



## Fencing of Swimming Pools Act 1987

### **Why do you have to fence your pool?**

A private swimming pool is a significant asset for the home. It becomes the centre of activities in summer; the place for the family to sit around in the evenings or when friends come over for a BBQ. A place to relax, or even to talk business in relaxed surroundings.

It can also be a deadly danger for small children. Sadly, a significant number of toddlers drown in private swimming and spa pools. The natural attraction water has for small children and the existence of private pools is a dangerous combination.

You may not have small children. You may have grandchildren, or perhaps the children of relatives or friends may come to visit you. (Most often, the children who drown in private pools live on or are visitors to the property). So, it is not just to protect children who may stray onto your property that private pools need to be fenced.

Ask anyone with practical experience of minding children. They will tell you that it is not possible to constantly supervise small children. Even the most careful parent may become distracted for two to three minutes. That is enough time for a small child to get to, and fall into an unfenced or unsecured pool. Even if a toddler is saved from drowning, the outcome is not always a happy one. If a child's brain is deprived of oxygen for only a few minutes it can suffer moderate to severe damage.

There are even suggestions that mild, otherwise undetectable damage may generate subtle changes in the later behaviour of children.

Some years ago Parliament decided that there was no reason for children to continue to fall into private pools and drown, or suffer brain damage, where this could be entirely avoided by adequate fencing. Parliament's answer was the Fencing of Swimming Pools Act 1987.

### **Which pools need to be fenced?**

**All private pools and spa pools need to be fenced unless:**

- The maximum depth is 400 mm, or less; or

- The walls of the pool are 1.2 m or more above the ground (or pool's surrounds). This means no permanent means of access such as steps are allowed and temporary steps must be removed after being used; or
- The pool is indoors.

### **What is the Act about?**

The fencing of Swimming Pools Act exists to protect young children from the dangers of unfenced swimming pools and spa pools.

It does this by requiring owners to fence their pools.

### **Who does the Act apply to?**

Pool owners, and people, including tenants, with pools on their property, all have duties under the Act. Pool owners must tell the Council if they have a pool or are intending to get or build a pool. A building consent is required before constructing any type of pool or altering a fence around a pool. All pools must be fenced to the standard set out in the Act. If a pool is not fenced to this standard the owner must ensure the pool is kept empty.

Everybody renting or leasing a house with a pool must ensure the pool is empty if it does not have a fence, which complies with the Act.

This Council is required to take all reasonable steps to make sure that the Act is complied with.

### **Where must the fence be built?**

The fence may only surround the pool and the area immediately around the pool. This area can only exclude things used in association with the pool, for example, a sunbathing deck or a changing shed.

**It may not include the clothes line, barbecue or a vegetable garden.** A secure boundary fence is not, on its own sufficient. However, subject to strict conditions, part of a boundary fence may be used as a part of the pool fence.

If a boundary fence is made use of, there is a danger that a neighbour may unwittingly make the fence unsafe. For example, the neighbour may stack timber against the fence so that it becomes easy for a child to climb over the pool area.

### **What about an existing pool?**

There are existing pools, which were built prior to the Act coming into force. These were often subject to a bylaw which only requires that the property itself be adequately fenced. This reflected the view at the time- that the greatest danger arose through children straying onto a property. This does happen, but later research has shown that the majority of accidents happen to the children of pool owners or their legitimate visitors.

Therefore, the Act requires that all pools must be fenced to the standard set by it.

### **What standard of fencing is required?**

Pool fences must meet the standard required by the Act. This requires existing pools to be fenced to the specifications of the schedule to the Act. A new fence or alterations to an existing fence must meet the performance standard of the Building Code. Ask the Council for information about the criteria that your fence must conform to.

The schedule of the Act sets out specifications which, if followed, will automatically ensure that a swimming pool or spa pool fence meets the performance standard of the Building Code.

### **Can a building part of a fence?**

Buildings can form part of a fence but have to meet certain requirements in the Act.

### **Can building owners be exempted from the Act?**

Pool owners can apply to the Council for an exemption from the Act. The Council, in granting an exemption, could specify certain conditions that the pool or the property must meet. The Council can only grant an exemption or a special condition if this would **not significantly increase danger to young children**.

### **What happens if I use an unfenced pool?**

Any person who uses an unfenced pool commits an offence under the Act, and is liable to a fine. Criminal proceedings were recently taken against the tenants of a property with an unfenced pool in which a small child drowned. Both tenants were convicted and required to pay substantial fines.