

## Information Sheet Swimming Pool And Spa Safety Barriers

### Background

The *Building Regulations 1994* introduced a requirement that all swimming pools and spas installed before April 1991 must be provided with suitable barriers to prevent unsupervised small children entering the pool area. This was to be undertaken before July 1997.

From 21 December 2001, the Regulations were amended to:

- regulate any remaining non-compliant pools after the former compliance date
- require compulsory self-closers to gates and doors in barriers to pre-1991 pools and spas to take effect from 1/7/02
- introduce obligations for maintenance and responsibility
- require building permits for new pool fencing and new pools with a depth of water of more than 300mm
- increase maximum court fines for non-compliance from \$1000 to \$5000.

### Requirements

#### *Application*

Regulation 5.13 of the Building Regulations applies to swimming pools and spas capable of containing a depth of water of more than 300mm and constructed or approved before 8 April 1991.

The definition of *swimming pool* includes any excavation or structure containing water and used primarily for swimming, wading, paddling or the like, including a bathing or wading pool or spa. This will include in-ground and above-ground pools, spas, hot tubs, jacuzzis, and indoor pools. Bird baths, fish ponds, fountains and dams or the like would not be included.

#### *Barriers*

All pools should now have barriers. If you are the owner of a property with a pool or spa with no barrier or inadequate barriers you are responsible to **immediately** meet the standards of the Regulations (refer last sheet). A building permit is required for new pool fencing.

In addition, from **1<sup>st</sup> July 2002** any door or gate opening to the area containing a pre-1991 pool or spa must be fitted with a self-closing device:

- “(i) *that is located not less than 1.5m above the ground, or the internal floor, level (as the case may be), measured from the approach side; and*
- (ii) *that returns the door or gate to its closed position-*
  - (A) *from any position in the range of positions from fully open to resting on the lock or latch; and*
  - (B) *from a stationary start from any position within that range without the application of manual force.”.*

The above applies regardless of the level of compliance before the amendment – even where Council or another adviser has agreed that barriers complied.

### ***Maintenance***

The Regulations require that **all pool barriers** (old and new pools) must be maintained to operate effectively at all times. This means that:

- all existing components of the barrier (eg hinges, self-closers etc) must function as intended
- no objects (including plants) must be located near a barrier which could take away from its effectiveness – even if on an adjoining allotment
- no doors or gates to the pool area are to be left open.

### ***Penalties For Non-Compliance***

Failure to comply may result in an on-the-spot fine of \$200 or up to \$5000 through the courts. In addition to the land owner, tenants and even visitors to a pool are now responsible to meet requirements.

If you have any further queries in relation to the above matters please contact Council's Building Department on 5832 9791.

## Regulations

### 5.13 Safety of existing swimming pools and spas

- (1) This regulation applies to a swimming pool or spa-
- on an allotment containing a Class 1 or 10 building; and
  - capable of containing a depth of water exceeding 300mm; and
  - constructed, or for which building approval was granted, before 8 April 1991.
- (2) The owner of the swimming pool or spa must ensure that one or more of the following barriers are in place to restrict access to the part of the allotment or building containing the swimming pool or spa-
- a wall of a building, but only if-
    - any door or gate in the wall complies with sub-regulation (3); and
    - any operable part of any window in the wall-
      - is not less than 2.4m above the ground or paving immediately external to the window; or
      - is not less than 1.5m above the floor of the room containing the window; or
      - has a catch, bolt or lock located not less than 1.5m above that floor level; or
      - has a securely fitted fly screen;
  - a fence and gate complying with AS 1926.1-1993 Fencing for swimming pools;
  - a paling, or imperforate fence if-
    - it is at least 1.5m in height measured above the ground level on the approach side; and
    - any door or gate in the fence complies with sub-regulation (3).
- Penalty: 50 penalty units.
- (3) With respect to any door or gate providing access to the part of the allotment or building containing the swimming pool or spa, the owner of the swimming pool or spa must ensure-
- that there is a lock or latch that prevents the door or gate, if the door or gate is in its closed position, from being opened by a person unable to reach the opening mechanism for the door or gate; and
  - that the opening mechanism is located not less than 1.5m above the ground, or the internal floor, level (as the case may be), measured from the approach side; and
  - that the door or gate is fitted with a self locking or self latching device that is located not less than 1.5m above the ground, or the internal floor, level (as the case may be), measured from the approach side.  **#(Note self closers also required after 1/7/02)**
- Penalty: 50 penalty units.
- (4) In this regulation, "owner" in relation to a swimming pool or spa means-
- in the case of a swimming pool or spa on an allotment being purchased under a terms contract (as defined in section 2 of the **Sale of Land Act 1962**) under which the purchaser has become entitled to possession or to the receipt of the rents and profits, the purchaser of that allotment; and
  - in the case of a swimming pool or spa on any other allotment, the owner of that allotment.

### 5.13A. Swimming pool safety maintenance and operation

- (1) The occupier of an allotment containing a swimming pool or spa appurtenant to a Class 1 or 10 building must take all reasonable steps to ensure that any fence or other barrier, door, gate, lock, latch, catch, bolt or fly screen restricting access to the swimming pool or spa is maintained and operating effectively at all times.  
Penalty: 50 penalty units.
- (2) The occupier of an allotment described in sub-regulation (1) must take all reasonable steps to ensure that any gate or door forming part of a swimming pool barrier or fence that provides access to the swimming pool or spa is in the closed position except when a person is in the act of entering or leaving the part of the allotment containing the swimming pool or spa.  
Penalty: 50 penalty units.
- (3) A person who enters or leaves the part of a building or allotment containing a swimming pool or spa must ensure that any gate or door forming part of a swimming pool barrier or fence that provides access to the swimming pool or spa is in the closed position at all times, except when that person or another person is in the act of entering or leaving that part of the building or allotment.  
Penalty: 50 penalty units.