

Public Health and Wellbeing Act 2008

News Bulletin – Information for operators of aquatic facilities
March 2010

The PUBLIC HEALTH AND WELLBEING LAWS CAME INTO OPERATION IN VICTORIA ON 1 JANUARY 2010

This bulletin is provided to inform you about the commencement of the *Public Health and Wellbeing Act 2008* (PHWA) and the Public Health and Wellbeing Regulations 2009 (the Regulations).

The PHWA was developed following the review of the *Health Act 1958* and was passed by the Victorian Parliament in August 2008. The Regulations were made by the Governor in Council in mid December 2009. The PHWA and the new Regulations replace the *Health Act 1958* and the ten sets of regulations made under the *Health Act*, including the Health (Infectious Diseases) Regulations 2001.

Both the PHWA and the Regulations came into operation on **1 January 2010**. Copies of the PHWA and the Regulations can be downloaded from the Victorian Legislation and Parliamentary Documents website at <http://www.legislation.vic.gov.au/>

Public Health and Wellbeing Regulations

Prior to the making of the Public Health and Wellbeing Regulations 2009, a Regulatory Impact Statement (RIS) and draft regulations, including provisions relevant to operators of aquatic facilities, were released for public comment in September 2009 .

The draft regulations and RIS proposed to change the prescriptive requirements of the Health (Infectious Diseases) Regulations 2001 to a risk based approach which imposed minimal necessary requirements. However, the majority of comments received in response to the RIS did not support this change but rather supported the more prescriptive requirements.

As a result, the provisions contained in the Regulations that came into operation on 1 January 2010 follow a prescriptive model, similar to the previous requirements. There are, however, some small changes to the requirements, which are outlined below.

Changed Requirements from 1 January 2010

Treatment of aquatic facility water

The new Regulations make some small changes to the treatment parameters for chlorine or bromine based disinfectant. Under the new Regulations, the responsible person must ensure that when the aquatic facility is open for use the water in the aquatic facility is treated by means of a chlorine or bromine based disinfectant in accordance with the parameters set out in Tables 1 and 2 below.

Table 1. Chlorinated Aquatic Facilities

	Swimming pool where cyanuric acid is NOT used	Swimming pool where cyanuric acid is used	Spa pool
Free Chlorine (mg/L) minimum	1	2	3
Total Chlorine maximum (mg/L)	10	10	10
pH	7.2-7.8	7.2-7.8	7.2-7.8

Table 2. Brominated Aquatic Facilities

	Swimming pool	Spa pool
Free bromine (mg/L) minimum	2	6
Total bromine (mg/L) (maximum)	8	8
pH	7.2-8	7.2-8

Chemical testing of water

The new Regulations make some changes to the parameters for chemical testing of pool water. From 1 January 2010, when an aquatic facility is open for use, the responsible person must test the water in accordance with the following:

- at four hourly intervals the water must be tested for:
 - free chlorine and total chlorine (if chlorine is used)
 - free bromine and total bromine (if bromine is used)
 - pH
- at weekly intervals for total alkalinity
- at monthly intervals for cyanuric acid (if used)

In addition to the above measures, the new Regulations no longer require pools and spas to be tested for free chlorine, for free bromine, or for pH within half an hour of the facility being opened for use.

Record keeping

Aquatic facility records must continue to be maintained under the new Regulations.

The responsible person must keep records both of the results of all tests for each pool or spa and of all corrective actions undertaken with respect to the water in the aquatic facility. In addition, as of 1 January 2010, there is a requirement for all records to be kept at the premises for a period of 12 months.

The material in this publication is intended only to provide a summary and general overview on implementation of the Public Health and Wellbeing Act 2008 and associated regulations. It is not intended to be comprehensive nor does it constitute legal advice.

Enforcement

Local council Authorised Officers can issue an improvement or prohibition notice under the PHWA if the person responsible for an aquatic facility does not comply with the new Regulations. Improvement notices provide the responsible person an opportunity to remedy a situation in the first instance. If there remains a problem, however, these notices are enforceable and carry a penalty of up to \$70,092 (for a body corporate) for failure to comply.

Public Health Risk Powers

Part 10 of the PHWA provides the Chief Health Officer with powers to investigate, eliminate or reduce public health risks. These provisions could be used in response to an outbreak of disease associated with an aquatic facility. An example of how these laws could be used is in the event of an outbreak of cryptosporidiosis associated with an Aquatic Facility. In such a situation the Chief Health Officer would have the power to close the Aquatic Facility until the risk had been eliminated or reduced.

Pool Operators Handbook

The Department has produced a *Pool Operators Handbook* that contains more detailed information about pool maintenance and risk management. The Department is in the process of updating this booklet to include the new requirements in the Regulations. However, the current version continues to provide valuable information for operators of aquatic facilities and is available from the Department's website at <http://www.health.vic.gov.au/environment/water/pooloperators.htm>

Penalties

Some of the penalties for non-compliance with the Regulations have increased. As of 1 January 2010, non-compliance with any provision in the Regulations may result in a fine of up to 20 penalty units¹ or \$2,336.40².

Further information

For further information about the Regulations affecting aquatic facilities, please contact the Department of Health's Environmental Health Unit on 1800 248 898 or visit the Department of Health's Environmental Health website at <http://www.health.vic.gov.au/environment/water/swimming.htm>

¹ The value of a penalty unit generally increases at the beginning of each financial year. For the 2009/10 financial year, one penalty unit is equal to \$116.82

² Based on the value of a penalty unit for the 2009/10 financial year.