



## **HURUNUI DISTRICT COUNCIL**

### Fencing of Swimming Pools Act 1987 Information Sheet

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

The Fencing of Swimming Pools Act exists to protect young children from the dangers of unfenced swimming pools. It does this by requiring owners to fence their pools.

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

Pool owners, people with pools on their property and this Council all have duties under the Act.

Pool owners must tell the Council that they have a pool. Those intending to construct a pool must also tell the Council and apply for building consent approval prior to construction. All pools must be fenced to the requirements set down in the Act. If a pool is not fenced to this standard, the owner must ensure that the pool is kept drained of water.

Those renting or leasing a house with a pool must also ensure the pool is drained of water if the pool fence does not comply with the Act.

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

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

Any excavation, structure, or product that is used or is capable of being used for the purpose of swimming, wading, paddling, or bathing. This includes spa pools.

#### **Except for;**

- Pools with sides greater than 1.2 metres above ground level, constructed to inhibit climbing and where ladders can be removed or made inoperable.
- Pools where the maximum water level does not exceed 400mm in depth.
- Pools not associated with a residential property and not used for swimming.
- Paddling pools administered by a territorial authority.
- Pools that are wholly enclosed within a building that is used principally for the purpose or purposes not related to the use of the pool.
- Pools that are permanently supervised when in use and locked when not in use i.e. public swimming pools.

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

The fence must only surround the pool and the area immediately around the pool. This area can only include things used in association with the pool, for example, changing sheds. It should not include the clothesline or vegetable garden. A wire boundary fence is not sufficient and would not comply with the Act.

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

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

## Can pool owners be exempted from the Act?

Pool owners can apply to the Council for an exemption from the Act. The Council can grant exemptions from the Act, or specify certain conditions that the pool or the property must meet; if it were satisfied the exemptions or conditions "would not significantly increase danger to young children".

## What standard of fencing required?

This is to ensure that all pool fences are of a standard that will be able to protect young children from the pool. Before constructing a pool fence, please ensure that it will conform to the Act.

After considering the report on Council's obligations under the Fencing of Swimming Pools Act 1987 the Environmental Services Committee has adopted the following policy.

### 1 The criteria set out below be used for defining the confines of immediate pool areas:

a) *The immediate pool area includes:*

- i) The pool
- ii) Any immediate paved area around the pool
- iii) Any sitting area used in association with the pool
- iv) Changing room
- v) Filtration shed

b) *The immediate pool area, where clearly part of the pool area, could include:*

- i) Landscaping and planting
- ii) Grassed areas, provided that the amount of grassed area included is proportional to the amount of similar yard area excluded

c) *The immediate pool area excludes other activity areas used for the purpose of:*

- i) Clotheslines
- ii) Access paths to clotheslines
- iii) Vegetable gardens
- iv) General storage sheds
- v) Large areas making up the entire rear yard of properties
- vi) Barbecues and outdoor entertaining centres

### 2 The types of exemptions specified below may be permitted:

a) *The following areas may be included within the pool area if the Council considers that in the particular circumstances of the case the exemption would not significantly increase danger to young children:*

- i) Larger grassed and paved areas, provided that the site retains other similar areas outside the pool area
- ii) Larger areas of landscaping and flower gardens

b) *The following further matters may be considered for relaxation:*

- i) Fences with railings on the wrong side, particularly where the top of the fence is not easily stood or sat on, e.g. corrugated iron or spike topped fences
- ii) Non-complying fences which are higher than the statutory minimum

- iii) Walls, or combinations of walls and fences, which require to be climbed up to the pool area where it is considered they are sufficiently vertical that it is unlikely small children would be able to climb them.
- c) *Doors and walls of buildings that meet the criteria set out in Clause 11 of the Schedule to the Fencing of Swimming Pools Act 1987 shall be exempt.*

### **3 The following use areas shall at no time be accepted within pool area:**

- i) Children's play areas
- ii) Clotheslines and access paths to clotheslines
- iii) Vehicle parking and garaging areas
- iv) Barbecues and outdoor entertaining areas
- v) Vegetable gardens.

### **4 Applications for special exemptions**

All applications for exemptions are to be addressed to the Manager Environmental Services department on the prescribed form and will be reported on to the Environmental Services Committee and be dealt with by resolution of that committee.

### **5 Temporary Fencing**

Pools not filled with more than 400mm of water prior to fencing being erected are exempt from providing temporary fencing provided the fall does not exceed 1.0 metre.

Where it is necessary to fill the pool in excess of 400mm, or that the fall exceeds 1.0 metre, temporary fencing shall be provided as follows;

- The fence shall have a height above the outside ground level of at least 1.2 metres if solid sheathed or 1.8 metres if constructed of netting.
- No fence shall have external horizontal members or projections, which could provide a foothold that, are spaced closer than 900mm vertically.
- The netting mesh size shall be no greater than 50mm X 50mm, and there shall be no opening through which a 100mm diameter sphere can pass.
- Temporary fencing shall remain erected no longer than 2 months from the commence date of the pool construction. Prior to this period expiring, fencing complying fully with the Fencing of Swimming Pools Act shall be installed.

### **6 Windows**

Windows that open directly into the pool enclosure are required to be fitted with opening restrictors. The maximum permissible opening shall be no greater than 100mm.

## **Means of compliance for fences under the Act**

This schedule is deemed to be a means of complying with the requirements of the Act.

### **1 Height**

- (a) The fence shall extend -
  - (i) At least 1.2 metres above the ground on the outside of the fence, and
  - (ii) At least 1.2 metres above any permanent projection from or object permanently placed on the ground outside and within 1.2 metres of the fence.

- (b) Notwithstanding Sub-clause (a) of this Clause, where the fence is constructed of perforated material, netting or mesh and any opening in the material, netting or mesh has a dimension (other than the circumference or perimeter) greater than 10mm, the fence shall extend at least 1.8 metres above the ground or the projection or object.

## **2 Ground Clearance**

Any clearance between the bottom of the fence and ground level shall not exceed 100mm.

## **3 Materials**

All materials and components shall be of a durable nature and shall be erected so as to inhibit any child under the age of 6 years from climbing over or crawling under the fence from the outside.

Except where the fence is horizontally close-boarded or is made of perforated material, netting or mesh, the spacing between adjacent vertical pales, panels, or other posts shall not exceed 100mm at any point.

All fencing supports, rails, rods, wires, bracing or other similar posts shall be on the inside of the fencing and shall be inaccessible for use for climbing from the outside.

A fence may have horizontal supports, rails, rods or wires, that are accessible for use for climbing from the outside, and horizontal bracing that is accessible for such use, if:

- (a) The distance between any 2 of them at any point is at least 900mm; and
- (b) There is no other support, rail, rod, wire, or bracing (other than a vertical rail) between the same 2 at any point).

Where any perforated material, netting or mesh is used, no opening in that material, netting or mesh shall have any dimension (other than the circumference or perimeter) greater than 50mm.

All perforated material, netting, or mesh material shall be firmly attached at both top and bottom to a rail, pipe, or similar firm structure, or otherwise be of such a nature that the fence cannot readily be crossed by children under the age of 6 years.

## **4 Gates and Doors**

Every gate or door shall be so constructed as to comply with the relevant requirements of Clauses 1 to 7 of this Schedule, and shall be so mounted that -

- a) It cannot open inwards towards the immediate pool area;
- b) It is clear of any obstruction that could hold the gate or door open and no other means of holding the gate or door open is provided;
- c) When lifted up or pulled down the gate or door does not release the latching device, come off its hinges, or provide a ground clearance greater than 100mm.

## **5 Operation of Gates and Doors**

Every gate or door shall be fitted with a latching device.

- a) Where the latching device is accessible from the outside of the fence only by reaching over the fence, gate, or door or through a hole in the fence, gate or

door, the latching device and the lowest point of any hole giving access to it shall be at least 1.2 metres above the ground on the outside of the fence.

- b) Where the latching device is otherwise accessible from the outside of the fence, gate or door, the latching device shall be at least 1.5 metres above the ground on the outside of the fence.

Every gate or door shall be fitted with a device that will automatically return the gate or door to the closed position and operate the latching device when the gate or door is stationary and 150mm from the closed and secured position.

## **6 Door in Walls of Buildings**

Where any building forms part of a fence and the pool is not contained within the building, any door that gives access to the immediate pool area need not comply with the requirements for gates or doors set out in Clauses 8 to 10 of this Schedule to the extent (if any) that the territorial authority is satisfied that such compliance is impossible, unreasonable, or in breach of any other Act, regulation, or bylaw, and the door is fitted with a locking device that, when properly operated, prevents the door from being readily opened by children under the age of 6 years.

### **Need further information?**

Council Building Officers can provide you with the information you need.

Hurunui District Council;

Our Office is: 66 Carters Road, Amberley

or Postal Address is: P O Box 13, Amberley

or Telephone(03) 314 8816