

Building (Pools) Amendment Bill – questions and answers

What is being done to improve compliance with the pool barrier requirements?

The Bill aims to improve the level of compliance with pool barrier requirements by introducing mandatory three-yearly inspections, and providing additional enforcement tools including notices to fix and infringement notices.

The main deficiency of the Fencing of Swimming Pools Act is the low level of compliance with the pool barrier requirements. Almost all drownings by young children in residential pools have been in non-compliant pools.

Currently, there is no requirement to periodically inspect pools to check whether they are still compliant. Some territorial authorities periodically inspect pools, others don't. Currently, an estimated 60 per cent of pools are inspected every three years.

Where territorial authorities periodically inspect pools, they find that fewer than half of the pools they inspect are compliant.

The Fencing of Swimming Pools Act contains inadequate powers for territorial authorities to take enforcement action when they find that a pool is non-compliant. The only action they can take under the Act is to prosecute the pool owner. This is not a proportionate, cost-effective way of addressing minor non-compliance.

Have drowning figures reduced in the 30 years since Fencing of Swimming Pools Act legislation?

Yes, we are making good progress from on average 10 deaths a year prior to Fencing of Swimming Pools Act being enacted in 1987 to an average of two a year over the last 10 years – but we can do better. We could save more than six children's lives a decade with this new legislation.

Pool barriers protect young children when there are brief lapses in close supervision. At home, it is not practical to watch young children constantly without even a moment's distraction. Drowning occurs silently and can take less than a minute.

Why are you introducing independently qualified pool inspectors?

This was a change recommended by the Select Committee to offer choice to pool owners. Pool owners can choose who undertakes the three-yearly inspection of their pool: either the territorial authority, or an independently qualified pool inspector (IQPI). The IQPI is a person accepted by the Ministry of Business, Innovation and Employment as qualified to carry out periodic inspections.

Why will spa pools be allowed a safety cover instead of a fence?

The Fencing of Swimming Pools Act requires spa pools to be fenced. Most spa pools are currently unfenced but have safety covers. Drownings in spa pools with safety covers are very rare thanks to the widespread use of safety covers. The Bill reflects this reality.

What are the changes to doors?

The Bill clarifies that doors must be self-closing, or be fitted with alarms that go off if the doors are not closed after adults pass through them. The current requirement is that doors must automatically close and latch, or for sliding and folding doors, have another means of restricting access.

Why not require 'four-sided fencing'?

Some submitters to the Select Committee advocated 'four-sided fencing', with no doors allowed as part of the pool barrier. The Select Committee carefully considered those concerns. The Building Code (which is amended by the Bill) contains specific performance requirements for ensuring that doors restrict access by unsupervised young children. Drownings where young children gained unsupervised access to a pool via a compliant door are very rare.

Why are you not requiring water features to be fenced?

The Bill clarifies that the barrier requirements do not apply to garden ponds and other water hazards. The Fencing of Swimming Pools Act has been interpreted as applying to garden ponds and water hazards such as stormwater retention ponds. This clarification will have little effect on the current risk of drowning in garden ponds because the current legislation is seldom enforced in relation to garden ponds.

Why require fencing of pools where no children live?

The pool barrier requirements apply regardless of whether any children are living on the property. Research shows that most homes with pools have young children among their visitors, and that young children are six times more likely to drown when they are visiting someone else's home than when they are at their own home.

How many private swimming pools are there in New Zealand?

- Around 60,000 in-ground swimming pools.
- More than 100,000 spa pools.

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