

# LOCAL GOVERNMENT ACT AND OTHER ACTS AMENDMENT ACT

No. 107 of 1990

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1766

**Queensland**



**ANNO TRICESIMO NONO**

**ELIZABETHAE SECUNDAE REGINAE**



**No. 107 of 1990**

**An Act to amend the Local Government Act 1936-1990, the  
City of Brisbane Act 1924-1990 and the Building Act  
1975-1988 each in certain particulars and for related  
purposes**

**[ASSENTED TO 18TH DECEMBER, 1990]**

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

## PART 1—PRELIMINARY

**1.1 Short title.** This Act may be cited as the *Local Government Act and Other Acts Amendment Act 1990*.

**1.2 Commencement.** (1) Except as provided in subsection (2), the provisions of this Act commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Sections 2.2, 2.8, 2.10, 4.1, 4.2 and 4.3 commence on a day to be appointed by Proclamation.

## PART 2—AMENDMENT OF LOCAL GOVERNMENT ACT 1936-1990

**2.1 Citation.** (1) In this Part the *Local Government Act 1936-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Local Government Act 1936-1990*.

**2.2 Amendment of s. 1.** Section 1 of the Principal Act is amended in subsection (3) by—

(a) omitting the words “Section 31B—By-laws respecting fencing swimming pools,”;

(b) inserting after the words “Section 49G—Control and regulation of flammable and combustible liquids,” the following words:—

“Section 49H—Control and regulation of swimming pool fencing.”.

**2.3 Amendment of s. 5.** (1) Section 5 of the Principal Act is amended in subsection (1) (ii) (i) by inserting after the word “divisions” the words “or abolish those divisions”.

(2) It is hereby declared that the Governor in Council always could abolish the divisions of a Town or Shire that is divided for the purposes of Part IV only of the Principal Act.

**2.4 Amendment of s. 7.** Section 7 of the Principal Act is amended by—

(a) inserting at the end of subsection (1) the following paragraph:—

“Notwithstanding the first paragraph of this subsection, a person is not disqualified from being nominated as a candidate or being elected or appointed as chairman or member of the Local Authority by reason only that the person is a member of the Legislative Assembly but, if that person is so elected or appointed, that person, by virtue of that election or appointment,

for all purposes, ceases to be a member of the Legislative Assembly from the day of the election or appointment and is taken to have duly resigned from the Legislative Assembly accordingly.”;

(b) inserting after subsection (1) the following subsection:—

**“(1A) Election or appointment of employee of Local Authority as chairman or member.** (a) A person who is an employee of a Local Authority and who is elected or appointed chairman or member of a Local Authority vacates and is taken to vacate employment with the firstmentioned Local Authority from the day of the person’s election or appointment.

(b) A person who is an employee of a Local Authority and nominates as a candidate for election as chairman or member of a Local Authority is entitled to leave of absence for a period not exceeding 2 months for the purpose of contesting the election.

(c) A person referred to in paragraph (b)—

(i) is not entitled to any salary or wages during absence from duty pursuant to paragraph (b);

(ii) whilst absent as provided in paragraph (b) has and may exercise any accrued right to leave of absence (not exceeding 2 months) with salary or wages had by that person as an employee;  
and

(iii) if elected, is not entitled to leave of absence with salary and wages during any period after the day of that person’s election.

(d) Paragraphs (a) and (c) (iii) do not apply to a person employed by a Local Authority and who is paid by the Local Authority with moneys received from a Department of the Government of the Commonwealth responsible for financing a community development employment project for aborigines or Torres Strait islanders.”;

(c) in subsection (2)—

(i) omitting paragraph (ii) and the word “or” occurring after paragraph (ii);

(ii) inserting after the words “relating to insanity” the following words:—

“; or

(vi) is a member of the Legislative Assembly; or

(vii) is a member of the Commonwealth Parliament”;

(iii) omitting the proviso;

(d) in subsection (7)—

(i) paragraph (i) (a)—

(A) omitting the word “The” and substituting the words “For every triennial election after the 1991 triennial election, the”;

(B) omitting the words “preceding thirty-first day of December on the” and substituting the words “preceding—

(i) in a case where the poll in the Area or for any division of the Area is directed to be taken in a mode prescribed by Subdivision III of Schedule 3, in respect of the whole Area 31 December;

or

(ii) in any other case, 31 January;

on the”;

(ii) omitting from the proviso to paragraph (i) the words “thirty-first day of December” and substituting the words “31 December or, as the case may be, 31 January”.

**2.5 Transitional provision.** (1) Notwithstanding the provisions of section 7 of the Principal Act as amended by section 2.4, a person who, immediately prior to the commencement of this Act is a chairman or member of a Local Authority is not disqualified from continuing to be the chairman or, as the case may be, member by reason only that that person is also a member of the Legislative Assembly or of the Commonwealth Parliament.

(2) Subsection (1) applies only until the conclusion of the 1991 Local Authority triennial election.

**2.6 Amendment of s. 20.** Section 20 of the Principal Act is amended by—

(a) omitting from subsection (6) the words “made in accordance with subsection (2) or (3)”;

(b) inserting after subsection (6) the following subsection:—

“(6A) Until an Order in Council made pursuant to subsection (6) provides for the method of determining the president of a Joint Board which prior to the commencement of the *Local Government Act Amendment Act 1987* was a Joint Local Authority, the president of such a Joint Board is and it is declared always was from that commencement to be determined by the method by which the Joint Local Authority determined its president immediately prior to that commencement.”.

**2.7 Amendment of s. 31. Provisions as to by-laws.** Section 31 of the Principal Act is amended by omitting from subsection (9) the expression “\$500” and the expression “\$50” and substituting the expression “\$5 000” and the expression “\$500” respectively.

**2.8 Repeal of s. 31B. By-laws respecting fencing swimming pools.** The Principal Act is amended by repealing section 31B.

**2.9 Amendment of s. 32.** Section 32 of the Principal Act is amended in subsection (5A) by—

(a) omitting the note to the subsection and substituting the note “Re-broadcast facilities.”;

(b) omitting the words “from satellites”.

**2.10 New s. 49H. Control and regulation of swimming pool fencing.**  
The Principal Act is amended by inserting after section 49G the following section:—

**“49H. Control and regulation of swimming pool fencing. (1)**  
**Interpretation.** (a) In this section, unless the contrary intention appears—

“Building By-laws” means the Standard Building By-laws 1975 as amended and in force from time to time;

“by-law” includes an ordinance made by Brisbane City Council;

“commencing day” means the day of commencement of this section;

“existing swimming pool” means—

(a) an outdoor swimming pool the construction or installation of which had begun or been completed before the commencing day;

or

(b) any other outdoor swimming pool for which Local Authority approval to construct or install was obtained under the *Building Act 1975-1990* before the commencing day;

“indoor swimming pool” means a swimming pool—

(a) that is wholly enclosed by the walls of a building;

or

(b) that is on a building;

“Local Authority” includes Brisbane City Council;

“new swimming pool” means an outdoor swimming pool other than an existing swimming pool;

“outdoor swimming pool” means a swimming pool other than an indoor swimming pool;

“residential land” means land on which is constructed, or Local Authority approval is given to construct, a Class I or II building, and includes land—

(a) that is adjacent to residential land;

and

(b) that is in the same ownership as the residential land;

and

(c) that is used in association with the residential land;

“structure” means anything built or constructed whether or not affixed to the land;

“swimming pool” means an excavation or structure—

(a) that is capable of being filled with water to a depth of 300mm or more;

and

(b) that is solely or principally used, or designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, bathing, wading, paddling or of some other human aquatic activity;

and includes a wading pool, spa pool, spa tub or similar swimming pool, or anything declared by the Governor in Council by Order in Council to be a swimming pool for the purposes of this section, but does not include—

(i) a fish pond or pool used for ornamental purposes;  
or

(ii) a dam or tank solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purposes of aquaculture or storage of water;

or

(iii) a river, creek, stream, canal or watercourse in which water flows permanently or intermittently, or a lake or other natural collection of water whether permanent or intermittent;

or

(iv) a portable wading pool that—

(A) is capable of being filled with water to a depth of no more than 450mm;

and

(B) has a volume of no more than 2 000 litres;

and

(C) has no filtration system;

or

(v) anything declared by the Governor in Council by Order in Council not to be a swimming pool for the purposes of this section.

(b) A reference in this section to a building as a class of building is a reference to a building of that class as classified by the Building By-laws.

**(2) Swimming pool fencing a function of local government.**  
The control and regulation of swimming pool fencing and related matters is a function of local government.



(3) **By-laws in respect of fencing of swimming pools.** (a) Subject to paragraphs (c), (d) and (e), a Local Authority has, and it is declared has always had, power to make by-laws that—

- (i) require the construction of fencing around swimming pools;  
and
- (ii) require doors, windows and any other openings providing access to swimming pools to comply with prescribed requirements;

with a view to inhibiting access by young children.

(b) The power mentioned in paragraph (a) includes power to adopt, in whole or in part, any of the standards, rules, codes or specifications of the Standards Association of Australia, the British Standards Institution or a similar body.

(c) (i) A Local Authority does not have power to make by-laws requiring the construction of swimming pool fencing on private land used, or to be used, for the purposes of a tourist resort complex if the land is specified by the Governor in Council by Order in Council;

(ii) For the purposes of this paragraph, “tourist resort complex” means a development that operates as a single integrated facility providing all or substantially all the recreational and personal needs of guests residing at the complex and visitors to the complex.

(d) (i) A Local Authority does not have power under this subsection to make by-laws requiring the construction of swimming pool fencing, in respect of outdoor swimming pools on residential land, to a standard any less effective than that required by subsection (4).

(ii) By-laws made by a Local Authority requiring the construction of swimming pool fencing, in respect of outdoor swimming pools on residential land, to a standard any less effective than that required by subsection (4) and subsisting on the commencing day are, to the extent they are less effective, inoperative from the commencing day.

(e) A by-law made under paragraph (a) does not limit the discretion of a Magistrate’s Court under the *Dividing Fences Act 1953-1985*.

(4) **Outdoor swimming pools to be fenced.** (a) Subject to subsections (5), (6), (7), (8) and (9), the owner of residential land on which there is an outdoor swimming pool must construct and maintain fencing around the swimming pool so that—

- (i) the swimming pool and its immediate surrounds are isolated from neighbouring land;  
and
- (ii) access to the swimming pool is prevented from buildings (other than Class X buildings wholly enclosed by the fencing).

(b) The design, construction and performance of the fencing must comply with the standards prescribed by the Building By-laws.

**(5) Fencing of above-ground outdoor swimming pools.** The owner of residential land on which an outdoor swimming pool is constructed or installed is not required to construct fencing around that part of the swimming pool where the walls of the swimming pool or associated structure adjacent to the swimming pool—

- (a) are at least 1.2 m in height;  
and
- (b) form a barrier to access to the swimming pool not inferior to fencing complying with the standards prescribed by the Building By-laws in respect of the design, construction and performance of swimming pool fencing.

**(6) Incorporation of building as part of fencing.** Where an outdoor swimming pool on residential land is enclosed in part by the exterior wall of a building and—

- (a) in respect of an existing swimming pool—
  - (i) there is no opening in the wall providing access from the building to the swimming pool;  
or
  - (ii) an opening in the wall providing access from the building to the swimming pool is—
    - (A) in the case of a door—fitted with a self-closing and self-latching device;  
or
    - (B) in the case of a window—enclosed, fixed or located;  
and maintained to comply with the standards prescribed by the Building By-laws;  
or
  - (iii) where the building is a Class X building, an opening in the wall only provides access from the building to the swimming pool;  
or
- (b) in respect of a new swimming pool—
  - (i) there is no opening in the wall providing access from the building to the swimming pool;  
or
  - (ii) a window in the wall providing access from the building to the swimming pool is enclosed, fixed or located and maintained to comply with the standards prescribed by the Building By-laws;

or

- (iii) where the building is a Class X building, an opening in the wall only provides access from the building to the swimming pool;

the owner of the residential land is not required to construct fencing around that part of the swimming pool that is enclosed by the wall.

**(7) Further provision re incorporation of Class X building as part of fencing.** Where an outdoor swimming pool on residential land is enclosed in part by the exterior wall of a Class X building and—

- (a) access from a Class I or II building to the swimming pool is gained by passing through openings in the Class X building;

and

- (b) each of the openings providing access from the Class X building to the swimming pool or from the Class X building to the Class I or II building is—

- (i) in the case of a door—fitted with a self-closing and self-latching device;

- (ii) in the case of a window—enclosed, fixed or located; and maintained to comply with the standards prescribed by the Building By-laws;

the owner of the residential land is not required to construct fencing around that part of the swimming pool that is enclosed by the wall.

**(8) Variations.** (a) A Local Authority may, on written application made to it by the owner of residential land on which there is an existing swimming pool, vary the requirements of subsection (4) in respect of the swimming pool, if it is satisfied that—

- (i) it is inappropriate or impracticable to comply with the requirements because of—

- (A) the physical nature or location of the residential land concerned;

or

- (B) the nature of the design or construction of the swimming pool or fencing;

or

- (C) the location of the swimming pool or fencing;

and

- (ii) reasonable provision exists for inhibiting access by young children to the swimming pool.

(b) A variation may be granted without conditions or subject to such conditions as the Local Authority considers appropriate

to ensure that reasonable provision is made for inhibiting access by young children to the swimming pool.

(9) **Exemptions.** (a) A Local Authority may, on written application made by the owner of residential land on which there is an existing swimming pool, or a new swimming pool is to be constructed or installed, determine that subsection (4) does not apply to the swimming pool, if it is satisfied that it is unlikely that a young child would gain access to the swimming pool because of—

(i) the physical nature or location of the residential land concerned;

or

(ii) the nature of the design or construction of the swimming pool or fencing;

or

(iii) the location of the swimming pool or fencing.

(b) A determination may be made without conditions or subject to such conditions as the Local Authority considers appropriate to ensure that effective provision is made for inhibiting access by young children to the swimming pool.

(10) **Revocation of variations and determinations.** (a) Subject to paragraph (c), the Local Authority may, by written notice served on the owner of the residential land concerned—

(i) revoke a variation granted by it under subsection (8), if—

(A) the variation was granted on the basis of a false or misleading particular contained in the application for the variation;

or

(B) some significant change (such as the erection, alteration or demolition of any building or structure or the carrying out of any work) happens so that reasonable provision no longer exists for inhibiting access by young children to the swimming pool;

or

(C) in a case where a variation is granted subject to conditions—the owner contravenes or fails to comply with a condition;

or

(ii) revoke a determination made by it under subsection (9), if—

(A) some significant change (such as the erection, alteration or demolition of any building or structure or the carrying out of any work) happens so that a young child may gain access to the swimming pool;

or

- (B) in a case where a determination is made subject to conditions—the owner contravenes or fails to comply with a condition.

(b) When a Local Authority serves a notice on the owner under paragraph (a), the Local Authority is to advise the owner in the notice as to what alterations or works are necessary to comply with subsection (4) and the date by which the owner is required to comply with that subsection.

(c) (i) Before a Local Authority serves a notice under paragraph (a), it must give the owner an opportunity to show cause why the notice should not be given, by notifying the owner in writing of a day (not earlier than 30 days after the giving of the notification), a time and place when and where the owner may show cause why the notice should not be given.

(ii) The owner may endeavour to show cause—

(A) by appearing at the day, time and place notified;

or

(B) by writing, furnished to the Clerk of the Local Authority, at any time before the time notified.

(11) **Time for compliance.** (a) Subject to paragraph (b) and subsection (13), the owner of residential land on which there is an existing swimming pool must comply with subsection (4) before 1 January 1992.

(b) A Local Authority may—

(i) subject to such reasonable conditions as it considers appropriate, from time to time extend the time for compliance to a date later than 31 December 1991, if it is satisfied on written application made to it, that compliance before 1 January 1992, or the date to which time for compliance has been previously extended, as the case may be, would cause the owner financial or other hardship;

and

(ii) by resolution, extend the time for compliance until 31 March 1992, in respect of its Area.

(c) The owner of residential land on which a new swimming pool is to be constructed or installed must comply with subsection (4)—

(i) within 30 days of the swimming pool being filled with water to a depth of 300 mm or more;

or

(ii) within such lesser period of the swimming pool being filled with water to a depth of 300 mm or more, as the Local Authority may determine as a condition of the approval to carry out the building work in respect of the swimming pool.

(12) **Advice of compliance.** (a) The owner of residential land on which there is an existing swimming pool may apply in writing to the relevant Local Authority for written advice whether or not the swimming pool fencing complies with subsection (4).

(b) Where the owner of residential land makes application to a Local Authority under paragraph (a), the Local Authority is to determine whether the swimming pool fencing complies with subsection (4) and to advise the owner accordingly.

(c) If the Local Authority determines that the swimming pool fencing does not comply with subsection (4), the Local Authority is to advise the owner of the reasons why the fencing does not so comply and what alterations or works are necessary to comply with that subsection.

(13) **Change of ownership.** A person who, after the commencing day, enters into a contract for the purchase of residential land on which there is an existing swimming pool, must comply with subsection (4) within 60 days of completion of the sale.

(14) **Access to outdoor swimming pools to be kept secure.** The occupier of residential land on which there is an outdoor swimming pool must ensure that a gate or door that provides access to the swimming pool is kept securely closed at all times when the gate or door is not in actual use.

(15) **Apportionment of cost of constructing dividing fence.** (a) The cost of constructing, altering, repairing, replacing and maintaining swimming pool fencing that consists of the whole or part of a dividing fence is, to the extent to which it is attributable to work done for the purpose of complying with subsection (4), to be borne—

(i) by the owner of the residential land on which the swimming pool concerned is constructed or installed;  
or

(ii) if the work or relevant part of the work is done for the purpose of complying with this section in respect of more than one parcel of residential land—by the owners of those parcels of land on which the swimming pools are constructed or installed, in equal proportions.

(b) Paragraph (a) applies despite the *Dividing Fences Act 1953-1985*.

(16) **Objections and appeals.** (a) An owner of residential land on which there is an existing swimming pool, or a new swimming pool is to be constructed or installed, who is aggrieved by a decision of a Local Authority under this section in respect of that swimming pool, has the same rights of objection and appeal under the *Building Act 1975-1990* as if the owner were an applicant for approval to the carrying out of building work.

(b) The *Building Act 1975-1990* applies, with the necessary changes being made, to an objection or appeal under paragraph

(a) as if the objection or appeal were an objection or appeal under that Act in relation to the swimming pool fencing concerned.

(c) When any difficulty arises in the application of paragraph (a) or (b) in or in respect of a particular objection or appeal, the referee, committee or court exercising jurisdiction in the objection or appeal may, on the application of a party to the objection or appeal or of his, her or its own motion, give such directions and make such orders, as he, she or it considers appropriate to resolve the difficulty.

(17) **Section to bind Crown.** (a) Subject to paragraphs (b) and (c), it is the intention of the Parliament that this section should bind the Crown in right of Queensland.

(b) In the application of this section to the Crown, any reference to a Local Authority includes—

(i) in the case where a department of Government of the State is required to comply with this section—the Minister of the Crown for the time being administering the department;  
and

(ii) in the case where a statutory body is required to comply with this section—the Minister of the Crown for the time being administering the Act under which the body is constituted;  
and

(iii) in any other case—the Minister.

(c) Nothing in this section permits the Crown to be prosecuted for an offence.

(18) **Offences.** (a) A person who—

(i) contravenes or fails to comply with a provision of this section;  
or

(ii) contravenes or fails to comply with a condition of a variation granted under subsection (8) or a determination made under subsection (9);  
or

(iii) fails to comply with a notice served on the person under subsection (10);

commits an offence and is liable to a maximum penalty of 83 penalty units.

(b) A person who, after being convicted of an offence mentioned in paragraph (a), continues to contravene or fail to comply with the relevant subsection or condition concerned—

(i) commits a continuing offence in respect of each day after the day of conviction during which the contravention or failure continues;

and

- (ii) may be prosecuted from time to time in respect of the contravention or failure;

and

- (iii) is liable to a maximum penalty of 8 penalty units for each day during which the offence continues.”.

**2.11 Amendment of Third Schedule. Rules for the Conduct of Elections.** The Principal Act is amended in rule 31 of the Third Schedule by omitting subrule (4) and substituting the following subrule:—

“(4) (a) Except as provided in paragraph (b), a polling place must not be appointed in a house or place licensed or registered for the sale of fermented or spirituous liquors.

(b) A civic or cultural centre, community hall or similar place in each case on land owned or under the control of a Local Authority and licensed or registered for the sale of fermented or spirituous liquors may be appointed as a polling place if a floor area is designated for the taking of the poll and the Local Authority undertakes to ensure that no liquor will be sold or consumed in the civic or cultural centre, community hall or place during polling hours.”.

### PART 3—AMENDMENT OF CITY OF BRISBANE ACT 1924-1990

**3.1 Citation.** (1) In this Part the *City of Brisbane Act 1924-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *City of Brisbane Act 1924-1990*.

**3.2 Amendment of s. 8. Disabilities.** Section 8 of the Principal Act is amended by—

(a) inserting in subsection (1) after the words “relating to insanity” the following words:—

“; or

- (vi) is a member of the Commonwealth Parliament;

or

- (vii) is an employee of the Council or of any Local Authority”;

(b) inserting after subsection (1) the following subsection:—

“(2) Notwithstanding section 7 (1), a person is not disqualified from becoming Mayor or an alderman by reason only that the person is a member of the Legislative Assembly but, if that person becomes Mayor or an alderman, that person, for all purposes, ceases to be a member of the Legislative Assembly from the day of becoming Mayor or an alderman and is taken to have duly resigned from the Legislative Assembly accordingly.”;



(c) in subsection (3)—

(i) inserting in the note to the subsection after the word “Council” the words “or a Local Authority” and after the word “elected” the words “or appointed”;

(ii) omitting paragraph (a) and substituting the following paragraph:—

“(a) Notwithstanding subparagraphs (ii) and (vii) of subsection (1), a person who—

(i) holds an office or place of profit under the Council;  
or

(ii) is an employee of the Council or of a Local Authority; and who is otherwise qualified, is not prevented from being nominated as a candidate or from being elected or appointed as Mayor or as an alderman other than the Mayor but if such a person is so elected or appointed that person vacates and is taken to vacate the office or place of profit under or, as the case may be, employment with the Council or other Local Authority from the day appointed by or under this Act for the holding of the election at which that person is elected or from the day of that person’s appointment.”.

**3.3 Amendment of s. 17. Provisions concerning elections.** (1) Section 17 of the Principal Act is amended by omitting from subsection (3) (b) the word “December” occurring in subparagraphs (i) and (ii) and substituting the word “January” in each case.

(2) Notwithstanding the amendment of section 17 of the Principal Act by subsection (1), the amendment does not apply in respect of the 1991 triennial election of the Mayor and other aldermen.

**3.4 Amendment of s. 38. Ordinances.** Section 38 of the Principal Act is amended by—

(a) omitting from subsection (14) the expression “\$500” and substituting the expression “\$5 000”;

(b) omitting from subsection (15) the expression “\$50” and substituting the expression “\$500”.

#### PART 4—AMENDMENT OF BUILDING ACT 1975-1988

**4.1 Citation.** (1) In this Part, the *Building Act 1975-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Building Act 1975-1990*.

**4.2 Amendment of s. 11. Standard Building By-laws a complete code.** Section 11 of the Principal Act is amended by—

(a) in subsection (1), omitting the word “The” and substituting the words “Subject to subsection (1A), the”;

(b) inserting after subsection (1) the following subsection:—

“(1A) Subsection (1) applies subject to section 49H of the *Local Government Act 1936-1990* (Control and regulation of swimming pool fencing).”.

**4.3 Amendment of Standard Building By-laws.** The Standard Building By-laws 1975 set forth in the Schedule to the Principal Act are amended by—

(a) in By-law 8.1, inserting after subclause (7) the following subclause:—

“(8) **Plans and specifications of swimming pool fencing.** The plans and specifications of swimming pool fencing are to form part of an application for the construction of the swimming pool.”;

(b) in By-law 8.4—

(i) in paragraph (a), inserting after the word “fences” the following words:—

“(except swimming pool fencing required to be constructed by section 49H of the *Local Government Act 1936-1990*)”;

(ii) in paragraph (c), omitting the words “or a swimming pool (being of a capacity less than 10 000 l and complying with By-law 53.1 (1))”;

(c) inserting after By-law 53.1 the following By-law:—

“**53.1A Swimming pool fencing.** For the purposes of section 49H of the *Local Government Act 1936-1990*—

(a) the prescribed standards for the design, construction and performance of swimming pool fencing are the standards set out in AS 1926-1986, Fences and Gates for Private Swimming Pools, as in force on 4 August 1986;

(b) the prescribed standards for—

(i) the fitting of self-closing and self-latching devices;  
and

(ii) the enclosing, fixing and location of windows;  
are the standards set out in clause 9.2.2 of AS 2818-1986, Guide to Swimming Pool Safety, as in force on 5 September 1986.”.