

## FACTSHEET

There are provisions under the *Building Act 1975* (the Act) that allow persons who own a swimming pool or spa to apply for an exemption from a part of the pool safety standard due to disability or impracticality.

### The Law

Under the Act, all swimming pools and spas must be registered with the Queensland Building and Construction Commission (QBCC) in the Pool Safety Register (refer to Council's Fact Sheet on Swimming Pools & Spas).

Additionally, pools and spas are required to have a pool safety barrier that complies with Queensland Development Code Mandatory Part 3.4 (QDC MP3.4), being the pool safety standard for Queensland. This Code is to be read in conjunction with Australian Standard 1926.1.

It is an offence under the Act to fail to comply with the pool safety standard or fail to maintain all barriers for a pool in good condition.

### Exemption provisions

It is recognised that there are circumstances where compliance with part of the pool safety standard may not be suitable due to disability or impracticality. Consequently, the Act allows for eligible owners of pools and spas to apply for an Exemption Notice with Council.

### Exemption Notice due to disability

Under Chapter 8, Division 3 of the Act, an owner of a pool or spa may apply for an exemption from complying with a part of the pool safety standard relating to pool barriers to allow persons with a disability that occupy the premises at which the pool or spa is installed to access and use the facility.

Council may grant an exemption for this purpose where it is satisfied that a person with a disability is an occupier of the premises on which the regulated pool is situated and it is physically impracticable, due to the person's disability, for the person to access the pool if the barrier fully complied with the pool safety standard. Sufficient medical evidence will need to be provided to support an application for an exemption due to disability.



### Exemption Notice due to impracticality

Under Chapter 8, Division 4 of the Act, an owner of a pool or spa may apply for an exemption from complying with a part of the pool safety standard relating to pool barriers due to impracticality. It may be impractical to comply with a part of the pool safety standard as compliance with such would require a building, or part of a building, to be moved or demolished, the location or size of the pool to be changed, or protected vegetation to be removed, for example.

The application must identify the part of the pool safety standard that is not able to be complied with due to impracticality and adequately demonstrate that it is not practicable to comply with this standard, to the satisfaction of Council.

### Exemption and compliance with pool safety standard

The holder of an exemption must comply with the pool safety standard to the extent the exemption does not apply. Furthermore, where conditions are imposed on an exemption notice, the holder must comply with all conditions to protect young children from drowning and immersion injuries. A copy of the exemption notice will be provided to QBCC for their records and Council may revoke this notice where appropriate, in accordance with the provisions of the Act.

To apply for an exemption notice, please complete Council's Exemption Notice Application Form – fees apply.

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