

NSW Pool Safety Barriers



NSW SWIMMING POOL LAWS

As a pool owner, you are responsible for ensuring your pool is enclosed and access to it by children is restricted at all times. You are also responsible for ensuring that it complies with relevant Australian Standards and Laws.

The *Swimming Pools Act 1992* and its regulations work together with Australian Standard 1926 (AS1926) to establish the safety standards for 'backyard' swimming pools. These documents have been updated a number of times and, as a result, apply differently at different points in time.

The legislation can be found here:

- [Swimming Pools Act 1992](#)
- [Swimming Pools Regulation 2008](#)

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A swimming pool is defined as a structure that is **capable of being filled with 300mm** of water or more and is used for swimming and other water activities. This includes: concrete pools, fibreglass pools, inflatable pools, temporary or wading Pools, above ground pools and spas.

The [Swimming Pool Act 1992](#) and [Swimming Pools Regulation 2008](#) apply to all swimming pools on premises where there is a residential building, a movable dwelling (eg caravan), a hotel or a motel.

What is a Swimming Pool

The Swimming Pools Act 1992 provides the following definition for a swimming pool:

“swimming pool” means an excavation, structure or vessel:

- a) that is capable of being filled with water to a depth greater than 300 millimetres, and*
- b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,*

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

Swimming Pool Laws (Important Dates)

The requirements for child-resistant barriers on premises where there is a residential building vary according to when the pool was constructed. See the below important dates to determine what Legislative Requirements apply to each circumstance.

For pools built before 1 August 1990

Pre August 1990, barriers were not mandatory.

For pools built after 1 August 1990 but before 1 July 2010

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.

Automatic exemptions apply from the four-sided barrier for pools on very small properties (less than 230 square metres), large properties (2 hectares or over) and waterfront properties.

For pools built after 1 July 2010

The amended swimming Pools Act 1992 removes automatic exemptions from the four-sided barrier requirement for new pools on very small properties (less than 230 square metres), large properties (2 hectares or over) and waterfront properties.

All new pools must be separated by a complying barrier from the house and adjoining properties. 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 outdoor pool area is not permitted unless an exemption applies.

Exemptions

Local councils may grant exemptions under section 22 of the Swimming Pools Act 1992 from barrier requirements that are impracticable or unreasonable in particular cases, eg, to provide access for people with disabilities.

Please refer to the Office of Local Governments [Practice Note 17 – Application of Section 22 of the Swimming Pools Act 1992](#) that has been developed to guide councils in NSW to assess and issue swimming pool barrier requirement exemptions.

Pool Fence & Gate – Maintenance

The owner of the premises on which a child-resistant barrier is situated must ensure that the swimming pool is at all times surrounded by a child-resistant barrier as well as keeping the child-resistant barrier maintained.

NOTE: Maintenance of the Pool Barrier includes but is not limited to the following:

Consumers should be encouraged to seek the advice and/or services of a Licensed Pool Technician, Builder or Fencing Contractor.

Pool Fence - Location

The Swimming Pool Act 1992 stipulates that an owner may decide where the required child – resistance Barrier is to be located, however, the fence must separate the pool from any residential building on the premises.

NOTE: Before owners choose the location of their pool fence they should first check with their local Council to discuss their desired location with them in order to avoid conflicting legislation or additional Local Council Guidelines.

Pool Fence – Height

Australian Standard AS 1926.1 stipulates that a pool fence shall be not less than 1.2m high all the way around.

NOTE: If the pool fence is not 1.2m high all the way around or only in some sections then the home owner should seek immediate advice from a Licensed Builder, Pool Technician or Fencing Contractor.

Pool Fence - Non Climable Zone (NCZ)

Australian Standard AS 1926.1 stipulates that a fence must have a Non Climable Zone (NCZ) of 900mm on the outside of the pool fence all the way around.

NOTE: Trim trees or shrubs near the pool fence and other objects such as BBQ, pot plants, toys, ladders and chairs should not encroach within the NCZ area.

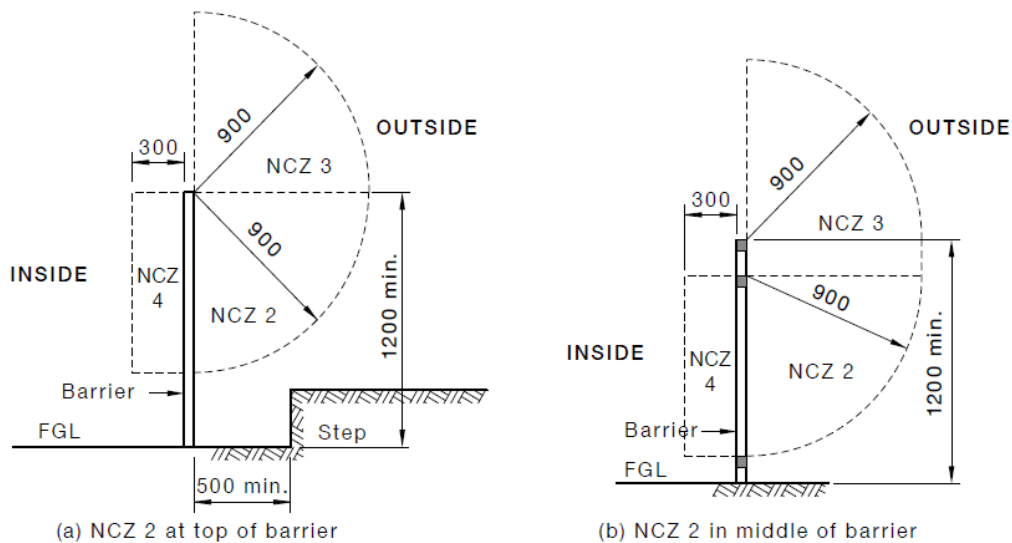
The following NCZs shall be present on all barriers with a height less than 1800 mm:

- a) NCZ 1 is a 900 mm vertical plane on the outside face of a barrier. This NCZ may be located anywhere within the perpendicular height of a barrier or, where present, anywhere between horizontal components or handholds and footholds on a barrier
- b) NCZ 2 is a quadrant on the outside of a barrier created by a 900 mm radius down from the top of NCZ 1 above

NOTE: NCZ 2 is always immediately adjacent to NCZ 1 on all barriers.

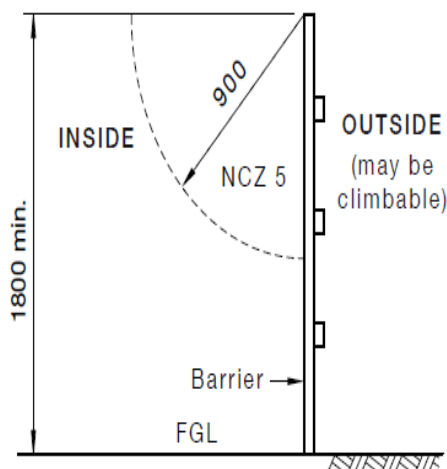
c) NCZ 3 is a quadrant on the outside of a barrier created by a 900 mm radius up from the top of the barrier. When the top of NCZ 1 is below the top of a barrier then NCZ 3 shall extend vertically down to the top of NCZ 1 (see Figures 2.1 and 2.11). NCZ 3 is applicable only to the space created by the quadrant and does not apply to any item or component on, or that is part of, the barrier

d) NCZ 4 is required on all barriers with vertical openings 10–100 mm in width and is a 900 mm high by 300 mm deep rectangular space on the inside of the barrier and shall align with NCZ 1



Boundary Fence used as part of Pool Fence

Australian Standard 1926.1 stipulates that when a Boundary Fence (min 1.8m) is used as part of the child-resistant barrier then the Non Climbable Zone (NCZ) of 900mm will be measured from the inside (pool side) of the fence.



NOTE:

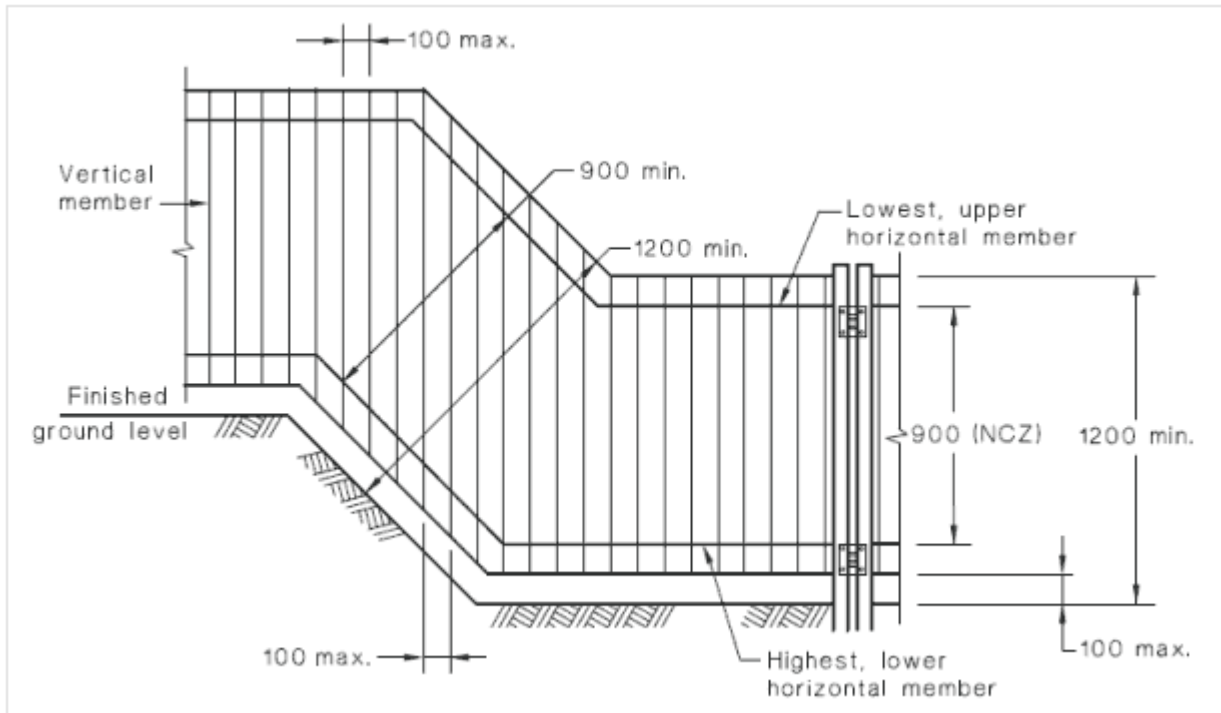
Climbable objects or surfaces should not encroach on the 900mm non climbable zone on the inside of Boundary Fences (1.8m).

If a Horizontal Surface is located within the NCZ then a fillet is an acceptable solution which would rectify the problem.

Pool Fence - Vertical Gaps

Australian Standard AS 1926.1 stipulates that gaps between vertical members of the fence shall not be greater than 100mm,

Vertical Gaps in the fence must not be more than 100mm



NOTE: If the Vertical Gaps in the fence are greater than 100mm all the way around or only in some sections then the home owner should seek immediate advice from a Licensed Builder, Pool Technician or Fencing Contractor.

Pool Fence - Gap at Bottom

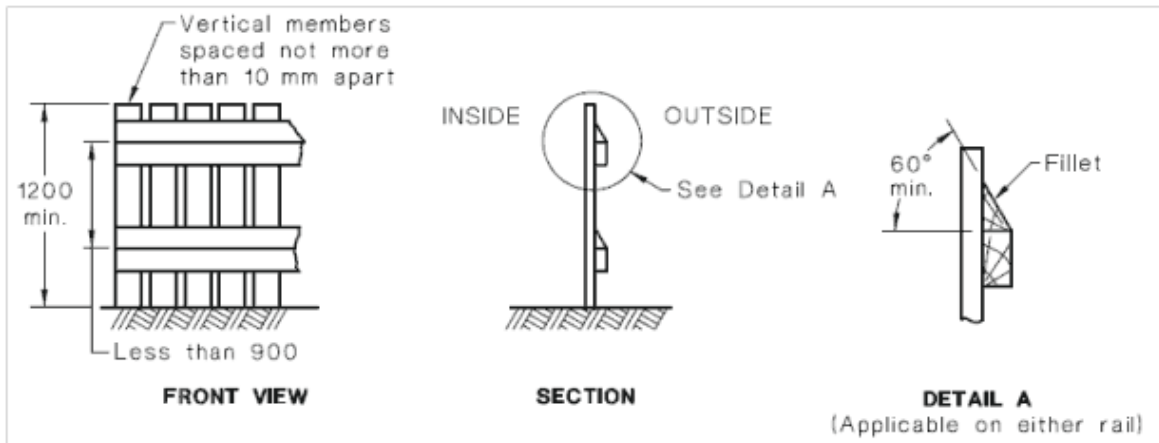
Australian Standard AS 1926.1 stipulates that the Gap at the bottom of the fence must be a maximum of 100mm.

If the Gap at the bottom of the fence is greater than 100mm all the way around or only in some sections then the home owner should seek immediate advice from a Licensed Builder, Pool Technician or Fencing Contractor.

Pool Fence - Horizontal Climable Members

Australian Standard AS 1926.1 stipulates that Horizontal Members shall not be within the 900mm Non Climable Zone (NCZ) (on the outside of the pool fence).

If a pool fence does have Horizontal Members on the pool fence then they must be Non Climable.



NOTE: If the Horizontal Members which form part of the fence are in the Non Climable Zone (NCZ) all the way around or only in some sections then the home owner should seek immediate advice from a Licensed Builder, Pool Technician or Fencing Contractor.

Pool Gates - Self Closing & Latching Devices

Australian Standard AS 1926.1 stipulates that Gates shall be hung so that they ONLY swing outwards. i.e. away from the pool area. The gate must be able to swing freely through its arc of operation.

All gates must be fitted with a **Self-Closing Device** that will return the gate to a closed position from any position without the use of manual force.

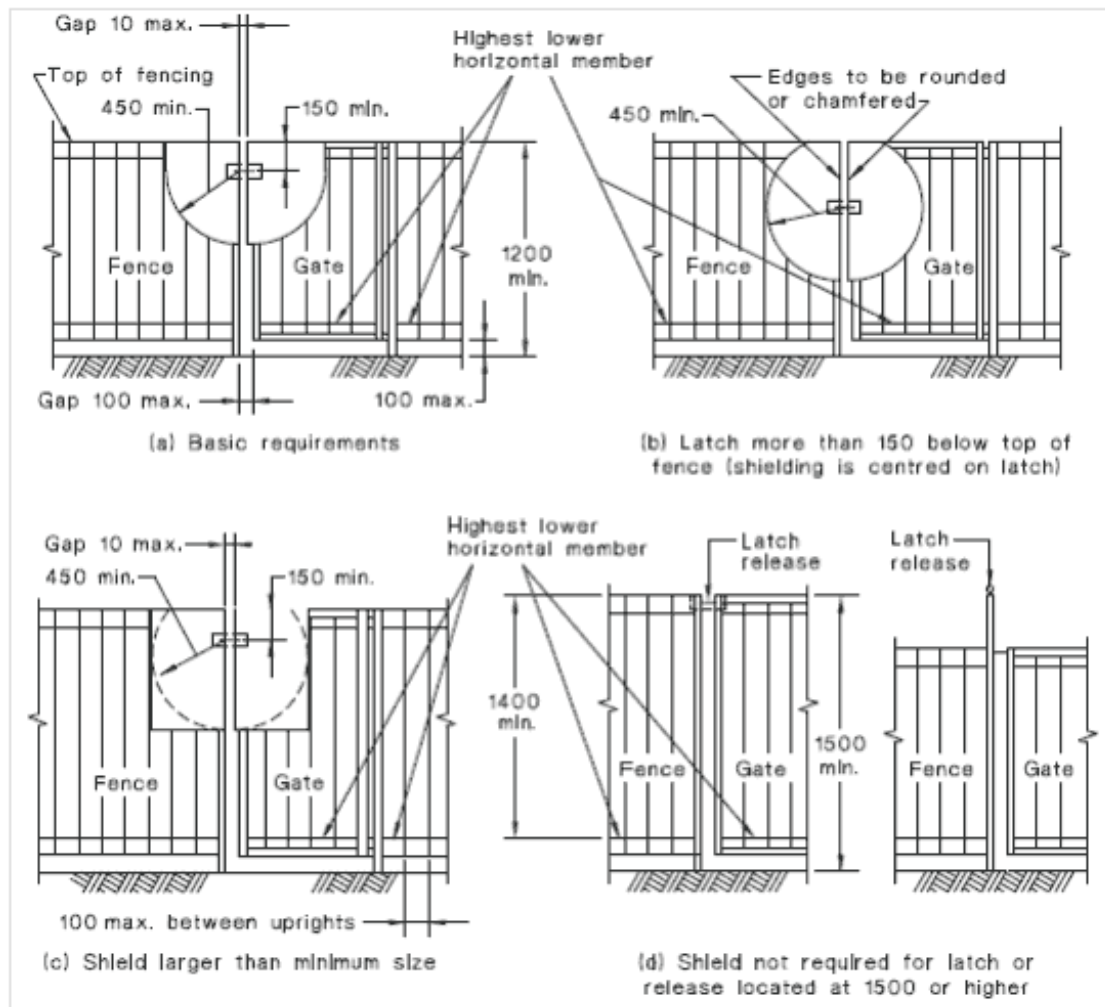
All Gates must be fitted with a **Latching Device** that will automatically operate on the closing of the gate and prevent the gate from being reopened without being manually released

NOTE: A Pool Gate that is not Self Closing or does not have a Latching Device should be permanently secured until such time as the device/s can be installed. Self-Closing and Latching Devices can be purchased from most pool shops and hardware shops and are relatively easy to install.

Pool Fence - Latching Device Location

Australian Standard AS 1926.1 stipulates Latching Device Locations. Acceptable basic Latching Device Locations are:

Where a latching device is located less than 1500mm then the following applies:



NOTE: A Pool Gate which has its Latching Device at the incorrect location can easily be relocated with the use of some very basic tools to the correct location. If in doubt, consumers should be encouraged to seek the advice and/or services of a Licensed Builder, Pool Technician or Fencing Contractor.

Wall of House used as a Barrier

The Swimming Pool Act 1992 stipulates that the wall contains no opening through which access may at any time be gained to the swimming pool.

The wall must contain no door, window or other opening through which access may at any time be gained to the swimming pool.

Windows forming part of the Barrier

Windows which form part of the Child Resistant Barrier shall be fixed to the building with fasteners that can only be removed by the use of a tool, eg a screwdriver or spanner, and will only open to a maximum of 100mm.

Child Resistant Door-set

Australian Standard 1926.1 stipulates Door-sets accessing indoor pools must comply with the following:

NOTE: Direct access from the house via a door-set to the outdoor pool area is not permitted unless an exemption applies.

Spa Pools

The Swimming Pool Act 1992 stipulates that a Spa Pool is not required to be surrounded by a child resistant barrier so long as access to the spa pool is restricted as per the Swimming Pools Regulation 2008.

The Swimming Pools Regulation 2008 stipulates that a spa pool is not required to be surrounded by a child resistant barrier so long as access to the water contained in the spa pool is restricted, in accordance with the Swimming Pools regulation 2008

In the absence of a pool barrier, the Swimming Pools regulation 2008 states that Spa pools must be covered and secured by a lockable child-safe structure such as a door, lid, grill or mesh.

NOTE: For portable spas, consumers must ensure that all electrical components and pumps meet electrical safety requirements and are properly covered. This can be done by checking they are marked with a mandatory electrical safety approval number or a Regulatory Compliance Mark.

Above Ground Pools

The Swimming Pools Regulation 2008 stipulates that for Above Ground Pools, including Inflatable Pools, the walls of the pool shall **NOT** be considered an effective child-resistant barrier.

NOTE: Consumers need to be aware that an Above Ground Pool requires a Licensed Builder to install the Above Ground Pool. In addition, Above Ground Pools are treated in the same way as any other Swimming Pool under the Swimming Pool Act 1992, Swimming Pools Regulations 2008 and Australian Standards AS 1926.1.

CPR Sign

The Swimming Pools Regulation 2008 requires all pool owners to have a CPR Sign situated in a prominent position in the immediate vicinity of the pool. All signs need to be of a size which allows it to be read from a distance of 3 metres.

NOTE: If you do not have a CPR chart in the pool area then they can be purchased from your local SPASA NSW Pool Shop, Council or Community Organisations such as The Royal Life Saving Society, St John's Ambulance and the Australian Red Cross.

The Swimming Pools (Amendment) Act 2012

In 2012, a comprehensive review of the Swimming Pools Act 1992 was finalised. This review identified a number of amendments designed to enhance the safety of children under the age of five years around private ('backyard') swimming pools in NSW.

The Swimming Pools (Amendment) Act 2012

- 1. NSW Swimming Pools Register available for use by 29 April 2013**
- 2. NSW Swimming pools to be registered by owners by 29 October 2013**
- 3. Pool owners require a compliance certificate before sale or lease of their property from 29 April 2014 (please note, this has been extended by two years to the 29th April, 2016)**

The Swimming Pools Amendment Act 2012 commenced on 29 October 2012 and makes a number of amendments to the Swimming Pools Act 1992: Information is provided below regarding the impact of these legislative amendments for pool owners and councils. Additional information about the staged implementation provisions is also provided below.

Pool Owners:

1. Swimming pool owners are required to register their swimming pools on an online register to be provided by the NSW State Government.
2. Swimming Pool owners will be required to self-assess, and state in the register that, to the best of their knowledge, their swimming pool complies with the applicable standard when registering their pool.
3. There is a penalty for owners who fail to register a swimming pool (penalty notice amount of \$220).
4. Swimming pool owners will be required to provide a valid swimming pool compliance certificate before being able to sell or lease a property with a pool.
5. Accredited certifiers under the Building Professional Act 2005 may conduct swimming pool inspections initiated by the pool owner.

Councils:

1. Councils are required to:
 - a) develop and implement a swimming pool barrier inspection program in consultation with their communities
 - b) report annually on the number of pool inspections undertaken and the level of compliance with the requirements
 - c) inspect pools associated with tourist and visitor accommodation and multi-occupancy developments at three year intervals
 - d) at the request of a pool owner, inspect pools prior to sale or lease
 - e) issue compliance certificates after an inspection which finds a pool barrier compliant with the requirements of the legislation. Compliance certificates are valid for three years.
2. A swimming pool subject to an occupation certificate is exempt from an inspection program for three years from the date of issue of the occupation certificate.

3. Councils may inspect any swimming pool that is the subject of a complaint to the council.
4. Council powers of entry will be consistent with the Local Government Act 1993.
5. Councils may charge a fee for each inspection undertaken (up to a maximum of \$150 for the first inspection and \$100 for one re-inspection resulting from the first inspection).

Staged implementation provisions:

The Act includes a staged implementation process to facilitate:

1. the development and implementation of the Swimming Pools Register (to commence by no later than 29 April 2013)
2. registration by pool owners of pools (after the register commences and by no later than 29 October 2013)
3. councils' inspection programs (to be developed in consultation with the community, adopted and commenced by no later than 29 October 2013)
4. mandatory inspections by councils of tourist, visitor and multi-occupancy developments, and pools associated with property sale and lease (to commence by 29 April 2014). **(now 29 April 2016)**

Further information will be available as the legislative amendments are implemented.

To check if a pool meets legislative requirements, pool owners and occupiers should contact their local council in the first instance.

The Swimming Pools Act

In NSW, private or 'backyard' swimming pool safety is legislated by the Swimming Pools Act 1992 (the Act) and the Swimming Pools Regulation 2008 (the Regulation). The legislation also applies to moveable dwellings, hotels and motels.

The *Swimming Pools Act 1992* prescribes the fencing requirements of backyard swimming pools in NSW. Some other safety requirements are prescribed including the requirement for a CPR sign to be displayed near the pool.

The Swimming Pools Regulation

The *Swimming Pools Regulation 2008* was re-made on 1 September 2008. It calls up *AS1926.1-2007 Swimming Pool Safety, Part 1: Safety barriers for swimming pools*, which includes new requirements for non-climbable zones, mesh sizes for fences, retaining walls that form part of a barrier and balconies that project into the pool area.

On 1 May 2011 the Swimming Pools Regulation was amended to replace certain references to the Australian Standard 1926.1-2007 Part 1: Safety barriers for swimming pools (the standard) with references to the Building Code of Australia (BCA). The BCA in turn will refer to the Standard.

The Regulation also requires that councils and the Division have the following documentation available for public inspection at no cost:

Guideline 8 Cardiopulmonary Resuscitation- This Guideline is available at the Australian Resuscitation Council website at www.resus.org.au. By registering at the website visitors can access and print the guideline free of charge. Councils and others should consider subscribing as this will allow them to access an extensive range of related material.

AS1926.1-2007, Australian Standard Swimming Pool Safety Part 1: Safety barriers for swimming pools

- This Standard (as amended 5 May 2008) is available for purchase at www.saiglobal.com.

Building Code of Australia - the Division and councils are required to make available a copy of the BCA for free public inspection.

The Australian Standard

For copyright reasons, the Division cannot make copies of the Australian Standard, *AS1926.1-2007 Swimming Pool Safety, Part 1: Safety barriers for swimming pools*, available to councils or other persons or bodies.

It is important to note that the maximum requirement of the clause as it relates to the Standard is that the Division and councils allow members of the public to attend any of their respective offices, libraries or outlets to look at (but not print or take any copy away of) the Standard during ordinary business hours. If a body or agency exceeds this maximum standard, this may raise serious copyright implications for that agency or body.

If councils or others wish to allow public inspection of the Standard in any way other than by personal inspection at offices, branches or outlets, they must first contact SAI Global's copyright section for further information to ensure that copyright of the Standard is not breached. SAI Global may be contacted on (02) 82066355.

The Regulation refers to AS1926.1-2007 as published on 12 July 2007 as the relevant Standard. The 5 May 2008 version may be used for reference purposes as it corrects typographical errors and makes minor clarification to the 12 July 2007 version of the Standard.

Conveyancing (Sale of Land) Regulation 2010

Amendments made to the Conveyancing (Sale of Land) Regulation 2010 mean that from 1st September, 2010 contracts for the sale of land must include a warning in relation to a land owner's obligations under the *Swimming Pools Act 1992* which states that:

*"An **owner of a property** on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a **purchaser** is strongly advised to ensure that the swimming pool complies with the requirements of that Act."*

Residential Tenancies Act 2010

Section 52 of the Residential Tenancies Act provides that a landlord must comply with a landlord's statutory obligations relating to the health or safety of the residential premises. Section 52 includes the following note:

“Note. Such obligations include obligations relating to swimming pools under the Swimming Pools Act 1992.”

This note makes it explicit that, in accordance with the Swimming Pools Act, a landlord must ensure that a swimming pool situated on a tenanted premises must be at all times surrounded by a child-resistant barrier that separates it from any residential building on the premises and from any public or private place adjoining the premises. The barrier must be designed, constructed, installed and maintained to the standards prescribed in the swimming pools legislation applicable at the time the pool was constructed or installed, unless it has been substantially altered. In this case, the standard applicable at the time the barrier was altered applies. Landlords should contact their local council in relation to the appropriate barrier standard that applies to their rental property pool.

Tenants are urged to notify landlords immediately of any damage they detect to any barrier surrounding a pool on a residential property that they are renting. Tenants are also reminded that section 64 of the Act enables tenants to carry out urgent repairs and be reimbursed up to \$1,000 for any fault or damage that causes the premises to be unsafe under certain circumstances, including if the landlord or agent cannot be contacted or does not carry out urgent repairs within a reasonable time.

References

This information sheet has been provided as only a summary and users of this information sheet should obtain copies of the above references to be able to review the Legislative Requirements in their entirety.

Standards can be obtained from SAI Global or may be viewed at your Local Council and NSW Acts and Regulations can be downloaded from the NSW Government website: www.legislation.nsw.gov.au

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