

Decrees, orders, circulars

TEXTS GENERAL

MINISTRY OF EMPLOYMENT, LABOUR AND SOCIAL COHESION

Decree no.° 2004-499 of 7 June 2004 amending Decree no.° 2003-1389 of 31 December 2003 on swimming pool safety and amending the Construction and Housing Code.

NOR : SOCU0410833D

The Prime Minister,

On the report of the Minister for Employment, Labour and Social Cohesion,

Having regard to the Construction and Housing Code, in particular Articles L. 111-23, R. 128-2 and R. 128-4;

Having regard to Law No.° 41-1987 of 24 May 1941 on standardisation;

Having regard to Decree No.° 84-74 of 26 January 1984 establishing the status of standardisation;

Having regard to Decree no.° 2003-1389 of 31 December 2003 on swimming pool safety and amending the Construction and Housing Code,

Decree:

Art. 1^{er} . - Article R. 128-2 of the French Construction and Housing Code reads as follows:

"*Art. R. 128-2*. - I. - Owners of swimming pools built or installed after 1^{er} January 2004 must fit them with a safety device designed to prevent drowning, at the latest when the pool is put in water or, if the work to install the device requires it to be put in water beforehand, at the latest when the work on the pool is completed.

II - This device consists of a protective barrier, a cover, a shelter or an alarm that meets the following safety requirements:

- protective barriers must be designed, constructed or installed in such a way as to prevent the passage of children under the age of five without the assistance of an adult, to withstand the actions of a child under the age of five, in particular as regards the access locking system, and not to cause injury ;
- covers must be designed, constructed or installed in such a way as to prevent the involuntary immersion of children under the age of five, to withstand being stepped on by an adult and not to cause injury;
- enclosures must be designed, built or installed in such a way as not to cause injury and be such that, when closed, the pool area is inaccessible to children under the age of five;
- alarms must be designed, constructed or installed in such a way that all activation and deactivation controls cannot be used by children under the age of five. The detection systems must be able to detect any crossing by a child under the age of five and trigger a warning device consisting of a siren. They must not trigger unexpectedly.

III - Devices which comply with French standards or standards or technical specifications or manufacturing processes in force in a Member State of the European Community or another State party to the Agreement on the European Economic Area, ensuring an equivalent level of safety, are presumed to meet the requirements referred to in II. The references of these standards and regulations are published in the *Official Journal* of the French Republic.

Art. 2 - In article R. 128-4, the words: "the second paragraph of article R. 128-2" are replaced by the words: "II and III of article R. 128-2".

The following paragraph is added to article R. 128-4:

"However, devices installed before the publication of decree n° 2004-499 of 7 June 2004 are deemed to have been installed before the publication of decree n° 2004-499 of 7 June 2004.

To comply with these provisions, if the owner of the pool is in possession of a document supplied by a

manufacturer, seller or installer of safety devices, or by a technical inspector as referred to in article L. 111-23, certifying that the device installed complies with the safety requirements referred to in II of article R. 128-2. The owner may also, under his own responsibility, certify this compliance by means of a document accompanied by the relevant technical evidence. This certificate must conform to a model set out in the attached annex.

Art. 3 - The Minister of State, Minister of the Economy, Finance and Industry, the Minister of Employment, Labour and Social Cohesion, the Keeper of the Seals, Minister of Justice, the Minister Delegate for Industry, the Minister Delegate for Small and Medium-sized Enterprises, Trade, Craft Trades, the Professions and Consumer Affairs and the Secretary of State for Housing are each responsible for the execution of this decree, which will be published in the *Journal officiel* de la République française.

Paris, 7 June 2004.

JEAN-PIERRE RAFFARIN

For the Prime Minister :

*The Minister for Employment,
Labour and Social Cohesion,*

JEAN-LOUIS BORLOO

*The Minister of State, Minister for the
Economy, Finance and Industry,*
NICOLAS SARKOZY

The Minister of Justice,
DOMINIQUE PERBEN

The Minister for Industry,
PATRICK DEVEDJIAN

*The Minister Delegate
small and medium-sized enterprises,
trade and crafts,
professions and
consumer affairs,*
CHRISTIAN JACOB

The Secretary of State for Housing,
MARC-PHILIPPE DAUBRESSE