

## Swimming pool safety certificate requirements affect residential conveyancing

Recently, Minister for Infrastructure and Planning, Stirling Hinchliffe, introduced the [Building and Other Legislation Amendment Bill \(No. 2\) 2010](#) to implement stage two of the Government's review into swimming pool safety laws. This Bill includes a number of provisions that will require swimming pool safety certificates be given to purchasers or lessees of residential property.

In a process reminiscent of the electrical safety switch requirements, the amendments will require the seller to give the buyer of a residential property (prior to settlement) either;

- A valid swimming pool safety certificate; or
- An approved form stating that the seller does not have this certificate.

Presumably, approved forms will be available by the time the amendments come into effect. The requirement that an approved form be used will mean that the issue cannot be covered by a special condition in a contract. The buyer will have 90 days post-settlement to obtain a valid swimming pool safety certificate if one is not in effect at time of settlement.

Agreements for residential accommodation in properties with exclusive use pools will also be affected, requiring a valid swimming pool safety certificate be obtained prior to entering into an agreement. Where the pool is a shared pool (eg in a unit complex) the owner must ensure that a pool safety certificate is in place within 90 days after the accommodation agreement is entered into. This may require the involvement of a Body Corporate.

Failure to comply with these requirements will expose the seller or landlord to a fine of up to \$1650.00.

**Importantly, a Licensed Agent will not be entitled to claim commission in relation to a residential accommodation agreement if no valid pool safety certificate is in effect for the premises when the agreement commences. They may also face disciplinary proceedings.**

There are additional requirements for properties with shared pools. The Bill suggests different start dates for these requirements, a body corporate having an additional two years to obtain a swimming pool safety certificate.

A start date has yet to be proclaimed, but Premier, Anna Bligh, has already stated publicly that her preference is for it to begin 1 December 2010.

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