

Regulation & Democracy Services

pool fencing

a guide to the Fencing of Swimming Pools Act 1987



The purpose of this booklet is to assist the Christchurch City Council and Pool owners guard young children from the potential of drowning or injury in swimming or spa pools.

What is a Pool?

A pool is described as being any excavation, structure or product that is used or is capable of being used for swimming, wading, paddling or bathing and includes spa pools.

What Exactly is the Law?

The Fencing of Swimming Pools Act was introduced in 1987, making territorial local authorities responsible for ensuring that pool owners comply with the legislation.

A schedule in the Act sets out the requirements for fences.

The Fencing of Swimming Pools Act establishes that a compliant fence meets the performance requirements of the Building Code in force under the Building Act 2004.

Case law based on relevant court cases; regularly improve the way the law is applied. Legal determinations made under the Building Act at times apply to pool fencing.

Details of determinations can be accessed via the following website: <http://www.dbh.govt.nz/determinations-view-past-determinations>.

Anyone intending to install a new pool, or new pool fence, must apply for and uplift a Building Consent prior to commencing the work.

The Fencing of Swimming Pools Act requires pool owners to notify the Council of the existence of a pool. An application for a building consent is an acceptable way of notifying the Council of the installation of a new pool or fence.

Building Consents

Having determined that a new fence, part of a fence, or a gate is required it may be necessary to apply for and uplift a building consent.

This can be done at any of the Council Service Centres by completing Form BA001 (Application for Building Consent for Specific Small Works) and Check sheet Form B054 (Swimming and Spa Pools and Associated Fences).

- Forms are available on line or from a Council Service Centre. <http://www.ccc.govt.nz/homeliving/buildingplanning/buildingconsents/applicationpacks/swimmingspafencing.aspx>
- A Regulatory Support Officer at the Civic Offices, Tuam Street, can assist you in completing this process.
- A building consent is required for the installation of a spa pool.

Swimming/spa pool & fencing

CHECK LIST:

New Pool	Y	N	Existing Pool	Y	N
Have you got your building consent?			Is the pool registered at the Council?		
The Consent will cover: <ul style="list-style-type: none"> Your pool fencing requirements. Siting of the pool. Registering the pool with Council. Filling and drainage. 			Is the immediate pool area fenced?		
			Has the pool been inspected?		
If the answer to any of the above is NO contact the Christchurch City Council.					

The Fencing of Swimming Pools Act 1987 requires that the pool is NOT filled or partly filled with water until such time as the pool or immediate pool area complies with the Act and compliance has been confirmed by a visit from a Council Officer.

Note: Standards New Zealand have published a standard for Safety Barriers and Fences Around Swimming Pools, Spas and Hot Tubs (NZS 8500 : 2006). This contains some useful additional information but has **NOT been incorporated in law** (as at November 2007) and **DOES NOT replace or over-ride the Fencing of Swimming Pools Act 1987**.

Please note: This booklet is a guide only. For further information refer to the Fencing of Swimming Pools Act or contact the Christchurch City Council (details on back page of booklet).

How Can I Find Out if My Pool Complies?

Only an inspection by a Council Swimming Pool Inspector can confirm if your pool fence complies. Council's records on your property represent its current status. You can enquire through the Council's Customer Services Team on 941-8999 and then, if required, make an application for an inspection through the Inspections and Enforcement Unit.

If your existing pool is not registered, i.e. not on the Council system, you will need to complete the application form (SP3) and pay the inspection fee. This form is available on-line or from a Council Service Centre.

If this inspection results in the need to install a fence or, where a new fence is required, it will be necessary for a Building Consent to be issued prior to that work being done. Refer last page for CCC contact details.

Don't Become Complacent!

Even when your pool has a complying fence ~ continually safeguard your pool area by:

- Not propping open gates or doors or keeping them off their latches.
- Fencing off any door that is not self-closing and self-latching.
- Making sure that children don't put or leave bikes, trikes, ride-ons etc against the fence.
- Ensure signage is on doors.
- Not placing objects such as flowerpots, deck chairs, firewood, boxes, wheelbarrows etc against either side of the fence.
- Ensure gates self close and latch.

The Immediate Pool Area is to be Fenced

Immediate pool area means the land in or on which the pool is situated and so much of the surrounding area as is used for activities or purposes carried on in conjunction with the use of the pool.

The immediate pool area must not include the whole of the outdoor living space (your boundary fence alone is not acceptable) and/or thoroughfares.

You should only enter the pool area for activities related to the use of the pool. Also the pool fence should prevent young children moving directly to the pool from the house, other buildings, garden paths or areas of the property normally open to them. Activities such as vegetable gardens, domestic clothes lines, children's play area and amenities and access to them via the pool will be excluded from the pool area.

What Fencing is Required?

A fence that complies with the Fencing of Swimming Pools Act 1987 that prevents any child up to 6 years of age from climbing over, under or through it.

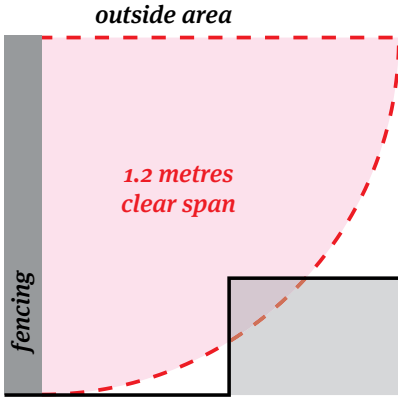
What Types of Fence Comply?

A fence that complies with the Fencing of Swimming Pools Act 1987; if all materials and components shall be of a durable nature, and the fence shall be a continuous barrier of appropriate height, rigidity, and strength to prevent any child up to six years of age from climbing over, under, or through the fence from the outside.

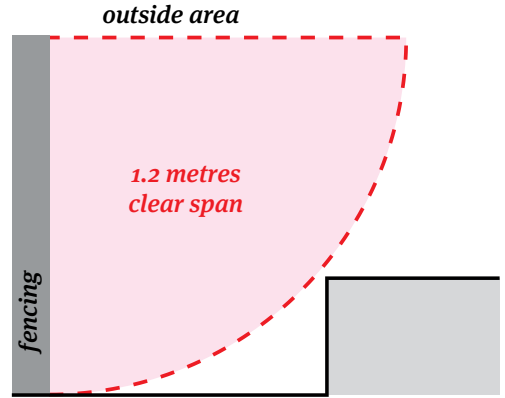
- The fence shall extend 1.2 metres above the ground, or any object within 1.2 metres of the fence that could be used to climb the fence. Climbable objects inside the pool fence need to be a minimum of 300 mm from the fence.



Not Acceptable

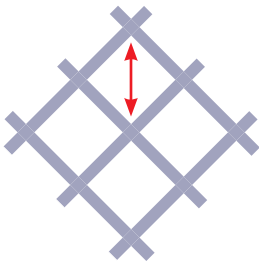


Acceptable

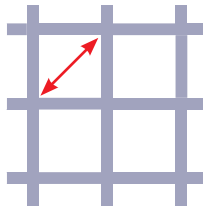


- Ensure trees and vegetation does not assist climbing of a pool fence or restrict gates or doors from closing.
- There shall be no gap between vertical components of the fence greater than 100mm.
- There shall be no gap under the fence greater than 100mm.
- Where the fence is constructed of perforated material, trellis, netting or mesh, gaps must be no greater than 10mm for a fence up to 1.8 metres high.

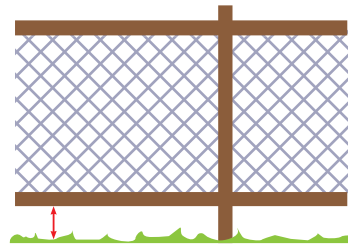
Note: This measurement is on the diagonal or widest part of the gap.
Fences 1.8 or higher metres may have 50mm gap.



For a fence up to 1.8m tall the gaps are to be no more than 10mm.



For a fence 1.8m tall or higher the gaps can be up to 50mm

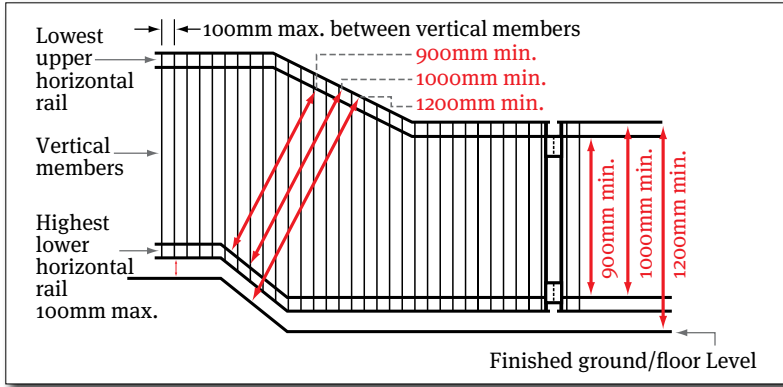


All gaps should be less than 100mm, ie to ground, rails, gate, rest of fence etc.

- Horizontal boarded fences have all the gaps filled, and
- All support rails, bracing etc that are not vertical are made inaccessible for climbing from the outside, or
- The support rails are on the outside with the distance between any two of them being at least 900mm, and
- The fence must surround the immediate pool area.
- Any horizontal boarded fences with gaps greater than 10mm must have the gaps filled or covered.
- All support rails, rods, or wires that are not vertical shall be inaccessible for use for climbing from the outside except if positioned horizontally and are spaced a minimum 900mm apart.

Boundary Fences

If the pool fence is also a boundary fence be aware that you may have no control over any object placed against the neighbour's side which might allow a child to climb into your pool area from next door.



Can Buildings be Part of a Pool Fence?

They can when they comply with all aspects of the Act and a Council Swimming Pool Inspector has deemed them to be part of the immediate pool area.

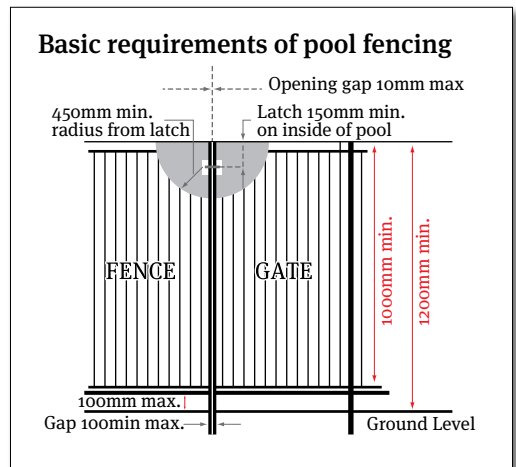
Important

If you wish to include the building as part of a pool fence that includes doors, be aware the pool should be fenced in isolation; eliminating any direct access to the pool from the house.

What about Gates and Doors?

Gates must:

- Not open into the pool area.
- Be fitted with a self-latching device and a self-closing device capable of closing the gate at least 150mm ajar.
- If placed on the pool side, must only be accessible by reaching over the top of the fence, gate or through a hole at least 1.2 metres above the ground from the outside.
- If on the outside of the gate, must be at least 1.5 metres above the ground.
- Be clear of anything that could hold them open.
- Not lift off their hinges or unlatch if pulled down or lifted up.
- Hinges that could be used as a foot hold must be 900mm apart or fitted with slip device or cap.



Hinged doors must:

- Not open into the pool area.
- Be fitted with a self latching and a self-closing device capable of closing the door from an opening distance of at least 150mm.
- Have a self closing latch at least 1.5 metres above floor level.
- Have a Council supplied self-adhesive notice affixed to all pool access doors.
- Be clear of anything that could hold them open.
- Double gates or doors are required to independently self close, self latching at 1.5 m or have one side of the door/gate permanently fixed shut. Padlocks, keyed tower-bolts and tower-bolts are not acceptable to secure the 2nd gate/door.

Ranch sliders and sliding/folding doors must:

- Be fenced off from the pool area.
- If deemed to be in the immediate pool area by a Council Swimming Pool Inspector, must self-close and self-latch or have a Special Exemption.
- These doors must remain closed and locked when the pool is not in use.

Windows

- Any opening windows lower than 1.2 metres from floor level must be restricted to open no more than 100mm.
- You must also restrict the window if you have any climbing aids placed against the window, such as furniture and including a window ledge that reduces the required height.

Pools/Spas must remain empty until they have an approved complying fence installed.

Are Any Pools Exempt from Fencing?

There are basically four types of pools that the Fencing of Swimming Pools Act does not apply to:

1. An above ground pool where the top of the side wall is no less than 1.2 metres above the ground or any permanent object (removable ladder or steps).
2. A structure or product where the maximum depth of water does not exceed 400 mm.
3. A pool that is wholly enclosed within a building that is principally used for purposes other than the use of the pool. Any exemption is based on the current interpretation of Section 5(e) of the Act. Please note that should the Courts or determinations from the Department of Building & Housing subsequently provide greater clarity in relation to the interpretation, the status of the pool may change.
4. A pool where people are employed to provide supervision while the pool is available for use and the pool is behind locked gates at other times.

Special Exemptions Section 6 FSWP Act 1987

In special circumstances the Council may grant an exemption from some or all of the requirements of the Fencing of Swimming Pools Act 1987.

Such exemptions go before a hearings panel made up of 3 Councillors. The hearings panel is responsible for making the decision. The applicant may attend the meeting or have a representative attend for them.

Also pool owners with an exemption are warned that, Department of Building & Housing determinations since the pool was last inspected, may mean that their once exempt pool may no longer be exempt. See reference to “what Exactly Is the Law?” page one.

However, exemptions will only be granted where they will not significantly increase the danger/risk to young children and the Council may impose other conditions relating to the property or pool as are reasonable in such circumstances.

Any exemption granted or condition imposed can be amended or revoked by the Council at any time.

Having determined you have good reason for seeking special exemption, the application form (SP5) must be completed and fee paid prior to the exemption going to the committee. This form is available on-line or from a Council Service Centre.

PLEASE NOTE: The value of aesthetically pleasing gardens cannot be placed above the value of human lives. The effect on the appearance of the property is not a reason for seeking an exemption.

How to Avoid Enforcement Action

Every swimming or spa pool owner is responsible under the Act for ensuring that all of the immediate pool area is fenced in a way that complies.

This means that the fence must be maintained in a way that complies with the Act and if for whatever reason, it does not comply, the pool must remain empty until the pool fencing requirements have been met.

Owner's Checklist

		Yes
1.	The height of the fence and gate is not less than 1.2m.	<input type="checkbox"/>
2.	There is no gap or space in the fence greater than 100mm.	<input type="checkbox"/>
3.	The fence rails are on the pool side.	<input type="checkbox"/>
4.	The rails are on the outside but are more than 900mm apart or they are made unclimbable.	<input type="checkbox"/>
5.	The fence is netting, mesh, or trellis, with no opening greater than 10mm for a fence up to 1.8m high.	<input type="checkbox"/>
6.	All gates and doors into the pool enclosure do not open towards the pool area and comply with the requirements of the Fencing of Swimming Pool Act.	<input type="checkbox"/>
7.	The gate latch is on the inside not accessible from the outside through the gate; or is 1.5m above the ground.	<input type="checkbox"/>
8.	The pool is not fenced but has sides 1.2m high with no climbable places and the ladder or steps are removed when the pool is not in use.	<input type="checkbox"/>
9.	The filter backwash and pool discharges to the sewer.	<input type="checkbox"/>
10.	A backflow prevention system is installed.	<input type="checkbox"/>
11.	The Council has a record of the pool and fence.	<input type="checkbox"/>
12.	The pool fence has had a recent inspection.	<input type="checkbox"/>

NOTE: This is a checklist for your convenience, but does not cover every situation. For more information, refer to the Christchurch City Council website www.ccc.govt.nz/homeliving/buildingplanning/swimmingspafencing/. If you require advice, please phone the Christchurch City Council on 941 8999.

Filling the Pool

When filling the pool there is a requirement to have a backflow prevention device fitted to prevent contamination of our water supply.

Backflow preventers are devices fitted into the pipe or hose system used to fill the pool to stop water from the pool being sucked back into the pipe or hose for whatever reason e.g. a fall in the mains water pressure and contaminating the water supply with pool water.

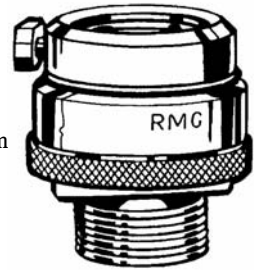
There are four basic types of devices that can be used: air gaps, vacuum breakers, both atmospheric and pressure type, double check valve assemblies and reduced pressure zone devices.

A wide choice of devices exists within these types.

For hose-filled pools, the most common device is the **hose connection vacuum breaker**.

These small devices are a specialised version of the atmospheric vacuum breaker. They are generally attached to hose taps and in turn to outlets such as garden hoses.

You can get more information on this from your pool supplier or local plumbing merchant.



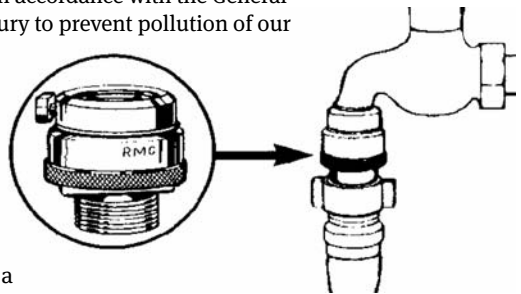
Emptying the Pool

Water emptied from a pool must be carried out in accordance with the General Authorisation granted by Environment Canterbury to prevent pollution of our waterways.

All pool owners must comply with this except those connected to the Council's sewerage system who can alternatively put this water down the sewer via a gully trap.

The filter backwash water may contain contaminants and so must also be put through a gully trap into the sewer **not to stormwater drains, streams or rivers**.

Note: It may be necessary to take precautionary measures for in-ground pools where the ground water table is high or may be of concern, before emptying water from the pool.



Enforcement Team
Inspections and Enforcement Unit
Christchurch City Council
163-173 Tuam Street,
PO Box 237, Christchurch 8011
Telephone 941-8999

Email: Info@ccc.govt.nz

<http://www.ccc.govt.nz>