

2023

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

Building (Swimming Pool Safety) Legislation Amendment Bill 2023

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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BUILDING (SWIMMING POOL SAFETY) LEGISLATION AMENDMENT BILL 2023

This supplementary explanatory statement relates to the Government amendments (the amendments) to the Building (Swimming Pool Safety) Legislation Amendment Bill 2023 (the Bill). It has been prepared to assist the reader of the Bill and the amendments and to help inform debate. It does not form part of the Bill or the amendments.

The statement is to be read in conjunction with the Bill and the explanatory statement prepared in support of the Bill, as introduced in the Legislative Assembly on 30 August 2023 and the revised explanatory statement prepared in response to comments from made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its Scrutiny Report 34.

It is not, and is not meant to be, a comprehensive description of the amendments.

OVERVIEW OF THE GOVERNMENT AMENDMENTS

The Government amendments are minor and technical amendments to clarify the intent of provisions in the Bill.

The Government amendments:

- amend the definition of regulated swimming pool to provide clarity around those swimming pools and spas being regulated;
- amend the definition of the demountable swimming pool to address a perverse outcome where a demountable swimming pool without a filtration system could not access the standing exemption for demountable swimming pools;
- clarify that a compliance certificate associated with a ministerial exemption that has been revoked is not in force from the day the revocation takes effect; and
- clarify that a revoked exemption certificate cannot be used to satisfy disclosure requirements on sale of a property.

CONSULTATION ON THE PROPOSED APPROACH

Consultation has been undertaken with key industry stakeholders, including SPASA, on the Government amendments.

Consultation with the community, industry and key stakeholders will continue throughout implementation and the transition period.

CONSISTENCY WITH HUMAN RIGHTS

There are no human rights implications arising from the Government amendments.

CLAUSE NOTES

Amendment 1

Clause 4

Proposed new section 83B (2), definitions of *demountable swimming pool* and *inflatable pool*

Page 6, line 9—

This clause substitutes the definitions of *demountable swimming pool* and *inflatable pool*. The new definitions remove any reference to volume of water as this is covered in the definition of *regulated swimming pool* and this volume automatically applies to definitions within that definition.

The amendment to the definition of *demountable swimming pool* addresses a perverse outcome in the definition as originally introduced that resulted in a demountable pool that can be assembled and disassembled by hand, or with hand tools, without damaging the pool's components but did not have a filtration system not being able to access the standing exemption for demountable swimming pools. Thus, a demountable swimming pool in that situation would need to have a safety barrier immediately on assembly.

The amendment to the definition of *inflatable pool* addresses a perverse outcome in the definition as originally introduced that resulted in the definition having no effect as the volume of water in the pool did not meet the requirement to be a regulated swimming pool.

Amendment 2

Clause 4

Proposed new section 83I (1) (b)

Page 12, line 20—

This clause makes a minor and technical amendment to remove a superfluous reference to when the pool was built. This is unnecessary as the exemptions stipulate what pools are eligible to apply for each exemption. This omission also supports the expansion of exemption circumstances to other pools over time.

Amendment 3

Clause 4

Proposed new section 83J (1) (b)

Page 13, line 5—

This clause makes a minor and technical amendment to remove a superfluous reference to when the pool was built. This is unnecessary as the exemptions stipulate what pools are eligible to apply for each exemption. This omission also supports the expansion of exemption circumstances to other pools over time.

Amendment 4
Clause 4
Proposed new section 83L (1) (c)
Page 15, line 21—

This clause includes in the circumstances for when a compliance certificate will cease to be valid when a Ministerial exemption has been revoked. Any compliance certificate associated with the Ministerial exemption will cease to be valid on the day on which the revocation of the exemption takes effect. The compliance certificate process established in proposed new section 83K will apply in these circumstances.

Amendment 5
Clause 28
Proposed new section 10B (1) (b) (i) (A)
Page 35, line 14—

This clause makes a minor and technical amendment to make it clear that a revoked exemption certificate cannot be used to meet the disclosure obligations on sale of a property.

Amendment 6
Clause 29
Proposed new section 10B (1) (a) (i)
Page 37, line 16—

This clause makes a minor and technical amendment to make it clear that a revoked exemption certificate cannot be used to meet the disclosure obligations on sale of a property.

Amendment 7
Clause 29
Proposed new section 10B (2) (a) (i)
Page 38, line 6—

This clause makes a minor and technical amendment to make it clear that a revoked exemption certificate cannot be used to meet the disclosure obligations on sale of a property.