

APPENDIX 2

FENCING OF SWIMMING POOLS ACT 1987

An Act to promote the safety of young children by requiring the fencing of certain swimming pools.

Section 6 states:

Special exemptions

1. *A territorial authority may by resolution, grant an exemption from some or all of the requirements of this Act in the case of any particular pool where the territorial authority is satisfied, having regard to the particular characteristics of the property and the pool, an other relevant circumstances and any conditions it imposes under subsection (2) of this section, that such an exemption would not significantly increase the danger to young children.*
2. *In granting an exemption under subsection (1) of this section, the territorial authority may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.*
3. *Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.*

Section 8 states:

Obligation of owner and persons in control of pool.

Every owner of a pool to which this Act applies shall ensure that, except as provided in any exemption granted under section 6 of this Act, the pool, or some or all of the immediate pool area including all of the pool, is fenced by a fence that complies with the requirements of the Schedule to this Act at all times when the Act applies in respect of the pool.

Every owner of a pool to which this Act applies shall comply or ensure that there is compliance with every condition imposed under section 6 (2) of this Act.

Every person who has possession of the property on which any pool to which this Act applies shall ensure that the pool is not filled or partly filled with water at any time when the person knows or could reasonably be expected to know that any obligation imposed by this section on that or any other person is not being complied with.

The fact that a person complies with any obligation imposed by this section shall not excuse that person from any other duty imposed by law.

SCHEDULE OF REQUIREMENTS UNDER THE FENCING OF SWIMMING POOLS ACT 1987

Gates and Fittings:

8. *Every gate shall be so constructed as to comply with the relevant requirements of clauses 3.4 to 3.4.4.4 of NZS 8500: 2006, and shall be so mounted that-*
 - (a) *Gates shall be hung so that they only swing outwards away from the pool area.*
 - (b) *The gate shall have sufficient clearance to enable it to swing freely and be unobstructed through its arc of operation.*
 - (c) *When lifted up or pulled down the gate shall not release the latching device, come off its hinges, or provide a ground clearance greater than 100mm.*
 - (d) *Double gates shall both independently self-close and self-latch or one leaf of the gate shall be permanently fixed in a closed position with the second leaf complying with 3.4.*

Operation of gates:

9. (1) Every gate shall be fitted with a latching device.

(2) Where the latching device is accessible from the outside of the fence only by reaching over the fence or gate, or through a hole in the fence or gate, the latching device and the lowest point of any hole giving access to it shall be at least 1.2metres above the ground on the outside of the fence.

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

10. All gates shall be fitted with a device that will return the gate to the closed position and operate the latching device from any position with a stationary start and without the application of a manual force.

The self-closing device shall be capable of complying with these requirements with the gate at any position from resting on the latching mechanism to fully open.

Doors in wall of buildings:

11. 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 need not comply with the requirements for gates or doors set out in clauses 8 to 10 of this Schedule, provided that the territorial authority is satisfied that such compliance is impossible, unreasonable, or in breach of another 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.

SUMMARY OF FENCING OF SWIMMING POOLS ACT REQUIREMENTS FOR GATES & DOORS

Gates and Doors

Every gate or door shall be constructed as to comply with the relevant requirements of clauses 1 to 7 of the Schedule and shall be so mounted that –

- (a) It must open away from the immediate pool area.
- (b) It must be self closing and self latching.

SUMMARY OF NZS 8500:2006 REQUIREMENTS

Doors in Walls of Buildings:

12. 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 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.

Every door shall be so constructed as to comply with the relevant requirements of clause 3.7 of NZS 8500: 2006 and shall be so mounted that –

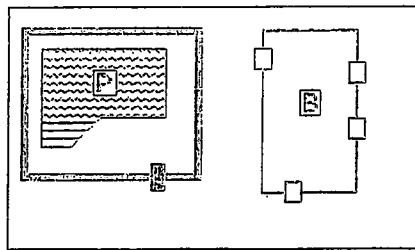
Child-resistant door set:

Child-resistant door sets shall comply with all of the following requirements:

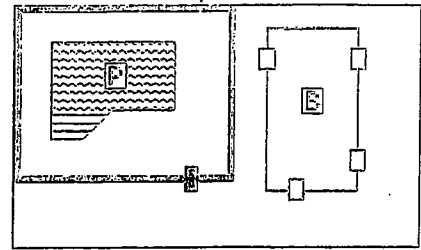
- (a) Doors shall be fitted with a self-latching device that will automatically operate on the closing of the door and will prevent the door from being re-opened without manually releasing the device.
- (b) Every door shall be fitted with a device that will automatically return the door to the closed and latched position when the door is stationary and 150mm from the closed and secured position.

- (c) The release for the latching device on the internal (house) side of the door shall be located not less than 1500mm above the floor.
- (d) There shall be no footholds wider than 10 mm on the door or its frame between the floor and 1000 mm above the floor;
- (e) The closing and latching of the door shall comply with 4.6;
- (f) Horizontal members, vertical members, perforated materials or mesh, and finish shall comply with this Standard;
- (g) The door set shall comply with the performance requirements for a gate for strength and rigidity of openings and strength of gate (see 4.2 to 4.4);
- (h) Doors from the house may swing in either direction.
- (i) Pet doors to the immediate pool area are prohibited.

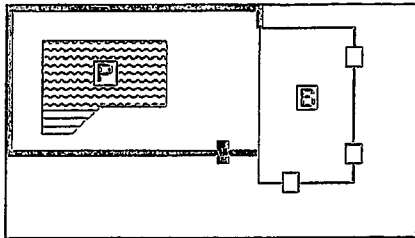
With effect from 12.04.04 the Rodney District Council purchased a single use licence to store this document on a single computer. Rodney District Council may print and retain one copy only.



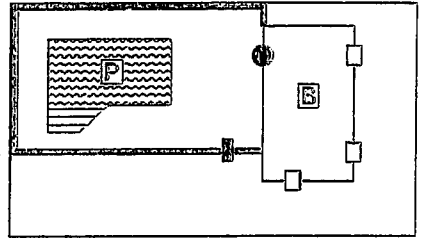
(a) Isolation barrier



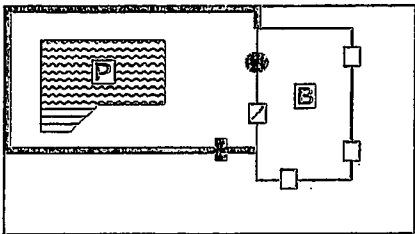
(b) Isolation/boundary



(c) Isolation/boundary/building



(d) Isolation/boundary/building/window



(e) Isolation/boundary/building/window/door

LEGEND

- | | |
|--|--|
| Pool | Child-resistant operable portion of window complying with 3.6 |
| Building | Property boundary |
| Window or door | Fence, retaining wall or other such barrier complying with 3.3 |
| Gate complying with 3.4 | |
| Child-resistant doorset (self-closing and latching) complying with 3.7.1 | |

Figure 2.1 – Typical examples of outdoor pool barriers (not to scale)