.7.2020</b>  |
| <i>Sch 1</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>18.6.2015</i> |

### Historical versions

18.6.2015