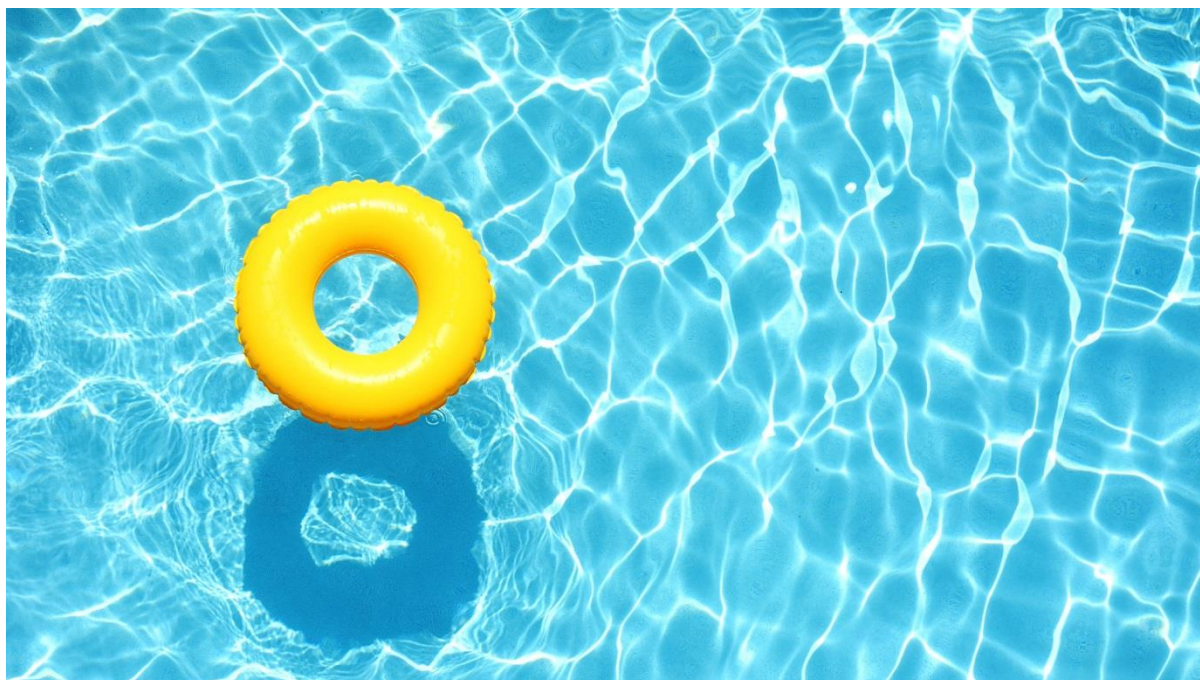


Restricting Access to Your Swimming / Small Heated Pool

Information / Checklist



Building Act 2004

(inforce from 1 January 2017)

Version 6, August 2018

Code: IS-119 / #459589

Swimming pool fencing

Why do I have to fence my swimming pool?

On 1 January 2017 the Fencing of Swimming Pools Act 1987 (FOSPA) was revoked and now (via amendment) restricting access is dealt with within the Building Act 2004. Included in this change was the creation of a Building Code Clause which deals specifically with the provision of barriers to restrict access to all residential pools by unsupervised children less than five years of age. Specifics of this change can be found via our website links to the New Zealand Government legislation webpages, Building Code F9 / AS1 and AS2.

Fencing your pool can be easy and not as much fuss as you may have thought.

We can assist and advise you of what is required and your responsibilities under the law.

What is a swimming pool?

Any excavation, structure or product that is used for swimming, paddling or bathing, including spa pools / hot tubs, are now in the Building Act as a small heated pool (SHP). This does not include ordinary home baths or artificial lakes / ponds.

Does my pool require fencing?

All private pools and spa pools must have access restricted unless:

- The maximum depth is 400mm or less; or
- The walls of the pool are 1,200mm or more above the ground, and there is no permanent projection or object standing on the ground within 1,200mm. 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 and in this instance access still needs to be controlled. Refer to Building Code F9 or contact us (details below).

Who is responsible?

Pool owners, or people in possession of properties with pools, including, for example, occupiers and tenants, pool installers, Timaru District Council, all have responsibilities under the Act.

Does my existing pool need to be fenced?

Yes, all pools must comply with the Building Act and regulations.

Where must the fence be built?

The fence may only surround the pool and the area immediately around the pool. This area can only include items used in association with the pool, such as the diving board, changing shed and swimming pool furniture. It may not include the clothes line, vegetable garden or children's play area etc. A secure boundary fence is not, on its own sufficient as it would be unlikely to comply with the Act. However, subject to strict conditions, part of a boundary fence may be used as a part of a pool fence.

If a boundary fence is used, there is a danger that a neighbour may unwittingly make the fence unsafe. For example, the neighbour may put trellis or a stack of wood against the fence so that it becomes easy for a child to climb over into your pool area.

When is a house a pool fence?

The walls of a house (or another building on the property) can form part of a pool fence, provided it meets certain conditions.

Do I need a Building Consent to install a pool fence?

Yes. Refer BA Form 2.

You would also need a Building Consent to fence a Small Heated Pool (SHP) spa, if it does not meet the required standards to be exempted from being fenced. (See below.)

Building Unit staff at Timaru District Council can provide help and advice on this.

Selling with an unfenced pool

Homebuyers can obtain a report, called a Land Information Memorandum (LIM), on the property they are buying. If there is a record of a non-complying pool on the property, this would be noted in the report. This could mean hasty and expensive action by you to remedy the situation and enable the sale to proceed.

What happens if I fail to meet the requirements?

Failure to comply may result in Council issuing infringement notices to fix the inspected failures. These infringements may incur costs if non-compliance continues.

Until your pool does comply with the Act, the pool must remain empty.

Swimming pool fencing checklist

Immediate pool area (means the area contained by the pool fence)

Should not contain any of the following	
Washing line	
Play area or equipment	
Garage, carport or vehicle access	
Vegetable garden	
The whole backyard	

Where a building forms all or part of the immediate pool barrier via

Hinged doors	
Either closes and latches automatically	
OR requires an audible alarm when door opened / left open (see Building Code F9)	
Latch / handle is a minimum of 1,500mm from bottom of door	
Has no hold open devices	
Sliding doors	
Either closes and latches automatically	
OR requires an audible alarm when door opened / left open (see Building Code F9)	
Latch minimum of 1,500mm above floor	
Bi-fold doors	
Requires an audible alarm when door opened / left open (see Building Code F9)	
Windows that give access to pool area where the interior floor to base of the window is less than 1,000mm	
Should be fitted with a limiter to prevent them opening more than 100mm	

Fence

1,200mm high from outside ground level or any permanent projection within 1,200mm	
900mm minimum between horizontal rails	
Gaps under fence less than 100mm	
Square mesh fences do not have a side dimension greater than 13mm	
Square mesh between 13-35mm – fence must be at least 1,800mm high	

Top surface of lower rail a minimum of 1,000mm from the top of the fence	
Picket fence gaps no wider than 100mm	
No climb points on outside of fence, e.g. seating, trees, within 1,200mm of barrier	

Pool barrier (fence) on a property boundary

Not less than 1,800mm high, measured from the ground level on the pool side	
No openings that a 100mm sphere could pass through	
Located not less than 1,000mm horizontally from the waters edge	
Complies with 2.1.3 and 2.1.7 of Building Code F9 / AS1 to prevent a child climbing down into the pool area	

Gates

Latch on outside of gate to be 1,500mm high	
Latch on pool side to be 1,200mm high	
To open away from pool and be clear of any obstructions	
To be self-closing and self-latching	

Above Ground Pools (exempt from a separate pool barrier) if:

Sides to be 1,200mm minimum from ground level	
Smooth vertical sides	
No climb points within 1,200mm of pool	
Ladder to be removable and kept secured from children under five years when pool not in use	

Water supply

Inlet for filling pool to be at least 25mm above the level of the pool surround, or through an approved backflow preventor	
If pool is filled via garden hose, a back flow prevention device must be fitted to the hose tap	
Back wash water and water drained from pool to discharge through a gully trap to the foul drain (except when on septic tank). Outlet pipe from pool should not exceed 50mm in diameter	

Small heated pools (spa pools)

The Building Act allows for an exemption under Schedule 1 No 23a for small heated pools that are under 5m ² in surface area and 760mm above surrounding ground to restrict access by way of a load bearing, lockable safety cover, with warning sign, used when the pool is not in use.	
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See Acceptable Solution F9 / AS2 for an option on how to comply. Small heated pools that do not meet these criteria will need to be fenced to restrict access.

We want to help

We want to make Timaru District a safer environment for everyone, especially small children. Please contact us if you are unsure about what you need to do.

Exemptions for small heated pools

Previously, the Council was able to grant special exemption applications for spa pools with lockable lids under the Fencing of Swimming Pools Act, now superseded. Under current legislation, only small heated pools that have a surface area of below 5m² and are a minimum of 760mm above the ground can be exempt from requiring a building consent. Please refer to Schedule 1 of Exempt Work via <https://goo.gl/OUKUcZ> which links to a PDF in section 21A – Means of restricting access to small heated pools.

Please see Building Code F9, which details an acceptable solution or contact us for advice. Exemptions granted previously under FOSPA remain valid as long as the terms of that exemption are complied with. They are not re-inspected by Council.

Related documents

- BA Form 2: Application for Project Information Memorandum (PIM) / Building Consent and / or Amendment to a Building Consent – PDF form
- Building Code F9 / AS1 and F9 / AS2 via Council website: Services, building information, building and pool safety or <https://goo.gl/FLLNcd>

Contact details

If you require any further information please contact the Timaru District Council on 0800 484 632 or 03 687 7200:

Write to: Building Unit
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PO Box 522
Timaru 7940

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