

FENCING OF SWIMMING POOLS ACT 1987 (the Act)

Section 6 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, any other relevant circumstances, and any conditions it imposes under subsection (2) of this section, that such an exemption would not significantly increase 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.

SCHEDULE

[Sections 13B, 13C]

[MEANS OF COMPLIANCE] FOR FENCES UNDER THIS ACT

HEIGHT

1. (1) The fence shall extend—
 - (a) At least 1.2 metres above the ground on the outside of the fence; and
 - (b) At least 1.2 metres above any permanent projection from or object permanently placed on the ground outside and within 1.2 metres of the fence.
- (2) Notwithstanding sub clause (1) of this clause, where the fence is constructed of perforated material, netting, or mesh and any opening in the material, netting, or mesh has a dimension (other than the circumference or perimeter) greater than 10 mm, the fence shall extend at least 1.8 metres above the ground or the projection or object.

GROUND CLEARANCE

2. Any clearance between the bottom of the fence and ground level shall not exceed 100 mm.

MATERIALS

3. All materials and components shall be of a durable nature and shall be erected so as to inhibit [any child under the age of 6 years] from climbing over or crawling under the fence from the outside.
4. Except where the fence is horizontally close-boarded [or is made of perforated material, netting, or mesh], the spacing between adjacent vertical pales, panels, or other posts shall not exceed 100 mm at any point.
- [5. All fencing supports, rails, rods, and wires, that are not vertical, and all bracing that is not vertical, shall be inaccessible for use for climbing from the outside.]
[5A. Notwithstanding clause 5 of this Schedule, a fence may have horizontal supports, rails, rods, or wires, that are accessible for use for climbing from the outside, and horizontal bracing that is accessible for such use, if—
 - (a) The distance between any 2 of them at any point is at least 900 mm; and
 - (b) There is no other support, rail, rod, wire, or bracing (other than a vertical rail) between the same 2 at any point.]
6. Where any perforated material, netting, or mesh is used, no opening in that material, netting, or mesh shall have any dimension (other than the circumference or perimeter) greater than 50 mm.
7. All perforated material, netting, or mesh material shall be firmly attached at both top and bottom to a rail, pipe, or similar firm structure, or otherwise be of such a nature that the fence cannot readily be crossed by children under the age of 6 years.

GATES AND DOORS

8. Every gate or door shall be so constructed as to comply with the relevant requirements of clauses 1 to 7 of this Schedule, and shall be so mounted that—
 - (a) It cannot open inwards towards the immediate pool area:
 - (b) It is clear of any obstruction that could hold the gate or door open and no other means of holding the gate or door open is provided:
 - (c) When lifted up or pulled down the gate or door does not release the latching device, come off its hinges, or provide a ground clearance greater than 100 mm.

OPERATION OF GATES AND DOORS

9. (1) Every gate or door 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, gate, or door or through a hole in the fence, gate, or door, the latching device and the lowest point of any hole giving access to it shall be at least 1.2 metres 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 1.5 metres above the ground on the outside of the fence.
10. Every gate or door shall be fitted with a device that will automatically return the gate or door to the closed position and operate the latching device when the gate or door is stationary and 150 mm from the closed and secured position.

DOORS IN WALLS 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 area 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.

Hist. Schedule, omitted expression "Section 8" and substituted expression "Sections 13B, 13C", on 1 July 1992 by 1991 No 150, s92(1).

Hist. Heading; omitted word "REQUIREMENTS" and substituted words "MEANS OF COMPLIANCE" on 1 July 1992 by 1991 No 150, s92(1).

{Editorial Note: 1991 No 150 substitutes for the word "REQUIREMENT" whereas the original schedule heading actually contained the word "REQUIREMENTS".}

Hist. Cl.3 omitted words "any person" and substituted words "any child under the age of 6 years" on 20 November 1989 by 1989 No 117, s2(1).

Hist. Cl.4 inserted words "or is made of perforated material, netting, or mesh" on 20 November 1989 by 1989 No 117, s2 (2).

Hist. Cl.5 repealed and cl.5 & cl.5A substituted on 20 November 1989 by 1989 No 117, s2 (3). The repealed cl.5 is listed below for reference.

"5. All fencing supports, rails, rods, wires, bracing, or other similar posts shall be on the inside of the fencing and shall be inaccessible for use for climbing from the outside."

FENCING OF SWIMMING POOLS AMENDMENT ACT 1989

Public Act 1989 No 117

Date of assent 20 November 1989

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FENCING OF SWIMMING POOLS AMENDMENT ACT 1989

Public Act 1989 No 117

An Act to amend the Fencing of Swimming Pools Act 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

1 **SHORT TITLE**

This Act may be cited as the Fencing of Swimming Pools Amendment Act 1989, and shall be read together with and deemed part of the Fencing of Swimming Pools Act 1987 (hereinafter referred to as the principal Act).

2 **SCHEDULE AMENDED**

- (1) Substituted words in cl.3 of the Schedule to principal Act.
- (2) Inserted words in cl.4 of the Schedule to principal Act.
- (3) Substituted cl.5 & cl.5A for repealed cl.5 of the Schedule to principal Act.

The Fencing of Swimming Pools Act 1987 is administered in the Department of Internal Affairs.

22 APR 2008



Waitakere City Council *Legal*
Te Taiāo o Waitakere

APPLICATION FOR EXEMPTION of SPA & SWIMMING POOLS

012248

Fencing of Swimming Pools Act 1987

Please Note

In order for an exemption application to be accepted, the Council it will need to be fully appraised prior to being referred to the Swimming pools Exemption Committee for decision. Any matters that are omitted by the applicant may result in the application being referred back to the applicant for further clarification. A further inspection of the pool may be required.

OWNERS NAME: (print)

RL + K S O'Connell

Address of Pool: (print)

28 WISELY ROAD, HOBSONVILLE

DEED NO 319557 (S) DATED 24/1/05

ADDRESS FOR CORRESPONDENCE (if different from site address) (print)

Information to be provided:

- PLANS:** A Sketch plan must accompany all applications, including all measurements of the immediate pool area, the pool size and location. The sketch is to include boundary fencing and also the dwelling wall, if this forms part of the fence. The materials of which they are constructed must be stated. Photographs may be provided for clarification.
- REASONS justifying the proposal.** Council may grant an exemption where the circumstances warrant a dispensation from the statutory requirements for pool fencing. Your attention is drawn to Section 6 of the Act and Clause 11 of the Schedule. An exemption may be granted or declined in the Council's discretion and if granted conditions may be imposed. A copy The Fencing of Swimming Pools Act 1987 is available on Council's website www.waitakere.govt.nz

Please list those matters which at the date of this application do not comply with the statutory requirements

- UPPER DECK RAILING IS LESS THAN 1.2 METRES
- PLANTS NOT FENCED OFF FROM POOL
- ACCESS TO POOL VIA TWO GATES
-
-
-
-



E-MAILED

14/04/08

15 000-40000

A5

Please list those matters for which an exemption is sought

UPPER DECK RAILING LESS THAN 1.2 METRES
 TRANS/GARDEN NOT FENCED OFF FROM POOL
 ACCESS TO POOL FROM TWO GATES

Reasons why the application should be granted

1. COUNCIL ADVISE + APPROVALS SOUGHT + GIVEN IN PLANNING STAGES OF POOL AREA CONSTRUCTION. COUNCIL INSPECTED AT SEVERAL STAGES. COUNCIL APPROVAL GIVEN.
2. WHEN UPPER DECK BUILT, COUNCIL PERMIT GRANTED, AND COUNCIL INSPECTION APPROVED.
3. 2003 COUNCIL ^{POOL} INSPECTION APPROVED

If there is insufficient space on this form please use additional sheet(s) and continue

I/we apply for an exemption from the requirements of the Fencing of Swimming Pools Act 1987 set out above and certify that all other pool fencing requirements are in accordance with the Act. A cheque for the application fee of \$250 is attached.

Signature(s): K. Williams
 Telephone No: 09-416 6779
 Mobile No: 021-993-854 (rick)
 Date: 20/4/08

Chief Executive	
Corporate Services	
City Services Moselle	
Consultancy Services	
ECO-WATER	
Strategic Group	
Consent Services	
Field Services	
LEGAL	<input checked="" type="checkbox"/>

Complete this form and post with all attachments to:

The Chief Executive
 Waitakere City Council
 6 Henderson Valley Rd
 Henderson
 Waitakere 0612

Office Use Only

Site Address: 28 Waddy Rd, Henderson

SWP No: 2004-1998-11913

ABA No: _____
 (if Applicable)

28 WISELEN RD, HOBSONVILLE



Legend

- Railway Station
- Railway
- Building Footprint
- Sub 223
- Parcel
- Road
- Stream
- Water Body

width of pool area at elevated point 3.5m approx
 width of pool area at sided part 11.5m approx
 length of pool area at sided part 11.5m approx
 pool length 8.5m approx
 pool width 5m approx

Copyright Information from
 Land Information New Zealand
 Digital Cadastral Database DCDB
 Copyright Reserved.

Services shown on public amenity land are not public drains unless used as through drains
 While Council endeavours to provide accurate spatial data no guarantee as to the
 completeness and accuracy of the data shown on this plan can be given
 All information, including levels and locations, are not of survey
 grade accuracy and should be verified on site.
 For enquiries about the information shown please phone the call centre (09) 829 0400



A7

20 Wiseley Rd, HISSONVILLE



B.

EMILY A 8
all on/accy



23/06/2000

Waitakere City Council
Te Taiaro o Waitakere

APPLICATION FOR EXEMPTION of SPA & SWIMMING POOLS

Fencing of Swimming Pools Act 1987

Please Note

In order for an exemption application to be accepted, the Council it will need to be fully appraised prior to being referred to the Swimming pools Exemption Committee for decision. Any matters that are omitted by the applicant may result in the application being referred back to the applicant for further clarification. A further inspection of the pool may be required.

OWNERS NAME: (print)

J. C HONNOR

Address of Pool: (print)

31 BRIGHAM CREEK RD) WHENUAPA

23/06/2000

ADDRESS FOR CORRESPONDENCE (if different from site address) (print)

Information to be provided:

- PLANS:** A Sketch plan must accompany all applications, including all measurements of the immediate pool area, the pool size and location. The sketch is to include boundary fencing and also the dwelling wall, if this forms part of the fence. The materials of which they are constructed must be stated. Photographs may be provided for clarification.
- REASONS justifying the proposal.** Council may grant an exemption where the circumstances warrant a dispensation from the statutory requirements for pool fencing. Your attention is drawn to Section 6 of the Act and Clause 11 of the Schedule. An exemption may be granted or declined in the Council's discretion and if granted conditions may be imposed. A copy The Fencing of Swimming Pools Act 1987 is available on Council's website www.waitakere.govt.nz

Please list those matters which at the date of this application do not comply with the statutory requirements

- Landscaping within pool area.
-
-
-
-
-
-

Please list those matters for which an exemption is sought

Landscaping within the pool area, item 1.
Access way from pool area to tennis court
and lawn area.

Reasons why the application should be granted

Exemption granted to previous owner
it now has a complying fence to isolate
direct access from the house, pool now
much safer.
Alternative access ways to tennis court,
and lawn area.

If there is insufficient space on this form please use additional sheet(s) and continue

I/we apply for an exemption from the requirements of the Fencing of Swimming Pools Act 1987 set
out above and certify that all other pool fencing requirements are in accordance with the Act.
A cheque for the application fee of \$250 is attached.

Signature(s): J. Hannon
Telephone No: 09 416 5722
Mobile No: 021 331 058
Date: 3.6.08

Complete this form and post with all attachments to:

The Chief Executive
Waitakere City Council
6 Henderson Valley Rd
Henderson
Waitakere 0612

Office Use Only	
Site Address:	_____
SWP No:	_____
ABA No: (if Applicable)	_____

Dispensation Application

Introduction

An exemption is a discretionary power conferred on Council by Section 6 of the Fencing of Swimming Pools Act 1987, to allow in certain circumstances exemptions from the requirements of the Schedule of the said Act.

Information to be Provided

To avoid delay in the processing of your application the following information **must** be provided.

1. PLANS showing position of swimming pool in relation to house and boundaries, and position of existing and/or proposed fencing. Also the height of the fences, and material of which they are constructed must be stated. Photographs may be provided for clarification.
2. REASONS justifying the proposal. Council may only grant an application where there are circumstances warranting a dispensation from the standard requirements for fencing. The guidelines for fencing of pools are available at the Building counter. It must be shown that such an exemption would not significantly increase danger to young children.

The Council may impose other conditions relating to the property or the pool as are reasonable in the circumstances.

19 February 2008

22 Bristol Road, WHENUAPAI
SWPSWIM-1996-12283

Work Required.

1. Ensure that the Swimming pool gate is self closing and self latching from a stationary measured distance of 150mm.
2. Ensure that all swinging doors which provide access to the immediate Swimming pool area are made self closing and self latching from a stationary measured distance of 150mm, and are swinging away from the immediate Swimming pool area. A latching device must also be fitted to each door at a minimum height of 1.5m.
If unable to do so, please seek an Exemption, form enclosed.

"Should you require any further advice or information with regards to the items of work prescribed, please do not hesitate to contact the writer at your earliest convenience."

↓ ① the two close latches on the pool gate require replacing. They have been on back order as unavailable in NZ at the moment.
- done

② Exempt - from another set.

Atkinson
2-4-08. J