

REIQ Fact Sheet

Residential - General

New 8th Edition Contract for Houses and Residential Land (House & Land)

New 4th Edition Contract for Residential Lots In a Community Title Scheme



The Real Estate Institute
of Queensland

The introduction of the new Pool Safety laws from 1 December 2010 necessitated changes to both the House and Land Contract and Residential Lots in a Community Title Scheme Contract. The Pool Safety laws now place additional obligations on owners of property with a regulated pool. These obligations also extend to giving prospective purchasers information regarding the existence of a Pool Safety Certificate. The new editions of the contract come into effect from **1 December 2010**.

A summary of the changes is set out below:

HOUSE AND LAND CONTRACT

Building and/or Pest Inspections

- The Building and/or Pest Inspection details in the Reference Schedule have been amended so that the only item for completion is the Inspection Date. This date must be completed in order to trigger the contract being subject to a Building and/or Pest Inspection under standard condition 4. Best practice is to insert an actual date to give more certainty to the contract. Rather than nominate the name of a building and/or pest inspector, the buyer can now choose a building and/or pest inspector - the only requirement is that the inspector is licensed under the *Queensland Building Services Authority Act 1991*.

Pool Safety

- A new item in the Reference Schedule for Pool Safety has been included with a series of questions about the property. The questions and details of Pool Safety Inspection Date (if applicable) will need to be completed at the time of filling out the contract.
- If there is no pool on the land, then only Question 1 needs to be completed. Regulated pools include in-ground, above ground and portable pools. Agents should check with the seller at the time of listing the property regarding the existence of any pools (including those that might belong to any occupiers of the land). Sellers should be encouraged to get advice about the Pool Safety laws at the time of listing.
- If there is a pool on the land, and Question 2 has been answered Yes, then the Seller is required to give a copy of the Pool Safety Certificate to the buyer either before the completion of the contract or at the settlement date of the contract. Clause 5.3 has been amended accordingly.

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- If there is no Pool Safety Certificate available at the time of contract, and Question 2 is answered No or is left blank, then the buyer has a right to engage a Pool Safety Inspector to conduct an inspection of the pool. A new **Pool Safety Inspection Date** has been included in the Reference Schedule. If this is left incomplete, then the date for the inspection is taken to be the Inspection Date for the building and/or pest inspection, or 2 business days before the Settlement Date, whichever is the earlier. A new clause 4.7 has been included in the standard conditions to regulate the pool safety inspection and the parties' rights in that regard. Note that the buyer can elect to terminate the contract if a Pool Safety Inspector has not issued a Pool Safety Certificate by the Pool Safety Inspection Date.
- **For those contracts that are formed on a sale by auction (directly on the fall of the hammer, by outcry), the seller will need to ensure that the Pool Safety questions are completed and, where applicable, comply with the Pool Safety laws. However, a buyer under a contract formed on a sale by auction is not entitled to a pool safety inspection and clause 4.7 does not apply in those cases.**
- Question 3 only needs to be completed where there is no Pool Safety Certificate available at the time of contract. The seller has a statutory obligation to give to a prospective buyer a Form 36 Notice of no pool safety certificate PRIOR to contract. The buyer still has a right of inspection under clause 4.7 of the standard conditions **unless the contract was formed on a sale by auction.**

RESIDENTIAL LOTS IN A COMMUNITY TITLE SCHEME CONTRACT

Building and/or Pest Inspections

- The same changes apply as for the House and Land Contract.

Pool Safety

- The Pool Safety laws apply differently when there is a shared pool or a non-shared pool. As such, the contract amendments are slightly different to take into account this distinction in a community title scheme. In some cases, the lot sold might have a non-shared pool. For such cases, the questions in the Reference Schedule have been adapted for **non-shared pools on the Lot**. The answers to these questions will need to be completed at the time of filling out the contract. The same principles apply in the case of a non-shared pool in a community title scheme – the buyer has the opportunity to complete a pool safety inspection and the same rights apply as in the House and Land Contract.
- A new clause 4.7 has been included in the standard conditions to regulate the pool safety inspection and the parties' rights in regard to a non-shared pool inspection. Note that the buyer can elect to terminate the contract if a Pool Safety Inspector has not issued a Pool Safety Certificate by the Pool Safety Inspection Date for the non-shared pool.
- **For those contracts that are formed on a sale by auction (directly on the fall of the hammer, by outcry), the seller will need to ensure that the Pool Safety questions are completed and, where applicable, comply with the Pool Safety laws. However, a buyer under a contract formed on a sale by auction is not entitled to a pool safety inspection and clause 4.7 does not apply in those cases.**
- In cases where the community title scheme has a **shared pool**, additional questions in the Reference Schedule will need to be completed regarding the shared pool. Note however that the standard conditions do not give the buyer of a lot in a community title scheme (with a shared pool only) a right of inspection or termination.
- Other minor changes have been made to the CTS contract to ensure consistency with the House and Land Contracts.
- **The new Pool Safety laws are designed to ensure that all pools in Queensland have a current Pool Safety Certificate. Agents should encourage clients to take steps now to check on the status of any pool at the time, rather than wait until a buyer is found for the property.**