

South Australia

Development (Swimming Pool Safety) Variation Regulations 2013

under the *Development Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Development (Swimming Pool Safety) Variation Regulations 2013*.

2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on 1 January 2014.
- (2) Regulation 5 will come into operation on 1 April 2014.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Development Regulations 2008*

4—Variation of regulation 74—Notifications during building work

- (1) Regulation 74(1)—after paragraph (ca) insert:
- (cb) without limiting a preceding paragraph—1 business day's notice of the following:
 - (i) the completion of construction of a swimming pool (before the pool is filled with water);
 - (ii) the completion of construction of a safety fence or barrier for a swimming pool;
 - (iii) in relation to some other form of building work where swimming pool safety features (within the meaning of section 71AA of the Act) are relevant—the completion of that aspect or those aspects of the building work relating to the swimming pool safety features;

- (2) Regulation 74(8), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of a breach of a requirement under subregulation (1)(cb)—\$2 500;
- (b) in any other case—\$10 000.

Expiation fee:

- (a) in the case of a breach of a requirement under subregulation (1)(cb)—\$210;
- (b) in any other case—\$500.

5—Variation of regulation 76D—Swimming pool safety

Regulation 76D—after subregulation (4) insert:

- (4a) For the purposes of subsection (7) of section 71AA of the Act, a council must establish a swimming pool inspection policy.
- (4b) A swimming pool inspection policy established under subregulation (4a) must comply with the following requirements relating to minimum levels of inspection of swimming pools (including safety fences and barriers associated with such swimming pools) within the area of the council:
 - (a) at least 80% of swimming pools constructed over the course of the year must be inspected within 2 weeks of the council being notified of the completion of—
 - (i) in the case of a swimming pool the construction of which required the construction of a safety fence or barrier—the construction of the safety fence or barrier; or

- (ii) in any other case—the construction of the swimming pool;
- (b) the remaining 20% of swimming pools constructed over the course of the year must be inspected within 2 months of the council being notified of the completion of—
 - (i) in the case of a swimming pool the construction of which required the construction of a safety fence or barrier—the construction of the safety fence or barrier; or
 - (ii) in any other case—the construction of the swimming pool.

6—Insertion of regulation 76E

After regulation 76D insert:

76E—Swimming pool safety requirements—construction of fences and barriers

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 owner of the swimming pool (within the meaning of section 71AA of the Act),

must ensure that the construction of all relevant safety fences and barriers is completed within 2 months of the completion of the construction of the swimming pool.

7—Variation of Schedule 1A—Development that does not require development plan consent

- (1) Schedule 1A, clause 5—after subclause (2) insert:
 - (3) The construction or alteration of, or addition to, a safety fence or barrier associated with a swimming pool within the ambit of this clause.
- (2) Schedule 1A, clause 6—after its present contents (now to be designated as subclause (1)) insert:
 - (2) The construction or alteration of, or addition to, a safety fence or barrier associated with a spa pool within the ambit of this clause.

8—Variation of Schedule 5—Requirements as to plans and specifications

Schedule 5, clause 1(1)—after paragraph (f) insert:

- (fa) if the building work involves the construction or alteration of, or addition to—
 - (i) a swimming pool or spa pool; or

- (ii) a safety fence or barrier for a swimming pool or spa pool, details relating to the proposed swimming pool, spa pool, fence or barrier (as the case requires); and

9—Variation of Schedule 6—Fees

- (1) Schedule 6, item 1(1)(c)—after "certifier" insert:

other than development consisting solely of a swimming pool, spa pool, or a safety fence or barrier for a swimming pool or spa pool; and

- (2) Schedule 6, item 1(1)—after paragraph (c) insert:

- (d) if the development involves the construction or alteration of, or addition to, a swimming pool or spa pool, or a safety fence or barrier for a swimming pool or spa pool \$170.00

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 19 December 2013

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