

Information about registered certifiers – swimming pool inspections FACT SHEET

Important: this is a summary document only.

Before signing any contract for certification work, make sure you understand your obligations and what you are agreeing to. The Building Commission NSW website has more information about certifiers.

Under section 31(2) of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*, a contract to carry out certification work must be accompanied by an applicable document made available on the Department of Customer Service website (which includes Building Commission NSW).¹ This is the applicable document for certification work under the *Swimming Pools Act 1992*. It does not apply to swimming pool inspections by a local council.²

This document summarises the statutory obligations of the registered certifier who will assess your swimming pool or spa pool barrier and your obligations as the pool owner. It also sets out the types of information that can be found on the Building Commission NSW's online register of registrations and approvals.

Obligations of registered certifiers

The general obligations of registered certifiers include compliance with their conditions of registration, to hold professional indemnity insurance, comply with a code of conduct and avoid conflicts of interest.

Who does a registered certifier work for?

A registered certifier is a public official and independent regulator, registered by the Building Commissioner.

Certifiers must carry out work in a manner that is impartial and in the public interest, even if this is not in the interests of the applicant, developer, or builder. Receiving a certificate is not guaranteed – the applicant is paying for the certifier to assess the application and determine *whether or not* a certificate can be issued.

It is a serious offence to attempt to bribe or influence a certifier, attracting a maximum penalty of \$110,000 and/or two years imprisonment.

¹ Visit www.nsw.gov.au/departments-and-agencies/building-commission.

² Council officers who inspect pools do not have to be registered as certifiers.

Obligations of the pool owner

As a pool owner, you have the following obligations:

- Visit the NSW Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au to register your pool.
- Appoint, and enter into a contract with, your chosen certifier.
- Pay the certifier's fees before you receive a certificate. The certifier may refuse to issue a certificate of compliance until the fee is paid.
- Ensure your pool barrier continues to comply at all times. If needed, ask your council to see a copy of the Australian Standard that applies to your pool.

What does a registered certifier do?

Your certifier is authorised to carry out all certification work under the *Swimming Pools Act 1992*, but not if the swimming pool achieves compliance with the performance requirements of the Building Code of Australia by means of a performance solution. They cannot issue certificates under the *Environmental Planning and Assessment Act 1979* for newly-constructed pools.

Registered building surveyors (a different type of certifier) also certify pool barriers. Only a building surveyor may certify a pool that has a performance solution under the Building Code of Australia.

Your certifier may issue a certificate of compliance if the pool barrier complies with requirements under the *Swimming Pools Act*. A certificate of compliance is valid for three years and may be required in order to sell or lease the property.

If the swimming pool is non-compliant, the certifier may issue a certificate of non-compliance and a notice of non-compliance setting out the defects.

Notes about swimming pool certificates of compliance

- A certificate of compliance is not an occupation certificate and does not certify that the pool meets all conditions of its original development consent.
- A certificate of compliance becomes invalid if the council issues a direction requiring compliance with the *Swimming Pools Act*.

Non-compliant pool barrier

If a swimming pool is non-compliant, you will need to address the defects set out in the certifier's notice, then contact the certifier (or another certifier or the council) for a reinspection.

If you do not obtain a certificate of compliance within six weeks of the first inspection, the certifier must send the notice of non-compliance to the council, which may take enforcement action.

If the certifier deems the pool to be a significant risk to public safety they must notify the council immediately and the six-week period will not apply.

Minor repairs to pool barriers

Some certifiers can do minor repairs to a non-compliant pool barrier that they have inspected, but only if:

- they are licensed or authorised under the *Home Building Act 1989* to construct a swimming pool or structural landscaping, and
- the repairs cost no more than \$1,000 including materials and labour, and
- the repairs are for the purpose of issuing a certificate of compliance.

You can check if a certifier is authorised to do minor repairs by checking their *Home Building Act* licence or certificate number on the Service NSW website www.service.nsw.gov.au (search 'builder licence').

Questions?

Visit the Swimming Pool Register website www.swimmingpoolregister.nsw.gov.au and follow the 'information' or 'inspections' tabs for more information about swimming pool safety and certification.

You can also visit the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission for information about how to resolve concerns about a certifier.

Note, although Building Commission NSW regulates certifiers, it does not mediate in contract disputes and does not regulate councils carrying out their functions under the *Swimming Pools Act*. Visit the Building Commission NSW website for more information.

Contact us
For more information please contact Building Commission NSW: T: 13 27 00 W: nsw.gov.au and search 'Building Commission NSW'