

South Australia

Swimming Pools (Safety) Act 1972

An Act to provide for the fencing of swimming pools and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Swimming Pools (Safety) Act 1972*.

3—Interpretation

In this Act unless the contrary intention appears—

exempt swimming pool means any swimming pool or any swimming pool of a class or kind for the time being exempted pursuant to section 5 of this Act from the provisions of this Act;

fence includes a hedge;

owner in relation to a swimming pool includes the owner or occupier of the land on which the swimming pool is situated;

small child means a person of or under the age of five years;

swimming pool includes any excavation or structure capable of being filled with water and used for the purposes of swimming and also includes any excavation or structure capable of being used as a paddling pool;

the appointed day means the day declared by proclamation to be the appointed day for the purposes of section 6 of this Act.

4—Non-application of Act

This Act does not apply to or in relation to—

- (a) any swimming pool to which the public are generally admitted whether on payment of money or otherwise; or

- (b) any swimming pool, the water surface of which does not exceed 5 square metres in area; or
- (c) any swimming pool so constructed that it cannot be filled to a depth of greater than .3 metres; or
- (d) any water impounded for agricultural use or as a water supply for fire fighting, whether or not used as a swimming pool; or
- (e) any naturally occurring water pool whether or not used as a swimming pool; or
- (ea) any swimming pool the construction of which requires approval under Part 4 of the *Development Act 1993*; or
- (f) any exempt swimming pool.

5—Minister may exempt certain swimming pools

- (1) Subject to this section, the Minister may by notice published in the Gazette exempt from the provisions of this Act—
 - (a) any swimming pool; or
 - (b) any swimming pool of a class or kind,specified in that notice and the Minister may by a notice published in a like manner revoke or vary any such exemption.
- (2) An exemption under subsection (1) of this section may be expressed to be subject to conditions, restrictions or limitations specified in relation thereto and where any such condition, restriction or limitation is not complied with or not given effect to in relation to a swimming pool to which it is applicable that swimming pool shall not be an exempt swimming pool for the purposes of this Act.

6—Swimming pools to be enclosed

- (1) Where on or after the appointed day a swimming pool is not enclosed by a fence, wall or building or any combination thereof that complies with this section the owner of that swimming pool shall be guilty of an offence against this Act and upon conviction shall be liable to a penalty not exceeding two hundred dollars.
- (2) Where a person has been convicted of an offence referred to in subsection (1) of this section and after that conviction the provisions of that subsection have still not been complied with, that person shall be guilty of a further offence against this Act and upon conviction of that further offence shall be liable to a penalty not exceeding ten dollars for every day during which that failure to comply continues.
- (3) A fence, wall or building or any combination thereof shall comply with this section if—
 - (a) no part of that fence, wall or building is less than 1.2 metres in height; and
 - (b) every part of that fence, wall or building is so constructed as—
 - (i) to prevent a small child gaining access to the swimming pool it encloses by passing beneath or through that fence, wall or building; and

- (ii) not to afford foot or hand holds to a small child attempting to gain access to the swimming pool enclosed by it by climbing the fence, wall or building; and
 - (c) every gate or door that is incorporated in the fence, wall or building and intended for use by persons to gain entrance to the swimming pool is fitted with a mechanism that automatically comes into operation on the gate or door being closed and is such as to prevent a small child opening the gate or door when the gate or door is closed.
- (4) For the purposes of this section a fence, wall or building or any combination thereof shall be deemed to enclose a swimming pool notwithstanding that it also encloses other land, building or structures.

7—Proceedings for offences against this Act

Proceedings in respect of offences against this Act shall be disposed of summarily.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Repeal of Act

The *Swimming Pools (Safety) Act 1972* was repealed by Sch 1 cl 3 of the *Development (Assessment Procedures) Amendment Act 2007* on 1.10.2008.

Principal Act and amendments

Year	No	Title	Assent	Commencement
1972	147	<i>Swimming Pools (Safety) Act 1972</i>	7.12.1972	31.5.1973 (<i>Gazette 10.5.1973 p1994</i>)
1993	54	<i>Statutes Repeal and Amendment (Development) Act 1993</i>	27.5.1993	15.1.1994 (<i>Gazette 27.10.1993 p1889</i>)

Provisions amended since 3 February 1976

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4	amended by 54/1993 s 14	15.1.1994