

House of Representatives

Supplementary Order Paper

Wednesday, 21 September 2016

Building (Pools) Amendment Bill

Proposed amendments

Hon Dr Nick Smith, in Committee, to move the following amendments:

Clause 6A

Before *clause 6A(1)* (page 4, after line 19), insert:

(1AA) After section 11(f), insert:

(fa) accepts (and withdraws acceptance of) independently qualified pool inspectors for the purpose of **section 162CA**; and

Clause 7

In *clause 7*, after *new section 162CA(2)* (page 6, after line 27), insert:

- (2A) If a territorial authority decides not to accept a certificate of periodic inspection from an independently qualified pool inspector under **subsection (2)**, the territorial authority must, within 7 working days of making that decision, give notice to the chief executive of the decision and the reasons for the decision.
- (2B) If an independently qualified pool inspector inspects a pool for the purpose of this section and decides that the pool does not have barriers that comply with the requirements of **section 162C** (subject to any waiver or modification granted under **section 67A** or 188), the inspector must, within 3 working days of the date of inspection, give written notice to the relevant territorial authority of the decision, attaching any information that the chief executive requires to accompany the notice.

Clause 11

Replace *clause 11(2) to (4)* (page 8, lines 18 to 22) with:

- (2) In section 222(1)(b), after “Part 2”, insert “; and”.
- (3) After section 222(1)(b), insert:
 - (c) to enter premises for the purpose of determining whether **section 162C** is being complied with.

New clause 12A

Before *clause 13* (page 9, before line 9), insert:

12A Section 402 amended (Regulations: general)

After section 402(1)(i), insert:

Acceptance of independently qualified pool inspectors:

- (ia) prescribing matters in respect of the acceptance and renewal of acceptance of independently qualified pool inspectors, including the fees or charges payable:

Schedule

In the *Schedule, Part 2*, in the item relating to *new clause F9* of Schedule 1 of the Building Regulations 1992, item relating to *new clause F9.3.1* (page 13), in the second column, insert:

In the case of a *small heated pool*, the means of restricting access referred to in Performance F9.3.1 need only restrict access to the *pool* when the *pool* is not in use.

In the *Schedule, Part 2*, in the item relating to *new clause F9* of Schedule 1 of the Building Regulations 1992, item relating to *new clause F9.3.2*, replace the text in the second column (page 13) with:

Performance F9.3.2(b) applies only to those *small heated pools* where the top surface of every wall of the *pool* is at all points not less than 760 mm above the adjacent floor or ground and the walls of the *pool* inhibit climbing.

Explanatory note

This Supplementary Order Paper proposes various changes relating to independently qualified pool inspectors, who are people accepted by the chief executive as qualified to carry out inspections to determine whether a pool has barriers that comply with the requirements of *new section 162C* of the Building Act 2004. The proposed changes are as follows:

- the role of the chief executive in approving independently qualified pool inspectors for the purpose of *new section 162CA* is listed in section 11 of the Act, which sets out the chief executive’s role under the Act:

- territorial authorities must notify the chief executive if they decide not to accept a certificate of periodic inspection from an independently qualified pool inspector in respect of a particular pool:
- independently qualified pool inspectors must notify the territorial authority if they decide not to issue a certificate of periodic inspection in respect of a particular pool:
- new regulation-making powers are inserted into section 402 of the Act to enable matters to be prescribed in respect of the acceptance and renewal of acceptance of independently qualified pool inspectors.

Also, 2 changes are proposed to the amendments to the Building Code in *Part 2 of the Schedule* of the Bill that are intended to align the Code with the amendments to the Building Act 2004, as follows:

- Performance F9.3.1 is amended to align with *new section 162C(2A)* by providing that, in so far as Performance F9.3.1 relates to small heated pools, it needs only to restrict access to the pool when the pool is not in use:
- Performance F9.3.2 is amended to align with the definition of small heated pool (by removing the cap on the water surface area because this cap is already part of the definition of small heated pool).

Technical amendments are also proposed to *clause 11*, which amends the section in the Building Act 2004 relating to inspections by territorial authorities, as follows:

- *clause 11(2) and (3)* are replaced to take account of a latent amendment in the Building (Earthquake-prone Buildings) Amendment Act 2016, which is also due to amend the same section:
- *clause 11(4)* is deleted because it updates a cross-reference in a way that is no longer needed.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.