

Training Newsletter

Swimming Pools Laws

Agents are being reminded by NSW Fair Trading to know their responsibilities when they sell or rent a property with a swimming pool or spa. 29 April is the deadline to comply with the additional requirements.

Requirements for sales agents

To sell property with a swimming pool or spa pool, an agent must attach to the sales contract a valid copy of one of the following documents issued in the last 3 years:-

- certificate of compliance
- relevant occupation certificate (together with evidence that the pool is registered), or
- certificate of non-compliance

If this is not done, the buyer may rescind the contract within 14 days of exchange, unless settlement has already occurred.

Agents should be aware that a certificate of non-compliance transfers to the buyer the seller's obligation to obtain a certificate of compliance. The buyer has 90 days from the date of settlement to rectify defects listed in the certificate and obtain a certificate of compliance. For further information on this, refer to the [NSW Office of Local Government](#) and [NSW Land and Property Information](#) (LPI) websites.

Requirements for property managers

When a tenancy agreement is entered into, the real estate agent (acting on behalf of the landlord) must give the tenant a copy of the valid certificate of compliance or occupation certificate for a property with a swimming pool or spa pool.

Managing Agents can continue to use existing stock of standard form residential tenancy agreements with an addendum, which will be made available on NSW Fair Trading's [Forms](#) page.

The [New Tenant Checklist](#) will be updated from 29 April 2016.

Public Register – Loose-fill asbestos insulation

Law changes are proposed to establish a public register of NSW residential properties known to contain loose-fill asbestos insulation.

If a property tests positive for loose-fill asbestos insulation, it would be listed



on the public register. The information about the property in the register would need to be disclosed as a material fact to prospective tenants and home buyers.

The public consultation closed on Friday 15 April.

What assistance exists if residents' homes are affected?

If a property is found to contain loose-fill asbestos insulation, home owners and tenants may be eligible for assistance and support through the NSW Government [Voluntary Purchase and Demolition Program](#).

NSW Fair Trading is managing this program. To find out more, visit the [Loose-fill asbestos insulation](#) section of NSW Fair Trading's website.

Tenants experiencing domestic violence

Domestic violence appears to be on the rise and the QLD Civil and Administrative Tribunal (QCAT) has experienced an increase in residential tenancy matters that involve domestic violence.

This may be because the victim wants to [end a tenancy agreement](#), or wants to stay at the rented premises and have the perpetrator leave, or wishes to leave and end their legal liability.



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Landlords Duty of Care

In the early 20th century May Donoghue was given a bottle of ginger beer purchased for her by a friend. After drinking most of the ginger beer she found the remnants of a decomposing snail in the bottle.

Want to find out how this affects a Landlord’s Duty of Care in retail and commercial property? Try our [CPD course](#).

The Residential Tenancies and Rooming Accommodation Act 2008 (the Act) responds to domestic violence situations faced by tenants and non-tenants, and by lessors of property where domestic violence has occurred.

What happens when a domestic violence victim is a tenant?

Usually, a tenant cannot escape liability for rent if he or she leaves before the end of the lease. However, a tenant who has experienced domestic violence or who fears future violence may apply to QCAT to terminate the lease without penalty.

What happens when a domestic violence victim is not a tenant?

A person who lives in a rented property but is not on the lease can apply to QCAT to have their name added to the lease and a tenant’s name removed if the tenant has committed domestic violence against the person. This applies to domestic associates (e.g. partners, family members or carers) and to occupants (e.g. flat-mates, boarders).

To read more on QCAT and domestic violence situations please [click here](#).

WA CPD Reminder

The Department of Commerce has recently issued a reminder to all WA real estate agents, business brokers and registered real estate sales representatives to complete their Compulsory Professional Development. This is a legal requirement and failure to complete CPD requirements could result in a licence or registration not being renewed. For further information visit the [Department of Commerce](#) website.

To review the WA CPD courses offered by the NSW Real Estate Training College please visit our [website](#).

QLD Real Estate Agent Charged

A QLD Real Estate Agent has recently been convicted of fraudulently converting entrusted funds to pay for unauthorised personal and business related expenses and one charge of failing to supply a cash prize for a promotional campaign.

Fair Trading Executive Director Brian Bauer said fraud involving trust accounts was a serious matter. “Consumers must be protected from such illegal practices and the Office of Fair Trading will vigorously

prosecute any real estate agent found to have irregularities in their trust accounts”.

The agent was also found guilty of failing to pay prize money of \$1,000 for a promotion campaign that was run through his agency’s website offering the prize money or free property management for a year. In September 2014 the agent stated that the prize money would be paid by October but, this was not the case. Mr Bauer stated “The Office of Fair Trading will continue to pursue and prosecute traders who Breach the Australian Consumer Law.”

Trust Account Fraud

A NSW agent who created false contracts for sale of land signed by fictitious vendors and purchasers, false bank accounts statements, false sales ledgers and false stamped bank deposit slips, has had his real estate agent licence cancelled and been disqualified from holding a licence for 15 years. In addition, he has been sentenced to two years’ imprisonment to be served by way of an Intensive Corrections Order. A result of this fraud was that there was insufficient money in the trust fund to cover genuine purchasers’ sale deposits to account to genuine vendors on five real estate transactions. [Read more](#).

