

Queensland



Subordinate Legislation 1991 No. 75

STANDARD BUILDING BY-LAWS (SWIMMING POOL FENCING) ORDER 1991

ORDER IN COUNCIL

At the Executive Building, Brisbane, the twelfth day of September, 1991

Present:

The Deputy Governor, for and on behalf of His Excellency the Governor
in Council

THE Deputy Governor, for and on behalf of His Excellency the Governor, acting by and with the advice of the Executive Council and under the *Building Act 1975*, has been pleased to make the order in council set out in the Schedule.

And the Honourable the Deputy Premier, Minister for Housing and Local Government is to give the necessary directions herein accordingly.

E. J. BIGBY, Clerk of the Council

Schedule

Short title

1. This order in council may be cited as the *Standard Building By-laws (Swimming Pool Fencing) Order 1991*.

Commencement

2. This order in council commences on the commencement of the *Local Government (Swimming Pool Fencing) Amendment Act 1991*.

Amended by-laws

3. The Standard Building By-laws 1975 are amended as set out in this order in council.

Replacement of By-law 53.1A (Swimming pool fencing)

4. By-law 53.1A—

omit, insert—

“Swimming pool fencing—prescribed standards of fencing

53.1A (1) Subject to subclauses (2), (3), (4), (6), (7) and (8), for the purposes of section 49H(4)(b)(i) and (ii) of the *Local Government Act 1936*, the prescribed standards for the design, construction and performance of swimming pool fencing are the standards set out in AS1926-1986, *Fences and Gates for Private Swimming Pools*, as in force on 4 August 1986.

(2) Despite clause 2.3 of AS1926-1986, the minimum effective perpendicular height of fencing constructed before 1 February 1991 is—

(a) if the fencing is 900 mm or higher and was lawfully constructed under a Local Authority by-law relating to the fencing of the swimming pool—900 mm; or

(b) if the fencing is 900 mm or higher and no Local Authority by-law relating to the fencing of the swimming pool subsisted on the day the fencing was constructed—900 mm; or

(c) in any other case—1200 mm.

(3) The requirements of—

(a) clause 2.6 of AS1926-1986 that apply to the location of horizontal members of fencing; and

(b) clauses 2.7 and 2.9 of AS1926-1986;

do not apply to fencing mentioned in subclause (2)(a) or (b) if the fencing is constructed in a way that is likely to inhibit young children from climbing over, or passing under or through it.

(4) Despite clause 2.3 of AS1926-1986, the height of fencing is taken to be effective if a quadrant of radius 900 mm, located within the

perpendicular height of the fencing as shown in Figure 53.1A, provides a clear span of at least 900 mm to—

- (a) finished ground level; and
- (b) any substantially horizontal surface with a depth of more than 10 mm; and
- (c) any projections from, or indentations into, the outside surface of the fencing, or any combination of projections and indentations, that form a substantially horizontal surface with a depth of more than 10 mm; and

(d) if perforated materials or mesh are used in the construction of the fencing—any openings that are more than 12 mm.

(5) To allay any doubt, fencing that is constructed after the commencement of this subclause must have an effective perpendicular height of at least 1.2 m at any point along its length, on the outside of the fencing.

(6) A thing on adjoining land is to be disregarded in determining compliance of fencing of an existing swimming pool with AS1926-1986.

(7) Despite clause 2.8 of AS1926-1986, an electronically operated gate may be used in fencing if the gate—

- (a) can only be opened by deliberately triggering a switch or sensor that is located out of the reach of young children; and
- (b) is capable of being manually closed if there is a power failure; and
- (c) closes automatically immediately after use; and

(d) complies with the construction specifications of AS1926-1986.

(8) If a Local Authority gives an approval in respect of a non-complying gate under subclause (9)—

(a) clause 2.8 of AS1926-1986 does not apply to the gate to the extent to which the approval is given; and

(b) to that extent the prescribed standards for the gate are the standards approved by the Local Authority.

(9) A Local Authority may approve of a non-complying gate in fencing, subject to the following conditions—

(a) it is key locked in the closed position and the key is removed from the lock and placed out of the reach of young children; or

(b) it is permanently fixed in the closed position; or

(c) it is fixed in a way to prevent its being opened by young children.

(10) A Local Authority may not give an approval under subclause (9) if the non-complying gate is the only gate that provides access to the swimming pool.

(11) In subclauses (8), (9) and (10)—

“non-complying gate” means a gate that is not self-closing and self-latching.

Swimming pool fencing—prescribed standards of openings

53.1B (1) Subject to subclauses (2) and (12), for the purposes of section 49H of the *Local Government Act 1936*, the prescribed standards for openings providing access from a building to a swimming pool are the standards set out in clause 9.2.2 of AS2818-1986, Guide to Swimming Pool Safety, as in force 5 September 1986.

(2) If a Local Authority gives an approval in respect of an opening under subclause (4), (6), (7), (9) or (11)—

(a) clause 9.2.2 of AS2818-1986 does not apply to the opening to the extent to which the approval is given; and

(b) to that extent the prescribed standards for the opening are the standards approved by the Local Authority.

(3) To allay any doubt, a Local Authority may give more than one approval in respect of an opening.

(4) A Local Authority may approve of a security door—

(a) that has footholds wider than 10 mm in the area from the release for the latching mechanism down to 100 mm above the floor—if a metal fly screen mesh is securely fixed to that area on the inside of the door; or

(b) that has a release for an internal latching mechanism less than 1500 mm above the floor—if a release for an additional latching mechanism is located at 1500 mm or more above the floor.

(5) In subclause (4)—

“security door” means a door intended to be resistant to entry by a young child and which incorporates a large area of grille or mesh material to allow the passage of light and air.

(6) A Local Authority may approve of a door opening outward from a building if it is satisfied that it is impractical or inappropriate for the door to open inwards to the building.

(7) A Local Authority may approve of double doors if it is satisfied that it is impracticable or inappropriate for both the doors to be self-closing and self-latching.

(8) An approval under subclause (7) must be subject to the following conditions—

(a) one of the doors—

(i) is key locked in the closed position and the key is removed from the lock and placed out of the reach of young children; or

(ii) is permanently fixed in the closed position; or

(iii) is fixed in a way to prevent its being opened by young children; and

(b) the other door is self-closing and self-latching in compliance with clause 9.2.2 of AS2818-1986.

(9) A Local Authority may approve of a door that is not self-closing and self-latching, subject to the following conditions—

(a) the door is permanently key locked in the closed position and the

key is removed from the lock and placed out of the reach of young children; or

- (b) it is permanently fixed in the closed position; or
- (c) it is fixed in a way to prevent its being opened by young children.

(10) A Local Authority may not give an approval under subclause (9) if the door is the only door that provides access from the building to the swimming pool.

(11) A Local Authority may approve the location of a window in the wall of an existing building at such a height that the distance from the floor to the lowest opening panel is not less than 900 mm if—

- (a) there are no footholds wider than 10 mm (other than skirting boards) on the inside of the wall below the lowest opening panel; and
- (b) a fly screen is securely fixed to the opening.

(12) Despite clause 9.2.2 of AS2818-1986, the prescribed standard for an opening lawfully constructed under a Local Authority by-law—

- (a) subsisting before 1 February 1991; and
- (b) relating to inhibiting access by young children from a building to a swimming pool;

is the standard prescribed under the by-law.

Swimming pool fencing—prescribed standards for above-ground pools

53.1C (1) For the purposes of section 49H(5) of the *Local Government Act 1936*, the prescribed standards for the walls of an above-ground swimming pool or associated structure adjacent to an above-ground swimming pool around which fencing is not required to be constructed are set out in subclause (2).

(2) The walls of the swimming pool or associated structure must—

(a) if the swimming pool is an existing swimming pool and—

(i) under a Local Authority by-law subsisting on the day the swimming pool was lawfully constructed or installed, the owner of the swimming pool was not required to construct fencing around the walls of the swimming pool or adjacent structure; or

(ii) no such Local Authority by-law subsisted on the day the swimming pool was constructed or installed;

be at least 900 mm high and form a barrier to access to the swimming pool not inferior to the standards prescribed under by-law 53.1A in respect of swimming pool fencing of that height; or

(b) in any other case—be at least 1200 mm high and form a barrier to access to the swimming pool not inferior to the standards prescribed under by-law 53.1A in respect of swimming pool fencing of that height.”.

ENDNOTES

1. Published in the Gazette on 14 September 1991.
2. Laid before the Legislative Assembly on . . .
3. The administering agency is the Department of Housing and Local Government.