

INFORMATION FOR MUTUAL RECOGNITION APPLICANTS

Mutual recognition and NSW swimming pool legislation

The swimming pool laws in NSW are more complex than those in other states. In NSW, the Australian Standard to be applied during an inspection will depend on the age of the swimming pool, whether or not an exemption applies, and whether or not the swimming pool has been substantially altered or rebuilt at any time. For example, the Australian Standards used in NSW are AS 1926-1986, AS 1926.1-2007, AS 1926.2- 2007 and AS 1926.1-2012.

People seeking to inspect and certify pool child-resistant barriers within NSW under the *Swimming Pools Act 1992* are required to have a clear understanding of the legislation and the legislative obligations, and registration and use of the NSW Swimming Pool Register operated by the NSW Office of Local Government.

The Building Professionals Board promotes education and awareness as a way to avoid legislative breaches, poor practice and complaints. In the interests of public safety and your own professional practice, you are strongly encouraged to complete the NSW E1 Swimming Pool Certification course with an approved provider to properly prepare you for the requirements of swimming pool certification work in NSW. Details can be found at www.bpb.nsw.gov.au/e1-accredited-certifiers-swimming-pool-certification

The Board will be closely monitoring E1 certifiers to ensure the integrity of the certification system. The Board has significant powers under the *Building Professionals Act 2005* to investigate and discipline accredited certifiers if they fail to undertake their role in accordance with legislative requirements.

If the Board finds an accredited certifier has engaged in unsatisfactory professional conduct or professional misconduct, it can fine the certifier up to \$110,000 and impose conditions against the certifier, or caution, reprimand, suspend or disqualify them, which could also potentially affect a certifier's accreditation status in their home state.

Test your knowledge

1. Which legislation applies to swimming pool barriers in NSW?
2. What is a swimming pool barrier exemption?
3. What are the saving clause provisions? In which circumstances do they apply and when do they cease?
4. Which crucial dates determine the applicable version of the Australian Standards?
5. Where can you find the requirements for doors and windows that form part of the swimming barrier for swimming pools built before 1 September 2008?
6. Can the external wall of an above ground swimming pool be used as part of the barrier in NSW?
7. What are the NSW Building Professionals Board's Code of Conduct requirements?
8. What are the prescribed conditions that apply to E1 certifiers regarding conflicts of interest?



If you were unable to answer all these questions **correctly** and **without hesitation**, you should immediately undertake a Board-approved NSW E1 Swimming Pool Certification course.

Details you need to know

The legislation specific to NSW comes under the *Swimming Pools Act 1992* (SP Act) and the *Swimming Pools Regulation 2008* (SP Regulation).

Certifiers inspecting and certifying swimming pool barriers in NSW are required to know and understand the specific NSW legislation and the different standards and exemptions that apply to swimming pools in NSW. Examples of the specific NSW requirements a certifier must know are:

- the requirements for restricting access to swimming pools and for warning notices
- the requirements of Part 2 of the SP Act
- what the SP Regulation prescribes
- why the SP Regulation allows existing complying pools to comply with the earlier standard
- what standards should apply if an existing child-resistant barrier has been substantially altered or rebuilt – or not
- the relevant timeframes relating to the above
- the SP Regulation's prescribed standards for:
 - swimming pools the construction of which commenced before 1 August 1990
 - existing swimming pools on small properties, on large properties and on waterfront properties the construction of which commenced before 1 July 2010 and
 - spa pools
- the requirements for issuing notices including the timeframes specified under the legislation
- the requirements that apply to moveable dwelling, tourist and visitor accommodation with exemptions as specified within the legislation
- whether the wall of an above ground and out of ground pool can be used as an effective barrier and
- the requirements relating to whether a local authority may grant exemptions.

One final step

If the Building Professionals Board grants your application for accreditation in Category E1 – Swimming Pool Certification, you will need to apply to join the NSW Swimming Pools Register at www.swimmingpoolregister.nsw.gov.au to issue valid certificates of compliance.

The Swimming Pool Register user guidelines can be found at www.olg.nsw.gov.au/public/my-home/swimming-pools/private-certifier-inspections

If you have any further enquiries, please contact the Building Professionals Board on (02) 8522 7800 or bpb-accreditation@bpb.nsw.gov.au