



Aquatic Facilities

GUIDANCE NOTE 2

Commencement of the Health (Aquatic Facilities) Regulations 2007

Attention local governments, aquatic facility operators, building, design and industry personnel!

The Department of Health (DOH) advises that the *Health (Aquatic Facilities) Regulations 2007* (the new regulations) were published in the *Government Gazette* on Friday 28 September 2007 and came into operation on Monday 1 October 2007.

Availability of the New Regulations and Code

The new regulations are available for purchase (printing/ administration cost only) from the State Law Publisher: 10 William Street, Perth, or can be downloaded from the following internet website address: www.slp.wa.gov.au

The new regulations adopt ((regulation 6 (1)) the Code of Practice for the Design, Construction, Operation, Management and Maintenance of Aquatic Facilities (the Code), which is available at the following DOH internet website address:

http://www.health.wa.gov.au/envirohealth/water/docs/Code_of_Practice_Aquatic_Facilities.pdf

Copies of the Code will also be available, in due course, for inspection at DOH's "Grace Vaughan House" office: 227 Stubbs Terrace, Shenton Park, Western Australia (regulation 32).

Health (Swimming Pools) Regulations 1964 Repealed

The new regulations repeal the *Health (Swimming Pools) Regulations 1964* (the old regulations) ((regulation 34)), notwithstanding continuance of the old regulations operational provisions, exemptions and Executive Director, Public Health (EDPH) powers during the specified transitional periods (regulations 38, 39 & 42).

Key Features of the Health (Aquatic Facilities) Regulations 2007

Other key features of the new regulations include application to a broader range of water body types other than swimming pools (regulation 4 (1) see definition of "water body"). For the first time public spa pools, waterslides and water play-grounds will be captured under health regulations.

The new regulations introduce an aquatic facility classification system, whereby aquatic facilities are divided into class 1-4 aquatic facilities (regulation 4 (1) see also Section 1.2 - Table 1 Classification of Aquatic Facilities of the Code).

The new regulations will not apply to a water body located in an aquatic facility operated by a strata company for a scheme in which there are less than 30 lots. Therefore, swimming pools located in such strata title developments cease to be aquatic facilities for the purposes of the new regulations (regulation 5 (2) (a)).

Furthermore, the new regulations introduce arrangements which require the EDPH to issue certificates of compliance and permits to operate for every aquatic facility within the following timeframes from the commencement of the new regulations (5 months = Class 1 aquatic facilities) and (11 months = classes 2-4 aquatic facilities) (regulations 15, 18 & 36(8)).

The certificate of compliance and permit to operate will confirm EDPH approval/ authorisation of aquatic facility construction compliance, and designate the maximum applicable operational classification for the aquatic facility/ water body (regulations 13 (1), 15, 16 (1) & 18).





One of the primary purposes of issuing operational classification to an operator of an aquatic facility, is to ensure that personnel involved, in the operation, maintenance and management of the aquatic facility hold qualifications required by the respective classification of the Code (regulation 18 (1) (c), (see also Section 6 of the Code)).

Adoption of and Compliance with the Code

Although the regulations adopt the Code; existing public swimming pools that have been approved/ authorised and opened under the provisions of the old regulations, will not be required to comply with the construction requirements of the Code, unless the swimming pool is altered or extended and then compliance will only apply to those aspects of the Code that relate directly to the particular alteration or extension (regulations 4 (1) – see definition of “alter” & 41).

Therefore, only new aquatic facilities will be required to ensure full compliance with the Code.

All aquatic facilities will however be required to comply with the operational requirements of the Code (Sections 5, 6 & 7), after the duration of the assigned new regulations transitional timeframes from the commencement of the new regulations (1 October 2007) e.g. Class 1 aquatic facilities = 6 months (1 April 2008), Class 2-4 aquatic facilities = 12 months (1 October 2008) (regulations 38 (1) & (2) (a) & (b)).

In addition, all aquatic facilities will be required to comply with sections 2.12, 2.22, 2.23, 2.24 and 2.25 of the Code within 24 months from the commencement date (1 October 2007) of the new regulations i.e. 1 October 2009 (regulation 38 (4)).

Aspects of the new regulations requiring compliance from the 1 October 2007

Construction

Construction, alteration and extension of an aquatic facility shall be undertaken in accordance with the requirements of the Code, whereby applications for construction, alteration or extension are to be lodged with the EDPH using the approved form (regulations 8 (3) (a) & 9 (1)).

Please note that approved forms will be available in due course.

Water Sampling

The environmental health officer of each local government shall collect water samples from every aquatic facility water body once a month (regulation 21 (1) (a)).

A “water body” for this purpose includes a spa pool, swimming pool, swimming bath, water slide, wave pool, and any other aquatic amenity or facility that is controlled or used by or in connection with any club, school, business, association or body corporate (regulation 4 (1) – see definition of “water body”).

However, please note that a water body in connection with a body corporate does not include those which are operated by a strata company for a scheme in which there are less than 30 lots (regulation 5 (2) (a)).

The local government may apply to the EDPH for an exemption from the monthly water sampling requirement for a specific aquatic facility, or a number of different aquatic facilities; however, the local government must, as part of the exemption application process, ensure that a third party will collect the water samples in accordance with the requirements specified in the new regulations e.g. send to Path West Waters laboratory/ equivalent (NATA accredited laboratory) (regulations 21 (3), (4) & (6)).

Improvement Orders

The EDPH, or the environmental health officer of a local government, may issue an operator of an aquatic facility operating within the district of the relevant local government with an improvement order.

From the commencement date of the new regulations (1 October 2007), improvement orders may only be issued on the basis that the aquatic facility is a risk to the health of persons using the facility or the operation of it is likely to cause such a risk (regulation 22 (1) (b)).





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At the completion of the transitional requirement (regulation 38), improvement orders will also be able to detail matters in relation to the operational requirements (Sections 5, 6 and 7) and design and construction requirements (clauses 2.12, 2.22, 2.23, 2.24 & 2.25) of the Code.

An Improvement Order must be issued using the approved form (please note that this form is only available to local governments) and must detail all prescribed information (regulations 4 (1) – see definition of “approved form” and 22 (1)).

Closure Order

The environmental health officer of each local government may issue the operator of an aquatic facility operating within the local government district with a closure order in respect of the facility if satisfied that the operator has failed to ensure that an improvement order given in respect of the facility is complied with (regulation 23 (1) (b)).

Once again closure orders in relation to the operational requirements (sections 5, 6 and 7) and design and construction requirements (clauses 2.12, 2.22, 2.23, 2.24 & 2.25) of the Code cannot be issued, until the completion of the transitional requirement periods (regulation 38).

Please note that the new regulations require the local government to give the EDPH a copy of the closure order as soon as practicable, and in any event within 48 hours after the closure order has been given (regulation 23 (3)). The EDPH will then need to confirm, or cancel (as appropriate) the closure order within the 48 hour period, or the closure order will automatically expire (regulations 23 (4) & (5)).

A Closure Order must be issued using the approved form (please note that this form is only available to local governments) and must detail all prescribed information (regulations 4 (1) – see definition of “approved form” and 23 (6)).

Patron/ Operator Responsibilities

- 1) A person must not enter, or attempt to use, a water body of an aquatic facility if the person is –
 - a) Suffering from any gastrointestinal disease, skin infection, or other disease that is communicable in an aquatic environment (Please note that this does not apply to a person who has a written statement from a medical practitioner to the effect that the person will not be a health hazard to other uses of the water body); or
 - b) In an unclean condition; or
 - c) Wearing unclean clothes; or
 - d) Under the apparent influence of alcohol, drugs or alcohol and drugs; or
 - e) If the person is a baby or young child who ordinarily wears a nappy – not wearing an aqua-nappy.

(see regulations 24 (1) & (2))

- 2) A person must not pollute, or deposit any rubbish or offensive matter into an aquatic facility water body; or intentionally release bodily material or waste, other than that released in the ordinary course of using the water body (regulation 25).
- 3) A person must not permit any animal belonging to, or under his control, to enter or remain in an aquatic facility (Please note that this does not apply to guide dogs, or other types of animals that assist people with disabilities, however these types of animals must not enter the water body) (regulation 26).

Operational Requirements - Health (Swimming Pools) Regulations 1964

The operational requirements and powers of the old regulations continue to have effect, including all former pool manager/ operational exemptions, until 6 months (Group 1) and 12 months (Groups 2-4) after the commencement day (1 October 2007) of the proposed regulations (regulations 38 (3) & (5), 39 (2) & (3) & 42).

Final Word

Construction

Whilst the DOH is presently engaged in the preparation of a new approved application form and information pack for the construction, alteration, extension of new and existing aquatic facilities, the DOH would recommend in the interim that architects, builders, developers and local governments engaged and involved





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with the lodgement of aquatic facility design applications, continue to refer to and utilise the application form and other pertinent information detailed in the document titled "Construction, alteration, extension of aquatic facilities" (available on the following DOH internet website address: http://www.health.wa.gov.au/envirohealth/water/docs/Construction_Apply_Info.pdf), in conjunction with the Code, when lodging applications for approval to the EDPH.

Aquatic Facility Classification and Qualification Requirements

With regard to the transitional arrangements, enabling existing EDPH approved/ authorised and opened swimming pools to continue to operate under pre-existing arrangements; the DOH is aware that many aquatic facility operators would appreciate classification advice, to facilitate preparations, in particular to ensure, that personnel responsible for the management, maintenance and operation of aquatic facility hold the required qualifications.

As previously mentioned, the new regulations provide the DOH with 5 months = Class 1 and 11 months = Class 2-4 aquatic facilities, from the commencement date (1 October 2007) of the new regulations to provide information relevant to the class of aquatic facility, however, being aware that operators need to be in a position to properly manage the transition to the new regulations, the DOH will endeavour to finalise EDPH approval of proposed training providers, under the Code and to provide this advice along with aquatic facility classification information at the earliest possible opportunity.

Additional information relating to aquatic facility qualifications can be found on the Aquatic Facility Pool Note 1, which is titled "Public Aquatic Facility Management – Changes to the Requirements"; which is available on the following DOH internet website address:

<http://www.population.health.wa.gov.au/Environmental/resources/Aquatic%20Facility%20Pool%20Notes.pdf>

For further information or questions pertaining to the new regulations, the Code, or other related matters please email swimmingpools@health.wa.gov.au, or alternatively contact the:

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