

South Australia

Planning, Development and Infrastructure (Swimming Pool Safety) Regulations 2019

under the *Planning, Development and Infrastructure Act 2016*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (Swimming Pool Safety) Regulations 2019*.

3—Interpretation

In these regulations—

Act means the *Planning, Development and Infrastructure Act 2016*.

Part 2—Swimming pools—designated safety requirements

4—Swimming pool safety features

- (1) For the purposes of the definition of *swimming pool safety features* in section 3(1) of the Act, the following features are prescribed (insofar as they are relevant to the particular circumstances taking into account the provisions of the Building Code):
 - (a) fences;
 - (b) barriers;
 - (c) water recirculation systems;
 - (d) secondary outlets from a swimming pool;

- (e) warning notices.
- (2) For the purposes of these regulations, in relation to a swimming pool constructed after the commencement of this subregulation, temporary fencing will not be regarded as a designated safety feature installed and maintained in accordance with the relevant requirements applying under these regulations (except as provided in subregulation (3)) after the period of 2 months has elapsed from the completion of construction of the swimming pool.
- (3) The designated owner of a swimming pool will not, while a swimming pool fence is being maintained or repaired, be regarded as having installed and maintained designated safety features in accordance with the relevant requirements applying under these regulations, unless the designated owner ensures that temporary fencing is installed and maintained such that those requirements are satisfied in respect of the swimming pool during the period of maintenance or repair.

Note—

In order for temporary fencing to be regarded as having been installed and maintained in accordance with the relevant requirements applying under these regulations, the temporary fencing would need to satisfy the relevant requirements applying, such as requirements relating to the minimum height of the fencing, the maximum distance between vertical bars or posts, the securing of openings by child proof locks (or other effective locking mechanisms) and the absence of foot or handholds.

5—Prescribed event

- (1) For the purposes of the definition of *prescribed event* in section 156(1) of the Act, the transfer of title to land where a swimming pool is situated is prescribed as constituting a prescribed event.
- (2) For the purposes of subregulation (1)—
 - (a) if a formal settlement forms part of the processes associated with a transfer of title to land, the title will be taken to be transferred at the time of settlement; and
 - (b) the transfer of the interest of—
 - (i) a unit holder of a unit under the *Strata Titles Act 1988*; or
 - (ii) an owner of a community lot under the *Community Titles Act 1996*; or
 - (iii) an occupant of a unit in a building unit scheme,will be taken to be a transfer of title of land; and
 - (c) land will be taken to include a unit under the *Strata Titles Act 1988*, a community lot under the *Community Titles Act 1996* and a unit in a building unit scheme.

6—Requirements for designated safety features for swimming pools

- (1) For the purposes of section 156(2) of the Act, the following requirements are prescribed:
 - (a) in relation to a swimming pool approved, constructed or installed before 1 July 1993—the requirements set out in a Ministerial building standard published for the purposes of this regulation;

- (b) in relation to any other swimming pool—the requirements relating to the construction and safety of swimming pools under the Building Code, as it applied at the time the application for a relevant consent or approval was made (being an application that related to the construction of the swimming pool or to some other form of building work where designated safety features are relevant).
- (1a) For the purposes of section 156(3)(a) of the Act—
- (a) the requirements under subregulation (1) are prescribed; and
 - (b) the designated owner of a swimming pool must ensure that designated safety features are installed and maintained in accordance with the relevant requirements under subregulation (1).
- (2) For the purposes of section 156(3)(b)(i) of the Act, the designated owner of an existing swimming pool must ensure that designated safety features are installed in accordance with the relevant requirements under subregulation (1) before the occurrence of a prescribed event.

7—Designated safety requirements—construction of designated safety features

If building work that involves the construction of a swimming pool is being carried out within the area of a council, then—

- (a) a licensed building work contractor who is carrying out the work or who is in charge of carrying out the work; or
- (b) if there is no such licensed building work contractor, the designated owner of the swimming pool,

must ensure that the construction of all relevant designated safety features is completed on or before the first of the following dates:

- (c) the date that falls 2 months after completion of the construction of the swimming pool;
- (d) the date on which the pool is filled with water.

8—Expiation of offences

For the purposes of Schedule 5 item 46 of the Act—

- (a) an expiation fee of \$750 is fixed in respect of an offence against section 156(4) of the Act; and
- (b) authorised officers under the Act, and authorised persons appointed under section 260 of the *Local Government Act 1999*, are designated as persons who are authorised to give expiation notices with respect to an expiation of an offence against section 156(4) of the Act.

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.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2019	175	<i>Gazette 27.6.2019 p2553</i>	1.7.2019: r 2
2019	225	<i>Gazette 31.10.2019 p3620</i>	31.10.2019: r 2
2020	218	<i>Gazette 18.6.2020 p3446</i>	18.6.2020: r 2
2021	25	<i>Gazette 4.3.2021 p843</i>	4.3.2021: r 2

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>31.10.2019</i>
Pt 2		
r 4		
r 4(1)	r 4 redesignated as r 4(1) by 25/2021 r 4	4.3.2021
r 4(2) and (3)	inserted by 25/2021 r 4	4.3.2021
r 6		
r 6(1)	varied by 225/2019 r 4(1)	31.10.2019
	varied by 25/2021 r 5	4.3.2021
r 6(1a)	inserted by 225/2019 r 4(2)	31.10.2019
r 7	varied by 218/2020 r 4	18.6.2020

Historical versions

31.10.2019
18.6.2020