

SWIMMING POOL LAWS

Drowning is a leading cause of accidental death in very young children. Tragically, every year a number of children drown in backyard swimming pools. With over 300,000 backyard swimming pools in NSW, swimming pool safety is vital.

In NSW, private or 'backyard' swimming pool safety is legislated by the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.

The Act was introduced to improve pool safety for children. However, laws requiring pool barriers and warning notices are just one part of pool safety. Also crucial are maintaining the pool barrier, keeping entry points secure, appropriate adult supervision, teaching young children to swim and resuscitation (CPR) training.



WHAT IS YOUR RESPONSIBILITY UNDER THE SWIMMING POOLS ACT?

The Act and Regulation apply to all swimming pools (both indoor and outdoor) on premises where there is a residential building, a movable dwelling (eg caravan), a hotel or a motel.

If you are the owner of premises on which a swimming pool is situated you must ensure that the pool is at all times surrounded by a child-resistant barrier consisting of fencing of a height no less than 1.2 metres (1.8 metres if a boundary fence) and/or your house wall. You must always keep your barrier, gates and doors in good working condition. Doors and gates providing access to the pool area must be kept securely closed at all times when not in actual use.

The requirements for child-resistant barriers on premises where there is a residential building vary according to when the pool was constructed and where the pool is located:

- For pools built **before** 1 August 1990, the pool must either be surrounded by a child-resistant barrier or the means of access from the building to the pool must be restricted at all times. The standard for restriction, for example, by use of complying windows and doors, is set out in the *Swimming Pools Regulation* applicable at the time the pool was built.
- For pools built **after** 1 August 1990 but **before** 1 September 2008, the pool must be surrounded by a child-resistant barrier that separates the pool from any residential building situated on the premises and from any place adjoining the premises. The child-resistant barrier must be designed, constructed, installed and maintained in accordance with Australian Standard 1926-1986 *Fences and Gates for Private Swimming Pools*.
- For pools built **after** 1 September 2008, the appropriate standard is Australian Standard 1926.1-2007 *Swimming Pool Safety, Part 1: Safety barriers for swimming pools*.

Pool owners can decide the exact location of the barrier, which need not closely surround the pool, provided it meets the requirements of the Act, Regulation and appropriate standard.

Remember - the general requirement for child-resistant barriers on residential properties is for the pool to be separated by a complying barrier from the house, adjoining properties and public spaces at all times. Direct access from the house to the pool area is not permitted unless an exemption applies.

Under the Act and Regulation special requirements and/or certain exemptions may apply to indoor pools, spa pools, pools situated on premises that have moveable dwellings, hotels or motels, as well as pools on very small properties (of less than 230 square metres), large properties (of 2 hectares or more) and premises having frontage to any large body of water for which construction or installation has commenced **before** 1 July 2010. Special requirements also apply to a house wall that is used as part of the child resistant barrier.

Local councils may grant exemptions from barrier requirements that are impracticable or unreasonable in particular cases, for example, to provide access for people with disabilities.

For information about these special requirements and exemptions contact your local council.

All pool owners must display prominently the prescribed warning sign in the immediate vicinity of the swimming pool. The sign gives a supervision warning and the details of resuscitation techniques. These signs are readily available from many councils and community organisations such as the Royal Life Saving Society and may also be obtained from pool shops and other outlets. **The warning sign should be able to be read so it may need to be replaced from time to time if fading occurs.**

Serious penalties apply if you do not comply with the requirements of the Act ranging from \$550 to \$5,500.



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REMEMBER –
BE POOL WISE &
SUPERVISE

WHAT IS YOUR RESPONSIBILITY IF YOU ARE RENTING A PROPERTY WITH A POOL?

If you are renting a property under a residential tenancy agreement, the *Residential Tenancies Act 1987* provides that:

- The landlord is responsible for providing and maintaining the premises in a reasonable state of repair
- The tenant is not to intentionally or negligently damage the premises and the tenant must notify the landlord of any damage
- The tenant may carry out urgent repairs and be reimbursed up to \$1,000 for any fault or damage that causes the premises to be unsafe if the landlord or agent cannot be contacted or does not carry out urgent repairs within a reasonable time.

WHAT IS YOUR COUNCIL'S RESPONSIBILITY?

Your council has responsibility for administering the Swimming Pools Act and Regulation in its area. Under the Act your council must ensure it is notified of all swimming pools in its local area which are covered by the Act. Your council is also responsible for promoting awareness of the requirements of the legislation in relation to swimming pools.

To check if your pool meets the requirements of the Act, you should contact your council. At a cost not exceeding \$70, the council can grant you a certificate of compliance if your swimming pool complies with the requirements of the Act. If your pool does not comply with the requirements of the Act, then your council will advise you of the steps you need to take so that it does comply.

Your council may issue you with a notice directing you to comply with the legislation. If you fail to comply within the time specified, or if the council considers that the work needs to be done urgently as there is a significant risk to public safety, it may carry out the work itself and recover the cost from you. In any notice the council must give reasons for its decision to issue you with the notice.

You are entitled to appeal to the Land and Environment Court against your council's decision to issue you with a notice or to refuse you a certificate of compliance. Time limits apply to the lodging of appeals.

Your council may appoint an inspector to inspect swimming pools, barriers and signs.

Your council is required to investigate complaints about non-compliance with the Act. It must, as far as is practicable, commence its investigation into a written complaint within 72 hours of receipt of the complaint. It may decide not to investigate a complaint that is vexatious, misconceived, frivolous or lacking in substance.

HOW TO KEEP YOUR POOL SAFE

- ✓ **Always** keep your fence, gates, doors and window locks secure and in good condition. Regularly check them
- ✓ **Always** keep your gate and door latches and self-closing mechanisms in good working order
- ✓ **Always** close your gates and doors when not in actual use. **Never** prop gates open
- ✓ **Never** leave climbable objects near the fence
- ✓ **Always** keep trees, shrubs and creepers trimmed well away from the fence
- ✓ **Always** leave your filter covered so small children can't get into it and keep chemicals out of view and reach
- ✓ **Always** supervise children around the pool at **all** times. A fence is no substitute for responsible supervision
- ✓ Teach your children to swim from an early age
- ✓ Undertake resuscitation (CPR) training for emergency situations.

USEFUL CONTACTS

➤ **Division of Local Government, Department of Premier and Cabinet:**

Phone: (02) 4428 4100
Website: www.dlg.nsw.gov.au

➤ **The Royal Lifesaving Society:**

Phone: (02) 9634 3700
Website: www.royal.nsw.com.au

➤ **St John Ambulance:**

Phone: (02) 9212 1088
Website: www.stjohnnsw.com.au

➤ **NSW Fair Trading: (for residential tenancy queries)**

Phone: 13 32 20
Website: www.fairtrading.nsw.gov.au

➤ **Communities NSW, NSW Sport and Recreation (Learn to Swim Program):**

Phone: 13 13 02
Website: www.dsr.nsw.gov.au
Swimsafe programs cater for children from 18 months to adults – beginner to advanced.

